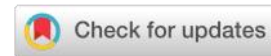




Research Article



Criminal Penalties for Foreigners Engaged in Illegal Fishing Indonesia's ZEE Impact SDGs

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Abstract: This research examines Indonesia's criminal law policy's readiness to address fisheries and maritime crimes within the Indonesian Exclusive Economic Zone (ZEEI) and its implications for achieving the Sustainable Development Goals (SDGs). However, in the UNCLOS 1982, Indonesia is prohibited from imposing imprisonment as a sanction for violations of the ZEEI, allowing only fines as penalties. In addition to normative issues, structural issues also pose challenges to effective law enforcement and threaten the success of Indonesia's SDGs in the fisheries sector. Using a normative legal research method with statutory, conceptual, and historical approaches. The study finds that Indonesia, as a signatory to UNCLOS 1982, must carefully adapt international rules into national laws without compromising its sovereignty. To achieve legal certainty, imprisonment as an alternative to fines should be considered. Fisheries crimes in ZEEI negatively impact SDGs by depleting fishery resources, destabilizing the economy, violating human rights, and causing environmental damage. Judges play a critical role as enforcers of legal certainty and protectors of Indonesia's national interests through the Judicial Power Law. This research underscores the need for legal reform to strengthen Indonesia's sovereignty and sustainability in maritime law enforcement.

Keywords: Criminal Law; Foreigners; Illegal Fishing; Policy;



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INTRODUCTION

The Indonesian territory, which is 70 percent oceanic and 30 percent continental, has more than 17,000 islands, with a coastline of more than 99,000 km. The vast maritime territory of Indonesia makes Indonesia a State with great potential in the field of maritime and fishing.¹ As an island state that has no cold melting (snow), making Indonesia have a sea that is warm for both the life and the non-life of the sea throughout the year, this makes a lot of fish coming together in the sea of Indonesia, which of course makes it a paradise for fishermen and the fishing industry in Indonesia to increase production, both for domestic consumers, and for Exports, which is of course improving the well-being of the people, especially the fisherman, as well as increasing the National Income.²

The wealth or sea paradise owned by Indonesia, it turns out to be a great interest of foreign States to commit illegal fishing in the territory of Indonesian waters, which

¹ Ridwan Arifin, Margaretha Hanita, and Arthur Josias Simon Runturambi, 'Maritime Border Formalities, Facilitation and Security Nexus: Reconstructing Immigration Clearance in Indonesia', *Marine Policy*, 163 (2024), 106101 <https://doi.org/https://doi.org/10.1016/j.marpol.2024.106101>

² Lusita Meilana and others, 'Identification of Potential Marine Protected Areas Based on Cumulative Risk Assessment: Case Study in Balikpapan Bay, Indonesia', *Ocean & Coastal Management*, 255 (2024), 107230 <https://doi.org/https://doi.org/10.1016/j.ocecoaman.2024.107230>



is a serious threat to marine life and non-living life, and can also undermine the dignity and dignity of the people of Indonesia, if left behind. As illegal fishing in Indonesia, increasing problems in the maritime and fishing sectors, because in addition to harassing the sovereignty of the State also causes financial losses to the State. Currently, the losses from illegal fishing have reached US\$ 24 billion or more than US\$ 374 trillion per year.³ The United Nations (United Nations) through its 1982 Convention on the Law of the Sea II (UNCLOS 1982) has conferred authority on coastal States to have sovereignty over the maritime territory, ranging from the inland waters between the islands, to the outer parts of the island at a distance of up to 12 Miles, drawn from the coastline. This water area is called the Territorial Sea Territory, hereinafter the Coastal State, also has a Sovereign Right over its sea to the extent of 200 Miles to the outside of the coastal line, and against the territory (zone) called the Indonesian Exclusive Economic Zone. (ZEEI).⁴

In Indonesia, an Exclusive Economic Zone is a route outside and bordering the sea of another State as defined by the Law applicable to the waters of Indonesia that covers the seabed, the soil below it and the water above it with an outermost boundary of 200 nautical miles measured from the sea base of the territory of Indonesia. With this ZEE, the government has the sovereign right to use its discretion in protecting from foreign vessels engaged in illegal fishing in Indonesian sea territory. The United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982) as a provision of international law has generally regulated the enforcement of law in the territorial sea as well as in the ZEE of a country, but on illegal fishing, UNCLOS does not regulate it explicitly.⁵

Before the adoption of UNCLOS 1982, Indonesia had been actively engaged in maritime negotiations since 1958, particularly at the First Conference on the Law of the Sea. During this conference, the Indonesian delegation signed the Convention on the Continental Shelf (UNCLOS 1981). This Convention was later ratified through Act No. 19 of 1961, which approved the three Geneva Conventions of 1958 concerning the law of the sea. Additionally, Indonesia has ratified several other international conventions related to marine resource conservation. These include the International Convention for Safe Containers, ratified by Presidential Decree No. 33 of 1989 on July 17, 1989; the International Convention for Standard Training, Certification, and Watchkeeping for Seafarers, ratified through Presidential Decision No. 60 on December 4, 1986; and the United Nations Convention No. 107 for the Prevention of the Law of the Sea, ratified on December 31, 1985. These efforts highlight

³ Jamrud Aminuddin and others, 'Development of Convolutional Neural Network Algorithm on Ships Detection in Natuna Islands-Indonesia Using Land Look Satellite Imagery', *Remote Sensing Applications: Society and Environment*, 32 (2023), 101025 <https://doi.org/https://doi.org/10.1016/j.rsase.2023.101025>

⁴ Sylvie N. Tranter and others, 'The Inclusion of Fisheries and Tourism in Marine Protected Areas to Support Conservation in Indonesia', *Marine Policy*, 146.August (2022), 105301 <https://doi.org/10.1016/j.marpol.2022.105301>

⁵ Ronny Irawan Wahju and others, 'Participatory Stock Assessment in West Java Contributes to the Management of Glass Eel Fisheries in Indonesia', *Marine Policy*, 163 (2024), 106103 <https://doi.org/https://doi.org/10.1016/j.marpol.2024.106103>



Indonesia's longstanding commitment to international maritime law and the conservation of marine resources.^{6v}

Indonesia, as a State that has ratified the 1982 UNCLOS (United Nations Convention in the Law of the Sea) in 1985, has been immediately recognized by the international world to have jurisdiction and sovereignty over its maritime territory to enforce laws relating to domestic interests in waters bordering other States. But on the other hand, by ratifying the UNCLOS, Indonesia must also abide by the rules contained in it. In its efforts to enforce the law of the sea, Indonesia must align the provisions of national law with those of international law, some of which are considered to be detrimental to coastal states such as Indonesia. Article 73 (3) of the UNCLOS reaffirms that the penalties imposed on foreign fishing vessels shall not include the penalty of “seizure” if there is no agreement between the States concerned.⁷

To protect its maritime territory, Indonesia has taken decisive measures against illegal foreign fishermen operating within the Indonesian Exclusive Economic Zone (ZEEI). One such action, carried out by the Ministry of Maritime Affairs and Fisheries (KKP), involves sinking and blowing up foreign vessels caught violating Indonesian waters. This practice is based on Article 69(4) of Law No. 45 of 2009, which amends Law No. 31 of 2004 on Fisheries. The law explicitly states that investigators and/or fishing supervisors, in performing their duties as outlined in paragraph (1), may take special actions such as burning or sinking foreign-flagged vessels upon sufficient evidence of violations. These actions serve as a strong deterrent against illegal fishing, emphasizing Indonesia's commitment to safeguarding its maritime resources and asserting its sovereignty in accordance with national and international laws.⁸

The Indonesian government has implemented several strategic steps to achieve the Sustainable Development Goals (SDGs). First, it has established priority areas aligned with the SDGs, focusing on poverty alleviation, hunger eradication, good health and well-being, quality education, gender equality, clean water and sanitation, and affordable clean energy. Second, the National Medium-Term Development Plan (RPJMN) serves as a key instrument for guiding sustainable national development, ensuring that the SDGs are integrated into Indonesia's development agenda. Third, partnerships play a critical role, with the government fostering collaboration among the private sector, NGOs, and civil society through joint initiatives and programs to accelerate progress toward SDG targets. Finally, monitoring and evaluation mechanisms have been established to track progress effectively. Institutions such as the Central Statistics Agency (BPS) and relevant Ministries regularly assess the achievements of SDG indicators, ensuring transparency and accountability. Together,

⁶ Alexander M A Khan, Tim S Gray, and others, ‘Impact of a Fishing Moratorium on a Tuna Pole-and-Line Fishery in Eastern Indonesia’, *Marine Policy*, 94 (2018), 143–49 <https://doi.org/https://doi.org/10.1016/j.marpol.2018.05.014>

⁷ Amron Amron and others, ‘Underwater Noise of Traditional Fishing Boats in Cilacap Waters, Indonesia’, *Heliyon*, 7.11 (2021), e08364 <https://doi.org/https://doi.org/10.1016/j.heliyon.2021.e08364>

⁸ Silviana Taniu and others, ‘Impact Evaluation of Cooperative Membership on Welfare: Evidence from Captured Fishery Households in Indonesia’, *Marine Policy*, 159 (2024), 105923 <https://doi.org/https://doi.org/10.1016/j.marpol.2023.105923>



these measures demonstrate Indonesia's commitment to achieving sustainable and inclusive development.⁹

Although significant progress has been made, substantial challenges persist in addressing fisheries crimes within the Indonesian Exclusive Economic Zone (ZEEI). However, with strong commitment and cross-sector cooperation, Indonesia aims to achieve the SDGs by 2030, particularly in combatting illegal fishing.¹⁰ The management of Indonesia's marine and fisheries resources must prioritize ecological sustainability, preventing illegal fishing through proactive measures.¹¹ Stakeholders should emphasize ecological principles to ensure a sustainable future for future generations, positioning Indonesia as a global maritime leader committed to overcoming the issue of fish theft and contributing to the achievement of SDG 14: Life Below Water. Effective measures against illegal fishing will benefit local communities by enhancing their access to abundant fisheries resources and boosting national economic income through sustainable seafood production.¹²

Illegal fishing by foreign vessels remains a serious financial drain, reducing local fishermen's productivity and negatively impacting fish exports. This issue undermines the SDGs and the broader marine ecosystem, as illegal fishing often damages coral reefs and depletes fish populations.¹³ The use of harmful materials, such as chemicals and non-environmentally friendly fishing devices, further disrupts marine biodiversity.¹⁴ Unlike previous studies focusing primarily on law enforcement, my research analyzes Indonesia's criminal law policy for addressing illegal fishing by foreign vessels in the ZEEI, examining its impact on SDG achievement. The research identifies legal barriers, particularly the restrictions imposed by UNCLOS on sanctions for fisheries violations. A comprehensive legal model for effective law enforcement is needed to address illegal fishing in the ZEEI, ensuring that Indonesia's legal framework aligns with international standards and supports sustainable development goals.

METHOD

The type of research used in this research is normative legal research which is basically doctrinal research or theoretical legal research. Normative legal studies are studies that study documents, namely by using secondary data, such as statutory

⁹ Anup Phayal, Aaron Gold, Curie Maharani, Brandon Prins, and others, 'The Complementary Relationship between Illegal Fishing and Maritime Piracy: A Case Study of the Gulf of Guinea', *Marine Policy*, 165 (2024), 106209 <https://doi.org/https://doi.org/10.1016/j.marpol.2024.106209>

¹⁰ Tri Haryanto and others, 'Balancing Economic Returns and Conservation: A Bioeconomic Assessment of Sardinella Lemuru Fisheries Management in Muncar, Banyuwangi, Indonesia', *Social Sciences & Humanities Open*, 11 (2025), 101277 <https://doi.org/https://doi.org/10.1016/j.ssaho.2025.101277>

¹¹ Irna Sari and others, 'Monitoring Small-Scale Fisheries Catches in Indonesia through a Fishing Logbook System: Challenges and Strategies', *Marine Policy*, 134 (2021), 104770 <https://doi.org/https://doi.org/10.1016/j.marpol.2021.104770>

¹² Stephen F Pires and others, 'What Drives the Illegal Parrot Trade? Applying a Criminological Model to Market and Seizure Data in Indonesia', *Biological Conservation*, 257 (2021), 109098 <https://doi.org/https://doi.org/10.1016/j.biocon.2021.109098>

¹³ Yifan Lu and Satoshi Yamazaki, 'Fish to Fight: Does Catching More Fish Increase Conflicts in Indonesia?', *World Development*, 170 (2023), 106337 <https://doi.org/https://doi.org/10.1016/j.worlddev.2023.106337>

¹⁴ Intan Innayaton Soeparna and Ankiq Taofiqurohman, 'Transversal Policy between the Protection of Marine Fishery Resources and Fisheries Subsidies to Address Overfishing in Indonesia', *Marine Policy*, 163 (2024), 106112 <https://doi.org/https://doi.org/10.1016/j.marpol.2024.106112>



regulations, court decisions, legal theory, legal foundations, legal principles, and can be the results of scientific work, or expert opinions. The research writing approaches used are the statutory approach, conceptual approach, and case approach. related to the concept of criminal sanctions against foreign nationals who commit illegal fishing violations in the Indonesian Exclusive Economic Zone (ZEEI) who are unable to pay fines without an agreement between the Indonesian State and the fishermen's country of origin which could have an impact on Indonesia's SDGs achievement.

RESULT AND DISCUSSION

Criminal Penalties for Foreigners Engaged in Illegal Fishing in Indonesia's ZEE

"Imprisonment" denotes confinement, whereas "corporal punishment" signifies physical punishment. Consequently, confinement resembles imprisonment, as both entail the physical placement of the body in a designated location. The stipulations of UNCLOS were integrated into Article 102 of the Indonesian Fisheries Law as an element of the nation's fisheries crime prevention strategy. This article specifies that the imprisonment provisions in this law are inapplicable to criminal acts within the fisheries sector occurring in the fisheries management area of the Republic of Indonesia, as delineated in Article 5, paragraph (1), letter b, unless an agreement exists between the government of the Republic of Indonesia and the relevant country.¹⁵

Indonesia, as an archipelagic nation with extensive oceanic territory and an elongated coastline, is inherently rich in marine resources, encompassing a diverse array of fish species. The effective management and optimal regulation of these resources might greatly enhance the nation's foreign exchange and overall prosperity. This corresponds with Article 33 of the 1945 Constitution, which stipulates that the State governs natural resources for the benefit of the populace. Consequently, the regulation, administration, and legal monitoring of natural resources are the purview of the State.¹⁶

Indonesia's maritime resources, primarily fish, constitute its biological riches. Indonesia categorizes its maritime zones into Fisheries Management Areas of the Republic of Indonesia (WPP-RI) to regulate these resources, as specified in the Minister of Maritime Affairs Regulation Number Per.01/Men/2009 concerning Fisheries Areas of the Republic of Indonesia. The expansive maritime region, abundant in fish, is frequently exploited by foreign fishing vessels participating in illicit fishing, undermining fishery conservation initiatives and adversely affecting the income of local fishermen. These acts jeopardize the nation's foreign exchange and adversely affect national interests.¹⁷ Although illegal fishing lacks a precise legal

¹⁵ Ivana Suradja and others, 'Alternating Livelihoods and Coping with Shocks: An Examination of Coastal Tourism in Indonesia amidst COVID-19', *Marine Policy*, 170 (2024), 106379 <https://doi.org/https://doi.org/10.1016/j.marpol.2024.106379>

¹⁶ Fransisca Noni Tirtaningtyas, 'Influences of Human Activities on Seabird Populations: Case Example from Jakarta Bay, Indonesia', in *Reference Module in Earth Systems and Environmental Sciences* (Elsevier, 2024) <https://doi.org/https://doi.org/10.1016/B978-0-443-14082-2.00068-5>

¹⁷ Yudha Trinoegraha Adiputra and others, 'Caught in the Net: Unravelling Policy Challenges and Smuggling Dynamics in Indonesia's Puerulus Exploitation', *Marine Policy*, 169 (2024), 106336 <https://doi.org/https://doi.org/10.1016/j.marpol.2024.106336>



definition, including in the Fisheries Law, the phrase is frequently employed by legal professionals, law enforcement officials, scholars, and marine/fisheries observers.¹⁸

"Illegal fishing" amalgamates "illegal," denoting illicit activity, an Illegal fishing practices refer to fishing activities conducted by negligent individuals that violate ethical standards for responsible fishing. The term "Illegal" is defined in Black's Law Dictionary as something that is forbidden by law; unlawful. Subsequently, concerning the definition of Foreigner. Foreigners are individuals who are not nationals of Indonesia and are now in the country. The term foreigner also encompasses a foreign legal entity, specifically a legal body constituted under foreign law. A foreigner is an individual who is not an Indonesian citizen and is present in Indonesia. The term foreigner encompasses a foreign legal entity, which is an entity constituted under foreign legislation.¹⁹

The digesting of a foreigner in this instance poses a burden to individuals without Indonesian citizenship. It may also pertain to foreign legal entities established under foreign law. He perceives the confession of a foreigner as bifurcated into two categories: the individual and the legal entity. Article 7 of the Immigration Act No. 12 of 2006 stipulates that any individual who is not a citizen of the Republic of Indonesia is classified as a foreigner. As discussed in Chapter I of the Introduction, the exclusive economic zone (EEZ) extends 200 miles from the coastline, granting a coastal State rights to natural resources within it, as well as the authority to implement legal regulations, navigate, conduct aerial operations, and install cables and pipelines.²⁰

According to Act No. 5 of 1983 regarding the Indonesian Exclusive Economic Zone, Indonesia's exclusive economic zone (ZEEI) extends beyond and borders the territorial sea of Indonesia, as defined by existing laws governing Indonesian waters, encompassing the seabed, subsoil, and overlying water, with an outer limit of 200 nautical miles measured from Indonesia's baseline. The notion of the Exclusive Economic Zone (EEZ), as defined by the International Law of the Sea 1982, commonly referred to as the United Nations Convention on the Law of the Sea (UNCLOS) 1982, has been ratified in Indonesia through Law No. 17 of 1985, which remains legally effective to this day. Alongside the ZEE, the waters governed by UNCLOS encompass the Territorial Sea, the Contiguous Zone, the Continental Shelf, and the Outer Sea. High Seas.²¹

¹⁸ Anup Phayal, Aaron Gold, Curie Maharani, Maria Lourdes D Palomares, and others, 'All Maritime Crimes Are Local: Understanding the Causal Link between Illegal Fishing and Maritime Piracy', *Political Geography*, 109 (2024), 103069 <https://doi.org/https://doi.org/10.1016/j.polgeo.2024.103069>

¹⁹ John K Keesing and others, 'Status of Coral, Giant Clam and Sea Cucumber Communities Including CITES Listed Species on a Remote Australian Coral Reef Atoll and the Potential Impact of Illegal Fishing', *Marine Environmental Research*, 204 (2025), 106915 <https://doi.org/https://doi.org/10.1016/j.marenvres.2024.106915>

²⁰ Wen-Hong Liu, Johonsan A Fabilane, and Wen-Kai K Hsu, 'Mitigating Marine Debris: Addressing Abandoned, Lost, and Discarded Fishing Gears (ALDFGs) in the Sulu-Sulawesi Seas through Trilateral Cooperation between the Philippines, Indonesia, and Malaysia', *Marine Pollution Bulletin*, 208 (2024), 116913 <https://doi.org/https://doi.org/10.1016/j.marpolbul.2024.116913>

²¹ Suryanto Suryanto and others, 'The Potential Contribution of Indonesian Fishing Vessels in Reducing Green House Gas Emission', *Aquaculture and Fisheries*, 2024 <https://doi.org/https://doi.org/10.1016/j.aaf.2024.08.002>



The territorial sea extends 12 nautical miles from the coastline, signifying sovereignty over that maritime area. The territorial sea constitutes the sovereign territory of a coastline state, such as Indonesia, where its laws are applicable. Simultaneously, the zone designated as ZEEI extends up to 200 nautical miles from the baseline of the territorial sea. The exclusive economic zone is not the sovereign territory of a coastal state; however, pursuant to Law Number 17 of 1985 regarding the Exclusive Economic Zone, Indonesia possesses sovereign rights for the exploration, exploitation, management, and conservation of both living and non-living natural resources within these waters, as well as for economic activities such as energy production from water, currents, and wind.²²

Jurisdiction for the development and use of artificial islands, structures, scientific research, and the conservation and safeguarding of the marine environment. The duty to uphold freedom of navigation and international overflight, as well as the installation of underwater cables or pipelines, in compliance with the norms of international law relevant to the Exclusive Economic Zone. The requirement to offer chances, specifically to non-maritime or geographically disadvantaged States, to engage in the use of authorized excess catches. Considering the aforementioned four criteria, pursuant to Law No. 17 of 1985, Indonesia possesses sovereign rights regarding diverse exploration and exploitation activities (point a). Nonetheless, as the ZEEI is not a Sovereign Territory, Indonesia has obligations regarding this sovereignty as outlined in legislative rules, which occasionally diverge and conflict with one another.²³

One key aspect of the exclusive economic zone that remains uncertain in UNCLOS is the divergent interpretations of this zone between the majority of rich and developing countries. In most developed nations, the Exclusive Economic Zone serves as an offshore corridor. This indicates that vessels registered under any State's flag, whether of being coastal or non-coastal, possess the right to navigate freely, including warships and survey vessels engaged in intelligence data collection. In most developing nations, the Exclusive Economic Zone is an extension of the territorial sea; thus, vessels classified as a "threat" to the coastal State, including military ships or survey vessels, must obtain permission from the coastal State when traversing its exclusive economic zone.²⁴

Regarding the seabed and the underlying land, Indonesia's sovereign rights, additional rights, jurisdiction, and obligations, as mentioned in paragraph (1), shall be executed in accordance with the laws governing Continental Landings of Indonesia, agreements with neighboring states, and relevant international legal standards. The Indonesian Exclusive Economic Zone acknowledges freedom of navigation,

²² Nicolas Longép   and others, 'Completing Fishing Monitoring with Spaceborne Vessel Detection System (VDS) and Automatic Identification System (AIS) to Assess Illegal Fishing in Indonesia', *Marine Pollution Bulletin*, 131 (2018), 33–39 <https://doi.org/https://doi.org/10.1016/j.marpolbul.2017.10.016>

²³ Dirham Dirhamsyah, Saiful Umam, and Zainal Arifin, 'Maritime Law Enforcement: Indonesia's Experience against Illegal Fishing', *Ocean & Coastal Management*, 229 (2022), 106304 <https://doi.org/https://doi.org/10.1016/j.ocecoaman.2022.106304>

²⁴ Alexander M A Khan, Ming-guo Jiang, and others, 'Illegal Fishing Threatens the Sustainability of Future Tuna Commodities in Indonesia', *Marine Policy*, 159 (2024), 105936 <https://doi.org/https://doi.org/10.1016/j.marpol.2023.105936>



international aviation, and the installation of underwater cables and pipelines, in compliance with existing international maritime law norms. Every coastal state, including Indonesia, possesses sovereign rights within its Exclusive Economic Zone for the exploration, exploitation, conservation, and management of both biological and non-biological natural resources in its waters, as established by maritime law, along with the seabed beneath it, and for economic activities such as energy production from water, currents, and wind.²⁵

The sovereign rights of Indonesia delineated in this statute differ from the complete sovereignty exercised by Indonesia over the maritime territory of Nusantara and its indigenous seas. The sanctions proposed in the Indonesian Exclusive Economic Zone differ from those imposed in waters under the jurisdiction of the Republic of Indonesia. Indonesia's jurisdiction in that zone encompasses the creation and utilization of artificial islands, installations, and structures, as well as marine scientific research and the protection and conservation of the marine environment. In exercising its sovereign rights and authority within the Exclusive Economic Zone, Indonesia must consider the rights and obligations of other States. Equally significant is the duty to delineate the Indonesian Exclusive Economic Zone with adjacent States based on treaties, cartography, and geographical data, and to submit copies to the Secretary-General of the United Nations.²⁶

The United Nations Convention on the Law of the Sea (UNCLOS) 1982 delineates maritime territories where States can enforce laws against Illegal Unreported Unregulated (IUU) Fishing, specifically areas under their sovereignty, and marine territories where a State possesses jurisdiction. A State is considered to possess jurisdiction under international law if it has the authority to prosecute and penalize acts or omissions classified as fraud according to its domestic legal standards. The State possesses the authority to address all violations occurring inside its territorial environmental borders, irrespective of the perpetrator's nationality. The sovereignty of a state is a prerequisite for engaging in the international community and simultaneously adhering to the established norms of that community. The sovereignty of a State signifies its independence and lack of subordination to another State's authority; however, this does not imply that its sovereignty is unencumbered. It is crucial for a State to acknowledge its existence within the international order, as recognition of sovereignty serves as a fundamental principle for the establishment of peaceful international relations.²⁷

One limitation on sovereignty is that both national and international legislation, including the enforcement of regulations against unauthorized unlawful fishing, must also be constrained in its applicability. Synergy between national legal policy and

²⁵ Osman Gulseven, 'Measuring Achievements towards SDG 14, Life below Water, in the United Arab Emirates', *Marine Policy*, 117 (2020), 103972
<https://doi.org/https://doi.org/10.1016/j.marpol.2020.103972>

²⁶ Thandekile Dube and others, 'Assessment of Land Use and Land Cover, Water Nutrient and Metal Concentration Related to Illegal Mining Activities in an Austral Semi-Arid River System: A Remote Sensing and Multivariate Analysis Approach', *Science of The Total Environment*, 907 (2024), 167919
<https://doi.org/https://doi.org/10.1016/j.scitotenv.2023.167919>

²⁷ Richard Takyi and others, 'Marine Fisheries Management in the Eastern Central Atlantic Ocean', *Ocean & Coastal Management*, 244 (2023), 106784
<https://doi.org/https://doi.org/10.1016/j.ocecoaman.2023.106784>



international law, particularly concerning maritime and fisheries, is essential in the formation of rules in Indonesia. The 1982 United Nations Convention on the Law of the Sea, known as UNCLOS 1982, is an international legal framework that regulates the enforcement of law within a State's territorial waters and exclusive economic zone (EEZ). The UN Convention on the Law of the Sea 1982 does not specifically govern illicit fishing activities. The 1982 UN Convention on the Law of the Sea delineates the jurisdiction and rights of coastal States in the Exclusive Economic Zone (EEZ), which encompass: the exploration and exploitation of marine non-biological resources; the formulation and enforcement of legislation pertaining to the exploration and exploitation of marine resources; the construction of artificial islands and other permanent installations; and the conduct of marine scientific research.²⁸

In the event of a breach of the coastal State's legal regulations within its territorial sea or waters, the coastal State may, pursuant to its sovereignty as outlined in Article 2 of UNCLOS 1982, enforce its legal and criminal statutes against the offending vessel, particularly if the breach affects or undermines the security of the coastal State. Article 27, paragraph 1 of UNCLOS stipulates that if the specified conditions are not met, the coastal State is precluded from exercising its criminal jurisdiction against the vessel. Indonesia, a nation endowed with remarkable fish resources, is consistently targeted by offenders of illicit fishing, as indicated by research findings. Several causes contribute to Illegal Unreported Unregulated Fishing in Indonesia, including the rising global demand for fish coupled with a decline in seafood supply. This incentivizes the global fishing fleet to pursue fish using both legal and criminal means. The price differential of entire fresh fish between other nations and Indonesia is significant, resulting in a continued income surplus.²⁹

Fishing grounds in other nations have begun to experience overfishing, however those in Indonesia remain relatively plentiful, necessitating the preservation of fisheries processing within the country. The waterways of Indonesia are vast, yet oversight is comparatively inadequate. The extensive maritime zone under Indonesian authority and the adjacent open Exclusive Economic Zone (EEZ) frequently present an enticing opportunity for foreign fishing vessels to engage in illicit fishing activities. The fisheries management system, structured as a license scheme, remains open access. The sole limitation is to the utilization of fishing equipment. Thus, it is unsuitable for the geographical circumstances of Indonesia, which adjoins the open sea. The fisheries sector continues to have inadequate monitoring facilities, infrastructure, and human resources. Efforts to combat fishery crimes are still suboptimal and unprofessional, hindered by inadequate human resources and infrastructure.³⁰

²⁸ Louis Anto Nirmal and Samuel Jacob, 'Chapter Twelve - The Impact of COVID-19 in Curbing the Goals of Ensuring Sustainable Development of Life on Land (SDG 15) and below Water (SDG 14)', in *COVID-19 and the Sustainable Development Goals*, ed. by Mohammad Hadi Dehghani, Rama Rao Karri, and Sharmili Roy (Elsevier, 2022), pp. 285–303 <https://doi.org/https://doi.org/10.1016/B978-0-323-91307-2.00012-2>

²⁹ Mohammad Mahmudul Islam and Md Shamsuddoha, 'Coastal and Marine Conservation Strategy for Bangladesh in the Context of Achieving Blue Growth and Sustainable Development Goals (SDGs)', *Environmental Science & Policy*, 87 (2018), 45–54 <https://doi.org/https://doi.org/10.1016/j.envsci.2018.05.014>

³⁰ Mehmet Akif Destek, Samuel Asumadu Sarkodie, and Ernest Frimpong Asamoah, 'Does Biomass Energy Drive Environmental Sustainability? An SDG Perspective for Top Five Biomass Consuming



The significant prevalence of IUU fishing incidents in Indonesia is fundamentally linked to the inadequate law enforcement and oversight in its waters, particularly concerning the management of marine natural resources, alongside the authorities' hesitance in addressing offenders of illegal fishing. The government employs a preventive and law enforcement strategy against illegal fishing offenders through the enactment of Law Number 31 of 2004, subsequently amended by Law Number 45 of 2009 concerning Fisheries. However, the criminal provisions within this legislation remain suboptimal due to constraints imposed by international regulations, specifically UNCLOS 1982.³¹

According to the 1982 UNCLOS, the penalty of incarceration is applicable solely to local people, while foreign nationals engaged in illegal fishing within the Indonesian Exclusive Economic Zone, as outlined in Article 73, paragraph (3) of UNCLOS, cannot be subjected to unilateral detention by the Coastal State. An agreement must first be established between the government of the coastal nation and the government of the relevant country. Indonesia has ratified UNCLOS 1982 through Law Number 17 of 1985, which pertains to the Ratification of the United Nations Convention on the Law of the Sea. Consequently, Indonesia is obligated to adhere to these international regulations. The enforcement of UNCLOS 1982 jurisdiction in Indonesia clarifies the international position of the Indonesian archipelago regarding the governance of biological and non-biological natural resource exploitation. The implementation of the 1982 UNCLOS provisions concerning criminal acts in the fisheries sector (Illegal Fishing) relies on transformation theory and delegation theory, indicating that the stipulations outlined in the 1982 Law of the Sea Convention (UNCLOS) must be integrated and delegated into national legislation. via legislation.³²

As a coastal nation that joined UNCLOS 1982 by Law Number 17 of 1985, Indonesia has fulfilled its duty to ensuring maritime security and safeguarding international marine ecosystems. Article 57 of UNCLOS 1982 delineates the Exclusive Economic Zone (EEZ). Sovereign rights pertain to coastal States inside the Exclusive Economic Zone (EEZ). Another demonstration of Indonesia's dedication to achieving maritime security and order is the enactment of Law Number 5 of 1983 regarding the Indonesian Exclusive Economic Zone. This legislation serves as a legal embodiment of the extension of maritime territories, particularly concerning the economic aspects of their management, oversight, and preservation. To optimize the enhancement of the nation's welfare through the effective utilization of marine natural resources. The Indonesian government has implemented a Criminal Law policy to address the issue of Illegal Fishing. The policy in this instance consists of incarceration and monetary penalties. Based on the scale, the criminal penalties enforced by the Indonesian

Countries', *Biomass and Bioenergy*, 149 (2021), 106076
<https://doi.org/https://doi.org/10.1016/j.biombioe.2021.106076>

³¹ Ussif Rashid Sumaila, 'Chapter 14 - Illegal and Illicit Trade in Fish Catch Are Incompatible with Infinity Fish', in *Infinity Fish*, ed. by Ussif Rashid Sumaila (Academic Press, 2022), pp. 175–92
<https://doi.org/https://doi.org/10.1016/B978-0-12-823816-5.00022-9>

³² Alex N Tidd and others, 'Food Security Challenged by Declining Efficiencies of Artisanal Fishing Fleets: A Global Country-Level Analysis', *Global Food Security*, 32 (2022), 100598
<https://doi.org/https://doi.org/10.1016/j.gfs.2021.100598>



government are indeed fairly stringent. This action is undertaken due to the significant harm illicit fishing inflicts on the State.³³

According to Indonesian statute, criminal law serves as the primary instrument (*primum remedium*) in cases that result in victims and significant losses. This also pertains to Law Number 31 of 2004 regarding Fisheries. Nevertheless, in practice, the criminal penalties stipulated in the statute are neither effective nor just. Factors contribute to inadequate and inequitable law enforcement for fisheries crimes, specifically illegal fishing. One limitation is that the use of criminal sanctions is constrained by the stipulations of international law. Law 31 of 2004 has undergone modifications to several articles, as delineated in Law Number 45 of 2009 regarding Amendments to Law Number 31 of 2004 concerning Fisheries. However, these amendments do not alter the criminal provisions applicable to foreigners engaged in illegal fishing within the Indonesian Exclusive Economic Zone; nonetheless, the offense of bodily confinement cannot be applied to foreigners. The stipulations in Law Number 45 of 2009, which amends Law Number 31 of 2004 regarding Fisheries, appear to lack the audacity to contest the provisions of UNCLOS 1982.³⁴

IUU fishing, or illegal, unreported, and unregulated fishing, refers to fishing activities that violate a country's laws and regulations or international agreements, thereby obstructing sustainable development within the ZEEI jurisdiction and adversely affecting its achievement metrics. Examples of IUU fishing operations encompass: Fishing without a permission or quota for certain species, failing to record catches or submitting false reports, fishing in restricted regions or during closed seasons, utilizing prohibited fishing gear, and conducting unlawful transshipments. IUU fishing adversely affects the Sustainable Development Goals (SDGs) in Indonesia by depleting fish stocks, destroying marine habitats, distorting competition, harming law-abiding Indonesian fishermen, weakening surrounding coastal communities, threatening marine ecosystems, jeopardizing food security and regional stability, and contributing to significant human rights violations and organized crime.³⁵

Simultaneously, an examination of numerous instances of illicit fishing conducted by foreign-flagged vessels without permits within Indonesian waters reveals that these activities predominantly originate from Malaysia, Vietnam, and China. The predominant offenders are vessels lacking permits, primarily originating from Vietnam, followed by China and Malaysia. Detection of Vietnamese Fishing Vessels in Indonesia's Non-Disputed EEZ Utilizing AIS and Satellite Imagery from 2021 to 2023. The study's results indicate a decline in Vietnamese fishing vessel activity in non-disputed areas throughout the past six months of 2023 compared to the figures from

³³ Nicolas Pécastaing and Juan Salavarriga, 'The Potential Impact of Fishing in Peruvian Marine Protected Areas (MPAs) on Artisanal Fishery Poverty during El Niño Events', *Ecological Economics*, 202 (2022), 107598 <https://doi.org/https://doi.org/10.1016/j.ecolecon.2022.107598>

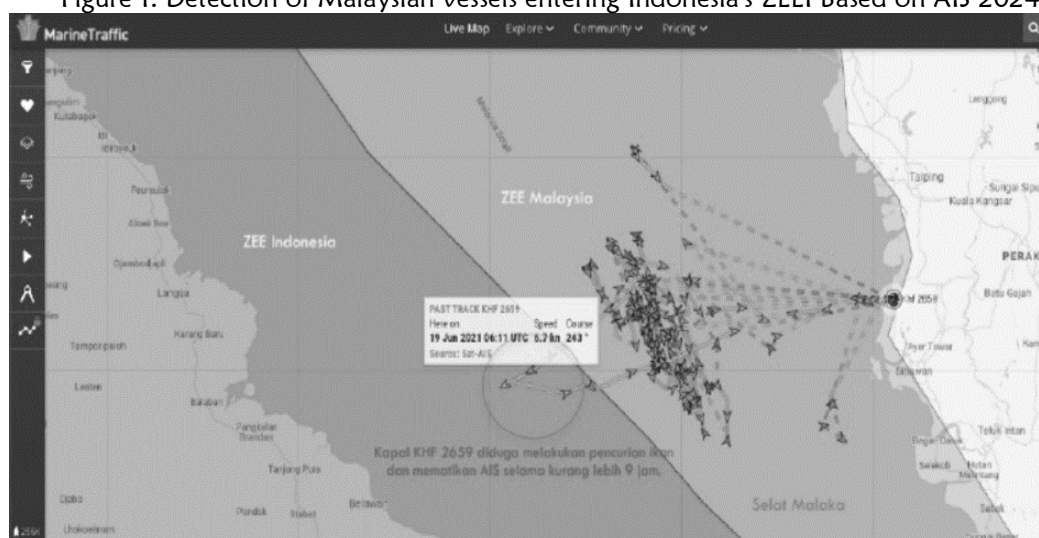
³⁴ Harrison K Golo and Bolanle Erinosh, 'Tackling the Challenges Confronting Women in the Elmina Fishing Community of Ghana: A Human Rights Framework', *Marine Policy*, 147 (2023), 105349 <https://doi.org/https://doi.org/10.1016/j.marpol.2022.105349>

³⁵ Essam Yassin Mohammed, Dave Steinbach, and Paul Steele, 'Fiscal Reforms for Sustainable Marine Fisheries Governance: Delivering the SDGs and Ensuring No One Is Left Behind', *Marine Policy*, 93 (2018), 262–70 <https://doi.org/https://doi.org/10.1016/j.marpol.2017.05.017>

January to June in 2021 and 2022; nonetheless, this remains the highest recorded data to date. The escalation transpired once more in July 2023 and August 2023.³⁶

AIS detection indicated the presence of 19 Vietnamese vessels operating in the non-disputed LNU area, as well as in other regions that were undetected due to insufficient detection capabilities. In August 2023, AIS detection and satellite photography identified 50 vessels strongly suspected to be Vietnamese fishing vessels operating in the non-disputed LNU area, with 43 vessels directly spotted in the northern Malaysian-Indonesian boundary. Research data from various scholars and the Indonesian Ministry of Marine Affairs and Fisheries indicates that numerous non-Vietnamese flagged vessels departing from Vietnam are highly suspected of engaging in illegal fishing in LNU, accompanied by Vietnamese Coast Guard ships. Additionally, vessels from China and Malaysia are similarly escorted by the Coast Guard.³⁷

Figure 1. Detection of Malaysian vessels entering Indonesia's ZEEI Based on AIS 2024



Source: AIS Data, Ministry of Marine Affairs, Indonesia, 2024.

The data from this image reveals that on June 19, 2024, a total of 23 ships originating from Malaysia entered the Indonesian Exclusive Economic Zone (ZEEI). While this number is not as high as the vessels coming from Vietnam, it is noteworthy that the number of Malaysian ships entering the ZEEI has been steadily increasing year by year. This trend highlights a growing concern regarding foreign fishing activities in Indonesia's waters. The increase in the number of ships, especially those from neighboring countries, emphasizes the need for stricter enforcement of maritime laws and regulations to safeguard Indonesia's marine resources. This rise in foreign vessels underscores the vulnerability of the ZEEI to illegal, unreported, and unregulated (IUU) fishing, which can deplete fish stocks, damage the environment, and undermine local economies.

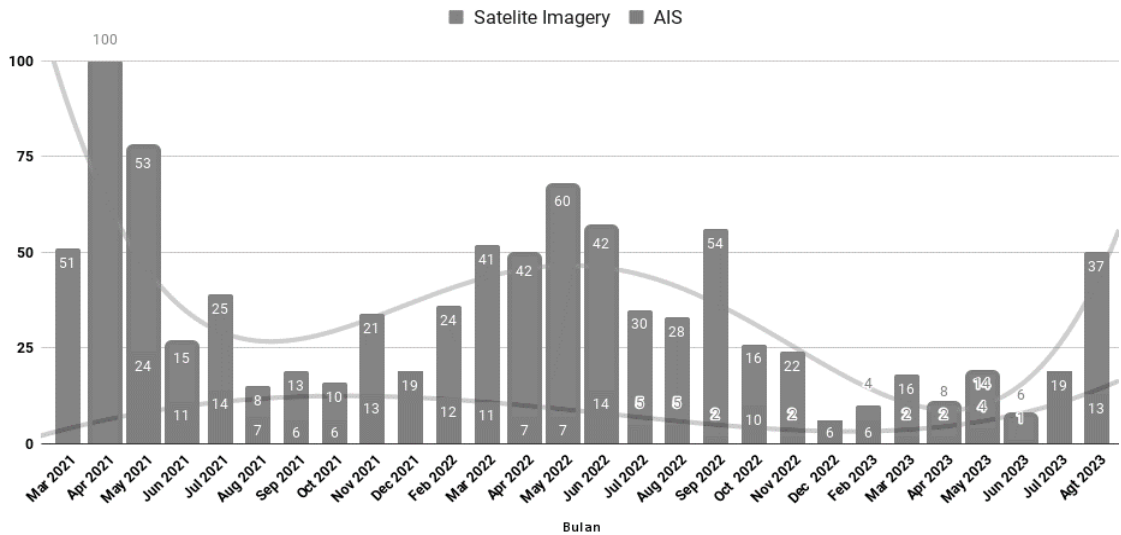
³⁶ Elena Mengo and others, 'Fishers' Views and Experiences on Abandoned, Lost or Otherwise Discarded Fishing Gear and End-of-Life Gear in England and France', *Marine Pollution Bulletin*, 194 (2023), 115372 <https://doi.org/https://doi.org/10.1016/j.marpolbul.2023.115372>

³⁷ Roland Cormier and Michael Elliott, 'SMART Marine Goals, Targets and Management – Is SDG 14 Operational or Aspirational, Is "Life Below Water" Sinking or Swimming?', *Marine Pollution Bulletin*, 123.1 (2017), 28–33 <https://doi.org/https://doi.org/10.1016/j.marpolbul.2017.07.060>



The Indonesian government must continue to monitor these activities closely and strengthen cooperation with neighboring countries like Malaysia to combat illegal fishing. While Malaysia’s presence in the ZEEI is not yet as significant as that of other countries, such as Vietnam, the gradual increase in the number of ships entering Indonesia’s waters signals the importance of continued vigilance and proactive measures to protect Indonesia’s marine biodiversity and the livelihoods of its fishermen. In summary, the data reflects a concerning trend of rising foreign vessel activity in Indonesia’s ZEEI. It is crucial for Indonesia to address this issue through enhanced law enforcement, international collaboration, and sustainable management practices to ensure the protection of its marine resources for future generations.

Figure 2. Number of Vietnamese Fishing Vessel Detections in Indonesia’s Non-Disputed EEZ Based on AIS and Satellite Imagery 2021-2023.



Source: Data Ministry of Marine Affairs and Fisheries of The Republic of Indonesia 2024.

The detection of Vietnamese fishing vessels in Indonesia's non-disputed Exclusive Economic Zone (EEZ) from 2021 to 2023, based on AIS data and satellite imagery, highlights a significant and ongoing violation of Indonesia’s maritime sovereignty. This issue is not isolated to Vietnam alone; vessels from other countries, such as Malaysia, also continue to encroach upon Indonesia’s waters. These illegal activities, including unreported and unregulated fishing, threaten the sustainability of marine resources and undermine the sovereignty of the nation. The persistent violations of Indonesia’s EEZ are a serious challenge to the country’s efforts to safeguard its maritime borders, protect its fisheries, and achieve sustainable development. These infringements pose a direct threat to the country’s ability to meet the Sustainable Development Goals (SDGs), particularly SDG 14, which focuses on life below water.

The depletion of fish stocks, damage to marine ecosystems, and disruption of local fishermen’s livelihoods will undermine both environmental and economic stability. If left unresolved, these violations could have long-lasting consequences on Indonesia’s fisheries sector, which is a vital contributor to the national economy and food security. Moreover, the increasing frequency of foreign incursions into Indonesia’s EEZ



demands urgent attention and action from the government. It is crucial that Indonesia strengthens its maritime law enforcement, increases international cooperation, and employs technological innovations like AIS and satellite surveillance to monitor and prevent illegal fishing activities. Addressing this issue promptly is not only important for protecting Indonesia's sovereignty but also essential for securing the country's commitment to achieving the SDGs. Immediate and effective measures must be taken to prevent further violations, ensuring that Indonesia can protect its marine resources for future generations and contribute to the global effort to conserve oceans and marine biodiversity.

Imposing Imprisonment Instead of Fines for Foreign Illegal Fishing in ZEEI's Impact on SDGs

According to the stipulations in the International Plan of Action (IPOA) for Illegal, Unreported, and Unregulated Fishing, established by the FAO in alignment with the Code of Conduct for Responsible Fisheries (CCRF), Illegal Fishing is defined as fishing operations conducted by specific nations or foreign vessels in waters beyond their jurisdiction without authorization from the governing nation, or activities that contravene the laws and regulations of that nation. Fishing operations conducted by vessels registered under a member country of a regional fisheries management organization that contravene fisheries conservation and management measures; fishing activities that violate national laws or international legal provisions.³⁸

Illegal, Unreported, and Unregulated Fishing, sometimes abbreviated as IUU Fishing, is an urgent threat in Indonesia, greatly jeopardizing the attainment of the Sustainable Development Goals (SDGs) due to its occurrence within the Indonesian Exclusive Economic Zone (EEZ). Illegal fishing refers to the activity conducted by domestic or foreign vessels inside a nation's jurisdiction without authorization or in violation of that nation's laws and regulations. The subsequent act pertains to unreported fishing, defined as fishing activities that are either not reported or inaccurately reported to the relevant authority, in violation of laws and regulations, or conducted within the jurisdiction of a regional fisheries organization without proper reporting or with erroneous reports that contradict the organization's records. Another motive is unregulated fishing, defined as fishing activities within the jurisdiction of a regional organization conducted by vessels lacking citizenship or by vessels whose citizenship does not belong to a member of the regional organization, or by a fishing enterprise that operates in a manner inconsistent with the conservation principles of the regional organization.³⁹

Numerous activities can be classified as fishing practices, such as fishing fleets that deliberately intrude into the Indonesian Exclusive Economic Zone without authorization and engage in overfishing, encroach upon designated fishing areas, contravene regulations regarding fishing gear, breach fundamental compliance standards, falsify or manipulate documentation, conduct transshipment at sea, fail to activate transmitters, and employ destructive fishing techniques involving chemicals,

³⁸ José Belquior Gonçalves Neto and others, 'A Sleeping Giant: The Historically Neglected Brazilian Fishing Sector', *Ocean & Coastal Management*, 209 (2021), 105699 <https://doi.org/https://doi.org/10.1016/j.ocecoaman.2021.105699>

³⁹ Ting Guo and others, 'Evaluation of China's Marine Sustainable Development Based on PSR and SDG14: Synergy-Tradeoff Analysis and Scenario Simulation', *Environmental Impact Assessment Review*, 111 (2025), 107753 <https://doi.org/https://doi.org/10.1016/j.eiar.2024.107753>



explosives, or methods that jeopardize the sustainability of fish resources. According to The International Plan of Action to Deter, Prevent and Eliminate Illegal, Unreported and Unregulated Fishing, illegal fishing activities can be categorized into four groups: Fishing without a permit; Fishing with counterfeit permits; Fishing with prohibited gear; Fishing for species that do not conform to the permit.⁴⁰

Concerning the issue of illegal fishing in Indonesian waters, the participation of foreign entities in fish theft can be categorized into two types: First, semi-legal theft, which involves foreign vessels utilizing valid fishing permits issued to domestic entrepreneurs, employing ships that fly either the local flag or the flag of another nation. This activity remains classified as Illegal Fishing because, in addition to capturing fish in unauthorized waters, the offenders promptly dispatch their harvest without undergoing the proper landing procedures in a valid location. This practice is commonly known as "borrowing the flag" or Flag of Convenience (FOC). Secondly, illicit thievery refers to the act of fishing conducted by foreign fishermen and vessels under their own flag to capture fish within a nation's jurisdiction. Illegal fishing is perpetrated not just by foreign entities but also by home fishermen and companies. Illegal fishing conducted by fishermen or domestic entrepreneurs can be categorized into three groups: Indonesian-flagged fishing vessels operated by foreign entities possessing counterfeit.⁴¹

Indonesian Fishing Vessels (KII) with fraudulent documentation or issued by unauthorized officials; and Indonesian Fishing Vessels (KII) lacking any documentation, indicating they are fishing without a permit. Illegal fishing is becoming increasingly prevalent despite the implementation of different governmental safeguards. The Minister of Maritime Affairs and Fisheries has promulgated regulations via Ministerial Regulation Number 58/PERMEN-KP/2020 pertaining to Capture Fisheries Enterprises. The Ministerial Regulation mandates that all types of fishing enterprises must possess a permit. Fishing vessels are required to possess a government-issued registration number. Nonetheless, there still those in the industry who attempt to forge company permits and replicate vessels. This action creates opportunity for illicit fishing offenders. Incorporating perpetrators of illegal fishing who are foreign nationals.⁴²

Sanctions for fisheries crimes, as stipulated in the Fisheries Law, are intended to exert a deterrent effect. However, in practice, the legal provisions for foreign nationals committing such offenses in the ZEEI region fail to achieve this deterrent effect, as imprisonment is not applicable unless there is a prior agreement between the Indonesian government and the relevant foreign government (Article 102 of Law No. 31 of 2004). This clause aligns with Article 73, paragraph (2) of UNCLOS 1982, which does not permit coastal State regulations to impose prison sentences or

⁴⁰ James Kwame Mensah, 'Electricity and Informal Settlements: Towards Achieving SDG 7 in Developing Countries', *Energy Research & Social Science*, 93 (2022), 102844 <https://doi.org/https://doi.org/10.1016/j.erss.2022.102844>

⁴¹ Sakiru Adebola Solarin and others, 'The Impact of Aggregated and Disaggregated Fisheries Production and Licensed Fishermen on Fishing Grounds Footprint: A Time Series Analysis', *Marine Pollution Bulletin*, 203 (2024), 116423 <https://doi.org/https://doi.org/10.1016/j.marpolbul.2024.116423>

⁴² G Hosch and G Macfadyen, 'Killing Nemo: Three World Regions Fail to Mainstream Combatting of IUU Fishing', *Marine Policy*, 140 (2022), 105073 <https://doi.org/https://doi.org/10.1016/j.marpol.2022.105073>



corporal punishment without prior approval from the relevant State. The financial losses resulting from illegal fishing are substantial and impact governmental revenue. Unauthorized fishing by foreign vessels must be promptly addressed through the enforcement of existing laws within Indonesian jurisdiction.⁴³ v

The legal principle of Equality Before the Law underscores the significance of equal treatment under the law. Criminal punishments, specifically physical jail, will serve as a deterrence against foreign fishermen engaging in unlawful fishing. Nonetheless, the enforcement of these legal regulations will contradict the stipulations of international treaties. Article 73, paragraph 3 of UNCLOS 1982 stipulates that coastal state penalties for violations of fisheries laws and regulations in the Exclusive Economic Zone may not entail confinement or any form of corporal punishment in the absence of prior agreement between the involved countries. This international convention's provisions seem capable of restricting Indonesian national law from imposing more severe criminal penalties on foreign fishing vessels operating without a permission in the Indonesian Exclusive Economic Zone.⁴⁴

The ship's sinking does not contravene UNCLOS regulations. This provision was established due to the absence of a clear prohibition against the act of sinking ships in UNCLOS 1982. Nonetheless, emphasis must be directed into the procedure of sinking ships, which appears to be less effective, particularly as stipulated in Article 69, paragraph (4), and Article 76, letter A of the Fisheries Law. Article 69 mandates that investigators and/or fisheries supervisors may undertake extraordinary measures, including the incineration and/or submersion of foreign-flagged fishing vessels, contingent upon preliminary proof. Moreover, Article 76, letter A of the Fisheries Law mandates that the destruction of vessels requires prior authorization from the Chairman of the District Court. This presents an additional issue, specifically that the Fisheries Law lacks provisions concerning the benchmarks for the Chief Justice's approval on whether a vessel should be destroyed, detained for auction, or donated to local residents in the vicinity of the incident. This fisheries crime is undoubtedly more successful in enhancing the welfare of local fishermen.⁴⁵

In addition to the destruction or submersion of vessels, Law Number 45 of 2009, which amends Law Number 31 of 2004 regarding Fisheries, also stipulates administrative penalties for violators; nonetheless, these measures have proven ineffective and lack a deterrent impact. For instance, regarding foreign fishing vessels operating in ZEEI, pursuant to Article 35 A paragraph (3) of Law Number 45 of 2009, administrative sanctions may include warnings, permit suspensions, or permit revocations; however, this approach is ineffective due to the actions of foreign fishing vessels. Individuals engaged in fishing within Indonesian fisheries management zones lack proper documentation and do not possess representatives in Indonesia.

⁴³ Huijuan Hu and others, 'Exploring Deep Learning Techniques for the Extraction of Lit Fishing Vessels from LuoJia1-01', *Ecological Indicators*, 159 (2024), 111682 <https://doi.org/https://doi.org/10.1016/j.ecolind.2024.111682>

⁴⁴ Muhsan Ali Kalhor and others, 'Assessing Fishing Capacity of Two Tuna Fish Species Using Different Time-Series Data in Pakistan, Northern Arabian Sea', *Estuarine, Coastal and Shelf Science*, 299 (2024), 108692 <https://doi.org/https://doi.org/10.1016/j.ecss.2024.108692>

⁴⁵ Teresa Fajardo, 'To Criminalise or Not to Criminalise IUU Fishing: The EU's Choice', *Marine Policy*, 144 (2022), 105212 <https://doi.org/https://doi.org/10.1016/j.marpol.2022.105212>



Additionally, there exists another issue, specifically the Fisheries Law, which stipulates that foreign crew members cannot be held, thereby leaving investigators without a means to accommodate the crew members, complicating the oversight process. Simultaneously, an additional impediment for the crew of the foreign vessel is that, during the trial proceedings, immigration, the agency responsible for managing the repatriation of foreigners, is unwilling to assume custody of the crew until the case attains permanent legal status.⁴⁶

The aforementioned issues comply with UNCLOS requirements and fishery laws and regulations, stipulating that in the event of an arrest, the captain and crew members (ABK) are prohibited from being disembarked from the vessel in question. Detention is permissible solely in external locations, specifically aboard the vessel owned by the individual in question. The right to life of the ship's captain and crew is compromised since the individual in question is unable to disembark and/or perform necessary ship maintenance. This, in turn, is the obligation of the investigators to assist the ship's captain and crew, as well as to oversee the detained vessel. This frequently poses a challenge for Law Enforcement Officials in addressing illicit fishing offenses.⁴⁷

The primary challenge encountered is the absence of a designated budget for law enforcement officials to offer care or assistance to the captain and crew. Conversely, failure to meet this requirement jeopardizes law enforcement officials with the potential infringement of human rights, namely the right to life of the captain and crew. Article 73 of UNCLOS governs the execution of rules and regulations inside the Coastal State's Exclusive Economic Zone (EEZ), presenting a challenge to the attainment of Sustainable Development Goals (SDGs) pertaining to maritime affairs. The Coastal State may, in exercising its sovereign rights to explore, exploit, conserve, and manage biological resources in the Exclusive Economic Zone, undertake actions such as boarding vessels, conducting inspections, making arrests, and initiating judicial proceedings as necessary to ensure adherence to laws and regulations it establishes in accordance with the provisions of this Convention.⁴⁸

Seized vessels and their crews must be promptly released upon provision of an adequate bond or alternative security measure. Penalties imposed by coastal nations for infractions of fisheries rules and regulations inside the Exclusive Economic Zone shall exclude incarceration unless a preference agreement exists between the involved parties or any other kind of corporal punishment. Upon the arrest or detention of a foreign vessel, the coastal state is obligated to promptly inform the flag state, via appropriate channels, of the actions undertaken and any fines subsequently enforced. The data shown below illustrates the state of fisheries crime in Indonesia, reflecting the situation within the Indonesian Exclusive Economic Zone (ZEEI). Future

⁴⁶ Ugur Korkut Pata and others, 'Proposal of Fishing Load Capacity Curve and Testing Validity: Evidence from Top 20 Countries with Highest Fisheries Production by Panel Data Approaches', *Ocean & Coastal Management*, 245 (2023), 106856 <https://doi.org/https://doi.org/10.1016/j.ocecoaman.2023.106856>

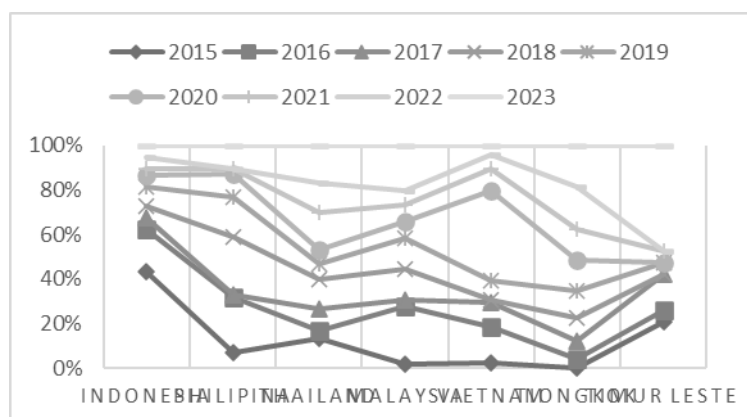
⁴⁷ Vinicius Moretti and others, 'Progress towards the Sustainable Development Goal 14 (Life below Water) in the Context of Brazil: A Multicriteria Approach', *Sustainable Futures*, 8 (2024), 100410 <https://doi.org/https://doi.org/10.1016/j.sftr.2024.100410>

⁴⁸ Yixuan Chen and others, 'How Do Countries along the Maritime Silk Road Perform in Sustainable Use of Natural Resources? Progress of Natural Resources-Related SDGs', *Ecological Indicators*, 149 (2023), 110194 <https://doi.org/https://doi.org/10.1016/j.ecolind.2023.110194>



advancements should serve as a benchmark for addressing fisheries crimes in Indonesia, encompassing criminal law policies and the provision of punitive measures, as articulated in legislation and the execution of criminal law enforcement in Indonesian waters.⁴⁹

Chart 1: Handling of Fisheries Crime Cases that Occur in the ZEEI Region Based on Ship Flag



Source: Directorate for Handling Violators, Directorate General of PSDKP KKP. Processed by the Author, May 2023

The graph above shows that most Vietnamese and Chinese-flagged fishing vessels are handled by PPNS Fisheries, based on data from 2015 to May 2023, there are 600 vessels (61% of the number of fishing vessels caught in ZEEI). cases of capture by Chinese-flagged fishing vessels, Vietnam, followed by Philippine-flagged fishing vessels with several cases, Malaysia and Indonesia with fewer cases, Thailand with 5-10 cases, and finally Timor Leste and China with an average of 2 to 4 cases. Foreign-flagged fishing vessels entering the ZEEI region are caught by Fisheries Monitoring Vessels of the Directorate General of PSDKP KKP with the modus operandi which is generally carried out, namely not having a permit (SIUP, SIPI and SIKPI), using destructive and prohibited methods. fishing gear, violating inappropriate fishing areas, transshipment, and inactive Vessel Monitoring System (VMS). A new method that is developing is the use of Indonesian citizens as crew members or crew members on illegal fishing vessels, using Indonesian ship flags but other countries as ship owners, this is mostly done by Chinese ship owners and Vietnamese ships. This needs to be watched out for because the data on cases that are resolved until the court's final criminal decision is only up to 10 percent of all cases, and of that number those that reach the stage of criminal sanctions are even fewer.

The Fisheries Law as a legal policy of the Indonesian government mandates that fisheries supervisors are obliged to prevent foreign vessels from illegally entering Indonesian waters and the ZEEI area to take Indonesian marine and fishery resources. The most important obstacle to realizing this is the problem of limited facilities, infrastructure and equipment as well as sophisticated ships and other facilities which make it difficult for the supervisory tasks carried out by law officers at sea to enforce the law properly, especially in prevention activities, detecting, supervising, pursuit and arrest of the perpetrator.

⁴⁹ Xuechan Ma, 'An Economic and Legal Analysis of Trade Measures against Illegal, Unreported and Unregulated Fishing', *Marine Policy*, 117 (2020), 103980 <https://doi.org/https://doi.org/10.1016/j.marpol.2020.103980>



Currently, the operational paradigm for monitoring marine and fisheries resources has changed to rely on VMS, Radar and AIS monitoring tools for initial detection, also equipped with air patrol aircraft and Fisheries Surveillance Ships owned by the Directorate General of PSDKP KKP with only 35 vessels functioning to carry out ambushes. With the new monitoring paradigm, it is hoped that the coverage area will be wider, and will not require high investment in monitoring vessels. Law enforcement is also carried out by all relevant parties, and all the facilities we have must be optimized. The reality that occurs in Indonesia is that law enforcement against the crime of illegal fishing can only be realized so that violators are subject to criminal sanctions of only 10 percent, this is an emergency for the implementation of legal policies to overcome the crime of illegal fishing in Indonesia. Furthermore, in Table 1 below, the author presents a recapitulation of data on the handling of fisheries criminal cases that occurred in the ZEEI region until 2023.

Table 1: Recapitulation of Data on Handling Crimes of Fish Theft 2018-2023

Year	The Crew	Sent home	Crew Status			
			Handling Process			
			PSDKP		Immigration	attorney
			Suspect	Non-Justice		
2018	884	405	1	-	334	144
2019	544	181	-	14	250	99
2020	249	39	30	144	27	9
2021	645	90	24	205	32	12
2022	389	107	46	129	132	78
2023	767	224	28	19	173	111
TOTAL	3.478	1.046	129	511	948	453

Source: Ministry of Maritime Affairs and Fisheries. (2023)

Table 1 above indicates that from 2018 to 30 April 2023, there were 3,478 instances of fisheries crimes in the ZEEI region. Among these cases, several progressed to the investigation stage, which will subsequently diminish until the preliminary examination (investigation) phase. Furthermore, the declining number of cases progressing to the criminal trial stage raises concerns about the deterrent effect of addressing crime through judicial methods in Indonesia, serving as an instance of the volume of cases that culminate in a court ruling. The author's research on the official website reveals that the Supreme Court's rulings concerning criminal offenses in the ZEEI zone are notably restricted. This is concerning given the potential of Indonesian fisheries, which are frequently exploited by foreign fishing vessels, while Indonesian law enforcement, particularly judges, are prohibited from imposing corporal criminal sanctions as per UNCLOS and the fisheries law, which only permits fines. Furthermore, the enforcement of fines lacks a deterrent effect, as substitute imprisonment cannot be applied.

The author's analysis of various studies reveals discrepancies in the determination of criminal fines within the ZEEI region. Some choices result solely in a monetary penalty, while others mandate incarceration as an alternative to a fine. This pertains to Article 102 of the Fisheries Law, which states that imprisonment is not applicable in the ZEEI area unless an agreement exists between the Indonesian government and the relevant foreign government. This item is reinforced by SEMA Number 3 of 2015, which stipulates that incarceration cannot serve as a replacement for a fine in



situations of fish theft. The government must reassess the existing regulatory imbalances, particularly those imposed by international law, which adversely affect participating countries.⁵⁰ The government must assertively ensure the state's role in safeguarding maritime resources for the benefit of future generations of the Indonesian nation, allowing them to access these resources freely. Provisions concerning exclusive economic zones for each nation should advantage that nation, whereas marine sovereignty in international law can adversely affect that nation. The state must formulate a criminal law policy to address the issue of unlawful fishing by foreign-flagged vessels in Indonesia's ZEE region.⁵¹

The research indicates that fisheries crimes within the Exclusive Economic Zone (EEZ) might substantially affect the attainment of the Sustainable Development Goals (SDGs). The Exclusive Economic Zone (EEZ) is a maritime region beyond a nation's territorial waters, granting exclusive rights to exploit natural resources, such as fisheries. The detrimental effects of fisheries crimes within the Exclusive Economic Zone (EEZ) on the attainment of the Sustainable Development Goals (SDGs) encompass, first, diminished fisheries resources: Illicit activities such as illicit fishing, overfishing, and the utilization of destructive fishing gear can lead to a decrease in fish populations. This may jeopardize food security (SDG 2), endanger the livelihoods of fishermen and coastal communities (SDG 1), and harm marine ecosystems (SDG 14). Second, the economic instability: Illegal fishing can result in economic detriment for nations with Exclusive Economic Zones (EEZs) due to the forfeiture of revenue from fisheries resources that ought to be managed sustainably. This can impede economic growth (SDG 8) and diminish the nation's capacity to deliver essential services such as education and healthcare (SDG 4 and SDG 3). Third, the Human Rights Violations: Fisheries crimes frequently entail labor exploitation, encompassing underage labor and human trafficking. This contravenes human rights standards (SDG 16) and may hinder the attainment of poverty eradication (SDG 1) and the elimination of inequality (SDG 10). Fourth, the environmental degradation, the use of harmful fishing equipment and illicit fishing practices can result in significant environmental harm, including the destruction of coral reefs and the deterioration of marine ecosystems. This poses a risk to environmental sustainability (SDG 15) and diminishes the accessibility of natural resources for future generations.⁵²

Eliminating fisheries crimes in the EEZ is crucial for achieving the SDGs. This requires international cooperation, effective law enforcement, sustainable fisheries management, and protection of the rights of local fishermen and coastal communities. The Indonesian government can take several actions to address these challenges, such as enhancing surveillance and enforcement with more patrol vessels, regional and

⁵⁰ Raimundo Eduardo Silveira Fontenele and others, 'Small-Scale Fisheries as a Common Good and a Social and Solidarity Economy Practice', *Marine Policy*, 168 (2024), 106305 <https://doi.org/https://doi.org/10.1016/j.marpol.2024.106305>

⁵¹ Ranil Kavindra Asela Kularatne, 'Unregulated and Illegal Fishing by Foreign Fishing Boats in Sri Lankan Waters with Special Reference to Bottom Trawling in Northern Sri Lanka: A Critical Analysis of the Sri Lankan Legislation', *Ocean & Coastal Management*, 185 (2020), 105012 <https://doi.org/https://doi.org/10.1016/j.ocecoaman.2019.105012>

⁵² Ioannis Chapsos, Juliette Koning, and Math Noortmann, 'Involving Local Fishing Communities in Policy Making: Addressing Illegal Fishing in Indonesia', *Marine Policy*, 109 (2019), 103708 <https://doi.org/https://doi.org/10.1016/j.marpol.2019.103708>



international collaboration with neighboring nations and organizations, and public education on sustainable fishing practices. Stricter penalties, including fines and vessel confiscations, can deter illegal activities. Additionally, supporting alternative livelihoods for affected communities can promote sustainable development and resource conservation (SDG 12).⁵³

CONCLUSION

The enforcement of fisheries laws in Indonesia is governed by Law No. 45 of 2009, which amends Law No. 31 of 2004. This law regulates criminal sanctions for foreign fishing vessels engaging in illegal fishing in Indonesia's Exclusive Economic Zone (ZEEI). However, the current sanctions are not sufficiently effective in deterring illegal activities, thus hindering the achievement of Indonesia's SDGs, particularly in the fisheries sector. The government must strengthen these regulations to include imprisonment as a substitute for fines, as many perpetrators are unwilling to pay fines. This measure is critical to ensuring law enforcement effectiveness and protecting Indonesia's marine resources. By enforcing stricter penalties, Indonesia would uphold its sovereignty over the ZEEI and better align with international law, particularly UNCLOS 1982. This legal reform is urgent for the preservation of fisheries resources and achieving SDGs related to marine conservation and sustainable fisheries. The imposition of imprisonment would provide a stronger deterrent effect, ensuring a more sustainable future for Indonesia's fisheries and contributing to the global commitment to ocean conservation.

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