

The Criminological Factors of IUU Fishing by Foreign Perpetrators in Indonesia

Author:

Mas Insan Kamil¹ and Muhammad Fatahillah Akbar, S.H., LL.M.²

ABSTRACT

This Legal Research aims to examine the criminological factors of Illegal, Unreported, and Unregulated (“IUU”) Fishing by foreign perpetrators in Indonesia through applying Criminological Theory. It has been a major concern for Indonesia for the past decades because the unwavering number of foreign fishermen conducting IUU fishing in Indonesia is still persistent. One of the main reasons is the legal applications of Article 102 of the Fisheries Law. In addition, foreign fishermen are also driven by economical, geographical, social, and other factors as well.

The research method utilised a normative approach by applying legal materials such as national laws, court decisions, international conventions, and also journals and articles.

The result found that the criminological factors affecting IUU fishing conducted by foreign perpetrators are the poor legal implementation of Article 102, alternative criminal sanction, weak legal enforcement efforts, lack of expertise, the lack of knowledge and technological instruments, depleted marine resources due to overfishing in the concerned States’ and the sake of survival means. Hence, to mitigate these criminological factors, with Critical Criminology, the Fisheries Law must provide a clear legal application of Article 102 and shall impose a cumulative criminal sanction of fines and confinement to provide further significant deterrence effects. Moreover, with Positive Criminology, the need to strengthen legal enforcement efforts and expand international cooperation. Lastly, Classical Criminology promotes socialisation to the general public regarding the danger of IUU fishing through educational means. Through these approaches, in hope will promote further the government’s effort to eradicate IUU fishing in Indonesia.

Keywords: Criminology, IUU fishing, Illegal fishing, Fisheries Law, Foreign

¹ Student of Criminal Law Concentration, Faculty of Law Universitas Gadjah Mada (S1 IUP 2017)

² Lecturer and Legal Research Supervisor under Criminal Law Department, Faculty of Law Universitas Gadjah Mada

Aspek Kriminologis Dari *IUU Fishing* Oleh Pelaku Asing di Indonesia

Oleh:

Mas Insan Kamil³ and Muhammad Fatahillah Akbar, S.H., LL.M.⁴

INTISARI

Penulisan Hukum ini bertujuan untuk mengkaji faktor kriminologi *Illegal, Unreported, and Unregulated* (“IUU”) *Fishing* oleh nelayan asing di Indonesia melalui penerapan Teori Kriminologi. Hal ini menjadi perhatian utama Indonesia selama beberapa dekade terakhir karena masih banyaknya nelayan asing yang melakukan IUU *Fishing* di Indonesia. Salah satu alasan utamanya adalah penerapan hukum Pasal 102 UU Perikanan. Selain itu, nelayan asing juga didorong oleh faktor ekonomi, geografis, sosial, dan lainnya.

Metode penelitian menggunakan pendekatan normatif dengan menggunakan bahan hukum seperti hukum nasional, putusan pengadilan, konvensi internasional, serta jurnal dan artikel.

Hasil penelitian menemukan bahwa faktor kriminologis yang mempengaruhi IUU *Fishing* yang dilakukan oleh pelaku asing adalah lemahnya penerapan Pasal 102, sanksi pidana alternatif, lemahnya upaya penegakan hukum, kurangnya keahlian, kurangnya pengetahuan dan instrumen teknologi, menipisnya sumber daya laut akibat *overfishing* di Negara yang bersangkutan dan demi keberlangsungan hidup. Oleh karena itu, untuk memitigasi faktor kriminologis tersebut, dengan Kriminologi Kritis, UU Perikanan harus menerapkan hukum yang jelas dari Pasal 102 dan menerapkan sanksi pidana kumulatif denda dan kurungan untuk memberikan efek jera yang lebih signifikan. Dengan Kriminologi Positif, perlunya memperkuat upaya penegakan hukum dan memperluas kerjasama internasional. Terakhir, Kriminologi Klasik upaya sosialisasi kepada masyarakat mengenai bahaya *IUU Fishing* melalui sarana edukasi. Melalui pendekatan tersebut, diharapkan akan semakin mendorong upaya pemerintah untuk memberantas IUU *Fishing* di Indonesia.

Kata kunci: Kriminologi, *IUU fishing*, *Illegal fishing*, UU Perikanan, Asing

³ Mahasiswa Konsentrasi Hukum Pidana, Fakultas Hukum Universitas Gadjah Mada (S1 IUP 2017)

⁴ Dosen dan Dosen Pembimbing Skripsi di Departemen Hukum Pidana, Fakultas Hukum Universitas Gadjah Mada