

## Towards Effective And Fair Fisheries Law Enforcement: Efforts To Strengthen The Principle Of Legal Certainty

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*Abstract: This research discusses the authority in adjudicating fisheries criminal cases in the State Fisheries Management Area of the Republic of Indonesia (WPPNRI) and the concept of regulation based on the principle of legal certainty. The purpose of this research is to analyze and reveal the essence of authority and the concept of regulation in adjudicating fisheries criminal cases in Indonesia based on the principle of legal certainty. The method used in this research is normative legal method, with data collection techniques through literature study which is then analyzed through the stages of legal interpretation description, systematization, evaluation, and legal argumentation. The research results show that the authority to adjudicate fisheries criminal cases at WPPNRI is absolute (absolute competence or attribution) to accept and decide fisheries disputes, and has relative authority (distribution or relative) based on the general court area. This regulatory concept is proposed by reconstructing Article 106 of the Fisheries Law so that the fisheries court becomes the only institution adjudicating fisheries cases. Establishing a fisheries court in each province is expected to end the dualism of authority and create legal certainty. Therefore, it's necessary to reconstruct Article 106 of the Fisheries Law by increasing the number of special fisheries courts, practitioners, and law enforcers to increase synergy between investigators and fisheries supervisors to protect fish resources and ensure their benefits for the welfare of the Indonesian people. Article 106 of this Law focuses on improving legal certainty by establishing clear and firm sanctions for violators of fisheries regulations, including administrative, criminal, and civil sanctions. With this provision, it is expected to create better legal certainty in fisheries law enforcement, reduce illegal fishing practices, and increase the effectiveness of monitoring and law enforcement. The implication is that the fisheries criminal justice process will become more efficient, with lower costs and faster settlement time, increasing the effectiveness of law enforcement.*

**Keywords:** authority, fishery crimes, legal certainty.

## INTRODUCTION

The state has the right to control the earth, water and natural resources contained therein, and has the responsibility to utilize them for the greatest prosperity of the people. To achieve this goal, good and sustainable management is required. Effective management includes planning, supervision and regulation that ensures that natural resources are used optimally without damaging the environment or threatening its sustainability. With good management, the state can ensure that natural resources not only provide economic benefits, but also maintain ecological balance and community welfare<sup>1</sup>. As an archipelagic country, most of the territory of the Unitary State of the Republic of Indonesia consists of 17,508 islands with a coastline of 81,000 km<sup>2</sup> and an area of about 3.1 million km<sup>2</sup>, of which 2/3 of the territory is water consisting of coastal seas, high seas. With a coastline of 95,181 km<sup>2</sup>, bays and straits, it has a coastline of 95,181 km<sup>2</sup>. With a water area of 5.8 million km<sup>2</sup>, it is rich in marine resources and fish. The 5.8 million km<sup>2</sup> water area consists of: 0.3 million km<sup>2</sup> of territorial sea waters, 2.8 million km<sup>2</sup> of archipelagic waters, and 2.7 million km<sup>2</sup> of Exclusive Economic Zone (EEZ) waters<sup>2</sup>. Therefore, the sea is a very potential area in supporting the life of the nation and the world community, it does not rule out the possibility of various conflicts or problems and violations of the region.

Illegal fishing is a problem that can harm the country, society, and the ecosystem. In addition, the general public who are consumers are also harmed because they cannot enjoy seafood in their own country<sup>3</sup>. Fish theft also damages marine ecosystems and promotes the loss of fisheries resource chains. Fish theft is often carried out using prohibited fishing gear and results in the destruction of marine ecosystems. In addition to the problem of fish theft, problems in the marine and fisheries sector include marine pollution, criminal acts related to fish farming, criminal acts related to

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<sup>1</sup> Farhani, A., & Chandranegara, I. S. (2019). Penguasaan Negara terhadap Pemanfaatan Sumber Daya Alam Ruang Angkasa Menurut Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. *Jurnal Konstitusi*, 16(2), 235–254.

<sup>2</sup> Supriadi, & Alimuddin. (2011). *Hukum perikanan di Indonesia*. Sinar Grafika.

<sup>3</sup> Djoko, T. (2013). *Hukum Perikanan Indonesia*. Bandung: Citra Aditiya Bakti.



germplasm destruction, physical degradation of coastal habitats, illegal fishing, and illegal waste disposal.

The government needs to strengthen laws in the fisheries sector to ensure sustainable and equitable management of fisheries resources, and to protect national interests. Strengthening these laws is important to prevent illegal practices such as overfishing, destruction of marine ecosystems, and illegal fishing activities, which can be detrimental to the environment and economy<sup>4</sup>. As a rule of law country, Indonesia needs to enforce the law more strictly to regulate people's behavior. Consistent and fair law enforcement is key to creating social order and justice, as well as ensuring that every citizen abides by the established rules. This is important to prevent deviant behavior that can undermine the fabric of society, reduce crime, and build public trust in legal institutions<sup>5</sup>. One important factor in maintaining the wealth of marine resources is the law enforcement process. Law enforcement in fisheries must be supported by adequate legal instruments and good judicial institutions. Limited human resources who have an understanding of cases in the fisheries sector, procedural laws that do not support a fast judicial process, and lack of support for adequate facilities and infrastructure are factors that hinder law enforcement in the fisheries sector.

Various criminal policies have been presented to address fisheries issues, such as through Laws that regulate law enforcement in this sector. For example, Law No. 31/2004 on Fisheries and its amendment in Law No. 45/2009, which provides a legal framework to address criminal offenses in the fisheries sector, including illegal fishing, the use of destructive fishing gear, and practices that harm the marine environment. This policy aims to protect fisheries resources, ensure the sustainability of marine ecosystems, and safeguard national economic interests, while providing strict sanctions for violators to provide a deterrent effect. To discuss fisheries issues, it is not enough to only know the Fisheries Law, because there are still several

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<sup>4</sup> Dahuri, R. (2012). *Petunjuk Teknis Penyelesaian Perkara Tindak Pidana Perikanan*. Pusdiklat Kejaksaan RI.

<sup>5</sup> Jenderal, K. Y. (Indonesia). S. (2013). *Putih hitam pengadilan khusus*. Sekretariat Jenderal, Komisi Yudisial, Republik Indonesia.



regulations related to the fisheries sector and these regulations complement each other for the implementation of fisheries management in our country. These regulations include: Indonesian Waters Law, State Territory Law, Indonesian Exclusive Economic Zone Law, Shipping Law, Environmental Protection and Management Law.

Law enforcement in fisheries is essential to ensure the fisheries sector can be effectively controlled<sup>6</sup>. With strong law enforcement, violations such as illegal fishing, overexploitation, and the use of destructive fishing gear can be prevented. This not only protects the sustainability of marine resources, but also ensures that fisheries products can be enjoyed sustainably by the community and support the national economy<sup>7</sup>. The Fisheries Law regulates the establishment of fisheries courts within the general judicial environment, as stipulated in Article 71. This article stipulates that fisheries courts function to handle and decide cases related to criminal acts in the fisheries sector. The establishment of this fisheries court aims to ensure a special and more focused handling of fisheries cases, so that the judicial process can be carried out more effectively and efficiently.

Strengthening regulations in the fisheries sector is critical to ensuring the sustainability of marine resources, avoiding declines in fish populations and damage to marine habitats. Strict regulations make it easier to enforce laws against violations such as illegal fishing and the use of destructive fishing gear, and support a sustainable fishing industry and the livelihoods of coastal communities. In Law No. 45/2009, the regulation on fisheries court is integrated with the general judicial system, thus clarifying the authority and legal procedures in handling cases related to fisheries crimes. This aims to increase the effectiveness of law enforcement in the fisheries sector by ensuring that cases involving violations in this sector are handled by courts that have special competence in this field<sup>8</sup>.

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<sup>6</sup> Solihin, A. (2010). *Politik hukum kelautan dan perikanan: isu, permasalahan, dan telaah kritis kebijakan*. Nuansa Aulia.

<sup>7</sup> Harahap, S. (2018). Penegakan hukum tindak pidana perikanan (illegal fishing) di Provinsi Kepulauan Riau khususnya di wilayah laut Natuna ditinjau dari Undang-Undang Nomor 45 Tahun 2009 tentang Perikanan. *Prosiding Ilmu Hukum*, 4(1), 508-511

<sup>8</sup> Khairi, M. (2016). Politik Hukum Pemerintah Dalam Penanganan Tindak Pidana



The establishment of fisheries courts must be implemented in all district courts. However, currently it is still limited to several district courts, namely Medan District Court, North Jakarta District Court, Pontianak District Court, Tual District Court, and Bitung District Court (Law No. 45 Year 2009). The establishment of a fisheries court aims to specifically handle criminal cases in the field of fisheries within a certain jurisdiction. These fisheries courts have the authority to resolve cases of violations of fisheries regulations, such as illegal fishing, the use of destructive fishing gear, and violations of fisheries management policies.

Fisheries management in Indonesia faces various complex challenges, including overfishing, illegal fishing (IUU fishing), habitat degradation, and the impacts of climate change. Overfishing and IUU fishing undermine the sustainability of fish stocks and marine ecosystems, while habitat degradation due to human activities such as mining and pollution further exacerbates the situation. Climate change is also altering fish distribution and creating catch uncertainty for fishers. In addition, the socio-economic dependence of coastal communities on fisheries, lack of infrastructure and technology, and weaknesses in law enforcement hinder effective management.

Similar to Indonesia, the Philippines also faces challenges of overfishing, illegal fishing, marine habitat degradation and climate change impacts. But there are differences in scale and context. Indonesia with its larger marine area faces greater challenges in terms of monitoring and enforcement than the Philippines, which despite having a smaller water area, also struggles with population density in its coastal areas. Degradation of habitats such as coral reefs and mangroves is also a serious problem in both countries, caused by human activities such as mining, coastal development and pollution. In the Philippines, these pressures are exacerbated by more intensive coastal development, while in Indonesia, dispersed management of coastal areas adds to the complexity. Climate change impacts, such as changing weather patterns and rising sea level, are also a concern. Article 71 of Law No. 31/2004 on Fisheries was amended by Law No. 45/2009 as part

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Perikanan (Illegal Fishing) Di Indonesia. *Fiat Justisia: Jurnal Ilmu Hukum*, 10(2).

727



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of a revision to update and strengthen regulations in the fisheries sector. This amendment regulates fisheries courts within the general judicial environment more clearly and comprehensively. In Law No. 45/2009, the regulation on fisheries court is integrated with the general judicial system, thus clarifying the authority and legal procedures in handling cases related to fisheries crimes. This aims to increase the effectiveness of law enforcement in the fisheries sector by ensuring that cases involving violations in this sector are handled by courts that have special competence in this field. an temperatures, are affecting marine ecosystems and fish distribution in both countries. Fishers in the Philippines, who rely more on small-scale fisheries, may be more vulnerable to these changes compared to fishers in Indonesia, who have greater access to varied marine resources<sup>9</sup>. Law enforcement in both countries faces challenges, but Indonesia, with its larger ocean area and dispersed resources, faces greater obstacles in policing its waters. The Philippines, despite its smaller scale, still struggles with law enforcement issues, especially in congested coastal areas. While Indonesia and the Philippines share many challenges in fisheries management, differences in geographic scale, population density, and infrastructure make the approaches needed to address these issues unique to each country.

Based on previous research, law enforcement efforts by the Indonesian Navy (TNI AL) in handling illegal fishing crimes are carried out in accordance with Article 73 of Law Number 45 of 2009 concerning Fisheries. This article authorizes the Indonesian Navy to conduct investigations and law enforcement related to violations in the fisheries sector, including illegal fishing practices<sup>10</sup>.

In contrast to previous studies, this research focuses on the dualism of the Fisheries Court Agency in Indonesia in trying, examining, and deciding fisheries crimes in the State Fisheries Management Area of the

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<sup>9</sup> Andriesse, E. (2018). Persistent fishing amidst depletion, environmental and socio-economic vulnerability in Iloilo Province, the Philippines. *Ocean & Coastal Management*, 157, 130-137. <https://doi.org/10.1016/j.ocecoaman.2018.03.016>

<sup>10</sup> Zamili, P. A. S. (2022). Kewenangan TNI Angkatan Laut dalam melakukan penyidikan tindak pidana illegal fishing (Studi di Pangkalan TNI AL Nias). *Jurnal Panah Hukum*, 1(2), 191-203.





Republic of Indonesia (WPPNRI). Dualism of authority in fisheries management can cause overlapping rules, policies, and responsibilities, leading to ineffective management of marine resources. This creates legal uncertainty and bureaucratic red tape, discourages investment in the fisheries sector, and reduces economic growth. Coastal communities, which rely heavily on fisheries, can experience reduced incomes and economic instability due to inconsistent policies. In addition, dualism of authority also has the potential to trigger social conflict, exacerbate inequality, and accelerate environmental degradation, all of which negatively impact community welfare and the sustainability of marine resources. This is an aspect of originality that has not been widely researched, with the aim to analyze and discover the nature of authority and the concept of regulation in adjudicating fisheries criminal cases in Indonesia based on the principle of legal certainty.

## RESEARCH METHODS

This research uses a research method described by Peter Mahmud Marzuki as a process for finding legal rules, legal principles, and legal doctrines in order to answer the legal issues at hand<sup>11</sup>. Thus, the type of research used is normative legal research that examines positive legal provisions and legal principles<sup>12</sup>. In addition, this research utilizes several approaches, including case, statutory, conceptual, and comparative approaches. These approaches allow researchers to understand the legal issues at hand through case studies, analysis of laws and regulations, legal concepts, and comparison with other countries' legal systems<sup>13</sup>. The sources of legal materials used include primary, secondary, and tertiary legal materials, consisting of laws and regulations, textbooks, legal journals, as well as websites and other documents. The technique of collecting legal materials was carried out through literature studies to understand legal issues related to fisheries

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<sup>11</sup> Marzuki, P. M. (2009). *Penelitian Hukum. Penelitian Hukum*. Jakarta: Kencana.

<sup>12</sup> Hadjon, P. M. (1997). *Pengkajian Ilmu Hukum, Metode Penelitian Hukum Normatif*. Surabaya: Universitas Airlangga.

<sup>13</sup> Gosita, A. (2010). Masalah korban kejahatan. *BUKU DOSEN-2009*.



crimes. Analysis of legal materials was conducted through the stages of description, interpretation, systematization, evaluation, and legal argumentation to find solutions to the problems faced. Thus, this research utilizes a multidisciplinary approach and comprehensive methods to understand and resolve complex legal issues in fisheries court

## **RESULT AND DISCUSSION**

### **A. The Nature of the Authority to Adjudicate Fisheries Crime Cases in the Fisheries Management Areas of the Republic of Indonesia (WPPNRI)**

#### **(1) Fisheries Crime in Indonesia.**

The term "criminal offense" comes from Dutch and Sanskrit, which refers to actions that violate the law and have a detrimental impact on individual or public interests. Several definitions from legal scholars such as Vos, Tri Andriman, and Roeslan Saleh illustrate that criminal acts are behaviors that are threatened with punishment under legal regulations. Other terms used to refer to the same concept include unlawful act, criminal offense, or punishable act. Fisheries crime refers to violations of laws governing the management and utilization of fish resources, including illegal fishing, unreported fishing, and unregulated fishing. Policies governing fisheries crime cover a wide range of offenses with varying penalties, ranging from imprisonment to maximum fines. These offenses include activities such as unlicensed fishing, use of non-standard fishing gear, and pollution that damages fish resources. These regulations aim to maintain the sustainability of fish resources and protect marine ecosystems from negative impacts caused by irresponsible fishing practices. These regulations emphasize the importance of maintaining the sustainability of marine ecosystems and regulate fisheries activities to prevent further damage

#### **(2) History of the Establishment of Fisheries Courts in Indonesia.**

Indonesia's natural wealth needs to be optimally utilized for the welfare of society with a sustainable and inclusive approach. Indonesia, as a country with abundant natural resources, has great potential to improve the quality of life of its people. In managing these marine resources, the goal is to improve the welfare of the





community while preserving the marine environment. However, these rich marine areas are also subject to violations, conflicts and theft, which harm the community and damage the marine ecosystem. In the context of fisheries, criminal offenses such as illegal fishing, fish bombing, and illegal fishing businesses are increasingly prevalent. To overcome this, laws and regulations have been made, including Law No. 45/2009 on Fisheries. However, the handling of fisheries crimes still faces various obstacles, such as overlapping legal regulations and uncertainty in law enforcement. To address this, fisheries courts have been established in various regions in Indonesia, with the aim of providing more specific handling of fisheries crime cases. However, the process of establishing and assigning judges in fisheries courts also faces challenges, such as the need for competent human resources. With the existence of fisheries courts, the legal process becomes more focused and skilled in dealing with technical and specific issues related to fisheries, such as illegal fishing, the use of destructive fishing gear, and other violations. In addition, fisheries courts can speed up the resolution of cases, ensure consistent law enforcement, and provide decisions that are more appropriate in the context of fisheries regulations

### **(3) Fisheries Crime Justice System.**

In enforcing fisheries law in Indonesia, fisheries policy has been specifically regulated by criminal procedural law, with the main legal basis including the Fisheries Law and the Criminal Code (KUHP). The Fisheries Law establishes specific rules regarding violations in the fisheries sector, such as illegal fishing and the use of destructive fishing gear, as well as determining relevant sanctions and law enforcement procedures. Meanwhile, the Criminal Code provides a general criminal law framework that applies to offenses that may not be specifically regulated in the Fisheries Law. The combination of these two legal sources ensures that violations in the fisheries sector are handled effectively and in accordance with applicable regulations.

Provisions regarding investigation, prosecution, and examination at the fisheries court are regulated in CHAPTER XIV Article 72 through Article 83. In the fisheries court system stipulated in Law No. 31 Year 2004, investigation of criminal offenses in the field of fisheries is conducted by Civil Servant Investigators (PPNS), Navy Officers and State Police Officers of the Republic of Indonesia



(Article 73 paragraph 1). Thus, there are three state institutions authorized to conduct investigations in the field of fisheries. Although the word coordination is difficult to apply, Law No. 31 Year 2004 mandates that investigators can coordinate (Article 73 paragraph 2). Therefore, to coordinate the handling of criminal offenses in the field of fisheries, the Minister of Maritime Affairs and Fisheries may establish a coordination forum (Article 73 paragraph 3)

**(4) The position of the Republic of Indonesia State Fisheries Management Area (WPPNRI) in Fisheries Law in Indonesia.**

The Fisheries Policy provides a definition of fishing and criminal fisheries activities, which include the use of chemicals, germplasm renewal, environmental pollution, etc. In addition, there are modus operandi described, such as fishing vessels conducting activities without proper licenses and documents and the link between IUU Fishing and other crimes such as trafficking in persons, money laundering, and smuggling of goods. Factors causing the rise of fisheries crimes in Indonesian waters are also mentioned, including the increasing global demand for fish, disparity in fish prices, depleted fisheries in other countries, and limited supervision and law enforcement. In addition, the difference in the regulation of fisheries management areas between the Law and the Regulation of the Minister of Maritime Affairs and Fisheries shows the complexity of law enforcement in Indonesia's Exclusive Economic Zone, which must take into account the provisions in UNCLOS 1982. UNCLOS regulates the rights and obligations of coastal states through various articles that divide maritime zones into several categories with specific rights and responsibilities. The coastal state has monitoring rights over its territorial sea area up to 12 million seas from the baseline, as well as exclusive rights to resources in the Exclusive Economic Zone (EEZ) up to 200 million seas and on the continental shelf. They are also obliged to protect the marine environment, carry out sustainable resource management, and provide free access and freedom of international navigation at sea. UNCLOS provides a framework for settlement protection, protection of the rights of coastal states, and fair and sustainable use of marine resources.

**(5) Several Court Decisions on Fisheries Crime Cases in Indonesia**

Cases of Fisheries Crimes in Indonesia can be resolved in the Fisheries Court or District Court whose jurisdiction is in the place where the fisheries crime occurred. This happens because the two



Courts, namely the Fisheries Court and the District Court, both have the authority to hear the case as stipulated in Law No. 31 of 2004 Jo. Law No. 45 of 2009, concerning Fisheries. The following are several court decisions that tried fisheries crime cases in Indonesia:

- (a) Case 1: Decision Number 02/Pid.Sus-PRK/2024/PN Bit. The Fisheries Court at the Bitung District Court, which examines and tries fisheries criminal cases with ordinary examination procedures in the first instance, handed down the following decision in the case of the Defendant UNIHK ALIAS PAPA RIO. The defendant in this case was detained by the Public Prosecutor of Bitung District Attorney and the Panel of Judges. Based on Article 84 Jo. Article 8 Paragraph (1) of Law Number 31 Year 2004 concerning Fisheries, the Defendant was found guilty and sentenced to 7 months imprisonment and a fine of Rp. 1,000,000. The confiscated evidence is also stipulated in the verdict. Thus decided by the Panel of Judges of the Fisheries Court at the Bitung District Court on January 31, 2024.
- (b) Case 2: Decision Number 6/Pid.Sus-PRK/2023/PN Ptk. The Fisheries Court at the Pontianak District Court handed down its decision in the case of the defendant Warjoyo Bin Suriadi (deceased). The defendant was detained by investigators, the public prosecutor and the panel of judges. Based on Article 85 Jo. Article 9 of the Republic of Indonesia Law Number 31 of 2004 concerning Fisheries, the defendant was found guilty and sentenced to prison for 4 months and 15 days, as well as a fine. The confiscated evidence is also specified in the decision. This was decided by the Panel of Judges at the Fisheries Court at the Pontianak District Court on October 18 2023.
- (c) Case 3: Decision Number 7/Pid.Sus-PRK/2023/PN Ptk. The Fisheries Court at the Pontianak District Court handed down its decision in the case of the defendant Sulaiman. The defendant was detained by investigators, the public prosecutor, the panel of judges and the deputy head of the court. Based on Article 85 Jo. Article 9 of the Republic of Indonesia Law Number 31 of 2004 concerning Fisheries, the defendant was found guilty and sentenced to 2 months in prison and a fine. The confiscated evidence is also specified in the decision. This was decided by the Panel of Judges at the Fisheries Court at the Pontianak District Court on November 3 2023



**(6) The Nature of the Authority to Adjudicate Fisheries Crime Cases at WPPNRI**

As a state of law, Indonesia upholds the principle of independence of judicial power, which means that the judiciary must carry out its duties without interference or influence from other powers. Judicial power, as one of the branches of state power in Indonesia apart from the executive and legislative branches, plays a crucial role in the governance system. Judicial power is the main foundation for maintaining justice and the integrity of the judicial system. Along with advances in technology and the complexity of legal issues, a more professional judicial institution is needed with human resources who have expertise in specific fields such as corruption, the environment and fisheries. Law 48 of 2009 provides the basis for expanding the judiciary and specializing its functions, including the establishment of special courts within the general judiciary, such as the fisheries court.

The authority of the fisheries court, as regulated in Article 71 A of Law 45/2009, is limited to fisheries crimes that occur in Indonesian fisheries management areas. There are two types of fisheries crimes regulated in this law, namely crimes and violations. Fisheries Courts have developed in Indonesia since 2004, with courts spread across various regions. However, in areas that do not yet have a fisheries court, fisheries crimes are still handled by the competent district court. The development of judicial institutions also includes the establishment of ad hoc judges in several special courts, including fisheries courts. Ad hoc judges are judges appointed specifically to deal with a particular case outside the authority of a regular court, usually in the context of an international tribunal or specialized judicial body. The primary duty of an ad hoc judge is to render a fair and objective decision in the case at hand, ensuring that the decision is in accordance with applicable law and the principles of justice

**B. Concept of Arranging the Authority to Adjudicate Fisheries Crime Cases in Indonesia Based on the Principle of Legal Certainty**

**(1) Arrangement of Legal Area Limitations of Authority (Relative Competence) of the Fisheries Court as a Special Court**

The implementation of law enforcement in the fisheries sector is very important for sustainable and fair fisheries development. Effective law enforcement helps prevent and address illegal practices



such as overfishing, fish theft, and the use of destructive fishing gear. By having strict rules and regulations, the country can protect fisheries resources, ensure sustainable use, and maintain the balance of the marine ecosystem. In addition, consistent law enforcement supports social justice by protecting the rights of local fishermen and encouraging healthy competition in the fisheries sector. International cooperation and strengthening the capacity of monitoring institutions are critical to achieving sustainable fisheries development goals. Effective law enforcement is essential in protecting marine resources and maintaining ecosystem balance. With strict law enforcement, countries can prevent actions that damage the marine environment, such as overfishing, pollution and habitat destruction. This helps ensure that marine resources are managed sustainably, which supports the sustainability of marine ecosystems and prevents irresponsible actions. Consistent law enforcement also builds legal certainty and justice, providing incentives for business actors and fishermen to comply with regulations and operate in a more environmentally friendly manner.

**(2) Application of the Principle of Legal Certainty in the Concept of Regulating the Authority to Adjudicate Fisheries Crime Cases in Indonesia**

In order to enforce fisheries law, fisheries courts play a strategic role in prosecuting fisheries crimes. However, there are several obstacles to the implementation of the authority of the fisheries court as mandated by the Fisheries Law. One of them is that fisheries courts have not been established evenly in every jurisdiction of the District Court. The establishment of the first fisheries courts in several regions has been carried out in stages, but the number is still limited. This creates a blurring of relative competence between fisheries courts and district courts. Nevertheless, the existence of a fisheries court is expected to increase the efficiency and effectiveness of law enforcement in the fisheries sector. The fisheries court is a special court under the district court, with the authority to try fisheries crimes. However, in some cases, fishing crimes are also tried in district courts which have similar authority. This creates a dualism



of authority between the two courts, especially in areas that do not have a fisheries court. The fisheries court has absolute and relative authority regulated by the Fisheries Law, but its implementation still raises a number of challenges, such as limitations in case examination time.

Another challenge is understanding the concept of authority, which is often debated in the context of law enforcement. The term "authority" or "authority" is closely related to public legal powers, conferred by law or administrative executive power. The division of authority within the fisheries court also gives rise to differences of opinion regarding its position and absolute competence. The establishment of a fisheries court as a special institution in enforcing fisheries law is important to ensure justice and legal certainty in this field. In addition, effective and efficient law enforcement in the fisheries sector will also contribute to sustainable management of marine resources and protect the interests of the state and fishing communities. Therefore, it is necessary to continue monitoring and evaluating the implementation of fisheries courts in order to improve the fisheries law enforcement system in the future.

### **(3) Regulation of Fisheries Crimes in International Fisheries Law**

Fisheries crimes in Indonesia are indeed closely related to the Fisheries Law. Given that Indonesia is a maritime country with vast marine areas and rich fisheries resources, law enforcement in this sector is crucial. Fisheries Law, such as Law No. 31 of 2004 concerning Fisheries which has been amended by Law No. 45 of 2009, regulates various aspects related to fisheries, including management, protection, and law enforcement. Fisheries crimes include various offenses such as illegal fishing, use of environmentally damaging fishing gear, and violation of fishing zones. Effective law enforcement in the fisheries sector is necessary to prevent overexploitation and ensure the sustainability of fisheries resources. The Indonesian government, through various agencies such as the Ministry of Maritime Affairs and Fisheries (MMAF) and the





Indonesian Navy, plays an important role in conducting surveillance and law enforcement to address fisheries crimes.

**(4) Settlement of International Fisheries Disputes through Decisions of the International Dispute Body.**

International dispute resolution bodies, such as the International Court of Justice (ICJ) and the International Tribunal for the Law of the Sea (ITLOS), play an important role in the development of international fisheries law. The ICJ resolves interstate disputes and provides legal advice on fisheries rights, while ITLOS, which specializes in disputes under the UN Convention on the Law of the Sea (UNCLOS), regulates fisheries rights in internationally regulated maritime zones. Both bodies contribute to the enforcement of international fisheries law by deciding disputes and setting legal precedents that shape the governance and protection of global fisheries resources.

**(5) Several Main Concepts of International Fisheries Regulations**

International fisheries law covers a wide range of key issues and concepts related to the management and protection of marine resources. UNCLOS (United Nations Convention on the Law of the Sea), the framework convention for the law of the sea, addresses topics such as maritime boundaries, exclusive economic zones (EEZs), and the rights and obligations of coastal states in fisheries management. By establishing clear rules on maritime rights and state responsibilities in the conservation and utilization of fisheries resources, UNCLOS provides a comprehensive legal framework. This makes it an important starting point for international fisheries law researchers in developing regulations and best practices for global fisheries management.

**(6) Concept of Arranging the Authority to Adjudicate Fisheries Crime Cases based on the Principle of Legal Certainty**

There are many reasons why things are complex or appear complicated. First of all, advances in various fields of science and technology often result in deeper knowledge and more complex understanding of phenomena that may previously have seemed simple. Apart from that, modern society is also increasingly



connected and interconnected globally, causing the problems that arise to have widespread impacts and are often multidimensional. Rapid social, political, and economic change can also lead to complexity, as conflicting interests and values can emerge and make decision-making difficult. In addition, differences in views, values and interests between individuals and groups can also add complexity to reaching an agreement or adequate solution. In many cases, complexity is also influenced by uncertainty and unstable environmental dynamics, which can make prediction and planning difficult. All these factors together create a situation where things are complex and require a careful and structured approach to understanding and resolution.

### **Novelty**

There is dualism in the authority to adjudicate fisheries crimes in Indonesia between the Fisheries Court and the General Court. Article 71 A of Law 45 of 2009 gives the Fisheries Court the authority to examine, try and decide fisheries criminal cases in the fisheries management area of the Republic of Indonesia, while Article 106 of Law no. 31 of 2004 gives authority to the District Court to examine cases that occur outside the area of the fisheries court. A contradiction arises in terms of prosecution, where Article 76 paragraph (5) of Law 45 of 2009 directs the public prosecutor to submit cases to the Fisheries Court, but Article 76 paragraph (9) directs the submission of case files to the District Court. In an effort to overcome this ambiguity, the revision of Article 71 paragraph (2) of the Fisheries Law can clarify the authority of the Fisheries Court as the only court that handles fisheries criminal cases. Existing Fisheries Courts can also receive, examine and decide cases online to ease the burden on the APBN, but must still apply special procedural legal instruments in the Fisheries Law, so that the principles of simple, fast and low-cost justice can be fulfilled in handling criminal cases. fisheries crime

### **CONCLUSION**

The authority to adjudicate fisheries criminal cases in the Republic of Indonesia State Fisheries Management area (WPPNRI) has two aspects,



namely absolute competence in accepting and deciding fisheries disputes, as well as relative authority based on the location of the general court. This concept of authority regulation aims to ensure legal certainty by reconstructing article 106 of the Fisheries Law to establish fisheries courts in each province, ending dualism of authority and creating legal certainty. The suggestions put forward are for policy makers to reconstruct Article 106 of the Fisheries Law in order to increase the number of fisheries courts so that the judicial process becomes simpler, faster and lower cost, as well as for practitioners and law enforcers to maintain synergy in law enforcement for the sake of preserving fish resources in Indonesian waters. for the welfare of society.

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