

REVIEW ARTICLE

LAW ENFORCEMENT ON FISHERIES CRIME AFTER THE ENACTMENT OF LAW NUMBER 45 OF 2009: A NORMATIVE ANALYSIS

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ABSTRACT

It is undeniable that in the management of natural fisheries resources there are still violation by the un-responsible parties in that field. The violation can cause bad for the fisheries ecosystem in our country. The impact will reduce the fisheries resource in which could have been managed for the beneficial of the people. One of the matters that will be discussed in this article is about the philosophical juridical foundation about natural resource, knowing the normative review in the field of fisheries, element of criminal liability, modes of operation in fisheries crime, as well as the knowledge about the advantages and disadvantages of fisheries law change. However, in order to protect the national wealth in form of fisheries resources it is required that the government takes action in preserving natural resources. In this case the role of law is very important, especially criminal and civil law as a media to control and prevent the action that can disturb the management and preservation of the fish resources and environment. In Law Number 31 of 2004 *jo.* Law Number 45 of 2009 concerning Fisheries provides clarity and legal certainty towards law enforcement for criminal offense in the field of fisheries, which includes investigation, prosecution and examination at the court hearing. Suggestion in this article are legal rules regarding the law of fisheries which is still valid at the moment must be reconstructed and renewed so that the law enforcement authorities are more able to increase the supervision and action in the Indonesian sea, including the need of public attitude and awareness towards the law especially in the field of fisheries.

Keywords: *Fishing Crimes, Fisheries Law, Law Enforcement, Illegal Fishing*

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INTRODUCTION

Since the ratification of United Nation Convention on The Law Of The Sea (UNCLOS) 1982 through the Law Number 17 of 1985 is a milestone of battle for the Republic of Indonesia in having the right to use, conserve, and management of fish resources Indonesia's exclusive economic zone and the high seas which is carried out based on applicable international condition and standards. The conventions become the part of 'dialectic' history to rethink. For Indonesia to tighten the conservation of marine resources Indonesia need to establish various cross sectorial law in the field of fisheries law (Masyhar, 2019).

The discussion about the fisheries law is not a new thing anymore, which is echoed. Because since colonial times there has been five national legal regulations formed including STAATSBLAND of 1916 Number 157, STAATSBLAND of 1920 Number 396, STAATSBLAND of 1927 Number 144, STAATSBLAND of 1927 Number 145, and STAATSBLAND of 1939 Number 442. After Indonesia gained independence, these regulations are still remains in effect based on Article II of the transitional of the

1945 Law Constitution because as long as the new regulations have not yet been formed, the old regulations will still remain in effect.

After Indonesia gained the independence in a period of 40 years, a long period of time was then formed in Law Number 9 of 1985 about fisheries enacted in 1985 State Agency Number 46 and additional State Fascicle Number 3299. After in effect for approximately eighty years the law then replaced with Law Number 31 of 2004 concerning fisheries enacted in the 2004 State Institution and Additional State Institution Number 4433, which applied in 6 October 2004. The replacement of the law has no other intention, carried out on the basis that the old law has not been able to accommodate all aspects of fish resource management and is less able to anticipate the developments of legal needs and technological developments in the context of management of fish resources.

The validity period of Law Number 31 of 2004 also does not last long, because in 2009 it was revised to add several laws, as well as article through the formation of Law Number 45 of 2009 concerning fisheries. The changes to the law were made because in reality, Law Number 31 of 2004, again still has some weaknesses including (Al-Khawarizmi, 2013):

1. The management aspects in fisheries include the absence of coordination mechanism between agencies related with the fisheries management.
2. The bureaucratic aspect includes conflicting interest in fisheries management.
3. Law aspects include law enforcement issues, formulation of sanction, and the competence of district courts for criminal offenses in the field of fisheries which occur outside the authority of the district court.

Some changes that occur in Law Number 45 Year 2009 can be observed. First, regarding the supervision and law enforcement related with the problem of coordination mechanism between fisheries criminal investigation agencies, the application of criminal punishment (imprisonment or fines), procedural law especially concerning deadline for examining cases, and facilities in law enforcement in the field of fisheries, including possibility of using legal action in the form of sinking foreign vessels in the operating territory of Republic Indonesia. Second, fisheries management issues including fishing harbor and conservation, licensing, and *martyrdorm*. Third, regarding the expansion of court jurisdiction to covers the entire Republic Indonesia fishing management territory.

There are still many laws relating with legal fisheries regulations which are related with other law. Among them are can be found in Law Number 6 Year 1996 about Indonesian Sea, Law Number 43 Year 2008 about shipping, Law Number 5 of 1983 About Indonesia's Exclusive economic zone, Law Number 32 of 2009 concerning Protection and Management Environment (UUPPLH).

The complex regulation management in fishing law makes the development has become a part of the study of environmental law as well such as fish whose habitat occupies the rivers and ocean. Automatically fishing will come into contact with the problem of preservation of the ecosystem and aquatic environment. If the fisheries sector can be managed properly and professionally, the result can increase the amount of fishing result significantly. The result can increase the amount of exports and

provide an increase in national revenue and achieving the country's ideals to create a just and prosperous society (Suparmono, 2011).

However, these ideal is not an easy task to realize as we can imagine, according to a report Indonesian Institute of Sciences (LIPI) fishing production that has been utilized is only 5.4 million tons per year from the potential which should have been obtained at around 6.7 million tons per year. Added from the Oceanography Research Centre of the Indonesian Institute Centre (P20 LIPI) mentioned that Indonesia is known as the largest Marine Mega-Biodiversity in the world, with the value of marine wealth in Indonesia reaching IDR 1,722 trillion, But with the treat of illegal fishing Indonesia losses around IDR 101 Trillion per year (Masyhar, 2019). This result is due to the low utilization of fish resources caused by lack of knowledge and information about fish so the distribution of the fleet to be uneven, this has resulted in "over fishing" in certain area and "under fishing" in other area (Manuputty et al, 2012; Syarif, 2009).

The low production of marine fish to date is also caused by how the fishermen catching the fish which still dependent on simple or traditional equipment with only small operating area just a few miles from the settlements, inability of local fishermen to utilize the resources resulting the local or foreign companies enters with more advanced ship technology. The presence of this company has certainly eliminated the potential that should be benefit the local fishermen (Syarif, 2009). Besides the exploitation which has eliminated the potential income of local fishermen, this company also committed violations that were not correspond with Law Number 45 of 2009 concerning the amendments to Law Number 31 of 2004 about fisheries, the practice violated the most are IUU practice (Illegal, Unregulated, and Unreported) fishing on a large scale.

Therefore, it is undeniable that the factors which caused inadequate law enforcement in fisheries one in which is the facilities of the legal apparatus who conduct surveillance in Indonesian fishing territory and the problems in the process of solving cases in fisheries are the factors that causing no maximum implementation of criminal law enforcement in fisheries. The implementation of criminal law enforcement in the fishing sector is very important and must be strategic in order to support fisheries development in a controlled environment and in accordance with the principles of fishing management, so that the fishing development can proceed continuously (Dewi & Firganefi, 2013). Based on the background, the authors were interested in analyzing the law enforcement efforts in fisheries law implementation of the Republic Indonesia Number 45 of 2009.

METHOD

The research is normative legal research which is analyzes some laws and regulations concerning to fisheries crimes in Indonesia. The research intended to examine some problems, especially concerning to how the philosophical and juridical foundation for natural resources, and how the normative review of fisheries criminal offenses and the liability of elements? Furthermore, the research also examines how the operandi

criminal acts made in the fisheries sector? And what are the strengths and weaknesses of Law Number 31 of 2004 against Law Number 45 of 2009?

NATURAL RESOURCES, PROTECTION AND ITS LAW ENFORCEMENT IN INDONESIA

I. THE PHILOSOPHICAL & JURIDICAL BACKGROUND ON THE PROTECTION AND LAW ENFORCEMENT OF NATURAL RESOURCES

A. Philosophical Background

Biodiversity is gift from the Almighty Allah. Natural resources is a strategic, life supportive, the foundation of national security, and have a variety of important values, both consumer value, productive value, environmental value, special value, and existence value in which, if managed wisely, planned, holistically-integrated and sustainable will give very big impact on the humans life and nature quality, strengthen the national defense, increase the national income, and prosper the people.

Philosophically, Pancasila provides material content in the 1945 Constitution of Republic Indonesia (NRI 1945) as a *grundgesetz* to organize people's welfare. This was elaborated in the management of natural resources, namely in Article 33 paragraph (3) of the 1945 Constitution of the Republic Indonesia which is the basis for controlling and managing the natural resources for the state to be used for the prosperity of the people. Article 33 paragraph (3) states that "*the earth, water, and other natural resources contained therein are controlled by the Nation and are used for the prosperity of the people.*"

The provisions puts control over the natural resources, those were contained in land, water, and air by the Nation. The natural resources can be used to support the national economy as much as possible to prosper the people. Therefore, the management of the resources is constitutionally regulated in Article 33 paragraph (3) of the 1945 Constitution of Republic Indonesia.

The phrase "controlled by the nation" implies that the nation has the full authority to regulate and administer all the natural resources, including water, mining, energy and other resources for the welfare of the people. Based on this authority the government makes regulation and conducts managements of the resources. Government is entrusted to regulate the utilization of the resources for the sake of the people and controls the utilization.

In addition, because natural resources are life supportive, it must be preserved and developed so the source can still be remains and support the life of the people and other living creatures for the survival and improvement of the quality itself. The biodiversity in the form of living things and other abiotic objects itself is related and

dependent with each other as united ecosystem. Therefore all organisms and living creatures must be treated with same dignity.

This perspective implies in the effort of conserving and utilizing the natural resources, the honor, fulfillment, and protection has to be treated equally to share the same right to live and develop. The right of all forms of living creature to live is a universal right that cannot be ignored. Therefore, by adapting the Heringa (2006), the nation must be able to realize the application and obedient of the ecological principles:

1. Interpreting the principle of protection of the natural resources and their ecosystem as a part of the protection of human rights in Constitution;
2. Protect these rights and make appropriate efforts to protect the rights;
3. Obey the law that has been made by the country itself (it means that the government is obliged to obey with the valid laws and regulations);
4. Ensuring that the interest of every citizen to obtain sustainable life through conservation and utilization of the natural resources are more considered and treated in balance for sustainability, including to ensuring every citizen are guaranteed in their procedural rights and are compensated if their rights or ecosystem violated.
5. Ensure that the conservation and utilization of the natural resources is carried out transparently and every citizen can participate actively or involved in every decision making and implementation.
6. The 1945 Constitution of the Republic Indonesia, Article 27 to Article 34 guarantees that every Indonesian citizen has the same rights and obligations, including in this case the right to utilize the natural resources and their ecosystems as well as obligations to protect and preserve them. These rights and obligations are carried out in a balanced manner for the preservation and prosperity of the nation and for the future life sustainability.

B. Juridical Background

Based on the law, the conservation of the living natural resources and its ecosystem is a foundation of life and national defense, therefore its sovereignty and sovereign rights must be maintained. In the context of natural resources and their ecosystems located in the territory of Indonesia which occupies between two continents and two oceans with tropical climate and weather and seasons that provide natural conditions and positions with a high strategic role as a place where the people and people of Indonesia organize life social, national and state in all its aspects. Therefore, the knowledge in carrying out the conservation and utilization of the natural resources and their ecosystems must refers to the knowledge of the archipelago, policies and national interests, benefits that are in harmony with nature, and sustainable development that provides prosperity for all the people of Indonesia.

Natural resources and their ecosystems in an ecological explanation does not recognize territorial boundaries, both state and administrative regions. However, natural resources and their ecosystems which related to conservation management and utilization must be clear in terms of boundaries of the area of government

authority (between ministries and institutions), local government - as mandated by Article 18A of the 1945 Constitution of the Republic Indonesia, as well as involving the community and the national private sector. Therefore, the conservation and utilization of biological natural resources and their ecosystems must be in line with several relevant laws, as follows (DPR RI, 2017):

1. Constitution Number 27 of 2007 concerning Management of Coastal Areas and Small Islands (State Gazette of the Republic Indonesia of 2007 Number 84, Addition to the State Gazette of the Republic Indonesia Number 4739);
2. Constitution Number 32 of 2009 concerning Environmental Protection and Management (State Gazette of the Republic Indonesia of 2009 Number 140, Addition to the State Gazette of the Republic Indonesia Number 5059);
3. Constitution Number 45 of 2009 concerning Amendment to Constitution Number 31 of 2004 concerning Fisheries (State Gazette of the Republic Indonesia Number 154 of 2009, Addition to the State Gazette of the Republic Indonesia Number 5073);
4. Constitution Number 32 of 2014 concerning Maritime Affairs (State Gazette of the Republic Indonesia of 2014 Number 294, Supplement to the State Gazette of the Republic Indonesia Number 5603);
5. Constitution Number 37 of 2014 concerning Soil and Water Conservation State Gazette of the Republic Indonesia of 2014 Number 299, Supplement to the State Gazette of the Republic Indonesia Number 5608;
6. Constitution Number 5 of 1960 concerning Basic Regulations on Agrarian Principles;
7. Constitution Number 12 of 1992 concerning Plant Cultivation System (State Gazette of the Republic Indonesia of 1992 Number 46, Supplement to the State Gazette of the Republic Indonesia Number 3478);
8. Constitution Number 5 of 1994 concerning Ratification of the United Nations Convention on Biological Diversity (State Gazette of the Republic Indonesia Year 1994 Number 41, Supplement to the State Gazette of the Republic Indonesia Number 3556)

II. FISHERIES CRIMINAL ACTS AND RESPONSIBILITY OF LEGAL SUBJECTS

A. Normative Review of Fisheries Criminal Acts

Criminal punishment is a basic understanding in criminal law (normative juridical). Crime can be interpreted legally or criminologically. Crime or evil deeds in the sense of normative juridical is an act as manifested *in-abstracto* in criminal regulations. While crime in the sense of criminology is a human action that violates the norms that live in society concretely. Criminal action is a human behavior which will be threaten by the law, so generally it is a behavior that is prohibited by the law (Andrisman, 2010). Fisheries are activities related to the management and utilization of fish resources (Tribawono, 2011; Tarigan, 2018). Many communities misuse fishing activities to be an

advantage for themselves without thinking about the marine ecosystem, for example by using prohibited fishing gear that causes damage to the marine ecosystem.

Nowadays, the fisheries crime is in the spotlight of the people due to the rise of its activities concerning fisheries. Examples of fishing crimes are fishing with prohibited tools, fish bombing, illegal fishing businesses and many other cases. In Indonesia, according to Indonesian Constitution Number 9 of 1985 and Indonesian Constitution Number 31 of 2004, activities that are included in fisheries begin from preproduction, production, processing to marketing carried out in a fisheries business system (Supriadi & Alimuddin, 2011).

The fishing crimes often occur in fishing business, fishing crime refers based on Constitution Number 31 of 2004 and Constitution Number 45 of 2009. In Constitution Number 31 of 2004 concerning Fisheries, several articles that regulate criminal acts have been included (offense) in the field of fisheries. There are 2 (two) categories regarding fishing crime, namely the violation category and the crime category (Castro & Huber, 2003). Judges who will try violations in the field of fisheries are also special treatment and they are ad hoc judges consisting of two ad hoc judges and one career judge. Trial hearings can be carried out in absentia. Similar with detention, it is specifically regulated. There are 17 articles regulating the formulation of fishing offenses from Article 84 to Article 100. Article 84 Paragraph (1) concerning the capturing and cultivation of the fish without a permit with a maximum penalty imprisonment of 6 years and a maximum fine of 1.2 billion rupiah. Paragraph (2) of that article also determines the subject of the captain or fishing leader of the Republic Indonesia to catch fish using chemicals, biological materials, explosives, tools and / or methods, and / or buildings that can harm and / or endanger the preservation of fish resources and/or the environment, will be punished with a heavier criminal threat, a maximum of 10 years in prison and a fine of 1.2 billion rupiah.

In Article 84 Paragraph (1) mentions that the subject of the owner of a fishing vessel, owner of a fishing company, person in charge of a fishing company, and / or operator of a fishing vessel doing the same thing in Paragraph (2) with the threat of a 10-year prison sentence equal to Paragraph (2) but with a higher penalty, which is two billion rupiah. Paragraph (4) of the article mentions that the subject of the owner of the fish cultivation company, and/or the person in charge of the fish cultivation company, and/or the person in charge of the fish cultivation companies that deliberately carrying out fish cultivation in the territory of the Republic Indonesia fishing management using chemicals and so on are treated the same as Paragraph (3) with the same criminal threat, which is 10 years and fines are also the same at the Paragraph (3).

Article 85 concerning any person who is intentionally in the territory of the Republic Indonesia fish management owns, controls, carries, and/or uses a fishing gear and/or a fishing aid that is on a fishing vessel that are not in accordance with the specified size, fishing gear that are not in accordance with the requirements, or standards set for certain types of equipment and/or prohibited fishing gear. The maximum criminal punishment is two billion rupiah.

Article 86 paragraph (1) concerning pollution and/or damage to fishing resources and/or the environment with a maximum penalty of 10 years in prison and a

maximum fine of two billion rupiahs. Article 86 Paragraph (2) concerning fish cultivation in which can endanger the resources and/or the environment and/or human health, with a maximum penalty of six years in prison and a maximum fine of one billion five hundred million rupiah. Article 86 Paragraph (3) concerning cultivation of producing of genetically engineered fish which can endanger fish resources and/or the environment and/or human health, with a maximum criminal threat of six years in prison and a maximum fine of one billion five hundred million rupiah. Article 86 Paragraph (4) concerning the use of drugs in fish cultivation that can endanger the resources and / or the environment of the resources and/or human health, with the same criminal threat as Paragraph (3).

Article 87 Paragraph (1) concerning acts of damaging germplasm (germ cells) related to fishing resources with a maximum criminal punishment of two years imprisonment to a maximum of one billion rupiah. Article 88 concerning any person who intentionally enters, excludes, procures, distributes and/or maintains fish that harms the community, cultivation, fishing resources, and/or the environment into and / or out of the territory of the Republic of Indonesia fishing management as referred to in Article 16 Paragraph (1), shall be punished to a maximum imprisonment of 6 (six) years and a maximum fine of Rp 1,500,000,000.00 (*one billion five hundred million rupiah*).

Article 89 regarding every person who handles and manages fish that does not meet or does not apply the eligible requirements for fish processing, quality assurance system, and safety of the fish products as referred to in Article 20 Paragraph (3), shall be punished to a maximum imprisonment of 1 (one) year and a maximum fine of Rp.800,000,000.00 (*eight hundred million rupiah*).

Article 90 regarding every person who intentionally imports or releases fish and / or fishing products from and / or to the territory of the Republic of Indonesia that is not qualified with a health certificate for human consumption as referred to in Article 21, shall be punished to a 1 (one) year in prison and a maximum fine of Rp. 800,000,000.00 (*eight hundred million rupiah*).

Article 91 regarding any person who intentionally uses raw materials, supplementary materials, additional materials, and / or tools that can endanger human health and / or the environment in carrying out the handling and processing of the fish as referred in Article 23 Paragraph (1), shall be sentenced to an imprisonment of a maximum 6 (six) years and maximum fine of Rp 1,500,000,000.00 (*one billion five hundred million rupiah*).

Article 92 regarding any person who intentionally in the territory of the Republic Indonesia fishing management carries out a fishing business in the field of catching, cultivating, transporting, processing and extorting fish, which does not have SIUP (Trading Business License) as referred to in Article 26 Paragraph (1) (one), sentenced to a maximum imprisonment of 8 (eight) years and a maximum fine of Rp 1,500,000,000.00 (*one billion five hundred million rupiah*).

Article 93 Paragraph (1) regarding every person who owns and / or operates an Indonesian-flagged fishing vessel conducts fishing in the territory of the Republic of Indonesia fisheries management and / or in the high seas, and does not have SIPI (Fishing License) as referred to in Article 27 Paragraph (1), shall be sentenced to a

maximum imprisonment of 6 (six) years and a maximum fine of Rp 2,000,000,000.00 (*two billion rupiah*). Article 93 Paragraph (2) concerning every person who owns and / or operates a foreign-flagged fishing vessel conducts fishing in the territory of the Republic Indonesia fishing management that does not have SIPI as referred to in Article 27 Paragraph (2), shall be sentenced to a maximum imprisonment of 6 (six) years and a maximum fine of Rp 20,000,000,000.00 (*twenty billion rupiah*).

Article 94 regarding every person who owns and / or operates a fish carrier ship in the fishing management area of the Republic of Indonesia carrying out fishing transportation or related activities that do not have SIKPI (Fish Transport Boat Permit) as referred to in Article 28 Paragraph (1) shall be sentenced to a maximum imprisonment of 5 (five) years and a maximum fine of Rp 1,500,000,000.00 (*one billion five hundred million rupiah*). Article 96 regarding every person who operates a fishing vessel in the area of Indonesian fishing management and does not register his fishing vessel as an Indonesian fishing vessel as referred to in Article 36 Paragraph (1) shall be sentenced to a maximum of 1 (one) year imprisonment and a maximum fine of Rp. 800,000,000.00 (*eight hundred million rupiah*).

Article 97 Paragraph (1) concerning the captain who operates a foreign-flagged fishing vessel that does not have a fishing license while in the territory of the Indonesian fishing management does not keep the fishing gear in the ship hold as referred to in Article 38 Paragraph (1), shall be punished to a maximum fine of Rp. 500,000,000.00 (*five hundred million rupiah*). Article 97 Paragraph (2) concerning the captain who operates a foreign-flagged fishing boat that has a fishing license with 1 (one) type of fishing gear at a certain part of EEZ carrying another fishing gear as referred to in Article 38 Paragraph (2)), convicted with a maximum fine of Rp 1,000,000,000.00 (*one billion rupiah*).

Article 97 Paragraph (3) concerning the captain who operates a fishing vessel that has a foreign flag which has a fishing license, but does not keep the fishing gear in the hold while outside the fishing area which is permitted in the management area of the fisheries of the Republic of Indonesia as referred to in Article 38 Paragraph (3), shall be punished to a maximum fine of Rp. 500,000,000.00 (*five hundred million rupiah*).

Article 98 regarding the captain who do not have fishing boat permits issued by the *Syahbandar* as referred in Article 42 Paragraph (2), shall be sentenced to a maximum of 1 (one) year imprisonment and a maximum fine of Rp 200,000,000.00 (*two hundred million rupiah*). Article 99 regarding every person conducting fishing research in the territory of the Republic of Indonesia fishing management that does not have a permit from the government as referred to in Article 55 Paragraph (1), shall be sentenced to a maximum imprisonment of 1 (one) year and a maximum fine of Rp 1,000,000,000,00 (*one billion rupiah*).

Article 100 regarding every person who violates the regulations as referred in Article 7 Paragraph (2), shall be punished to a maximum fine of Rp. 250,000,000.00 (*two hundred and fifty million rupiah*). Article 101 concerning criminal acts as referred to in Article 84 Paragraph (1), Article 85, Article 86, Article 87, Article 88, Article 89, Article 90, Article 91, Article 92, Article 93, Article 94, Article 95, Article 96 which is carried

out by the corporation, the criminal charges and penalties imposed on its management and criminal penalties are plus 1/3 (one third) of the criminal sentences (Hamzah, 1986).

B. Elements of Criminal Charge

According to our law there is no error without breaking the law, this theory is then formulated as: no criminal without error or *geen straf zonder schuld* or *keine strafe ohne schuld* (German) or *actus non facit reum nisi mens sist rea* or *actus reus mens rea* (latin). This principle is the basis of criminal liability and is not found in the law. There are also other postulates that read *nemo punitur sine injuria, facto seu de falta*. Meaning, no one is punished unless he does something wrong (Hiariej, 2014).

Talking about criminal liability, it means that talking about people who commit criminal acts. Criminal law separates between the characteristics of acts that are used as criminal acts and the characteristics of people who commit to them. People who commit criminal acts are not necessarily sentenced to criminal, depending on whether the person can be held accountable or not, conversely, someone who is convicted of a crime was certainly committed a criminal act and can accounted for. An important element of criminal liability is the mistakes (Hiariej, 2014).

On the other hand there are also those who say that the current criminal liability system does not absolutely see an error, but also has seen an absence of error. The development of the criminal liability system implemented has causes a change from the principle of error (*liability on fault*) to the principle of the absence of errors (*liability without fault*). The principle of the absence of the error is then transformed into a system of absolute liability (*strict liability*), liability replacement system (*vicarious liability*), and a corporate liability system (*corporate liability*) (Amrani & Ali, 2015).

One of the basic considerations of implementing the system of criminal liability without error is to facilitate in the matters of verification. If criminal law must also be used to deal with such complex problems, then it is time for the system without error to be used in certain cases, especially those related to violations of regulations regarding crimes that are mild (*Public welfare offenses, regulatory offences, mala prohibita*). Because, proofing of the element of error associated with the characteristics of crime is not easy. So, the acceptance of the system of criminal liability without error manifested in the form of *strict liability*, *vicarious liability*, and *corporate liability* in the context of reforming Indonesian criminal law is a way of solving problems related to the difficulty of proving errors in criminal liability (Amrani & Ali, 2015).

Another case with the opinion expressed by Simons, Simons argues that the definition of criminal liability is related to a psychological state, so that the application of a criminal provision from the public and personal point of view is considered appropriate (*De toerekeningsvatbaarheid right worden opgevat als eene zoodanige psychische gesteldheid, waarbij detoepassing van een strafmaatregel van algemeen en individueel standpunt gerechtvaardig is*). Simons continues that the basic responsibility in criminal law is a certain psychological state of the person who commits a criminal act and the

relationship between the condition and the act carried out in such a way that the person then can be denounced for committing the act (Hiariej, 2014).

In general, criminal liability leads to the conviction of perpetrators with the objectives to determine whether the defendant or suspect can be held accountable for criminal acts he has made or not. Certainly this person must be able to be responsible for the actions he did, understanding the ability of responsibility according to some views as described below (Ilyas, 2012).

According to Pompe, the capability of being responsible must have the following elements (Kahfi, 2016):

- a. Ability to think (*psychisch*) maker (*dader*) that allows him to take control of his mind, which allows him to determine his actions.
- b. Therefore, he can determine the consequences of his actions.
- c. Be able to decide his will according to his mind.

Van Hamel argues that the ability to be responsible is a state of psychological normality and maturity that has three kinds of abilities:

- a. To understand the environment of the reality of one's own actions.
- b. To realize his actions as something that is not allowed by society, and
- c. Against his actions can determine his will.

People's requirements who can be accounted for according to G.A. Van Hamel is as follows:

- a. The soul of a person must be in such condition that he understands or realizes the value of his actions
- b. One must realize that his actions according to social procedures are prohibited, and
- c. People must be able to determine their will to their actions.

Criminal liability leads to criminal prosecution, if it has committed a crime and meets the elements specified in the Constitution. Seen from the point of occurrence of a prohibited act (*required*) a person will be held accountable for the act if the action is illegal, then if viewed from the standpoint of responsibility then only someone who is capable of being liable can be held liable for criminal liability. Then it can be concluded that the elements of criminal liability are as follows (Kahfi, 2016):

- a. Able to be responsible
- b. The existence of error
- c. There is no excuse for forgiveness.

As for the types of criminal penalties in the field of fisheries only recognize the main criminal, while additional penalties are not regulated in the Fishing Law. Regarding the main criminal sanctions that can be handed down by judges in fishing cases is in the form of imprisonment and fines. Although the Fishing Law does not specifically regulate additional crimes, fisheries court judges may impose additional crimes under Article 10 of the Criminal Code.

Main charge in the criminal provisions of the Fishing Law is passed cumulatively, both aimed at crime and violations. In the cumulative sentence, the imprisonment with a fine applied at the same time, there is no reason for the judge not to impose both of these crimes, nor can the judge choose one of the sentences to be handed down, but rather must impose both the principal penalties.

The existence of a sanction is an effective means to reduce the occurrence of violations of the provisions contained in the field of fisheries, especially fish hauling because sanctions are imposed if they violate the provisions that have been set previously, then sanctions can be in the form of administrative sanctions and other sanctions.

The criminal justice process and the criminal justice system contain an understanding whose the scope is related to the criminal justice mechanism. Loqman (2002) distinguishes the notion of the criminal justice system from the criminal process. The system is a series of elements or factors that are interrelated with one another so as to create a mechanism such that it reaches the goal of the system. While the criminal justice process, which is a process since a person is alleged to have committed a crime, until the person is released again after carrying out the punishment that has been given into him.

The legal process which conducted after the investigation of the fishing criminal cases is a legal process in the form of public prosecution carried out by legal institutions and conducted by legal institutions called prosecutors. The legal process showed that the fighting whether a person is suspected of committing a fishery crime or not depends on the ability of the public prosecutor to prove his claim before the court. In Article 74 of the Fishing Law, it is stated that the prosecution of criminal acts in fisheries is carried out based on applicable procedural law, unless not specified in this law. The Fishing Law, not only regulates material criminal law, but also regulates specific formal criminal law (*lex specialist*).

THE MODUS OPERANDI OF CRIMINAL ACTS IN THE FIELD OF FISHERIES

I. FISHERIES CRIMES AND RECENT CONDITION IN INDONESIA

A. How Fisheries Crimes Occurred in Indonesia?

The rise of the practice of fishing violations that has occurred in Indonesian waters so far has provided substantial losses. The state loss due to fishing crime in 2005 reached 30 trillion rupiah in a year. It was also said that the level of loss reached 25% of the total potential of the fisheries owned, meaning 25 times 6.4 million tons (Subagyo, 2005). The rampant practice of criminal acts in the field of fisheries that occur in Indonesian waters was because the lack of supervision, this is caused by the lack of facilities and infrastructure and supervision facilities, Human Resources supervision is still inadequate especially in terms of quantity, incomplete regulations, weak coordination between law enforcement agencies both central and regional, licensing has not been issued, this is due to falsification of permits and license doubling and weak law enforcement so that the pride of legal authority decreases;

injustice to the community and also the rampant ness of illegal activities in the fishing sector (Wahyuningtyas, 2015; Lewerissa, 2018).

The case of illegal fishing is the most frequent case in criminal offenses in the field of fisheries, many illegal vessels with foreign flags such as Vietnam, Thailand, Malaysia, China and Taiwan often doing illegal fishing. The most frequent illegal fishing activity in the Indonesian fishing management area is the fish stealing by foreign fishing vessels (KIA) originating from several neighboring countries. Although it is difficult to map and estimate the level of illegal fishing that occurs in WPP-RI, but from the results of surveillance conducted in (2005-2010) it can be concluded that illegal fishing by MCH mostly occurs in EEZ and also quite a lot occurs in the waters of the islands (*archipelagic state*). In general, the types of fishing gear used by illegal fishing vessels in Indonesian waters are kinds of productive fishing equipment such as purse seine and trawl. Illegal fishing activities are also carried out by Indonesian fishing vessels (KII) (Rudi, 2006).

Several modes/types of illegal activities that are often carried out by KII (Indonesian Fish Ships), are includes: fishing without a permit (Fisheries Business License (SIUP) and Fishing License (SIPI) or Fish Transport Boat Permit (SIKPI), having the permit but violates the provisions as stipulated (violation of fishing area, violation of fishing gear, violation of adherence to base), falsification/manipulation of documents (procurement documents, vessel registration and licensing), trans-shipment at sea, does not activate the transmitter (specifically for vessels required installing transmitters) and destructive fishing by using chemicals, biological materials, explosives, tools and/or methods, and/or buildings that can endanger the preservation of fish resources.

Law enforcement is a series of activities in the context of implementing legal provisions both in terms of enforcement and prevention that cover all technical and administrative activities carried out by law enforcement officers so that they can create a safe, peaceful and orderly atmosphere to obtain legal certainty in the community, in the context of creating conditions so that development in all sectors can be carried out by the government.

Law enforcement is a term that has diversity in definition. According to Satjipto Rahardjo, law enforcement is defined as a process realizing the legal desires, namely the thoughts of legislative bodies that are formulated and stipulated in legal regulations which then become reality.

From the subject point of view, law enforcement has a broad and narrow meaning. In a broad sense, the process of law enforcement involves all legal subjects in every legal relationship. In a narrow sense, law enforcement is only interpreted as an effort by certain law enforcement officers to guarantee and ensure that the rule of law runs as it should.

The definition of law enforcement can also be viewed from the point of view of the object of the law. In this case, the understanding also includes broad and narrow meanings. In a broad sense, upholding the law also includes the values of justice contained in the formal rules and values of justice that live in society. In the narrow sense, law enforcement only involves formal and written enforcement of regulations. Normatively, the existence of laws and regulations concerning criminal acts in the

field of fisheries with all the regulations and their implementation is to make good management of fisheries business, and the overall welfare of the community, especially for fishermen. The philosophical basis for regulating the use, management and conservation of fish resources in the sea is to strengthen peace, security, cooperation, and friendly relations between all nations of the world.

This can be understood by the principle of freedom of the sea (Article 87 paragraph (1) UNCLOS 1982) which states that the seas are open to all countries, both coastal and non-coastal countries. In fact this has the potential to cause conflicts between the international communities. Freedom on the seas to catch fish, with the 1982 UNCLOS the rights of all countries, namely for their citizens who catch fish in the open sea are limited by the conditions listed in section 2 of UNCLOS 1982 and obligations under Article 87 paragraph (2).

The modus operandi of Indonesian illegal, unregulated, and unreported fishing (IUU) activities as stipulated in Perma No. 01 of 2007 concerning fisheries courts, can be categorized into 4 (four) groups, including:

- a. Foreign Fishing Ship (KIA), a foreign-flagged ship carrying out fishing activities in Indonesian waters without documents.
- b. Indonesian-flagged fishing vessels Ex-KIA with fake documents (original but fake) or no permit documents.
- c. Indonesian Fish Boat (KII) with fake documents (officials issued but not authorized or fake documents)
- d. Indonesian Fish Boat (KII) without any documents at all, which means catching fish without permission.

The modes used in committing criminal acts in fisheries is the "*illegal license mode*", which means misusing the illegal license and or method of obtaining a permit from the Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia which in an un-appropriate way (Misbach, 1993). According to Ivan Rishky as the chairman of the Press Forum Observer of National Fisheries Violations (FP4N), the disclosure of the illegal license modes after the data requested officially from several fishing agencies and companies as well as the results of investigations in the field which reviewed then found practices that have harmed the country hundreds trillion rupiah. Fishing vessels owned by fishing companies that operate in Indonesia, mostly only have formal permission from the Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia which obtained in an easy way, but after importing foreign vessels, they (fishing companies operating in Indonesia) do not build or develop its infrastructure which has resulted the catching centres (Arafura Sea, Natuna Sea, Banda Sea, Maluku Sea and Papua Sea) remains poor. The permit is obtained in ways that are not in accordance with the mechanism or in accordance eight the applicable rules.

Based on data from the Illegal Fishing Eradication Task Force (Task Force I15) Ministry of Maritime Affairs and Fisheries (KKP) of the Republic of Indonesia led by Minister Susi Pudjiastuti, from data of 2017 to 2018, there were 134 illegal fishing cases, of which 41 cases have received a court decision with legal force permanent. With the number of 633 vessels that have been captured, there are 366 Indonesian-flagged fishing vessels and 267 foreign fishing vessels. Then found 60 illegal FADs in

Seram sea. The STS-50 was then captured which is an international fugitive for committing fishing crimes in various countries (KKP RI, 2019).

The data was reinforced by the results of the exposure of Indra Rosandry's paper as the Head of Sub-Directorate of Politics and Law Enforcement Cooperation of the Directorate of Law and Political and Security Agreements of the Directorate General of Law and International Treaties of the Indonesian Ministry of Foreign Affairs, in his material entitled "*UUF and Transnational Organized Crime: International Law Perspective and Multilateral Practices*" and exposure from Bebeb AK Nugraha Djundjunan as Director of Law and Territorial Treaties of the Ministry of Foreign Affairs of the Republic of Indonesia, with his presentation entitled "*Determination of the Sovereignty of Indonesian Water Areas*", mentions that the International Convention related with Crimes in the Field of Fisheries, described on Table 1 (Rosandry & Djundjunan, 2019).

Table 1 the International Convention related with Crimes in the Field of Fisheries

Fisheries Management And Combatting Fisgeries Crimes	Combating Connected Crimes To The Fisheries Sector	Countering Illicit Trade In The Fisheries Sector
1. UN Convention on the Law of the SEA (UNCLOS)	1. United Nations Convention Against Transnational Organized Crime (UNTOC)	1. Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
2. United Nations Fish Stocks Agreement (UNFSA)	2. United Nations Convention Against Corruption (UNCAC)	2. United Nations Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances (Drug Convention)
3. FAO Compliance Agreement	3. ILO Work in Fishing Convention No. 188	
4. Port State Measures Agreement (PSMA)	4. Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention)	
5. United Nations Large-Scale Pelagic Driftnet Fishing Moratorium	5. International Convention for Prevention of Pollution from Ships (MARPOL)	
6. FAO Code of Conduct for Responsible Fisheries	6. International Convention on Arrest of Ships	
7. International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU)	7. International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences (Nairobi Convention)	

Source: Rosandry & Djundjunan (2019).

B. Strengths and Weaknesses of Indonesian Fisheries Act

Indonesian Fisheries Act also has some strengths and weakness, especially in certain circumstances. The following table (see Table 2), explains the advantages and weaknesses of these Act.

Table 2 Advantages & Weaknesses of Indonesian Fisheries Act

No	Advantages	Weaknesses
1	<ul style="list-style-type: none"> a. That Law No. 31 of 2004 concerning fisheries is sufficient to accommodate all aspects of fishing resource management and has been able to anticipate the development of legal needs and technological developments in the framework of fisheries resource management. b. Law No. 31 of 2004 has been conducted fisheries management based on the principles of benefits, justice, partnerships, equitable distribution of integration, openness, efficiency, and sustainability. c. Management of Law No. 31 of 2004 concerning fisheries is done by taking into account of the division of authority between the central government and regional governments d. Institutional strengthening in the field of fishing ports and fishing vessels has been realized e. Management and utilization of fish resources, both those located in Indonesian waters, the Indonesian Exclusive Economic Zone, and the high seas have been controlled through fostering permits with regard to national and international interests in accordance with the capabilities of available fish resources. f. Fisheries management that has met the elements of sustainable development, which is supported by fisheries research and development and integrated control g. Fisheries supervision has been carried 	<ul style="list-style-type: none"> a. Still not be able to anticipate the development of technology and the development of legal needs in the context of management and utilization the potential of fishing resources and have not been able to answer the problem. Therefore it is necessary to make changes to several substances, related to management aspects, bureaucracy, and legal aspects. b. Aspects of fisheries management including the absence of coordination mechanisms between agencies related to fisheries management. While in the bureaucratic aspects, there are conflicts of interest in fisheries management. c. Legal aspects including law enforcement issues, the formulation of sanctions, and the relative jurisdiction or competence of the district court for criminal offenses in the fishing sector that occurs outside the authority of the district court.

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- h. Fisheries management by increasing education and training and counseling in the field of fisheries has been carried out and realized.
- 2 In Law No. 45/2009 as an Amendment Law No. 31/2004, there is also no formulation and regulation regarding the "utilization of fish resources" element from the definition concept of "fisheries".

The issue of how not clear the position of the regulation on the matter of utilization of fish resources, in addition to being a weakness of the preparation of regulations, on the other hand it will affect the management of fisheries management in Indonesia.

CONCLUSION

The paper highlighted that the implementation of the Law of the Republic of Indonesia Number 31 of 2004 in conjunction with the Law of the Republic of Indonesia Number 45 of 2009 concerning Fisheries still does not provide legal certainty that is fair to the wider community. This can be seen in the appliance of sanctions that are only imposed on perpetrators such as captain and KKM, While ship owners, company owners and ship operators, even officials or officers who are proven to help or participate in committing criminal acts of fisheries get lighter sanctions. Fisheries Courts are formed within the General Courts, with the consideration of the establishment of specialized judiciary bodies under the General Courts it is expected to be more possible for the implementation of the principle of simple, fast and low cost. In the world of Indonesian fisheries business, there are still many violations of law (fishing crime), such as falsification of fishing vessel licenses which are carried out in various modes, the use of fishing gear that is not environmentally friendly, transshipment fishing ground violations, and others.

However, the research suggests that in terms of prosecution, to make it is not only possible to use a repressive approach, but also to use a restorative approach, to recover victims who have been affected by corporate behavior engaged in fisheries, in this case is to recover the conditions of traditional fishermen so that these fishermen can return to prosperity. It is also necessary to expand the jurisdiction of the fisheries court so that it covers the entire territory of the Republic of Indonesia fishing management. Furthermore, amendments of Constitution Number 31 of 2004 concerning Fisheries should also lead to favoring small fishers and small-scale fish breeders, among others in the aspects of licensing, the obligation to apply provisions regarding the monitoring system of fishing vessels, fisheries tax, and the imposition of criminal sanctions.

REFERENCES

- Al-Khawarizmi, D.A. (2013, February 13). *Asas-Asas Hukum Perikanan*. <http://www.negarahukum.com/hukum/asas-asas-hukum-perikanan.html>
- Amrani, H, & Ali, M. (2015). *Sistem Pertanggungjawaban Pidana Perkembangan dan Penerapan*. Jakarta: PT Rajagrafindo Persada.
- Andrisman, T. (2011). *Delik Tertentu dalam KUHP*. Bandar Lampung: Universitas Lampung.
- Dewi, E., & Firganef. (2013). *Sistem Peradilan Pidana (Dinamika dan Perkembangan)*. Bandar Lampung: PKKPUU FH UNILA.
- DPR RI (2017). *Bill of Act, Law concerning Conservation of Biological Natural Resources and their Ecosystems (Naskah Akademik Undang-Undang Tentang Konservasi Sumber Daya Alam Hayati dan Ekosistemnya)*. Jakarta: Dewan Perwakilan Rakyat Republik Indonesia.
- Ginting, A.Y. (2018). *Penegakan Hukum Pidana Terhadap Pelaku Tindak Pidana Kepemilikan Izin Pengelolaan Usaha Perikanan*. Thesis. Bandar Lampung: Faculty of Law Universitas Lampung.
- Hamzah, A. (1986). *Bunga Rampai Hukum Pidana dan Hukum Acara Pidana*. Jakarta: Ghalia Indonesia.
- Heringa, A.W. (2006). *Human Rights and General Principles and Their Importance as A Legislative Techniques. Do They Matter in Legislation? An Analysis with Specific Reference to Environmental Protection*, in *Environmental Law in Development*, Faure at.al, (ed.), USA: Edward Elgar Publishing Limited, Cheltenham, UK and Northampton.
- Hiariej, E.O.S. (2014). *Prinsip-Prinsip Hukum Pidana*. Yogyakarta: Cahaya Atma Pustaka.
- Ilyas, A. (2012). *Asas-Asas Hukum Pidana Memahami Tindak Pidana dan Pertanggungjawaban Pidana Sebagai Syarat Pemidanaan (Disertai Teori-Teori Pengantar dan Beberapa Komentar)*. Yogyakarta: Rangkang Education & PuKAP Indonesia.
- Kahfi, M.F. (2016). *Tinjauan Normatif Terhadap Pertanggungjawaban Pidana Korporasi dalam Tindak Pidana Perikanan*. Thesis. Makasar: Department of Criminal Law, Faculty of Law Universitas Hasanuddin.
- KKP RI. (2019). *Marine and Fisheries Ministry*. <https://kkp.go.id>
- Lewerissa, Y. A. (2018). *Impersonating Fishermen: Illegal Fishing and the Entry of Illegal Immigrants as Transnational Crime*. *JILS (Journal of Indonesian Legal Studies)*, 3(2), 273-290. <https://doi.org/10.15294/jils.v3i02.27558>
- Loqman, L. (2002). *Hak Asasi Manusia (HAM) dalam Hukum Acara Pidana (HAP)*. Jakarta: Datacom.
- Mahsyar, A. (2019). *Illegal, Unreported, and Unregulated Fishing Dalam Kacamata HPI (Hukum Pidana Indonesia)*. Paper, presented on National Seminar at Universitas Negeri Semarang, on 27 September 2019.

- Manuputty, A. et.al. (2012). *Identifikasi Konseptual Akses Perikanan Negara Tak Berpantai Dan Negara Yang Secara Geografis Tidak Beruntung Di Zona Ekonomi Eksklusif Indonesia*. Makassar: Arus Timur.
- Misbach, A. (1993). *Status Hukum Perairan Kepulauan Indonesia dan Hak Lintas Kapal Asing*. Bandung: Penerbit Alumni.
- Republic of Indonesia (2005). *Decree of the Minister of Maritime Affairs and Fisheries Number Per.5/Men/2005 Concerning the Implementation System for Monitoring Fishing Vessels* (Keputusan Menteri Kelautan dan Perikanan Nomor Per.5/Men/2005 Tentang Sistem Penyelenggaraan Pemantauan Kapal Perikanan)
- Republic of Indonesia (1945). *Constitution of Republic of Indonesia* (Undang-Undang Dasar Tahun 1945).
- Republic of Indonesia (1946). *Law Number 1 of 1946 concerning Criminal Law Regulations (KUHP)* (Undang-Undang Nomor 1 Tahun 1946 Tentang Peraturan Hukum Pidana (KUHP))
- Republic of Indonesia. (1981). *Law Number 8 of 1981 concerning Criminal Procedure Regulations (KUHAP)* (Undang-undang Nomor 8 Tahun 1981 Tentang Peraturan Hukum Acara Pidana (KUHAP)).
- Republic of Indonesia (1983). *Law Number 5 of 1983 concerning Indonesia's Exclusive Economic Zone*. (Undang-Undang Nomor 5 Tahun 1983 Tentang Zona Ekonomi Eksklusif Indonesia).
- Republic of Indonesia. (2009). *Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH)*, (Undang-undang Nomor 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup (UUPPLH)).
- Republic of Indonesia (2009). *Law Number 45 of 2009 Amendment to Law Number 31 of 2004 concerning Fisheries*, (Undang-undang Nomor 45 Tahun 2009 Perubahan Atas Undang-undang Nomor 31 Tahun 2004 tentang Perikanan).
- Republic of Indonesia (1955). *Law Number 7 Drt of 1955 concerning Economic Crimes*, (Undang-Undang Nomor 7 Drt Tahun 1955 Tentang Tindak Pidana Ekonomi)
- Republic of Indonesia (2009). *Law Number 4 of 2009 concerning Mining*, (Undang-Undang Nomor 4 Tahun 2009 Tentang Pertambangan).
- Republic of Indonesia (2008). *Law Number 17 of 2008 concerning Shipping of the United Nations Convention against Transnational Organized Crime (UNCATOC)*, (Undang-Undang Nomor 17 Tahun 2008 Tentang Pelayaran United Nations Convention against Transnational Organized Crime (UNCATOC)).
- Rudi, T.M. (2006). *Hukum Internasional*. Bandung: PT Refika Aditama.
- Rosandry, I., & Djundjuran, B.A.K.N. (2019). *Kejahatan Perikanan Dalam Perspektif Kejahatan Transnasional Terorganisir*. Paper, presented on National Seminar at Faculty of Law Universitas Negeri Semarang, 27 September 2019.
- Subagyo, P.J. (2005). *Hukum Laut Indonesia*. Jakarta: PT Rineka Cipta.
- Supriadi & Alimuddin. (2011). *Hukum Perikanan Indonesia*. Jakarta: Sinar Grafika Offset.
- Supramono, G. (2011). *Hukum Acara Pidana dan Hukum Pidana di Bidang Perikanan*. Jakarta: PT Rineka Cipta.

- Syarif, L.M. (2009). *Promotion And Management of Marine Fisheries In Indonesia*, on Towards Sustainable Fisheries Law: A Comparative Analysis, Gerd Winter (ed) IUCN Environmental Policy and Law Paper.
- Tarigan, M. (2018). Implementation of Countermeasures Effort of Illegal Fishing in Indonesia (Case Study on Sinking the FV Viking Vessel). *JILS (Journal of Indonesian Legal Studies)*, 3(1), 131-146. <https://doi.org/10.15294/jils.v3i01.23213>
- Tribawono, D. (2002). *Hukum Perikanan Indonesia*. Bandung: PT. Citra Aditya Bakti.
- United Nations (1982). *United Nation Convention on the Law of Treaties (UNCLOS) 1982*.
- Wahyuningtyas, Y. W. (2017). Penanganan Tindak Pidana di Bidang Perikanan Berdasarkan Peraturan Perundang-Undangan di Indonesia. *Jurnal Rechtsens*, 6(1), 32-45. <http://ejurnal.uij.ac.id/index.php/REC/article/viewFile/197/191>

QUOTE

In every species of fish I've angled for, it is the ones that have got away that thrill me the most, the ones that keep fresh in my memory. So I say it is good to lose fish. If we didn't, much of the thrill of angling would be gone.

Ray Bergman