

CHAPTER ONE

INTRODUCTION

A. Background of Research

Illegal fishing is a problem that often occurs in a country that has many islands. The issue of illegal fishing has existed and occurred long time, but until right now the problem of illegal fishing is still difficult to eradicated. This is due to the difficulty to supervise many marine areas at the same time. Illegal and unreported fishing contributes to overexploitation of fish stocks and is a hindrance to the recovery of fish populations and ecosystems.¹ Illegal fishing is prevalent globally and has detrimental effects on commercial fish stocks and non-target species.² Illegal fishing creates significantly collateral damage to ecosystems. Illegal Fishing, by its very nature, does not respect national and international actions designed to reduce by catching and

¹ David J. Agnew, John Pearce, Ganapathiraju Pramod, Tom Peatman, Reg Watson, John R. Beddington, Tony J. Pitcher, 2009, “Estimating the Worldwide Extent of Illegal Fishing”, Vol. 4, Issue 2, February 2009, *PLoS ONE*, p. 1.

² Henrik Osterblom and Orjan Bodin, 2012, “Global Cooperation among Diverse Organizations to Reduce Illegal Fishing in the Southern Ocean”, Vol. 26, Issue 4, August 2012, taken from onlinelibrary.wiley.com/doi/10.1111/j.1523-1739.2012.01850.x/full, accessed on Monday, November 13rd, 2017 at 8:17pm.

mitigating the incidental mortality of marine animals such as sharks, turtles and mammals.³

Geographically, the Republic of Indonesia is an archipelagic state and two-thirds of it is the ocean.⁴ Because marine waters are very spacious and the potential of fisheries are huge and diverse, the potential of fishery can become an economic capital that can be utilized as much as possible for the nation's future as the backbone of national development.⁵ Illegal fishing is a common problem in Indonesia. Moreover, Indonesia has very strategic geographical location and can be reached by neighboring countries for Indonesian maritime boundary is adjacent to them directly. This is the main problem that causes many illegal fishing activities occurring in Indonesia.

Article 46 (a) of the United Nations Convention on the Law of the Sea (UNCLOS) 1982 defines an archipelagic state as one being constituted wholly by one or more archipelagos and may include other islands. In sub-section (b) of the same article, the term archipelago is defined as a group of island, including parts of islands, waters and other natural features form an intrinsic

³ *Op. Cit.*, p. 5.

⁴ Vivian Louis Forbes, 2014, *Indonesia's Delimited Maritime Boundaries*, London, Springer, p. 2.

⁵ Zaqiu Rahman, 2015, Peneggelaman Kapal Sebagai Usaha Memberantas Praktik Illegal Fishing, taken from http://rechtsvinding.bphn.go.id/jurnal_online/PENENGGELAMAN%20KAPAL_OK.pdf, downloaded on Monday, March 6th, 2017 at 10am.

geographical, economic and political entity, or which historically have been regarded as such.⁶

There are several factors that cause illegal fishing activities in Indonesia:⁷ 1) Consumption of fish in the world globally is increasing year per year, with increasing the consumption of fish in global is causing a crisis fish in the sea. it is because there has been no concrete steps to anticipate the crisis of fish, so it will trigger the practice of illegal fishing in Indonesian sea and it is estimated that the Indonesian sea still have abundant of fish; 2) fish resources in other countries are on the wane, as other countries has run into a crisis of fish in their sea. Meanwhile, the demand of fish for consumption has been increasing, leading to the expansion of fishing to other country's sea water and Indonesia's is one of the fishing destinations. If the expansion is done illegally then illegal fishing occurs in Indonesian; 3) lack of law enforcement in Indonesian sea. There are sea areas which are never patrolled by Indonesian navy and police water resulting in the weak law enforcement in those areas.

Food and Agricultural Organization (FAO) reports that Indonesia is the second largest catchment country in the world in 2012, after China.

⁶ Vivian Louis Forbes, *Op. Cit.*, p. 3.

⁷ Astri Sulastri, "Faktor Penyebab Illegal Fishing", taken from <https://www.scribd.com/doc/245746057/Faktor-Penyebab-Illegal-Fishing>, accessed on Thursday, November 3rd, 2016 at 7:15pm.

Indonesia's fishery production reached 5.8 million tons with a value of about IDR 79.4 trillion (equivalent to 6.6 billion USD) in 2012. This value is a huge result of an area of 1.919.440 km² stretching from the Indian Ocean to the Ocean Pacific and South China Seas⁸

Data from Food and Agriculture Organization (FAO) noted that Indonesia losses per year due to illegal fishing is IDR 30 trillion, but, the Minister of Marine and Fisheries states that the data is still low. The data state that Indonesia losses much greater than the numbers described by FAO, namely reaching US\$ 20 billion, or IDR 240 trillion per year.⁹ The amount of the loss due to illegal fishing is not bit amount. This is a big problem and very detrimental to Indonesia. Therefore, the appropriate action to resolve the problem is required.

Illegal fishing is not only done by the Indonesian fishermen but also done by foreign fishermen. That is because their country does not have much fisheries resources.¹⁰ In order to combat illegal fishing activities in

⁸ Anonymous, "Memberantas Pelaku Kejahatan Perikanan", taken from <http://www.wwf.or.id/?38242/Memberantas-Pelaku-Kejahatan-Perikanan>, accessed on Wednesday, April 19th, 2017 at 1pm.

⁹ Anonymous, "Menteri Susi: Kerugian Akibat Illegal Fishig Rp 240 Triliun", taken from <http://finance.detik.com/berita-ekonomi-bisnis/d-2764211/menteri-susi-kerugian-akibat-illegal-fishing-rp-240-triliun>, accessed on Friday, November 4th, 2016 at 10:10pm.

¹⁰ Annisa Puteri Adityani and Adrianus E. Meliala, 2014, "efektivitas Penegakan Hukum Illegal Fishing di Indonesia", p. 2.

Indonesian sea, Indonesian government took an action by sinking foreign ships as firm sanction that aims to show firmness and seriousness of the Indonesian government in protecting the territorial sovereignty and expected to be a deterrent effect as well as a form of the government efforts to realize the vision of the shaft maritime especially related to the sovereignty at sea.¹¹ There are nine government's policy strategy to tackling illegal fishing activities in Indonesia, namely: 1) strengthening the local fishing fleet in Indonesian sea; 2) increasing the surveillance activities; 3) maximizing the role of Indonesian navy, police water, and institutions related to the supervision of the activities of fisheries resources; 4) improving the quality of human resources in the management of fishery resources; 5) increasing efforts for the implementation of the law on fisheries resources management thoroughly and continuously; 6) giving strict sanctions in order to give deterrent effect to the offenders fisheries violation; 7) improving the coordination and the relationship between the relevant agencies in the management of fishery resources in the waters of Indonesia; 8) building port facilities adequate; and 9) Improving regional and international cooperation.¹²

¹¹ Yusuf Istianto, 2015, "Penenggelaman Kapal Pelaku Illegal Fishing Sebagai Upaya Penegakan Hukum Perikanan di Indonesia", taken from <http://download.portalgaruda.org>, downloaded on Tuesday, December 27th, 2016 at 8pm.

¹² Firman Pra Setia Nugraha, 2015, "Permasalahan dan Strategi Penanggulangan IUU Fishing di Perairan Indonesia", taken from

Based on the description above the author is interested in conducting research and analyzing how is the law on illegal fishing is enforced in Indonesia under the perspective of Indonesian law and International law. The title of research is “The Law Enforcement on Illegal Fishing in Indonesia under Indonesian Law and International Law”.

B. Research Problem

Based on the background above, the research problem that will be discussed in the research is how the law enforcement on illegal fishing in Indonesia under Indonesian law and International law is?

C. Research Objective

The research aims to analyze how the law on illegal fishing in Indonesia is enforced under the Indonesian and international law?

D. The Benefit of Research

The research provided benefits as follows:

1. Theoretically

The results of the research are expected to contribute ideas and knowledge for the authors and readers in general, especially regarding to

http://pusluh.kkp.go.id/arsip/c/1858/?category_id=2, accessed on Sunday, November 27th, 2016 at 7:15pm.

the law enforcement on illegal fishing in Indonesian sea whether it is in accordance with Indonesian law and international law.

2. Practically

The research is expected to provide benefits to the authors and especially for academics as well as society in general, in the development of law, especially international law relating to the law enforcement on illegal fishing in Indonesian sea under Indonesian law and international law, which is expected to be used as an insight and learning.