

CHAPTER ONE

INTRODUCTION

A. Background

Indonesia is a country with a vast archipelago of land and sea. According to the record of the Indonesian Forum for the Environment, Indonesia is the largest archipelagic country in the world, which has 17,480 islands with 95,181 km of coastline. Under the United Nations Convention on the Law of the Sea (UNCLOS) 1982, Indonesia has sovereignty over 3.2 million km² of waters comprising of 2.9 million km² of archipelagic waters and a territorial sea of 0.3 million km².¹

In Article 6 Paragraph (2) of Law Number 6 Year 1996 on Indonesian Waters states that:

“The territorial waters of Indonesia are all waters around, between, and connecting the islands or parts of the islands which belong to the land of the Republic of Indonesia under the sovereignty of the Republic of Indonesia.”

Therefore, the number of territorial waters owned by Indonesia resulted in the number of fish that are very feasible to be consumed to be caught by illegal fishers. The fish in Indonesian waters are very diverse and numerous, making some foreign fishermen interested to catch fish in Indonesian waters. Some of the most frequent areas of illegal fishing are Arafuru Sea, Natuna Sea, North Sulawesi (Pacific Ocean), Makassar Strait, and West Sumatra (Indian Ocean).

¹ Nunung Mahmudah, 2015, *Illegal Fishing*, Jakarta, Sinar Grafika, p. 1.

Article 4 of Law Number 6 Year 1996 on Indonesian Waters states that:

“The sovereignty of the Republic of Indonesia in Indonesian waters comprises territorial sea, archipelagic waters, and inland waters and airspace over territorial sea, archipelagic waters, and inland waters.”

As country with numerous seas, Indonesia has been a frequent victim of illegal fishing events, and repeatedly Indonesia has also arrested and sentenced severe punishment to foreign illegal fishers. But that does not make the foreign fishermen deterrent or afraid to catch fish in Indonesia. The recent case occurred in Ambon, two foreign fishing vessels caught illegally fishing in Maluku waters and were destroyed in the waters of Mamala-Morela State, Leihitu District, Ambon Island, Central Maluku on April 1st, 2017.² This proves that many foreign fishermen still want to catch fish illegally in Indonesia despite the many incidents that make the Indonesian government provide severe punishment for the perpetrators.³

The large number of illegal fishing events made the government and people of Indonesia suffered huge losses. Sources of fisheries in Indonesia are one factor to develop the nation's prosperity. The fish can be used for consumption as a source of protein, and can also be sold as a source of income for the people and

² Nancy Junita, 2017, *Penangkapan Ikan Ilegal : 2 Kapal Asing Segera Ditenggelamkan*, taken from <http://industri.bisnis.com/read/20170330/99/641206/penangkapan-ikan-ilegal-2-kapal-asing-segera-ditenggelamkan> , accessed on November 8th, 2017 at 8:47 am.

³ Muhammad, Simela Victor, 2012, “Illegal Fishing di Perairan Indonesia: Permasalahan dan Upaya Penanganannya Secara Bilateral di Kawasan”, *Politica*, Vol. 3 No. 1, May 2012. p. 3.

government.⁴ The presence of Minister of Maritime Affairs and Fisheries of Indonesia, Susi Pudjiastuti, makes the illegal fishing practitioners more frequent, this is because minister Susi is very actively to combat the illegal fishing practitioners, although so many similar events often occur.

There are still many cases of illegal fishing because Indonesian government is still not maximally in supervising the waters in Indonesia. There is no maximum security in Indonesia that makes the illegal fishers are afraid to enter the territory of Indonesia.⁵

In Law No. 5 Year 1983 on Exclusive Economic Zone (EEZ), the sovereignty of the territorial waters of the Republic of Indonesia is defined as:

“The Indonesian Exclusive Economic Zone is the outer and adjacent to the Indonesian territorial sea as stipulated under applicable law on Indonesian waters covering the seabed, subsoil and above water with the outer limit of 200 (two hundred) nautical miles measured from the line the base of the Indonesian territory.”⁶

B. Research Problem

From the discussion above, the researcher formulates the research problem, namely: what are the implications and law enforcement on illegal fishing by foreign fishing vessels within Indonesia’s Exclusive Economic Zone?

⁴ Zaki Mubarak Busro, 2017, “Burning and/or Sinking Foreign Fishing Vessels Conducting Illegal Fishing in Indonesia”, *Asia-Pacific Journal of Ocean Law and Policy*, Volume 2, Issue 1, p. 174-179, DOI: 10.1163/24519391-00201011, IN: 2451-9367 E-ISSN: 2451-9391, The Netherlands, Brill Nijhoff.

⁵ Wawan, 2011, *Pengawasan Perairan Indonesia Kerap Bergantung Informasi Nelayan*, taken from <http://dkp.papua.go.id/berita-101-5-pengawasan-perairan-indonesia-kerap-bergantung-informasi-nelayan.html> accessed on November 8th, 2017 at 12:10 pm.

⁶ Article 2 of Law No. 5 Year 1983 on Exclusive Economic Zone.

C. Objectives of the Research

The objectives of the research are to understand and analyse further the implications and law enforcement on illegal fishing by foreign fishing vessels within Indonesia's Exclusive Economic Zone.

D. Benefits of the Research

1. Theoretical

The research would give benefit to know law enforcement on illegal fishing by foreign fishing vessels within Indonesia's Exclusive Economic Zone based on the Indonesian Law and International Law.

2. Practical

The research would give better understanding on how Indonesia protects the waters from the act of illegal fishing that is still happening in Indonesia.

E. Overview of the Chapters

The research consists of five chapters, namely: Chapter One Introduction, Chapter Two Literature Review, Chapter Three Research Methods, Chapter Four Discussion, Chapter Five Conclusion and Suggestion.

Chapter One: The chapter consists of Introduction, which elaborates general matter, such as Background, Research Question, Research Objective,

Research Benefits, and Overview of The Chapter. The background contains the newest case of illegal fishing and how to implement the law enforcement in Indonesia's Exclusive Economic Zone towards the issues of illegal fishing that happened in Indonesia. The author also delivers the research problem which will be discussed in the next chapter.

Chapter Two: Literature Review, the chapter discusses related library reviews regarding Literature Review of Law Enforcement, Illegal Fishing, and Exclusive Economic Zone.

Chapter Three: The chapter elaborates research method used in the research. The discussion is started from type of research, legal materials, method of collecting data, and method of data analysis. The type of the research is normative legal research. The research applies statute and case approaches. The data were gathered from some literature consists of primary legal materials, secondary legal materials, and tertiary legal materials. Furthermore, the data were taken through library research, and analyzed systematically by using qualitative and descriptive method.

Chapter Four: Finding and Analysis, the chapter elaborates the case with the normative legal research, with case approach. The focus of the research is on law enforcement on illegal fishing by foreign fishing vessels within Indonesia's Exclusive Economic Zone.

Chapter Five: Conclusion and Recommendation, in the chapter, the author makes conclusion on law enforcement on illegal fishing by foreign

fishing vessels within Indonesia's Exclusive Economic Zone. Suggestions are then given to implement the law enforcement on illegal fishing by foreign fishing vessels within Indonesia's Exclusive Economic Zone.