Policy Implications of Seafood Theft
By Foreign Parties in Indonesian Waters

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Abstract
This study aims to examine the effects of foreign parties' policy of stealing marine products in Indonesian waters. The urgency of this research stems from the fact that, as of right now, there is a significant annual increase in the theft of marine products by foreign parties in Indonesian waters. This study uses a normative juridical approach with specifications for descriptive analysis. Secondary data with qualitative data analysis is the type of data used. The study's findings demonstrate that the policy has two (two) positive implications for foreign parties stealing marine products in Indonesian waters. Firstly, the policy's implementation has made the Indonesian government more capable of reducing the theft of marine products and preserving aquatic environments. because it is believed that these actors will employ inappropriate tactics, like the use of explosives, to stop foreign fishermen from taking illegal advantage of marine populations; Second, the ship sinking policy has the negative effect of causing pollution as a result of foreign ships exploding and burning, which can pollute the air near the sea.

I. Introduction
The Republic of Indonesia's 1945 Constitution (UUD NRI Tahun 1945) declares in Article 25A that the State of Indonesia is an archipelagic State, highlighting the country's vast maritime area and island division. (Banjarani, 2020). Indonesia is one of the maritime countries in the world (Syafei, 2023), Only over 2 million km2 of Indonesia's 3.25 million km2 territory are on land, with the remaining 2.55 million km2 constituting the Exclusive Economic Zone. Almost two thirds of the country's territory is oceanic. Indonesia is renowned for its natural resources and biodiversity, which piques the curiosity of other nations. (Efritadewi, 2017).

One of the resources that attracts foreign countries is the marine resources owned by Indonesia ranging from various types of fish, coral reefs, and other
marine biota. This statistic demonstrates Indonesia's abundance of marine products, which have the potential to bolster the country's economy. This is demonstrated by the fact that the fishing industry has an annual economic potential of US$ 82 billion (Efritadewi, 2017). So it can be said that the maritime and fisheries sector can be the mainstay sector for the economy in Indonesia. On the bright side, if Indonesia is able to optimize its marine wealth, it is likely that the welfare of the people in coastal areas will be evenly distributed, and state revenues can increase if it can be optimized properly such as exporting.

But on the other hand, the vastness of Indonesia's waters can have a detrimental impact on the country. This can happen because with the vastness of the existing ocean area it is not impossible for ships from foreign countries to enter Indonesian territory illegally with bad goals such as stealing marine products which clearly harms the Indonesian people (Banjarani, 2020). Based on Law No. 32/2014 on Maritime Affairs, the sea is divided into waters and jurisdiction. Territorial waters include inland waters, islands and territorial sea. Although the Continental Shelf, Exclusive Economic Zone, also known as the EEZ, and the Supplementary Zone are all included in the jurisdiction, only sovereign places are found in the Exclusive Economic Zone and the Continental Shelf, and the state only has some jurisdiction in the Supplementary Zone. In the last ten years, Indonesia has experienced a sharp rise in fishing and exploration activity. The World Food and Agriculture Organization claims that Indonesia suffers significant losses as a result of this illegal fishing activity, which is tied to maritime fishing. Fishermen from Thailand, Vietnam, the Philippines, and Malaysia are among the foreign nationals who often access Indonesian territorial seas. These fishermen frequently arrive through the Arafuru Sea, North Sulawesi Sea, Natuna Waters, and the seas surrounding Maluku (Banjarani, 2020).

Cases of theft of marine products in Indonesian waters have often been heard, and this is very detrimental to the Indonesian State, especially in vulnerable areas such as border areas. One of the factors for the theft of marine products is the lack of supervision due to the vast ocean that stretches from Sabang to Merauke, Miangas to Rote (Alamsyah, 2017). Therefore, the need for government policies as an effort to prevent the theft of marine products by ships from foreign parties and the need for strict actions and sanctions given to the perpetrators who are desperate to commit this illegal act. As stated by Abdurrahman Hakim and M. Darin Arif Mu'allifin in their previous research, the government has the responsibility to deal with foreigners who steal marine products in Indonesian waters (Hakim, Abdurrahman 2023). According to G. Gillbrain et al., the government also implemented a policy on sinking foreign ships that are caught stealing illegally, known as Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries, in an attempt to combat foreign theft of marine products. This research focuses on the implications of policies towards foreigners who steal marine products in
Indonesian waters, in contrast to the works of Abdurrahman Hakim and M. Darin Arif Mu'allifin, who discuss the government's responsibility towards foreigners who steal marine products in Indonesian waters, and G. Gillbrain, et al., who discuss government policies towards foreigners who steal marine products in Indonesian waters. Beginning with this, the goal of this study is to determine and evaluate the effects of governmental initiatives aimed at curbing the theft of marine goods by foreign nationals in Indonesian territorial seas.

2. Research Method

As a consequence of the selection of the topic of the problem studied in the research whose object is legal issues (while the law is the rules or norms that exist in society), Normative legal research is the kind of legal research that is employed. In order to address the current legal difficulties, normative legal study looks for legal theories, rules, and principles (Marzuki, 2009), about the consequences of marine goods theft for policy. According to Soerjono Soekanto, descriptive analytical specifications refer to study aimed at providing as accurate of data about people, illnesses, or other symptoms as feasible (Soekanto, 2008). The findings of the examination of the policy ramifications of foreigners stealing marine products in Indonesian waters will be presented in this study. After qualitative analysis of the secondary and source data, inductive conclusions are drawn, moving from general to particular issues.

3. Results and Discussion

Nowadays, cases of theft of marine products are often heard, both theft of various types of fish commonly known as illegal fishing, coral reefs, and other marine biota. The most prominent case of theft of marine products is illegal fishing, which should be a concern for the Indonesian government. The Food and Agriculture Organization (FAO) defines illegal fishing as engaging in activities that are not subject to state regulation and are difficult to monitor and account for, as well as using stateless vessels, fishing in the convention area of regional fish management organizations, and fishing with inaccurate data. The FAO member countries have recognized five forms of unlawful fishing (Hakim, Abdurrahman 2023).

The Food and Agricultural Organization (FAO) reports that Indonesia is among the nations with the largest production of fish worldwide. Consequently, 6.56 million tons in 2017, 6.71 million tons in 2018, 6.56 million tons in 2019, and 6.43 million tons in 2020 were the value of Indonesian fisheries goods. The utilization of fishing activities that violate national, regional, and international maritime law conventions, unreported fishing, or reported fishery resources in a sustainable, non-exploitative manner, and stable catches of
fishermen are factors contributing to the stagnation of Indonesian fishery product production (Hakim, Abdurrahman 2023). Data released by the Ministry of Maritime Affairs and Fisheries in partnership with the United States Agency for International Development (USAID) show that Indonesian waters are home to six of the seven species of turtles found worldwide, 593 coral species, 51 percent of all coral species, 30,000 kilometers of habitat for seaweed, 76% of mangroves in Southeast Asia, 2,057 reef fish species worldwide, and 36 species of marine mammals. According to several relevant regulations, all of these marine resources are situated in the territorial sea that is legally Indonesian territory.

There are many instances of illicit fishing as a result of Indonesia’s abundant seafood production. At least 35 foreign fishing vessels were detected fishing illegally in Indonesian waters in 2019, according to data supplied by the Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia (KKP). The ships originated in China, Malaysia, Vietnam, and the Philippines. If figures are computed, state losses from 582 instances of unlawful fishing between 2014 and 2019 were 23 billion USD (Hakim, Abdurrahman 2023). According to K. Metuzals, widespread illicit fishing has had negative effects on the environment, the state has lost money, and local fishermen's catch has decreased. The sovereignty of the nation that owns the territorial sea is also in jeopardy because of this issue. The development of human resources is significantly aided by the biodiversity found in Indonesian waterways. The worst outcome of this situation could be a depletion of fish stocks in nearby waterways, which would worsen poverty and lead to a rise in unemployment in coastal towns (Hakim, Abdurrahman 2023).

Susi Pudjiastuti, the former Minister of Maritime Affairs and Fisheries, claims that the state suffers annual losses of Rp. 101 T as a result of illicit fishing in Indonesia’s marine territories. Additionally, the crime opens the door for other crimes including enslavement, drug smuggling, and human trafficking. It is the duty of the government to address these matters in light of the available evidence and facts. This is significant because, if the crime is not dealt with right away, it will contribute to Indonesia's increased state losses and unemployment rates (Hakim, Abdurrahman 2023). With reference to the Republic of Indonesia's Minister of Maritime Affairs and Fisheries' Regulation Number 37/PermenKP/2017 on the Standard Operating Procedures of the Law Enforcement Working Group for the Eradication of Illegal Fishing. Task Force 115 was given the authority to carry out law enforcement operations to end illegal fishing, legislation, and unreported fishing activities through the promulgation of Presidential Regulation No. 115/2015 on the Illegal Fishing Eradication Task Force, hereinafter referred to as "Presidential Regulation on Task Force 115." (Sasminto, 2021).
Violations of theft of marine products that cannot be considered a trivial matter and require focus from the government, so there are several things that can be done to minimize this incident, including improving detection infrastructure, including updating detection technology, including the use of radar, satellites and other electronic detection devices to monitor the presence of foreign ships quickly, patrols by state vessels on a routine and regular basis, especially in the four theft hotspots and hotspots where foreign vessels regularly enter, accompanied by aerial monitoring, de facto control of Indonesia's EEZ and the presence of Indonesian fishermen, especially local fishermen, in the theft-prone areas. The presence of Indonesian fishermen is intended to at the same time increase the function of community supervision by fishermen on the security of Indonesian seas, fishermen who are in Indonesian waters, especially at vulnerable points of theft and entry of foreign ships, also need to be equipped with several things, namely increasing the knowledge of fishermen to document evidence if there are ships of other countries that take marine products without a clear permit, and equipping local fishermen with simple technology such as cameras and radios (Sasminto, 2021).

Apart from the aforementioned measures, there exists an additional approach to deter theft of marine products, which involves sinking foreign vessels that are detected pilfering marine items, particularly in the fishing industry. Finally, the Indonesian government passed a law governing the practice of sinking foreign fishing vessels found to be unlawfully pilfering in Indonesian waters, with the goal of safeguarding the country's income from dishonest foreign fishermen. In accordance with Law Number 45 of 2009 concerning Fisheries, the state in question is attempting to combat instances of illicit activity by foreign vessels by imposing sanctions through the sinking process. This also serves to deter offenders and prevent violations in the border area or outside the Indonesian Marine Border Area, which could endanger and damage Indonesian sovereignty if left unchecked (Cintani et al, 2021).

The Indonesian government's policy in an effort to overcome and prevent illegal acts by sinking ships that are declared to be conducting illegal activities in the Indonesian sea area in fact also reaps the pros and cons of various parties. (Gunawan Inverno, 2018). Many agree with this, but not a few disagree with it, and there are also protests from the flag state of the ship. Regarding this sinking policy, which has many pros and cons from various sides, of course, it cannot escape the implications it has, both positive implications and negative implications. The positive implication of this policy is that the Indonesian government is quite capable of minimizing the activities of theft of marine products and saving aquatic habitats in the sea because it is feared that these actors use bad methods such as the use of explosives. Thus, this policy can prevent marine populations from being taken illegally by foreign fishermen. Meanwhile, the negative implication of this policy is that there will be pollution due to the blasting and burning of foreign ships which can cause...
air pollution around the sea (Arthur, 2010).

The policy of sinking illegal foreign vessels has drawn many pros and cons because it is feared that it will affect Indonesia's diplomatic relations (Gunawan Inverno, 2018). However, this is certainly unlikely to affect Indonesia's bilateral, regional and multilateral state relations. It is revealed that there are five things why the policy should be enforced and it is considered unlikely to worsen relations between countries, including all countries in the world never approve of the actions of their people who commit criminal acts in other countries. Foreign vessels that are sunk are vessels that do not have permission to catch Indonesian marine products so this is said to be a criminal act, the implementation of this sinking is carried out in Indonesia's sovereignty and sovereign rights or in the EEZ region, this implementation is carried out as stipulated in Article 69 paragraph (4) of the Fisheries Law, other countries should understand and understand Indonesia's position that Indonesia feels disadvantaged by this. If allowed to continue and there is no strict sanction, the losses incurred will be even greater, the sinking process has taken into account the safety of the crew (Arthur, 2010).

Article 69 paragraph (4) of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries, Article 76A of Law Number 31 of 2004 concerning Fisheries, and Articles 38 and 45 of Law Number 8 of 1981 concerning the Criminal Procedure Code—henceforth referred to as KUHAP—all provide technical legal enforcement regarding the policy of extermination or enforcement (Drago, 2020). Once it is confirmed that the crew has been saved and the proper legal procedures have been followed, the decision to enforce the ship sinking policy will be put into effect. Additionally, international law has stipulated that foreign vessels that have broken national restrictions will be sunk. Since engaging in unlawful activity in the area and essentially entering a country's territorial waters without authorization are seen as a danger to the state's and territory's sovereignty and as blatant violations of universal jurisdiction (Putri et al. 2017).

As we all know, the basic principle of the application of international law is the preference of national jurisdiction. Consequently, from a legal standpoint, the decisive action regarding the sinking of foreign vessels into a country's sea territory—that is, by bombing the ship—does not violate the United Nations Convention on the Law of the Sea, or UNCLOS. The reason for this is that Article 73 paragraph (3) of the convention's protected subject list specifies that a person, not a ship, is the protected subject and that a person may be fined or deported without facing a prison sentence; in contrast, the ship is confiscated or sunk by the Indonesian government, naturally, following a procedure that is compliant with the relevant procedural law in the nation in that country (Nurul Istiqomah & Yusran, 2021).
4. Conclusion

The policy implications of theft of marine products by foreigners in Indonesian waters consist of 2 (two) things, namely: First, the positive implication of the implementation of the ship sinking policy is that the Indonesian government is quite capable of minimizing the activities of theft of marine products and saving aquatic habitats in the sea because it is feared that these actors use bad methods such as the use of explosives, so as to prevent marine populations from being taken illegally by foreign fishermen; Second, the negative implication of this ship sinking policy is that there is pollution due to the blasting and burning of foreign ships which can cause air pollution around the sea.

References


Negara Dalam Menangani Penangkapan Ikan Secara Ilegal Di Indonesia.”


