



The Law Enforcement of Illegal Fishing in the Perspective of UNCLOS 1982: The Case of Illegal Fishing in the North Natuna Sea*

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[10.15408/jch.v10i3.21770](https://doi.org/10.15408/jch.v10i3.21770)

Abstract

The potential for illegal fishing in Indonesia's marine areas is tremendous, especially in the exclusive economic zone of Indonesia, mainly in the North Natuna marine area. Following the rampant illegal fishing activities, policies on preventing and eradicating illegal fishing in the Republic of Indonesia are constantly debated both in theory and implementation. Illegal fishing activities are not only a problem for Indonesia but also a cross-border problem because the perpetrators come from across countries. Therefore, the handling of this problem must be cross-border, and the implementation of international law is necessary. By using normative legal research, the paper analyzed the law enforcement of illegal fishing by referring to UNCLOS as the basis of international maritime law to obtain legal certainty in illegal fishing in the Indonesian exclusive economic zone (EEZ), especially in the North Natuna Sea area. According to Article 73 paragraph (1) UNCLOS 1982, Indonesia can take action against illegal fishing perpetrators by using its own legal regulations because illegal fishing can interfere with the management rights of Indonesia's marine natural resources.

Keywords: Illegal Fishing; Indonesian Exclusive Economic Zone; UNCLOS

* Received: May 27, 2022, Revised: June 25, 2022, Accepted: July 26, 2022, Published: December 30, 2022.

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Abstrak

Potensi illegal fishing di wilayah laut Indonesia sangat besar, terutama di wilayah zona ekonomi eksklusif, khususnya di wilayah laut Natuna Utara. Menyusul maraknya aktivitas illegal fishing, pencegahan dan pemberantasan illegal fishing di Indonesia tetap menimbulkan permasalahan yang terus didiskusikan baik secara teori ataupun sisi implementasi. Illegal fishing tidak hanya menjadi problematika bagi Indonesia, tetapi juga menjadi perhatian serius dalam masalah lintas batas karena pelakunya berasal dari berbagai negara, oleh karena itu penanganan masalah ini harus dilakukan secara lintas batas sehingga diperlukan penerapan hukum internasional. Dengan menggunakan penelitian hukum normatif, makalah ini menganalisis penegakan hukum illegal fishing dengan mengacu pada UNCLOS sebagai dasar hukum maritim internasional untuk memperoleh kepastian hukum dalam masalah tindak pidana illegal fishing di wilayah Zona Ekonomi Eksklusif Indonesia (ZEE), khususnya di laut wilayah laut Natuna Utara. Hasil penelitian menunjukkan bahwa menurut Pasal 73 ayat 1 UNCLOS 1982, Indonesia dapat menindak pelaku illegal fishing dengan menggunakan peraturan hukumnya sendiri, karena illegal fishing dapat mengganggu hak pengelolaan sumber daya alam laut Indonesia.

Kata Kunci: Illegal Fishing, Zona Ekonomi Eksklusif Indonesia, UNCLOS

**Правоприменение в отношении незаконного рыболовства с точки зрения UNCLOS 1982:
Случай Незаконного Рыболовства В Северной Части Моря Натуна**

Абстрактный

Потенциал незаконного рыболовства в морских районах Индонезии огромен, особенно в исключительной экономической зоне Индонезии, главным образом в морской зоне Северной Натуны. После безудержного незаконного рыболовства политика предотвращения и искоренения незаконного рыболовства в Республике Индонезия постоянно обсуждается как в теории, так и на практике. Незаконная рыболовная деятельность является проблемой не только для Индонезии, но и трансграничной проблемой, поскольку преступники прибывают из разных стран. Поэтому решение этой проблемы должно быть трансграничным, и необходимо применение международного права. Используя нормативные правовые исследования, в документе проанализировано правоприменение в отношении незаконного рыболовства, ссылаясь на ЮНКЛОС как на основу международного морского права для получения правовой определенности в отношении незаконного рыболовства в исключительной экономической зоне (ИЭЗ) Индонезии, особенно в северной части моря Натуна. Согласно параграфу (1) статьи 73 UNCLOS 1982, Индонезия может принять меры против лиц, виновных в незаконном рыболовстве, используя свои собственные правовые нормы, поскольку незаконный рыбный промысел может нарушать права управления морскими природными ресурсами Индонезии.

Ключевые слова: незаконный промысел; исключительная экономическая зона Индонезии; ЮНКЛОС

A. INTRODUCTION

Indonesia is the biggest archipelagic country where two-thirds of its territory is marine waters. This geographic location provides its own advantages for Indonesia ([Soebachman, 2014, p.14](#)). Referring to the interests of law-making to protect natural resources in the territorial waters, Indonesia must participate in international maritime forums, especially those dealing with the law of the Sea.

UNCLOS 1982 was ratified by Indonesia on December 31, 1985, through the formation of Law Number 17 of 1982 on the Ratification of UNCLOS Indonesia (hereinafter referred to as UNCLOS Ratification Law) provided more rights and obligations for Indonesia to utilize and regulate all aspects of marine resources up to the waters of the Exclusive Economic Zone (hereinafter abbreviated as EEZ) ([Siombo, 2010, p.94](#)). According to Article 55 of UNCLOS 1982, the EEZ region borders the territorial Sea and is subject to a separate legal system in a separate chapter based on the sovereignty of the coastal state. Other provisions of the 1982 United Nations Convention on the Law of the Sea control the rights of other nations. The width of the EEZ in accordance with Article 57 UNCLOS in 1982 is not more than 200 nautical miles with a base measuring from the baseline of the coast at the end of the outer islands ([Marine and Fisheries Ministry, 2012](#)).

The Sea is one of the areas with the potential of abundant natural resources embodying great economic power. Therefore, many countries utilize the potential of marine natural resources as the primary focus to increase national income (GDP). The Indonesian Sea has the potential for sustainable fish resources (SDI), reaching 6,520,100 tons per year. It consists of coral reefs covering an area of 50,875 square kilometers or about 14 to 18% of the total world coral reef area, with hard coral species reaching 590 species ([Indonesia's Marine and Fisheries Ministry, 2014](#)). However, marine wealth, which should have made a significant contribution to fishermen who depend on the Sea, did not provide abundant marine products for Indonesian fishermen due to foreign fishing vessels operating in Indonesian marine waters are engaging in unlawful fishing.

Illegal fishing simply means catching fish while violating existing regulations, regardless of the ineffective enforcement in the field. The explanation is based on Article 9 of Law Number 31 of 2004 in conjunction with Fisheries Law Number 45 of 2009. Illegal fishing, also known as IUU (illegal, unregulated, and unreported fishing), is receiving international attention, and coastal states are stepping up their efforts to combat it as a top priority due to the grave consequences for food, the economy, the environment, and social security

([Palma, et al, 2010, p. 38-43](#)). This issue raises a problem for Indonesia, the world's largest archipelago region.

One of the areas in Indonesia prone to illegal fishing by foreign fishermen is the North Natuna Sea since the region is one of the outer parts of Indonesia. The Natuna marine area borders the maritime regions of other countries such as Malaysia, Vietnam, and Singapore. With its territorial waters near many states, the North Natuna Sea region is vulnerable to illegal fishing activities. In addition, the area of North Natuna marine has not been fully explored, where the utilization of fishery resources in Natuna has only reached 4.3%, plus the ineffective catching by local fishermen due to the lack of supervision from the government. ([Marine and Fisheries Ministry, 2014](#))

Illegal fishing by foreign fishermen is considered to be part of a cross-country network that operates consistently and sustainably in the North Natuna Sea area. This illegal activity is carried out to gain economic benefits, and the potential for that profit is huge since Indonesian waters have ample fishery resources. Referring to this, illegal fishing in the North Natuna marine waters is a transnational crime because the perpetrators are foreigners or Indonesian involving a foreign party behind it ([Marlina & Riza, 2013, p.1](#)). Therefore, in dealing with such cases is necessary to the alignment of the conduction laws that apply in Indonesia with UNCLOS as a basis of international maritime law.

Literature Review

Illegal fishing can be understood as an activity carried out by a foreign person or vessel in a country's jurisdictional waters without the permission of the country for the purpose of fishing. Such actions are violating the applicable laws and regulations in coastal countries or international regulations. Illegal fishing vessels sometimes fly the flag of a country that is a member of a regional fisheries management organization, but their actions are in violation of the organization's preservation and management regulations, which are governed by international law. The existence of illegal fishing is a concern of the world because it may threaten the sustainability and existence of fisheries resources if not taken seriously by the international world. Illegal fishing can also be categorized as a transnational crime and as a non-international security issue ([Muhamad, 2012, p. 62-63](#)).

Illegal, unreported, and unregulated (IUU) fishing is garnering international attention, and coastal states, particularly Indonesia, the world's largest archipelagic country, are stepping up their efforts to address it as a major

priority. Illegal fishing causes annual losses of IDR100-300 trillion, whereas the marine fishery sector in most of Indonesia's coastal areas has a comparative advantage that can help the country develop economically ([Dede, et al, 2019, p. 9](#)). The proximity of maritime borders between countries, the lack of the ability of local fishermen to fish, the high capacity of foreign fishing vessels, weak regulations, and a lack of optimism in safeguards are factors that illegal fishing networks consider when deciding to act in Indonesia especially in the North Natuna Sea.

The North Natuna Sea is one of the areas in Indonesia that is prone to illegal fishing by foreign fishermen. The waters of Natuna are located on the outskirts of Indonesia. The waters of Natuna border the territorial waters of Malaysia, Vietnam, and Singapore. North Natuna Sea is marine water located in the Southeast Asia region that has a lot of natural resource potential. The wealth of natural resources owned by the North Natuna Sea is the abundance of natural wealth and minerals. In addition to mineral content, the north Natuna sea is also one of the seas with the largest liquified natural gas (LNG) content in the world. In addition, the North Natuna Sea has natural resources of living things such as fish and others. One of the gas and oil fields in the Sea is estimated to have 500,000,000 barrels and 14,386,470 barrels of petroleum. Not to mention the potential of fisheries owned by the North Natuna Sea in 2017 is estimated at IDR 5.32 trillion annually. ([Miranda, 2018, p. 868](#))

The Natuna region is vulnerable to illicit fishing due to its proximity to several countries' waters. This is also motivated by the vast amount of natural wealth in Natuna waters that are yet to be completely explored. Natuna's use of fishery services is just 4.3 percent. The cause of the disaster is thought to be ineffective fishing by local fishermen and a lack of government oversight. The level of intervention from other countries seeking to take over natural wealth in North Natuna waters is also a factor. Historically, China is a country that has sovereignty over the area. However, the Philippines, in 2011, filed a lawsuit with the Court of Arbitration in The Hague, and as a result, the Philippines prevailed over the lawsuit. In 2017, Indonesia filed a new lawsuit, claiming that the North Natuna Sea is part of its sovereign territory. However, China vehemently rejected the lawsuit and sent a protest to Indonesia. ([Novianto, et al, 2020, p. 70](#))

The existence of claims by many countries will disturb the existence of foreign relations. Foreign Relations is the interaction of actors in the international system such as cooperation or confrontation. The State is one of the most powerful players in International Relations. Interaction and ties between countries are usually driven by the needs of a country which is called the

principle of National Interest ([Yani & Perwita, 2005, p.3-4](#)). In the book Introduction to International Relations, see that the state tends to seek national interests in ensuring its survival. ([Jackson & Sorensen, 2016](#)) Therefore, UNCLOS seeks to bridge two or more interests between countries by making several new laws such as national jurisdiction at Sea, the right to freedom of navigation, security, sustainable use of the Sea, and almost all activities that take place at Sea are regulated by UNCLOS.

UNCLOS (United Nations Convention on the Law of the Sea) is a crucial topic in international relations, with the goal of regulating the usage of the Sea, which serves two purposes: as a highway and as a source of natural resources and oil ([Mauna, 2005, p.307](#)). Indonesia, as a coastline country, has an additional sea area, comprising the Continental Shelf and the Exclusive Economic Zone, according to the United Nations' International Maritime Law Agreement, or UNCLOS 1982. 1982 United Nations Convention on the Law of the Sea or UNCLOS is an agreement made by the United Nations in regulating the policy of the law of the Sea in the world. When this agreement was made, there were 168 countries involved in the drafting of the treaty. The countries involved are China, Singapore, Greece, and Japan, the main maritime countries. However, America is not included. ([Bernaz & Pietropaoli, 2020, p. 203](#))

In addition, UNCLOS sets the most comprehensive legal framework for the maritime zone, balancing the development of a coastal state's sovereignty rights and jurisdiction in the exclusive economic zone and continental shelf. Most importantly, UNCLOS establishes and promotes a legal framework for the Archipelagic State, which has become a watershed moment in the maritime legal systems of Indonesia and other archipelagic states ([Agusman & Fatihah, 2020, p. 542](#)). UNCLOS has undoubtedly influenced the development of new domestic and international legal systems in several countries. Currently, the Implementation of UNCLOS has been approved and ratified by 117 countries in the world. The implementation of UNCLOS was only implemented in 1994. The most prominent countries in the implementation of UNCLOS are the United States, Venezuela, Turkey, Israel, and Canada. UNCLOS itself was created to protect the rights and obligations between countries by utilizing and conserving the Sea and its natural resources. ([Hoogland, et al., 2001, p.432](#))

B. METHODS

Since the paper is normative legal research, it contains reviews, summaries, and thought from several resources (articles, books, information

from the Internet, etc.) ([Chynoweth, 2008, p. 2](#)). The paper also reviewed some national and international journals on illegal fishing, UNCLOS 1982, and other relevant topics.

The legal approach and the liquid case approach were applied in this paper due to the normative legal method. The legal approach refers to treat several laws and regulations as a reference in case resolution. Meanwhile, the case approach studies and discusses issues that previously occurred like the research focus. Sources used for reference in this paper are derived from reliable sources, as well as from Google Scholar, the library, and other sources. The source used as a referral in this paper is books, articles, journals, and other trusted references, which can be used as references in this paper. ([McConville & Chui, 2012](#))

C. RESULTS AND DISCUSSION

1. The Implementation of UNCLOS 1982 to Solving the Illegal Fishing Case in North Natuna Sea

The law of the Sea has always been vital to Indonesia, as the largest archipelago country. The definitions of archipelagic and archipelagic states can be found in the United Nations Convention on the Law of the Sea (UNCLOS 1982). An archipelago is a group of islands, comprising sections of islands, interconnecting seas, and other natural characteristics, as defined under Article 46 (b) of the United Nations Convention on the Law of the Sea (UNCLOS 1982). However, the United Nations Convention on the Law of the Sea (UNCLOS 1982) defines an archipelago state as a state entirely of one or more archipelagos, which may contain different islands.

Since establishing the United Nations Conference on Law, Indonesia has struggled to develop the concept of an archipelago state that the UN Convention on Law must recognize. According to Law No. 43 of 2008 Concerning State Territory, a unitary land area, inland waters, archipelagic waters, and territorial seas, as well as the seabed from the land below and the air space above it, including all sources of wealth included within it, is one of the constituents of the State. ([Muslimah, et al, 2020, p. 11](#)) That way, Indonesia has declared an archipelago whose existence is considered by other countries.

Indonesia has five major islands and 35 smaller groups of islands and islets ([Forbes, 2014, p. 4](#)). Indonesia is made up of 18,306 primary and minor islands with a coastline of 95,181 km² and a sea area of 5.8 million km². The Republic of Indonesia's territory runs from Rondo Island in northern Sumatra (Latitude 6 °

05' North) to Roti Island's southwest point (Latitude 11 ° 15' South), and from Longitude 94 ° 58' to 141 ° 00' East ([Efritadewi & Jefrizal, 2017, p. 264](#)). The territorial sea waters of 0.3 million km², archipelago marine waters of 2.8 million km², and the Exclusive Economic Zone of 2.7 million km² make up 75 percent of Indonesia's 58 million km² marine area ([Asian Development Bank, 2014, p. 2](#)).



One part of Indonesia's marine area that often becomes a source of conflict between neighbouring countries is the Natuna Sea. Natuna Regency, Riau Islands Province, is responsible for the Natuna Islands and associated territorial seas. In the Karimata Strait, Natuna Regency is the northernmost district. To the North, this region borders Vietnam and Cambodia, to the west, Singapore and Malaysia; and to the east, Malaysia ([Fauzan, 2019, p. 100](#)). Because it is on the international maritime lanes of Japan, Korea, and Taiwan, the North Natuna Sea is strategically important. As a result, the North Natuna Sea gains strategic importance and serves as a commerce hub for ASEAN nations such as Vietnam, Cambodia, Malaysia, and Singapore ([Yudha & Dina, 2020, p. 367](#)).

With a land area of 2,001.30 km² and oceans of 262,197.07 km², the Natuna Islands cover a total area of 264,198.37 km² with tremendous natural wealth. The Natuna Islands have the world's most significant natural gas reserves, even more, extensive than those in the Asia Pacific. There are approximately 210 trillion cubic feet of untapped gas reserves in the Natuna area, whereas gas wealth in Natuna can provide oil production at 35,000 barrels per day ([Rosdiana, 2018, p. 24](#)). D-Alpha is a natural gas reservoir in the Natuna block with a volume of 222 trillion cubic feet and is expected to be used for future demands over the next 30 years. Meanwhile, the Natuna Islands' recoverable gas potential is projected to be 46

trillion cubic feet, or 8,383 billion barrels of oil, implying that the Natuna Islands' overall energy reserves are roughly 500 million barrels ([Arsyad, 2020, p. 26](#)).

Kelompok Jenis Ikan	Potensi Ikan (ton)			Laju pertumbuhan potensi ikan per tahun (r%)	
	2011 ⁽¹⁾	2016 ⁽²⁾	2017 ⁽¹⁾	2011-2016	2011-2017
Pelagis Kecil	621.500	395.451	330.284	(9)	(10,5)
Pelagis Besar	66.100	198.994	185.885	22,0	17,2
Demersal	334.800	400.517	131.070	3,6	(15,6)
Karang	21.600	24.300	20.625	2,4	(0,8)
Udang Paneid	11.900	78.005	62.342	37,6	27,6
Lobster	400	979	1.421	17,9	21,1
Kepiting	tda	502	2.318	-	-
Rajungan	tda	9.437	9.711	-	-
Cumi-cumi	2.700	35.155	23.499	51,3	36,1
Total Potensi	1.059.000	1.143.340	767.155	1,5	(5,4)

Image Source ([Zulham, et al, 2017, p. 9](#))

North Natuna Sea is strategic water with various potentials, including potential fish resources ([Suman, et al, 2017, p. 100](#)). The sea area of North Natuna is almost 99 percent dominant from the land, implying the vast potential for fisheries in the Natuna Sea. According to data on the possibility of marine and fishery resources in Riau Islands Province in 2011, the potential for fisheries resources in the Natuna Sea is 504,212.85 tons per year, or about 50% of the potential for fisheries management areas with the allowable catch (80% of the sustainable potential) reached 403,370 tons. Then, the utilization of capture fisheries production in the Natuna Regency reached 233,622 tons or 46% of the total sustainable potential of fish resources in 2014. Various types of fish are found in Natuna, which each year has increased.

It cannot be denied that the marine and fisheries sectors are important sectors for Indonesia. If handled properly, it will benefit Indonesia. However, the abundance of Indonesian fishery resources makes Indonesia's neighboring countries want to take Indonesia's marine biological resources using illegal means, including illegal fishing. In Black's Law Dictionary, the word illegal means prohibited by law, haram, prohibited by law, or illegitimate ([Gunawan, 2019, p. 658](#)). Unlawful fishing activities, on the other hand, are illegal fishing activities carried out by foreign fishermen from other countries who enter Indonesian waters illegally, are against the law, and are believed to harm the Sea and threaten the Indonesian border's territorial integrity ([Putranto, 2019, p. 186](#)).

Fishing crimes include illegal fishing and unreported and unregulated fishing, commonly known as Illegal, Unreported, and Unregulated Fishing (IUU)

(IUU Fishing). Illegal, unreported, and unregulated (IUU) fishing is commonly depicted as a threat to the long-term viability of fisheries. ([Cabral, et al, 2018, p. 650](#)) Unregulated fishing is a regional fisheries management organization carried out by stateless vessels, those flying a country's flag, or fishing entities in a way that is inconsistent and negligent of the state and the conservation of marine resources under international law. Meanwhile, Unreported Fishing is a fishing activity that has never been reported or was misreported to the competent authority, not following national legislation. ([Raharjo, et al, 2018, p. 3](#)) In addition, IUU fishing can occur in all capture fisheries activities regardless of location, target species, fishing gear used, and the intensity of exploitation, both on a small and industrial scale, in national and international jurisdictional zones.

Money laundering, terrorism, theft of artistic and cultural objects, theft of intellectual property, illegal arms trade, aircraft hijacking, sea piracy, insurance fraud, computer crime, environmental crime, human trafficking in human body parts, illicit drugs, human trafficking, bankruptcy fraud, and other types of transnational crime were identified by the United Nations in 1995. ([Enck 2003, p. 374](#)) However, that year, illegal fishing was not included in the 18 categories of transnational crime. Then, in the 2000s, many of the international community began to pay attention to issues related to international relations, one of which was illegal fishing. Because illicit fishing by foreign fishermen in Indonesian waters is suspected of being part of a transnational network that functions methodically and sustainably, illegal fishing is included in transnational crimes. ([Wahyono, 2010, p. 2](#)) Illegal fishing by foreign fishermen in Indonesian waters might thus be considered a transnational crime and a severe worldwide issue.

Natuna waters are prone to illegal fishing activities because Natuna waters are directly adjacent to other countries and the enormous potential for existing fishery resources. Extensive fishery resources in the North Natuna Sea attract foreign vessels to catch fish illegally. According to data from the global fishing watch, it identified at least more than 15 foreign vessels from monitoring radar satellite imagery entered the Natuna Sea area. One of them is a fishing boat owned by Vietnam. In February 2020, Global Fishing Watch detected Vietnamese fishing vessels operating within Indonesia's Exclusive Economic Zone (EEZ) east of the North Natuna Sea. This fishing boat has been detected operating in the area since 2019. This ship departed from a fishing port in Vung Tau, Vietnam, on February 6, 2020, and arrived in Indonesian waters three days later. It is estimated that the ship had been fishing illegally for three weeks until the end of the month before returning to Vung Tau on March 1, 2020. After returning to Vung Tau, one week later, on March 7, 2020, this ship was back fishing in the North Natuna Sea.



Image Source ([Prakoso, 2020](#))

Every crime and illegal act will cause losses that impact the country, society, and the marine environment. The increasing number of illegal fishing activities every year will harm the development of Indonesia. Below are some of the impacts that occur due to illegal fishing in Indonesia:

1. Threatens the sustainability of Indonesia's fishery resources

Illegal fishing activities that are carried out massively will reduce the types, numbers, and diversity of fish found in Indonesia. Fish that should sustain the country's economy and make the people prosperous will disappear because other countries take them without permission. Besides, false reports regarding the availability of fish will cause crucial problems for the sustainability of fisheries in Indonesia. According to the Food and Agriculture Organization (FAO), around 52 percent of the world's marine fish stocks have been fully exploited, meaning that they are no longer open to further exploitation. Furthermore, according to the FAO assessment, around 17% of the world's fisheries have already been overexploited ([Jaelani & Basuki, 2014, p. 177](#)). Inaccurate data accuracy will lead to improper fish management, which will threaten national and global fish stocks. This causes the exploitation of fish in the ocean to become out of control. Overfishing and continued fishing result in the sustainability of fish being threatened for future needs.

2. Causing environmental damage

Illegal fishing is also an act against the law and is also an act that causes damage to the ecosystem. In practice, many foreign fishermen use fishing tools that destroy the underwater ecosystem, for example, using fish bombs, using

poison, using trawl or trawling tools, and others. Data from World Wildlife Fund (WWF) Indonesia shows that this type of trawl fishing gear is still rampant in Indonesian waters ([Bendar, 2015, p. 19](#)). Indirectly, fishing using these tools will damage the habitat and marine ecosystem as a place for fish to live and take all marine species of all sizes, which can threaten the sustainability of these fish.

3. Adverse to the country's economy

Indonesia's marine industry has enormous potential as an archipelagic country. Indonesia can be regarded as having enormous fishing resources due to its huge expanse of Sea, allowing it to export its seafood to other countries. Unfortunately, Indonesia is not among the top 10 fish exporting countries. According to data from the Ministry of Trade, the value of Indonesia's exports is falling every year.

Estimated data from the Ministry of Marine Affairs and Fisheries in 2020 predict that it will reach USD1,338 billion annually or around IDR 19.58 trillion annually. This estimate comes from eleven fisheries sectors: capture fisheries USD 20 billion, aquaculture USD 210 billion, industry/processing USD 100 billion, and biotechnology industry, USD 180 billion. However, the FAO estimates that Indonesia loses Rp 30 trillion per year due to illegal fishing. ([Gurning, et al, 2020, p. 21](#)) According to the Ministry of Marine Affairs and Fisheries, illegal fishing causes an annual loss of USD \$ 20 million. Aside from economic losses, many other losses occur every year, resulting in significant losses.

4. Threatening the country's sovereignty

Illegal fishing cases in Indonesia are not only once or twice, but many foreign vessels have also been caught and burned. This shows that Indonesia's maritime defense and security are easy for other countries to breach. Fishermen who enter and violate Indonesia's territorial borders and rob fishery assets in Indonesia can threaten the country's sovereignty. The sovereignty of a country is considered vital because it shows that the country is an independent state, which means it is not limited by anything, does not submit to the powers of other countries, and its existence is recognized internationally.

Illegal fishing activities have a severe negative impact on the Indonesian state. As a sovereign nation, Indonesia has the authority to deal with the problem of illegal fishing that threatens the sovereignty of the Republic of Indonesia. Therefore, it is necessary to prevent and eradicate illegal fishing in Indonesia. Furthermore, authority over the Sea, which Indonesia owns, allows Indonesia to apply the rules held by the Sea or Indonesian territorial waters in line with the

United Nations Convention on the Law of Sea 1982 including the applicable laws and regulations.

The United Nations Conventions on the Law of the Sea, or UNCLOS 1982, separates the sea region where a country's laws against illicit, unreported, and unregulated fishing, or IUU fishing, can be enforced into marine areas under the jurisdiction and sovereignty of that country. According to UNCLOS 1982, a coastal state with an Exclusive Economic Zone has the rights and jurisdiction to explore and exploit marine resources, which include both living and non-living marine resources, and create and implement legal products, such as laws governing exploitation and exploration of marine resources, and conduct scientific research on maritime issues. Therefore, illegal, unreported, and unregulated fishing or IUU fishing is not regulated in UNCLOS 1982 in depth. However, the provisions of UNCLOS 1982 handle the enforcement of laws and regulations if a law violation occurs in the territorial Sea of the country. This follows Article 2 of UNCLOS 1982, namely that the coastal state can enforce its legal rules against ships that violate their territorial sea areas. ([Munawaroh, 2019, p. 31](#))

The United Nations Convention on the Law of the Sea (UNCLOS) of 1982 governs Indonesia's sovereignty and sovereign rights in the waters within its authority. Indonesian sovereign rights include sovereign rights to exploitation, exploration, management, conservation, and protection of Indonesian citizens) operating near the Republic of Indonesia's borders from violations of sovereignty and law, as well as threats of violence from the claimant state. ([Firmansyah, et al, 2020, p. 118-121](#))

The existence of foreign ships carrying out illegal fishing practices is very clear in violating the law. International law prohibits foreign ships from entering and exiting a country's sovereign territory at Sea. All natural resources, especially those in the ocean, should be under Indonesian authority. Article 33, paragraph 3 of the 1945 Constitution governs this. The United Nations Convention on the Law of the Sea, or UNCLOS, was adopted by Indonesia in 1982. The Law Number 17 of 1985 addressing the ratification of the United Nations Convention on the Law of the Sea 1982 was the result of Indonesia's ratification efforts. This was done so that regulations regarding marine existing in Indonesia can run well and strong. The ratification results ensured Indonesia's sovereign right to perform fish resource conservation, use, and management in the Indonesian Exclusive Economic Zone (ZEEI) and open seas, based on internationally recognized norms and requirements. Illegal fishing in Indonesia needs to be resolved with a strong

foundation. Government assertiveness is necessary to overcome illegal fishing practices. ([Bendar, 2015, p. 16-17](#))

Each coastal state has the right or authority against offenders, namely foreign ships committing violations within the territorial sea sovereignty of the coastal state. The hot pursuit itself means that the state can hunt or chase vessels that are suspected of committing criminal acts in a country that has territorial waters or seas. This is regulated in article 111 UNCLOS 1982. Illegal fishing is the authority of the central government, so local governments do not have the right to take action against illegal fishing offenders. The Indonesian government's commitment to preventing, deterring, and eliminating unlawful fishing is demonstrated by its ratification of the Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing. Apart from it. ([Mandagie, et al, 2020, p. 196](#))

The practice of illegal fishing in the waters or oceans is categorized into two categories, namely: first, fishing by using a permit from a local company and using the flag of the state that has sovereignty or the Sea or another country. The practice of stealing fish is also considered illegal fishing because they do not catch fishes in a predetermined place. The term from this category is called semi-legal theft. Second, fishermen or fish catchers catch fish illegally using a flag from their own country. This second category is called pure illegal fishing. Illegal fishing actors are not only fishermen or fishing vessels, or companies originating from abroad. ([Jamila & Disemadi, 2020, p. 37](#))

Based on UNCLOS 1982 Article 73 paragraph 1, "Coastal States may, in exercising their sovereign rights to explore, exploit, conserve and manage biological resources in the exclusive economic zone take such actions, including boarding ships, supervising, arresting and conducting judicial proceedings, supervising necessary to ensure compliance with laws and regulations determined in accordance with the provisions of this Convention." According to Article 19 paragraph 1 part, the unlawful fishing case is a fishery problem and a fishery threat that can undermine the security, peace, and order of the coastal state (i).

Taking action against the perpetrator who is on board the ship who commits the act of illegal fishing must be immediately released by the catching party if an adequate security deposit or other guarantee has been given. Illegal fishing perpetrators are not allowed to be given prison sentences. This has been regulated in paragraph 3, Article 73 Convention. Paragraph 4 Article 73 regulates that the flag state has the right to receive notification by the coastal state if their

ship enters the Exclusive Economic Zone and commits illegal fishing ([Widyatmoko, 2018](#)).

The pursuit of illegal fishing vessels is a right that can be exercised by the Indonesian side in accordance with article 73 paragraph (1) UNCLOS 1982. So, Indonesia may exercise this right based on article 111 UNCLOS 1982 when receiving evidence of foreign ships committing fisheries violations. Thus, Indonesia can arrest these foreign ships ([Aprizal & Muslimah, 2019, p. 89](#)).

Sovereign rights, jurisdictional rights, and other rights, as well as the obligations of the competent state apparatus, are fundamental to be upheld at Sea within Indonesia's sovereignty, especially regarding law enforcement in the Indonesian Exclusive Economic Zone. Article 13 of Law No. 5 of 1983 allows law enforcement to act in line with Law No. 8 of 1981, which governs the Criminal Procedure Code, with the following exceptions ([Anwar, 2015](#)):

- (a) When ships and/or persons suspected of violating the Indonesian Exclusive Economic Zone are apprehended, the ship is halted until the ship and/or personnel are handed over to a port where the case can be further investigated.;
- (b) The ship and/or individuals must be delivered as soon as practicable and no longer than 7 (seven) days unless there is a force majeure situation.;
- (c) The criminal acts controlled in Articles 16 and 17 are included in the list of criminal offenses referred to in Article 21 paragraph (4) letter b of Law No. 8 of 1981 governing the Criminal Procedure Code for the purposes of detention.

The 1982 UNCLOS implementation in Indonesia, especially in the problem of illegal fishing, is regulated in Act Number 5 Year 1983 regarding the Indonesia's Exclusive Economic Zone. In this law, it regulates the utilization of marine fish resources. In addition, to prevent illegal fishing practices in waters under the customs of the Republic of Indonesia from occurring and to regulate fisheries problems in Indonesia, Law Number 45 of 2009 was made, which is a law that replaces Law number 45 of 2004 concerning fisheries. Provisions based on UNCLOS 1982 control law enforcement against illicit fishing practices in the Indonesian Exclusive Economic Zone (ZEEI). These articles, notably article 97 paragraph (1), article 102, and article 104 paragraph (2). The maximum fine is IDR 1,000,000, according to Article 97 paragraph (1). ([Adiananda, et al, 2018, p. 242](#)).

The Indonesian government itself has made various efforts so that illegal fishing practices in Indonesia can be handled properly. These efforts include enacting regulations, such as the Decree of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia Number KEP.50/MEN/2012 establishing the National Action Plan for the Prevention and Combating Illegal, Unreported, and Unregulated Fishing (IUU Fishing), enacting laws and regulations on fisheries, such as the Act number 45 Year 2009, and imposing sanctions. Increase the level of security in the Natuna Sea. Prepare a vessel monitoring system or monitoring system for fishing vessels. ([Damastuti, et al, 2018, p. 54-55](#))

Diplomatic efforts made by the Indonesian government so that the practice of illegal fishing does not develop into a wider area continue to be pursued. However, these diplomatic efforts would be in vain if there was no firm action from the Indonesian government. In order to create a deterrent impact on perpetrators of violations of Indonesian maritime legislation, particularly illegal fishing actors, tough action is taken against them. One of the decisive actions by law enforcement officials in Indonesia against the perpetrators of illegal fishing is the drowning of the perpetrator's vessels. This is done so that Indonesia maintains its sovereign rights over the Sea, including the Sea, which is the Indonesian Exclusive Economic Zone. The sinking refers to Act number 31 Year 2004, which was later changed to Act number 45 Year 2009 concerning fisheries. ([Putranto, 2019, p. 190-191](#))

D. CONCLUSIONS

The boundaries of the Exclusive Economic Zone have been regulated in articles 55 to 75 of UNCLOS. This article allows each country to take advantage of the marine resources in their respective EEZ. Illegal fishing directly violates these rules. The Indonesian government respects the legal regulations set forth by the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982) in enforcing the UNCLOS 1982 on illegal fishing operations in the North Natuna Sea. UNCLOS 1982 itself does not explicitly regulate sanctions for illegal fishing actors. Still, according to Article 73 paragraph 1 UNCLOS 1982, Indonesia can take some action against perpetrators of illegal fishing by using its own legal regulations because illegal fishing can interfere with Indonesia's right to manage fisheries. The Exclusive Economic Zone of Indonesia has been regulated in Article 73 paragraph 1 1982 Sea Convention.

The Indonesian government should re-tighten supervision of all seas that are within the territory of Indonesia. If under surveillance, there are violators

who try to violate the rules owned by Indonesia, the government must take firm action against all violators, especially those who carry out illegal fishing in the Natuna Sea. It should be noted that UNCLOS 1982 has mandated Indonesia's sovereignty over the Sea, which is included in the Indonesian Exclusive Economic Zone (EEZ), which allows Indonesia to do anything as long as it does not violate the provisions set out by UNCLOS 1982. In Indonesia, it must also be strengthened so that the practice of illegal fishing in the sea area of Indonesia, especially in the South Natuna Sea, does not occur again.

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