

Analysis of Judges' Decisions in Imposing Laws Against Perpetrators of Fisheries Crimes (Case Study of North Jakarta District Court Decision Number 1/Pid.Sus-PRK/2021/PN Jkt.Utr)

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KEYWORDS	ABSTRACT
Fisheries Crime; Illegal Fishing; Court Ruling	The abundant fishery resources in Indonesia's waters have attracted both domestic and foreign parties, leading to illegal fishing activities. Despite various enforcement efforts, illegal fishing and the lack of a fishing business license continue to occur. Perpetrators of fishery crimes face legal penalties according to their offenses. Court decisions, such as the District Court of North Jakarta ruling No. 1/Pid.Sus-Prk/2021/PN. Jkt.Utr, result from examining the case based on the applicable charges. The research questions are: 1) How is the law applied to perpetrators of fisheries crimes? 2) How does the judge's ruling apply penalties to perpetrators of fisheries crimes based on the ruling No. 1/Pid.Sus-PRK/2021/PN Jkt.Utr? This research uses a normative legal approach to find relevant legal rules, principles, and doctrines. The findings reveal that penalties for illegal fishing are regulated under Articles 84 to 104 of Law No. 45 of 2009 on Fisheries, including the sinking of foreign ships caught fishing without permission in Indonesia's waters. The judge's decision involves legal considerations and principles of justice.

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Introduction

Indonesia is a country of law that regulates all the behavior of its people based on laws and regulations, as stated in the Constitution of the Republic of Indonesia in article 1 Number (3) which reads Indonesia is a State of Law (Akmal, 2023; Aldyan, 2023; Azhary, 2015; Saputra & Emovwodo, 2022). As a country that has a coastline with a length of 81,000 KM, so that the Indonesian sea and coastal areas of Indonesia have a rich content and biological natural resources that are very abundant in fish, coral reefs, mangrove forests and so on (Dudayev et al., 2023; Izza Elvany, 2020; Supriadi & Alimudin, 2001; Sutrisno & Warassih, 2016).

In addition, the Indonesian people are also known as a nation of seafarers, with the sea, people can take advantage of the vastness of the ocean as a source of national prosperity and welfare, one of the biological natural resources in the ocean is fishery resources which have great potential in developing and advancing economic growth and national development (Hudi et al., 2023; Supramono, 2011; Witbooi et al., 2020).

In the context of this law, it aims to provide a legal basis for sustainable management of fish resources, protect aquatic ecosystems, and improve the welfare of communities that depend on the fisheries sector. So that fisheries not only includes commercial aspects, but also aspects of environmental preservation and community empowerment.

The area of Indonesia's coral reefs that have been mapped reaches 25,000 square kilometers. However, coral reefs in very good condition were only 5.3 percent, good condition 27.18 percent, fairly good 37.25 percent, and poor 30.45 percent.

The Indonesian sea has around 8,500 species of fish, 555 species of seaweed and 950 coral reef biota. Fish resources in Indonesia's seas account for 37 percent of the world's fish species. Several types

of fish in Indonesia have high economic value, such as tuna, shrimp, lobster, reef fish, various types of ornamental fish, shellfish, and seaweed.

The abundance of fishery resources in Indonesia's marine waters has attracted the attention of various parties, such as domestic and foreign fishermen to also be able to enjoy it illegally through *illegal fishing activities*

Illegal fishing still occurs from time to time as a serious problem and a threat to the security of marine resources because it has a negative impact on national economic sovereignty and sovereignty, in addition to that, illegal fishing poses a serious threat to the sustainability of the fisheries sector and natural resources in the waters of a country. These two sectors are important components of state sovereignty so illegal fishing also threatens state sovereignty. Illegal fishing harms fish stocks and affects marine ecosystems, thereby reducing fishermen's opportunities to catch fish legally and affecting the sustainability of fisheries.

In general, forms of *illegal fishing* that occur in Indonesian waters, including illegal fishing. Fishing using fake permits. Fishing using prohibited fishing gear. Fishing with a type or species that is not in accordance with the permit.

As a result of this act, according to the Special Staff of the Minister of Maritime Affairs and Fisheries for Foreign Relations Edy Putra Irawadi, based on data from the Food and Agriculture Organization (FAO), illegal fishing caused losses of 26 million tons or around 23 billion US dollars.

During the 28 days of marine surveillance, 109 days of aerial surveillance with *the KKP Airborne Surveillance Aircraft* successfully inspected 2,535 ships for compliance, 102 marine objects were inspected for compliance. Meanwhile, there were 112 fishing vessels (15 KIA and 97 KII) that were stopped for allegedly committing violations. This figure when compared to the first semester of 2023 has increased. In 2023, there will be 76 fishing vessels secured by 66 KII units and 9 KIA units. From the Marine Resources Supervision sector, it has successfully handled 105 cases throughout 2024, including 87 cases of marine space, 9 cases of destructive fishing, 6 cases of protected fish and 3 cases of shipwreck damage.

Various violations in the marine sector and marine space management, on average, business actors do not meet the basic licensing provisions for the use of marine space, then do not meet the provisions of business licensing (the use of protected fish and small islands). Fishing using materials and tools that damage the ecosystem and cause damage to fish resources and the environment.

The KKP together with law enforcement officials (APH) continue to be committed to saving state losses from illegal BBL smuggling which has thwarted 23 times in 11 locations. A total of 2 million BBL with a value of Rp.277 billion was saved. Based on PSDKP data, throughout 2023 the number of BBL that law enforcement officials have successfully rescued from smugglers is more than 1.34 million heads.

As the press release from the KKP, shows that various enforcement efforts have been carried out, but there are still acts of fishing illegally or without a fisheries business license as the legality of the business, even the perpetrators of fisheries crimes are threatened with criminal penalties and can be sentenced according to the mistakes they commit. A judge's decision in a criminal case is a decision issued by a judge after examining and adjudicating a criminal case based on the offense listed in the indictment. The product of the judge's decision is in accordance with the provisions of Article 195 of the Criminal Procedure Code, valid and has legal force if pronounced in a public hearing, this is like the example of a case of a decision on fisheries crimes in the field of fishing in fisheries management areas that do not have a Fishing Permit/SIPI, namely the North Jakarta District Court Decision number 1/Pid.Sus-Prk/2021/PN. Jkt.Utr, with the defendant named Saparudin bin Daeng Sigala therefore with a prison sentence of 1 (one) year and a fine of Rp100,000,000.00 (one hundred million rupiah), with the provision that if the fine is not paid, it will be replaced with a prison sentence for 3 (three) months (Kanter & Sianturi, 2012).

The judge's decision in imposing the law is the result of the judge's authority in adjudicating every case handled and is based on the Indictment and the facts revealed at the trial and is linked to the application of a clear legal basis, including the severity of the application of imprisonment (the crime of deprivation of independence), this is in accordance with the principle of criminal law, namely the principle of legality regulated in Article 1 Paragraph (1) of the Criminal Code, namely the criminal law must be sourced from law, meaning that the punishment must be based on the law. Judges in deciding

cases must be really precise and meet the community's sense of justice, because inappropriate judges' decisions have an impact on the emergence of negative public views of judges and courts. The low negative view of the public towards judges can be avoided by deciding cases fairly and carefully, so as not to create a gap in a decision. From within, judges should be born, grow and develop an attitude/trait of moral satisfaction if the decisions they make can be a benchmark for the same case, as a reference material for theorists and legal practitioners. Judges in making decisions must pay attention to all aspects in it, starting from the need for caution and avoiding as little inaccuracy as possible, both formal and material to the existence of technical proficiency in making it.

Previous studies by Warna Adi Wiharja et al. (2023) emphasized the role of fisheries courts in resolving illegal fishing disputes in Indonesia, highlighting the importance of specialized judicial authority in handling fishery-related crimes. Similarly, research by Irawan et al. (2024) explored Indonesia's criminal policy in addressing fisheries crimes within the Exclusive Economic Zone (EEZ) and its relation to achieving the Sustainable Development Goals (SDGs). While these studies contribute to the understanding of fisheries law enforcement, the novelty of this research lies in its focused legal analysis of judicial reasoning behind sentencing in illegal fishing cases, specifically in North Jakarta District Court Decision No. 1/Pid.Sus-PRK/2021/PN Jkt.Utr. This study contributes a deeper exploration of how judges interpret and apply legal norms in fisheries crimes, offering a unique perspective that bridges normative legal doctrine and judicial discretion.

The purpose of this study is to find out and analyze the application of the law to perpetrators of criminal acts in the fisheries sector, as well as to find out and analyze the judge's decision in imposing punishment on perpetrators of fisheries crimes based on the decision. Theoretically, this research is expected to contribute to the development of science, especially in the field of criminal law related to criminal acts in the fisheries sector. Practically, this research is expected to provide benefits for students, the community, and as a guideline in analyzing illegal fishing crimes.

Research Methods

This study uses an analytical descriptive method, which serves to describe the facts and analyze them to draw conclusions. The approach used in this study is normative juridical, with three main approaches: first, the case approach, which is to analyze cases that have been decided by the court; second, the statute approach, which is carried out by examining the relevant regulations; and third, the conceptual approach, which focuses on legal ideas and doctrines. The data sources used consist of secondary data that includes primary legal materials, such as the 1945 Constitution of the Republic of Indonesia, the Criminal Code, as well as the Law on Fisheries and related court decisions. Secondary legal materials include law books, journals, papers, and articles relevant to the research. The analysis technique used is qualitative descriptive analysis, which aims to provide a comprehensive picture based on the data collected. This research was conducted in the North Jakarta area, with a focus on fisheries crimes, especially illegal fishing. This research is planned to be completed in 3.5 months.

Results And Discussion

A. Application of punishment to perpetrators of criminal acts in the fisheries sector

1. Legal Sanctions Against Perpetrators of Fisheries Crimes

Sanctions against perpetrators of fisheries crimes are specifically regulated in the Fisheries Law, with criminal threats ranging from imprisonment to fines, which are regulated in Chapter XV Articles 84 to 104 of Law No. 45 of 2009. However, the rise of fisheries crimes in Indonesia is caused by several factors, such as the increasing demand for fish in the world, limited supervision, and a licensing system that has not been fully effective. Some of the *modus operandi* that are often carried out by perpetrators include fishing without a permit, falsifying documents, and transshipment at sea without reporting to the port.

This fishery crime is divided into three categories of Indonesian-flagged fishing vessels that do not have valid documents. Criminal penalties against perpetrators are carried out based on absolute, relative, and teleological theories, which aim to provide retribution, deterrent effects, and protect the community. Criminal sanctions in the form of imprisonment and fines are applied for crimes and violations in the fisheries sector, with the aim of providing a deterrent effect and protecting Indonesia's fishery resources.

Although there are threats of administrative sanctions, such as warnings, freezing permits, or revocation of permits for violating ships, the implementation of these sanctions has not had a deterrent effect. This is due to the lack of adequate supervision and violations committed by foreign vessels without valid documents. Therefore, administrative sanctions need to be tightened, including the implementation of permit freezes and revocations of permits to prevent the recurrence of violations that are detrimental to Indonesia's fisheries ecosystem.

To improve law enforcement in the fisheries sector, it is important for the government to increase supervision and update the licensing and sanctioning system for foreign and local vessels involved in illegal fishing. Stricter and more effective sanctions are expected to provide a deterrent effect and protect the sustainability of Indonesia's fishery resources.

2. Sanctions Against Foreign Ships

Fisheries crimes in Indonesian waters often involve Indonesian fishermen or businessmen as well as foreign-flagged ships. For foreign vessels operating in the EEZ, they must have a Fishing License (SIPI) based on a bilateral agreement. Without SIPI, foreign ships are required to store fishing gear in the hatch. If the vessel does not have a permit or is outside the permitted zone, law enforcement may include the sinking of the vessel under Article 69 paragraph (4) of Law No. 45 of 2009 concerning Fisheries.

The act of sinking this ship was only carried out after there was sufficient preliminary evidence, namely if the ship did not have a SIPI and caught fish in the EEZ. There are two ways to sink foreign fishing vessels, namely through a court decision or being caught. The sinking through a court decision was carried out after the ship and crew were brought ashore to be processed in court. After being tried and convicted, the ship can be confiscated and destroyed.

The sinking of ships is considered a legitimate step and supports law enforcement in the fisheries sector. As a sovereign country, Indonesia has the right to manage and protect natural resources in the EEZ in accordance with UNCLOS 1982. Therefore, the sinking of foreign fishing vessels that commit fishery crimes in the EEZ must follow clear legal procedures to avoid lawsuits in the future.

B. The Judge's Decision in Sentencing Perpetrators of Fisheries Crimes in Decision Number 1/Pid.Sus-PRK/2021/PN Jkt.Utr

1. Case chronology

a. Identity of the perpetrator

- 1) Name : Saparudin bin Daeng Sigala;
- 2) Place of Birth : Margasari;
- 3) Age/date of birth : 33 years/10 February 1988;
- 4) Gender :Man;
- 5) National :Indonesia;
- 6) Residence : Dusun VIII, RT 029/RW 015, Margashari Labuhan, Maringgai, East Lampung;
- 7) Religion :Islam;
- 8) Education : Elementary School (Elementary School);
- 9) Work : Fisherman (Nahkoda KM. Three Sons).

b. Sitting Things

- 1) The case began when the defendant was the Captain of KM. Tiga Putra GT.12 No.469/CCa together with his crew sailed to look for fish to the waters of East Lampung, arriving at the place on March 7, 2018 at around 07.45 WIB, when KM. Tiga Putra was pulling the net, then came the surveillance ship, namely KP. HIU 10 will check, because the Defendant knew that the dogol net used was prohibited, the Defendant immediately cut the rope pulling the net using a knife, it is possible that the rope was cut about 60 meters and the net was about 20 meters long so that there was no left, but above KM. Tiga Putra still has 2 units of dogol nets that he has

prepared as a backup net. After cutting the dogol net, the defendant was then the Captain of KM. Tiga Putra along with his crew sailed with the intention of escaping. However, it was finally captured by the KP surveillance vessel. HIU 10, where the witnesses Hery Poernama (Helmsman), Mr. Ahmad Tholib (Machinist) and Mr. Totong Winarto (Serang).

- 2) That the Defendant in taking over KM. Tiga Putra GT.12 Number 469/CCa, already knew that the fishing gear used, namely the Trawl Net fishing gear, could interfere with and damage the sustainability of fish resources in the fisheries management area of the Republic of Indonesia, but the Defendant still deliberately possessed, controlled, carried, and/or used the fishing gear and/or fishing aids of the Trawl Net type.
- 3) That the Defendant in taking over KM. Tiga Putra GT.12 N0.469/CCa, already knew that he did not have a SIPI (Fishing Permit) because the Trawl type nets used were not allowed by the government so that the permit submitted to the government was not issued. And the Defendant also knew that KM. Tiga Putra does not have an SLO from fisheries supervisors. However, the Defendant continued to operate his fishing boat to carry out fishing in the fisheries management area of the Republic of Indonesia.

c. Public Prosecutor's Indictment

Table 1. Public Prosecutor's Indictment

First Claim	Second Indictment	Third Claim
regulated and criminally threatened in Article 85 Jo Article 9 paragraph (1) of Law of the Republic of Indonesia Number 45 of 2009 concerning amendments to Law of the Republic of Indonesia Number 31 of 2004 concerning Fisheries.	regulated and criminally threatened in Article 93 paragraph (1) Jo Article 27 paragraph (1) of Law of the Republic of Indonesia Number 45 of 2009 concerning amendments to Law of the Republic of Indonesia Number 31 of 2004 concerning Fisheries	is criminally threatened in Article 100 Jo. Article 7 Paragraph (2) of Law of the Republic of Indonesia Number 31 concerning Fisheries

d. Evidence

The evidence presented by the public prosecutor at the trial consisted of witness statements, expert statements, and defendant statements.

e. Evidence

The evidence that has been submitted by the public prosecutor at the trial

- 1) 1 (one) KM Unit. Three Sons;
- 2) 2 (two) units of trawl nets without an opening board (*otter board*);
- 3) Fishing aids in the form of 1 (one) axle engine;
 - a) 1 (one) bundle of KM documents. Tiga Putra with the following details: Fishery Business License (SIUP) Number 523/301/Bid.V/II.06/2012 valid for December 11, 2042 issued by the Head of the Lampung Provincial Investment and Regional Integrated Services Agency;
 - b) Fishing Vessel Operational Feasibility Certificate Number 523/3613/III.15-PP/2013 valid for December 16, 2014 issued by the Head of the Marine and Fisheries Service of Lampung Province;
 - c) Photocopy of the Circular Letter of the Marine and Fisheries Service of Lampung Province Number 523/757/V.19-Tangkap.2/2017 regarding the follow-up of the direction of the Director General. Capture Fisheries of KKP-RI in East Lampung Regency;

- d) Copy of Domestic Survey Letter Number 469/CCa issued by the Head of Legal Status and Ship Certification of the Office of Municipal Affairs and Port Authority Class I Panjang;
- e) Provisional Domestic Survey Letter Number 469/CCa was issued by the Administrator of the Long Port of the Head of Ship Airworthiness on July 17, 2012;
- f) Certificate of Proficiency (SKK) 30 Miles Number GM.760/1/3/KPL/ LBM-2009 a.n. Saparudin was published in Lab. Maringgai on February 25, 2009;
- g) Pas Besar KM. Three Sons registered at Adpel Panjang Serial Number: 333 Page Number: 49 Register Book: I published by the Head of the Labuhan Maringgai Port Operator Unit Office on May 26, 2017;
- 4) Certificate of Airworthiness and Manning of Fishing Vessels Number: Cm.760/01/II/UPP-LBM-2017 valid on May 26, 2018 issued by the Head of the Labuhan Maringgai Organizing Unit Office;
- 5) Completeness Data for KM Fishing Vessel Airworthiness and Manning Certificate. Tiga Putra registration certificate 2012 CCa Number 330/N;
- 6) Sailing Approval Letter Number I.3/KM62/66/III/2018 issued by Syahbandar Kuala Penet on March 6, 2018;
- 7) Crew List (ABK) KM. Tiga Putra issued by the Labuhan Maringgai Class III Port Operator Unit Office; MILES. Three Sons;
- 8) 1 (one) unit of Garmin GPSmap 585 GPS;
- 9) Money from the sale of KM fish catches. Three Sons worth Rp 2,350,000 (two million three hundred and fifty thousand rupiah) with a total catch of 114 Kg with types of squid, orong, and mixed fish;

f. Public Prosecutor's Demands

- 1) Declaring that the Defendant Saparudin bin Daeng Sigala, is legally proven guilty according to the law of committing the crime of Fisheries, as stipulated in Article 85 Jo Article 9 Paragraph (1) of Law of the Republic of Indonesia Number 45 of 2009 concerning amendments to Law of the Republic of Indonesia Number 31 of 2004 concerning Fisheries (first indictment);
- 2) Imposing a prison sentence on the Defendant for 2 (two) years, reduced while in custody and a fine of Rp100,000,000.00 (one hundred million rupiah), if the fine is not paid, the fine will be replaced with a prison sentence for 6 (six) months.
- 3) Declaring evidence in the form of:
 - (a) 1 (one) KM Unit. Three Sons; 2 (two) units of trawl nets without an opening board (*otter board*); Fishing aids in the form of 1 (one) axle engine; 1 (one) unit of Garmin GPSmap 585 GPS.
Confiscated to be destroyed
 - (b) 1 (one) bundle of KM documents. The Three Sons with the following details:
 - (1) Fisheries Business License (SIUP) Number 523/30 1/Bid.V/II.06/2012 valid for December 11, 2042 issued by the Head of the Lampung Province Regional Investment and Integrated Services Agency;
 - (2) Certificate of Operational Feasibility of Fishing Vessels Number 523/3613/III15-PP/2013 valid for December 16, 2014 issued by the Head of the Marine and Fisheries Service of Lampung Province;
 - (3) Photocopy of the Circular Letter of the Lampung Provincial Marine and Fisheries Service Number: 523/757/V.19-Tangkap.2/2017 regarding the follow-up of the direction of the Director General. Capture Fisheries of KKP-RI in East Lampung Regency;
 - (4) Copy of Domestic Survey Letter Number 469/CCa issued by the Head of Legal Status and Ship Certification of the Office of Municipal Affairs and Port Authority Class I Panjang;
 - (5) Provisional Domestic Survey Letter Number 469/CCa was issued by the

- Administrator of the Long Port of the Head of Ship Airworthiness on July 17, 2012;
- (6) Certificate of Proficiency (SKK) 30 Miles Number GM.760/1/3/KPL/LBM-2009 an. Saparudin was published in Lab. Maringgai on February 25, 2009;
 - (7) Pas Besar KM. Three Sons registered at Adpel Panjang Unit Number: 333 Page Number: 49 Register Book: I published by the Head of the Office of the Lanuhan Maringgai Port Organizing Unit on May 26, 2017;
 - (8) Certificate of Airworthiness and Manning of Fishing Vessels Number Cm. 760/01/II/UPP-LBM-2017 valid for May 26, 2018 issued by the Head of the Office of the Labuhan Maringgai Port Operating Unit;
 - (9) Completeness Data for KM Fishing Vessel Airworthiness and Manning Certificate. Tiga Putra registration certificate 2012 CCa Number 330/N
 - c) Sailing Approval Letter Number I.3/KM62/66/III/2018 issued by Syahbandar Kuala Penet on March 6, 2018;
 - d) Crew List (ABK) KM. Tiga Putra issued by the Labuhan Maringgai Class III Port Operator Unit Office;
 - e) Gross Deed of Ship Registration Number: 338 dated July 25, 2012 ship name KM. Three Sons;
 - f) Remain attached to the case file
 - g) Money from the sale of KM fish catches. Three Sons worth Rp 2,350,000 (two million three hundred and fifty thousand rupiah) with a total catch of 114 Kg with types of squid, sorong, and mixed fish. Confiscated for the State.
 - 4) Stipulating that the Defendant be burdened with paying case costs of Rp5,000 (five thousand rupiah).

g. Amar Verdict

The verdict of the North Jakarta District Court Judge number 1/Pid.Sus-PRK/2021/PN Jkt.Utr is:

- 1) Declaring that the Defendant Saparudin bin Daeng Sigala is legally and convincingly proven guilty of committing the Fisheries Crime, as in the first alternative indictment;
- 2) Imposing a criminal sentence on the Defendant Saparudin bin Daeng Sigala therefore with a prison sentence of 1 (one) year and a fine of Rp100,000,000.00 (one hundred million rupiah), provided that if the fine is not paid, it will be replaced with a prison sentence of 3 (three) months;
- 3) Stipulating that the period of arrest and detention that the Defendant has undergone is entirely deducted from the sentence imposed;
- 4) Ordering the Defendant to remain in custody;
- 5) Declaring evidence in the form of:
 - a) 1 (one) KM Unit. THREE SONS; 2 (two) units of trawl nets without an opening board (*otter board*); Fishing aids in the form of 1 (one) axle engine; 1 (one) unit of Garmin GPSmap 585 GPS.
 - b) 1 (one) bundle of KM documents. THREE SONS with the following details:
 - (1) Fishery Business License (SIUP) Number 523/30 I/Bid.V/II.06/2012 valid for December 11, 2042 issued by the Head of the Lampung Province Regional Investment and Integrated Services Agency.
 - (2) Fishing Vessel Operational Feasibility Certificate Number 523/3613/III15-PP/2013 valid for December 16, 2014 issued by the Head of the Marine and Fisheries Service of Lampung Province;
 - (3) Photocopy of the Circular Letter of the Lampung Provincial Marine and Fisheries Service Number 523/757/V.19-Tangkap.2/2017 regarding the follow-up of the direction of the Director General. Capture Fisheries of KKP-RI in East Lampung Regency;
 - (4) Copy of Domestic Survey Letter Number 469/CCa issued by the Head of

- Legal Status and Ship Certification of the Office of Municipal Affairs and Port Authority Class I Panjang;
- (5) Provisional Domestic Survey Letter Number 469/CCa was issued by the Administrator of the Long Port of the Head of Ship Airworthiness on July 17, 2012;
 - (6) Certificate of Proficiency (SKK) 30 Miles Number GM.760/1/3/KPL/LBM-2009 an. Saparudin was published in Lab. Maringgai on February 25, 2009;
 - (7) Pas Besar KM. THREE SONS registered at Adpel Panjang Unit No. 333 Page No. : 49 Register Book: I published by the Head of the Office of the Maringgai Lanuhan Port Operator Unit on May 26, 2017;
 - (8) Certificate of Airworthiness and Manning of Fishing Vessels No. Cm. 760/01/II/UPP-LBM-2017 valid for May 26, 2018 issued by the Head of the Office of the Labuhan Maringgai Port Operating Unit;
 - (9) Completeness Data for KM Fishing Vessel Airworthiness and Manning Certificate. TIGA PUTRA registration certificate 2012 CCa No.330/N;
 - c) Sailing Approval Letter No.I.3/KM62/66/III/2018 issued by Syahbandar Kuala Penet on March 6, 2018;
 - d) Crew List (ABK) KM. TIGA PUTRA issued by the Labuhan Maringgai Class III Port Operator Unit Office;
 - e) Gross Deed of Ship Registration Number 338 dated July 25, 2012 the name of the ship KM. THREE SONS;
Confiscated to be destroyed.
 - f) Money from the sale of KM fish catches. THREE SONS worth Rp 2,350,000 (two million three hundred and fifty thousand rupiah) with a total catch of 114 Kg with types of squid, sodar, and mixed fish.
Confiscated for the State.
- 6) Charging the Defendant to pay the case fee of Rp5,000.00 (five thousand rupiah).

h. Case Analysis

Regarding the case as contained in Decision number 1/Pid.Sus-PRK/2021/PN Jkt.Utr, the defendant was legally and convincingly proven guilty of committing the Fisheries Crime, as in the first alternative indictment, namely the Defendant in taking charge of KM. Tiga Putra GT.12 Number 469/CCa, already knew that the fishing gear used, namely the Trawl Net fishing gear, could interfere with and damage the sustainability of fish resources in the fisheries management area of the Republic of Indonesia, but the Defendant still deliberately possessed, controlled, carried, and/or used the fishing gear and/or fishing aids of the Trawl Net type. So that the Defendant's actions are contrary to Article 85 Jo Article 9 paragraph (1) of Law of the Republic of Indonesia Number 45 of 2009 concerning amendments to Law of the Republic of Indonesia Number 31 of 2004 concerning Fisheries, which states:

Article 9 paragraph (1)

- (1) Every person is prohibited from possessing, possessing, carrying, and/or using fishing gear and/or fishing aids that interfere with and damage the sustainability of fish resources on fishing vessels in the fishery management area of the Republic of Indonesia.

Article 85

Any person who deliberately possesses, controls, carries, and/or uses fishing gear and/or fishing aids that interfere with and damage the sustainability of fish resources on fishing vessels in the fisheries management area of the Republic of Indonesia as intended in Article 9 shall be sentenced to imprisonment for a maximum of 5 (five) years and a maximum fine of Rp2,000,000,000, 00 (two billion rupiah).

For his actions, the defendant received a criminal sanction of imprisonment for 1 (one) year and a fine of Rp100,000,000.00 (one hundred million rupiah), with the

provision that if the fine is not paid, it will be replaced with imprisonment for 3 (three) months;

The criminal act in the field of fisheries committed by the defendant is fishing which is carried out through fishing aids on the ship, namely axles and kapstan, a long wrap rope was also found and on the stern of the ship a holder was found for the placement of the otterboard. Then another name for trawl that can be said to be a local name, namely arad nets, apolo nets, tiger trawls, these tools are prohibited from being used and of course contrary to the Ministerial Decree of the Republic of Indonesia Number KEP. 06/MEN/2010 concerning fishing equipment in the State Fisheries Management area of the Republic of Indonesia and the Minister of Fisheries Management Number 71 of 2016 Article 21 paragraph 2 letter b, which states that the trawl is a fishing tool that interferes with and damages fish resources.

The two rules were used because the case occurred in 2021, currently the two rules have undergone several changes, namely:

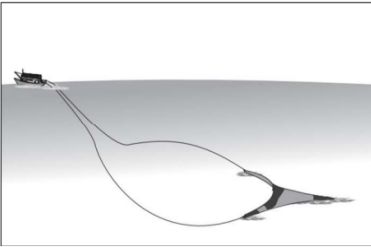
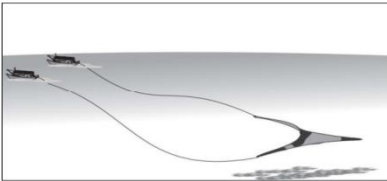
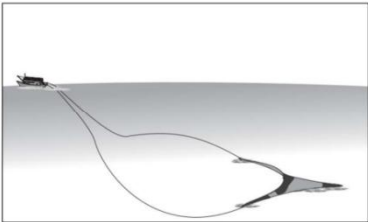
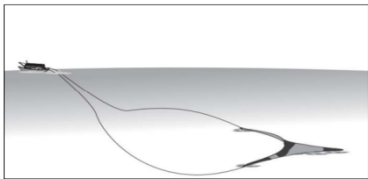
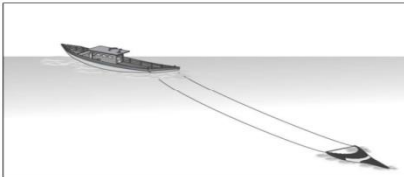
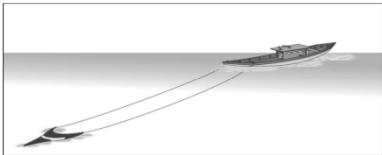
- 1) Minister of Fisheries and Fisheries Regulation No. 59/PERMEN-KP/2020 of 2020 concerning Fishing Routes and Fishing Gear in the Fisheries Management Area of the Republic of Indonesia and the High Seas
- 2) Minister of MPA Regulation No. 18 of 2021 concerning the Placement of Fishing Gear and Fishing Aids in the State Fisheries Management Area of the Republic of Indonesia and the High Seas and the Arrangement of Fishing Andon
- 3) Minister of Fisheries and Fisheries Regulation No. 36 of 2023 concerning the Placement of Fishing Gear and Fishing Aids in the Measured Fishing Zone and the State Fisheries Management Area of the Republic of Indonesia in Inland Waters

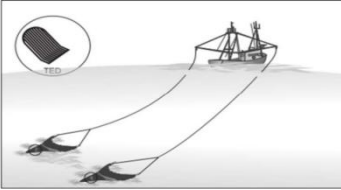
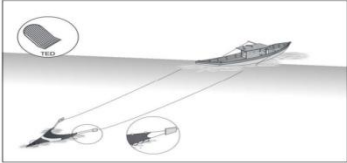
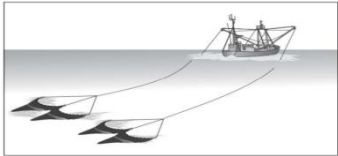
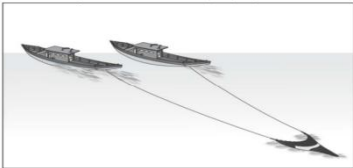
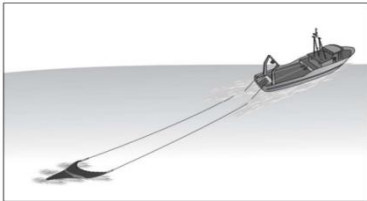
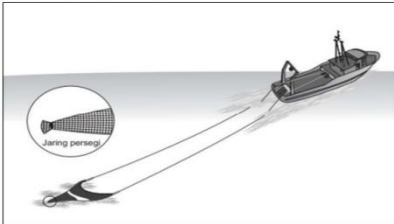
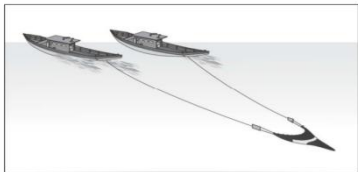
The provisions that are currently in effect are the Minister of KKP Regulation No. 36 of 2023, related to Fishing Equipment, hereinafter abbreviated as API, which is the means and equipment or other objects used to catch fish, there are things that are prohibited from being used as stipulated in Article 8 of the Minister of KKP Regulation No. 36 of 2023 regarding the Placement of Fishing Gear and Fishing Aids in the Measured Fishing Zone and the State Fisheries Management Area of the Republic of Indonesia in Inland Waters, which states:

- (1) The type of API that is prohibited as referred to in Article 6 paragraph (2) letter b is an API that interferes with and damages the sustainability of fish resources.
- (2) An API that interferes with and damages the sustainability of fish resources as referred to in paragraph (1) is an API that can:
 - a. threatening the extinction of biota; and/or
 - b. resulting in habitat destruction.
- (3) The types of APIs that are prohibited as referred to in paragraph (1), include:
 - a. The trawl net consists of:
 1. dogol;
 2. pair seine;
 3. cantrang; and
 4. Basic lampara.
 - b. Hela nets consist of:
 1. Bottom trawl with bars;
 2. shrimp bottom trawls;
 3. twin plank trawls;
 4. Two-vessel bottom trawler;
 5. Two-vessel intermediate trawler;
 6. fish trawls; and
 7. Tiger trawls.
 - c. traps in the form of jumping fish traps; and
 - d. Another API is in the form of muro ami.

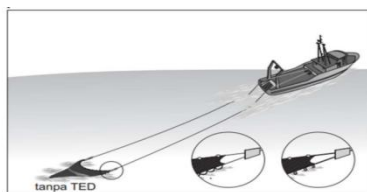
Some of the prohibited API type image illustrations as shown in Figure 1 are as follows:

Table 2. Prohibited API types

No.	Image Type	Description
1	Pull Net  Dogol	Dogol, with the code 02.2.1 and the abbreviation SV-SDN dogol is an active towing net API, which operates by using a diving rope at the bottom of the water by being looped to confine demersal fish and then pulling and lifting to a ship that is stopped or anchored. API Dogol uses a diamond mesh on all parts of the bag.
2	 Pair of his	pair seines, with code 02.2.2 and abbreviation SV-SPR pair seines is an active pull net API, which operates by using two vessels to wrap a net on demersal and/or pelagic fish and then pulling and lifting the net to one of the ships that is stopping.
3	 Cantrang	cantrang, with code 02.2.4 and abbreviation SV-CTG cantrang is an active API of tow nets, which operates by using a long diving rope at the bottom of the water by wrapping the demersal fish and then pulling and lifting to a ship that is stopping or anchoring. API cantrang uses a diamond mesh in the shape of a ketupat (diamond mesh) on all parts of the bag.
4	 Lampara Elementary	basic lampara, with code 02.2.5 and abbreviation SV-LDS basic lampara is an active pull net API, which operates by using long wings and diving ropes at the bottom of the water by circling demersal fish then pulling and lifting to the ship
5	Hela Net  Ribbed Bottom Trawl	Ribbed basic trawler, with code 03.11 and abbreviation TBB barbed basic trawl is an active lata net API, whose operation is equipped with an opening bar so that the mouth of the net remains open.
6	 Shrimp bottom trawl	Shrimp bottom trawler, with code 03.12.1 and abbreviation OTB-PU shrimp bottom trawl is an active hela net API, which is equipped with a turtle excluder device (TED), with a shrimp catch target.
		Pocketed shrimp nets, with code 03.12.2 and

7		abbreviation OTB-JHUB pocketed shrimp nets are API active shrimp nets that are operated in a dilated manner at the bottom of the water and are equipped with turtle excluder devices (TED) and shock chains and do not use a goal.
8		Basic hela net, with code 03.12.3 and abbreviation OTBJHD basic hela net is an active hela net API, in the form of a pocket net that is operated by a hela on the bottom of the water and is equipped with a turtle excluder device (TED) and a shock chain and does not use a goal.
9		Planked twin trawlers, with code 03.13 and OTT abbreviation boarded twin trawls are active trawl nets, which consist of two trawls that are combined into one on one wing and equipped with an opening board on the outside of the mouth of the net.
10		Two-ship basic trawler, with code 03.15 and the abbreviation PTB Two-ship basic trawl is an active API hela net, which is operated without an opening board or opening bar by being hoisted by 2 (two) ships.
11		Fishing trawls, with the code 03.21.1 and the abbreviation OTM-PI fishing trawl is an active hela net API, which is equipped with an opening board as a net mouth opening device whose operation is in the water column.
11		Pocket Fish Jelly Net, with code 03.21.2 and abbreviation OTM-JHIB Pocketed Fish Jelly Net is an API of active Jelly Net, in the form of a pocket net with a square mesh that is operated in a horizontal manner on the water column and does not use additional tools in the form of rolling balls and/or shock chains, duplicate pocket parts, and/or using a goal and/or span bar.
12		Two-ship mid-trawl trawl, with code 03.22 and the abbreviation PTM of two-ship mid-trawl is an active API hela net, which is equipped with an opening board as an opener for the mouth of the net whose operation is on the water column and is hoisted by 2 (two) ships.

13



Tiger trawl

Tiger trawl, with code 03.12.4 and the abbreviation PH tiger trawl is an active hela net API, which is in the form of a bag equipped with an opening board and a rolling ball (bobin) whose operation is at the bottom of the water.

Source: Minister of Maritime Affairs and Fisheries (KKP) (2023)

Based on table 2, the fishing gear referred to in figure 1 is prohibited in the measured fishing zone and the state fisheries management area of the Republic of Indonesia in inland waters because the regulation aims to maintain the ecosystem and ensure the compliance of business actors.

In addition to being regulated in the Regulation of the Minister of Maritime Affairs and Fisheries (KKP) Number 36 of 2023. This regulation focuses on the sustainability, monitoring, and evaluation of fishing activities. There is also Law Number 45 of 2009 which also stipulates that everyone is prohibited from possessing, possessing, carrying, and/or using fishing equipment that damages the sustainability of fish resources.

Therefore, it can be concluded that the defendant's act of catching fish using prohibited tools as regulated in the Minister of KKP Regulation No. 36 of 2023 Regarding the Placement of Fishing Gear and Fishing Aids in the Measured Fishing Zone and the State Fisheries Management Area of the Republic of Indonesia in Inland Waters, of course, resulting in losses that have an impact on all sectors of life, the country, society, and the marine environment are direct victims of the illegal fishing act. The impact of this loss is one of the main reasons why a human action can be turned into a crime, illegal fishing in this case is a real crime and is acted upon firmly because it has caused huge losses to all sectors of Indonesian people's lives (Damanik, 2008).

In addition, the defendant's actions also caused several consequences, namely (Karina, 2021):

1) Damage to Fish Sustainability in Indonesian Seas,

In fact, now unreported fisheries practices, underreported *fish reports*, and unregulated fisheries practices will pose a very crucial problem for Indonesia's fish conservation, namely the problem of data accuracy on available fish stocks. If fish stock data is not accurate, it is almost certain that fisheries management will not be appropriate and will threaten the sustainability of national and global fish stocks.

2) It is detrimental to the country's economy.

Nationally, the state is the party that is directly harmed by the existence of this illegal fishing crime. Based on the Report of the Financial Audit Agency (BPK), state losses from the marine and fisheries sector are estimated at Rp 300 trillion from IUU Fishing every year.

3) Environmental Damage,

In practice, the perpetrators of illegal fishing do not hesitate to use fishing equipment or *Fish Aggregating Devices* (FAD) that can damage the marine environment (destructive fishing), for example fishing using fish bombs, the use of cyanide poison, anesthesia and the use of fishing gear such as *trawls* (tiger trawlers), they are not aware that fishing in that way will exploit the marine habitat as a place for fish to live and reproduce.

4) Illegal Fishing Violates Indonesia's Sovereignty,

Of the majority of illegal fishing cases that occur in Indonesia, violations of Indonesian state sovereignty are committed by all perpetrators of illegal fishing from the countries mentioned above, the foreign fishermen have violated the territorial boundaries of Indonesian sovereignty without permission, entered Indonesian waters and robbed Indonesian fishery assets. The firm stance of Indonesian law enforcement

officials must be upheld in maintaining Indonesia's sovereignty so that it is not entered by a state that intends to rob the nation's assets. Because this action is a form of criminal act that is rampant in Indonesian waters.

2. Analysis of the Judge's Decision

The judge's decision in sentencing the perpetrators of fisheries crimes, especially in the case of fishing using prohibited tools as per the North Jakarta Court Judge's Decision Number: 1/Pid.Sus-PRK/2021/PN Jkt.Utr, has been decided that the Defendant Saparudin bin Daeng Sigala is legally and convincingly proven guilty of committing the Fisheries Crime, as in the first alternative indictment, as contained in Article 85 jo Article 9 paragraph (1) of the Republic Law Indonesia Number 45 of 2009 concerning Amendments to the Law of the Republic of Indonesia Number 31 of 2004 concerning Fisheries and Law of the Republic of Indonesia Number 8 of 1981 concerning the Criminal Procedure Law and other relevant laws and regulations, therefore against the Defendant Saparudin bin Daeng Sigala is sentenced to imprisonment for 1 (one) year and a fine of Rp100,000,000, 00 (one hundred million rupiah), with the provision that if the fine is not paid, it will be replaced with imprisonment for 3 (three) months;

The Judge's verdict against the Defendant Saparudin bin Daeng Sigala, of course, involves several legal considerations and principles of justice. The following is an explanation of these aspects:

a. Rule of Law

The Judge's Decision against the Defendant Saparudin bin Daeng Sigala, as per the Decision of Case Number: 1/Pid.Sus-PRK/2021/PN Jkt.Utr has been fulfilled and in accordance with the elements contained in Article 85 jo Article 9 paragraph (1) of Law of the Republic of Indonesia Number 45 of 2009 concerning Amendments to Law of the Republic of Indonesia Number 31 of 2004 concerning Fisheries and the Law of the Republic of Indonesia as follows:

1) Everyone's element,

The element of each person is the one who can be the subject of the law to whom he can be held accountable for all the deeds he has committed, which in this case is the defendant named Saparudin bin Daeng Sigala, but even though the identity of the Defendant is correct as stated in the indictment, but the Defendant can be said to have fulfilled this element, if the Defendant's actions have fulfilled all other elements, Thus, the element of each person cannot be proven until all other elements have been proven to be fulfilled by the Defendant's actions

2) Element deliberately

The intention is to commit a fishery criminal act in actualizing or carrying out the act is colored by an inner attitude that reflects the Defendant's knowledge that the consequences of the act have been known by the perpetrator of the fishery criminal act, and between the occurrence of the intention and the commencement of the act there is enough time to think about it.

There are 3 (three) forms of intentionality, in this matter, namely:

- a) Intentional as a means (*opzet als oogmerk*),
that is, the acts committed and the consequences that occur are indeed the purpose of the perpetrators of criminal acts;
- b) Intentional as conscious of certainty or necessity (*opzet bij zekerheidsbewuustzijn*),
that is, the result that occurs is not the result that is the goal, but to achieve a truly intended result, other actions must be done first;
- c) Intentional as aware of possibility (*dolus eventualis*)
that is, the perpetrator is aware of the possibility of the consequences of the act, but in this case this consequence is not intended to occur by the perpetrator and the perpetrator cannot cancel the consequences that occur.

Deliberately fishing and/or cultivating fish using disruptive fishing gear (trawl) is prohibited, because it damages the sustainability of fish resources as mentioned in Article 9 of the Law of the Republic of Indonesia Number 31 of 2004 concerning Fisheries as amended by Law of the Republic of Indonesia Number 45 of 2009. The defendant has known consciously that the use of trawl net fishing gear is strictly prohibited because it can result in damage to the sustainability of fish resources.

Based on the above, it can be concluded that the Defendant is the Captain of the KM ship. Tiga Putra has deliberately fished using trawl fishing gear that is prohibited in WPPNRI, namely in the waters of East Lampung.

This element is also associated with the theory of will and the theory of knowledge where the theory of will defines intentionality as the will that is directed towards the realization of the act while according to the theory of knowledge, intentionality is the will to act by knowing the necessary elements and in this case the defendant Saparudin bin Daeng Sigala deliberately fished using *trawl* type net fishing gear, therefore the element of intentionality has been proven to be fulfilled by the Defendant's actions legally and convincingly according to law;

- 3) Elements of possessing, possessing, carrying, and/or using fishing gear and/or fishing aids that interfere with and damage the sustainability of fish resources.

Where the defendant Saparudin bin Daeng Sigala is the captain of the KM ship. The three sons of the ship used to catch the fish belong to him, and the trawl net that has been installed on the ship belongs to him as well, so it can be understood that in carrying out the act of fishing in the fishing area of the Republic of Indonesia in East Lampung.

The defendant has understood that the use of trawl net fishing equipment is damaging the sustainability of fish life, because small fish are also transported and there is damage to marine water habitat; That, therefore, one of the sub-elements has been fulfilled by the Defendant's actions, namely possessing and using fishing gear that interferes with and damages the sustainability of fish resources. In addition, the element of possessing, possessing, carrying, and/or using fishing gear and/or fishing aids that interfere with and damage the sustainability of fish resources on fishing vessels has been proven to be fulfilled by the Defendant's actions legally and convincingly according to the law.

- 4) Elements in a Fishing Vessel

Namely vessels that are limited to the classification or type of fishing vessel only, as stated in Article 1 number 9 of Law of the Republic of Indonesia Number 45 of 2009 concerning Amendments to Law of the Republic of Indonesia Number 31 of 2004 concerning Fisheries, which states:

Fishing Vessels are ships, boats, or other buoyancy devices used to carry out fishing, support fishing operations, fish farming, fish transportation, fish processing, fishery research/exploration training.

Based on these rules, it is a vessel that is specifically used to catch fish including accommodating, storing, cooling, or preserving and KM. Tiga Putra is a fishing vessel, a type of fishing vessel, thus the elements in the Fishing Vessel have been proven to be fulfilled by the Defendant's actions legally and convincingly according to the law.

- 5) elements in the State Fisheries Management Area of the Republic of Indonesia.

It is intended in this element that the fishing is carried out in the fisheries management area of the Republic of Indonesia. As stipulated in Article 5 paragraph (1) letter a of Law of the Republic of Indonesia Number 31 of 2004 concerning Fisheries as amended by Law of the Republic of Indonesia Number 45 of 2009, which states that:

- (1) The fisheries management area of the Republic of Indonesia for fishing and/or fish cultivation includes:

a. Indonesian waters;

In addition, it is also regulated in article 1 and article 2 paragraph (1) number 5 of the Ministerial Regulation No. 18/PERMEN-KP/2014 concerning the State Fisheries Management Area of the Republic of Indonesia, which states that:

Article 1

"The State Fisheries Management Area of the Republic of Indonesia, hereinafter abbreviated as WPPNRI, is a fisheries management area for fishing, fish farming, conservation, research, and fisheries development which includes inland waters, archipelagic waters, territorial seas, additional zones, and Indonesia's Exclusive Economic Zone" (ZEEI);

Article 2 paragraph (1) number 5

WPPNRI is divided into 11 (eleven) Fisheries Management Areas, namely: WPPNRI 712 covers the waters of the Java Sea.

Based on this regulation, the elements in the State Fisheries Management Area of the Republic of Indonesia have been proven to be fulfilled by the Defendant's actions legally and convincingly according to law;

Thus, it can be concluded that the elements mentioned above have been fulfilled and in accordance with the legal rules used in the Case Decision Number: 1/Pid.Sus-PRK/2021/PN Jkt.Utr is Article 85 jo Article 9 paragraph (1) of Law of the Republic of Indonesia Number 45 of 2009 concerning amendments to Law of the Republic of Indonesia Number 31 of 2004 concerning Fisheries, has been proven entirely by the Defendant's actions, then the elements of each person have been legally and convincingly proven to be fulfilled by the Defendant

b. Elements of Criminal Acts

That the actions of the defendant Saparudin bin Daeng Sigala have met the elements of a criminal act, as conveyed by Lamintang that (Lamintang, 2007):

The elements are divided into 2 (two) types, namely subjective and objective elements. Subjective elements are elements that are attached to the perpetrator or related to the perpetrator and include everything contained in his heart. While what is meant by objective elements are elements that are related to the circumstances under which the action of the maker must be carried out.

Therefore, the elements of the criminal act have been fulfilled, as the Judge considered, the defendant Saparudin bin Daeng Sigala was legally and convincingly proven guilty of committing the Fishery Crime therefore the Judge sentenced the Defendant Saparudin bin Daeng Sigala to imprisonment for 1 (one) year and a fine of Rp100,000,000.00 (one hundred million rupiah), with the provision that if the fine is not paid it will be replaced with imprisonment for 3 (three) month.

c. Evidence

In the context of a criminal act, evidence is anything that can be used to prove the existence of a criminal act and the involvement of the perpetrator. This evidence is very important in the investigation, prosecution, and trial process.

The evidence referred to as case decision Number: 1/Pid.Sus-PRK/2021/PN Jkt.Utr, consists of

1) Document

That is a written record or evidence that contains certain information, facts, or data. In a legal and administrative context, documents can serve as important evidence as, they include:

- a) Fisheries Business License (SIUP) Number 523/30 of the Supreme Court of the Republic of Indonesia 1/Bid.V/II.06/2012 valid for December 11, 2042 issued by the Head of the Lampung Province Regional Investment and Integrated Services Agency.

- b) Fishing Vessel Operational Feasibility Certificate Number 523/3613/III15-PP/2013 valid for December 16, 2014 issued by the Head of the Marine and Fisheries Service of Lampung Province;
 - c) Photocopy of the Circular Letter of the Marine and Fisheries Service of Lampung Province Number 523/757/V.19-Tangkap.2/2017 regarding the follow-up of the direction of the Director General. Capture Fisheries of KKP-RI in East Lampung Regency;
 - d) Copy of Domestic Survey Letter Number 469/CCa issued by the Head of Legal Status and Ship Certification of the Office of Municipal Affairs and Port Authority Class I Panjang;
 - e) Provisional Domestic Survey Letter Number 469/CCa was issued by the Administrator of the Long Port of the Head of Ship Airworthiness on July 17, 2012;
 - f) Certificate of Proficiency (SKK) 30 Miles Number GM.760/1/3/KPL/ LBM-2009 an. Saparudin was published in Lab. Maringgai on February 25, 2009;
 - g) Pas Besar KM. THREE SONS registered at Adpel Panjang Unit No. 333 Page No. : 49 Register Book: I published by the Head of the Office of the Maringgai Lanuhan Port Operator Unit on May 26, 2017;
 - h) Certificate of Airworthiness and Manning of Fishing Vessels No. Cm. 760/01/II/UPP-LBM-2017 valid for May 26, 2018 issued by the Head of the Office of the Labuhan Maringgai Port Operating Unit;
 - i) Completeness Data for KM Fishing Vessel Airworthiness and Manning Certificate. TIGA PUTRA registration certificate 2012 CCa No.330/N;
 - j) Sailing Approval Letter No.I.3/KM62/66/III/2018 issued by Syahbandar Kuala Penet on March 6, 2018;
 - k) Crew List (ABK) KM. TIGA PUTRA issued by the Labuhan Maringgai Class III Port Operator Unit Office;
 - l) Gross Deed of Ship Registration Number 338 dated July 25, 2012 the name of the ship KM. THREE.
- 2) Witness:
- It is the testimony of people who witnessed the incident or have relevant information, there are 6 witnesses as listed in the decision Number: 1/Pid.Sus-PRK/2021/PN Jkt.Utr, namely witnesses Heri Poernama, Witness Toto Winarto, Ahmad Tholib, Muhammad Noval Aripriatama, Katijo bin Katimun, Muhammad Yunus.
- 3) Evidence:
- It is a physical object that is directly related, namely 1 (one) KM Unit. Three Sons; 2 (two) units of trawl nets without an opening board (otter board); Fishing aids in the form of 1 (one) axle engine; 1 (one) unit of Garmin GPSmap 585 GPS. And the money that is the result of the sale of KM fish catches. Three Sons worth IDR 2,350,000 (two million three hundred and fifty thousand rupiah) with a total catch of 114 Kg with types of squid, sorong, and mixed fish
- 4) Expert Witnesses:
- It is the opinion of experts in the field of fishing gear, namely Dr. Ir. Zulkarnain, M.Si and Saur PJ Panjaiatan, SE who provide additional explanations regarding the existing facts.
- 5) Defendant's Statement
- The defendant's statement in the trial is the information or explanation given by the defendant related to the allegations filed against him. This statement is an important part of the judicial process and can include several things, such as confession or denial, explanation of the incident, information that can mitigate and explain the existence of witnesses who support his statement, in this case the

defendant Saparudin Bin Daeng Sigala has provided his testimony as stated in the decision Number: 1/Pid.Sus-PRK/2021/PN Jkt.Utr.

Thus, it can be concluded that evidence must be obtained and presented in a lawful way, in accordance with legal procedures, to ensure justice and truth in the judicial process, then the evidence produced is evaluated and considered by the judge so that the verdict handed down by the judge to the defendant meets the elements of justice.

d. Considerations of Justice

The judge in imposing a criminal sentence must be in order to ensure the upholding of truth, justice and legal certainty for the defendant Saparudin Bin Daeng Sigala, not revenge, work routine or formality.

In criminal procedure law, the goal is to seek and find the material truth, meaning that there is an ultimate goal that is the goal of the entire Indonesian legal order, therefore to achieve an orderly, peaceful, just and prosperous society. Judges as law enforcers and justice are also obliged to explore, follow, and understand the legal values that live in society, judges are the formulators and excavators of legal values that live among the people, for that, they must go into the middle of the community to know, feel, and be able to live the feeling of law and the sense of justice that lives in society (Prasetyo, 2011). Thus, the judge in giving a verdict will be in accordance with the law and the community's sense of justice.

With this court decision, the parties in the criminal case, especially for the defendant Saparudin Bin Daeng Sigala, can obtain legal certainty about his status and also at the same time can also submit legal remedies that can be taken further in the form of appeal or cassation, clemency and so on.

The judge's decision is very related to how the judge presents his opinion or consideration based on the facts and evidence at the trial as well as the judge's confidence in a case. Therefore, the judge has a central role in making court decisions. In the court decision, there must be considerations regarding aggravating and mitigating matters,

Regarding aggravating matters and mitigating matters, the judge's consideration of the defendant Saparudin Bin Daeng Sigala in the North Jakarta Court Decision Number: 1/Pid.Sus-PRK/2021/PN Jkt.Utr, as shown in table 3.

Table 3. Judge's Considerations	
incriminating things	mitigating matters
1. The Defendant's actions can be unsettling for traditional fishermen;	1. The defendant is cooperative, frankly admits his mistake, regrets his actions and promises not to repeat it;
2. The Defendant's actions can damage fish resources, fishery habitats and the environment in the waters of the sea	2. The defendant has never been convicted;-- 3. The defendant has not enjoyed the results of his actions; 4. The defendant is still young; 5. The defendant has family support.

Source: North Jakarta Court Decision (2021)

Based on table 3 and considering that the sentence is educational *preventive*, namely the Defendant's development for the Defendant's life in the future, the sentence imposed on the Defendant has met at least a sense of justice both for the Defendant and for the community, especially the fishing community.

Therefore, these considerations are used as a reason by the judge in issuing his decision, whether it is in the form of a criminal verdict or others. Consideration of matters that aggravate and mitigate the defendant as stipulated in Article 197 letter d and 197 letter f of the Criminal Procedure Code in Article 197 letter d which states that:

"Considerations that are briefly compiled regarding the facts and circumstances along with the means of evidence obtained from the examination at the trial that are the basis for determining the guilt of the defendant".78

While Article 197 letter f states:

"Articles of laws and regulations that are the basis for criminal punishment or actions and laws and regulations that are the legal basis of the verdict, accompanied by aggravating circumstances and mitigating circumstances for the defendant"

As a law enforcer, judges have duties in the judicial field, namely receiving, examining, deciding and resolving every case submitted to them. Justice seekers certainly crave that cases submitted to the court can be decided by judges who are proportionate and have high moral integrity, so that they can give birth to decisions that are in accordance with the laws and regulations (Sutiyo, 2006)

The main point of judicial power is regulated in the 1945 Constitution Chapter IX Article 24 and Article 25 as well as in Law Number 48 of 2009. The 1945 Constitution guarantees the existence of a free judicial power. This is expressly stated in Article 24, especially in the explanation of Article 24 paragraph 1 and the explanation of Article 1 paragraph (1) of Law No. 48 of 2009 concerning Judicial Power, namely judicial power is the power of an independent state to administer the judiciary in order to uphold law and justice based on Pancasila and the 1945 State Law of the Republic of Indonesia for the implementation of the Law State of the Republic of Indonesia.

Judges in finding their laws are allowed to reflect on jurisprudence and the opinions of famous jurists (doctrines). Judges in giving decisions are not only based on legal values that live in society, as stipulated in Article 28 paragraph (1) of Law No. 48 of 2009 which states that:

"Judges are obliged to explore, follow, and understand the legal values that live in society"

Juridical considerations are judges' considerations based on juridical facts revealed in the trial and by law have been stipulated as matters that must be included in the decision.

The judge's considerations that are classified as juridical considerations will be systematically described as follows (Muhammad, n.d.):

1) Public prosecutor's indictment

This indictment is the basis of criminal procedure law because it is based on which the trial examination is carried out. The indictment, in addition to containing the identity of the defendant, also contains a description of the criminal act charged by mentioning the time and place where the criminal act was committed. In addition, the public prosecutor's indictment is used by the judge as a matter for the court to consider in making a decision.

Thus, it can be said that the court in issuing a verdict always makes the indictment a consideration.

2) Defendant's statement

The defendant's statement according to article 184 point e of the Criminal Procedure Code, is classified as evidence. The defendant's statement is what the defendant stated at the trial about the acts he committed or that he knew or experienced himself.

In practice, the defendant's testimony is often stated in its entirety against the public prosecutor's indictment and the testimony submitted by the witnesses. The defendant's statement is also an answer to questions both asked by the public prosecutor, the judge and the legal counsel. The defendant's statement submitted in front of the trial is generally an answer to questions asked by the judge or the public prosecutor.

3) Witness statement

One of the components that the judge must pay attention to in making a verdict is witness statements. Witness testimony can be categorized as evidence as long as the information is about a criminal event that the defendant hears himself,

sees himself, and experiences himself and must be submitted in court sessions by taking oath.

4) Evidence

Although the evidence is not as evidence, if the public prosecutor mentions the evidence in his indictment, then submits the evidence to the judge, the presiding judge in the examination must show it, both to the defendant and to the witnesses, even if necessary the judge proves it by reading or showing a letter or minutes to the defendant or witness and then asking for information as necessary.

5) Articles of criminal law regulations.

One of the things that is often revealed in the trial process is the articles of criminal law regulations. These articles began to be seen and revealed in the public prosecutor's indictment, which was formulated as a provision of the criminal law violated by the defendant. These articles are then used as the basis for criminal punishment or action by the judge. In trial practice, the article of criminal law regulations is always linked to the defendant's actions.

In this case, the public prosecutor and the judge try to prove and examine through the evidence whether the defendant's act has or does not meet the elements formulated in the article of the criminal law regulations, if it turns out that the defendant's act meets the elements of each article violated, it means that it is proven according to the law of the defendant's fault, namely that he has committed the act as stipulated in the article of the criminal law.

Thus, it can be concluded that the judge's decision in sentencing the defendant Saparudin Bin Daeng Sigala in the North Jakarta Court Decision Number: 1/Pid.Sus-PRK/2021/PN Jkt.Utr reflects the balance between strict law enforcement and protection of the perpetrator. The decision has taken into account the principles of justice, social impact, and environmental conservation, with the ultimate goal of supporting sustainable management of fishery resources.

Conclusion

The conclusion of this study shows that the application of penalties for perpetrators of fisheries crimes is regulated in Law No. 45 of 2009 concerning Amendments to Law No. 31 of 2004 concerning Fisheries, which includes sanctions for illegal fishing and foreign vessels that catch fish without a permit, including the potential for ship sinking. The North Jakarta District Court's Decision Number 1/Pid.Sus-PRK/2021/PN Jkt.Utr against the defendant Saparudin bin Daeng Sigala who was proven to have committed a fishery crime, imposed a prison sentence and a fine with legal considerations that prioritize the principles of justice, social impact, and environmental conservation. Judges consider juridical, sociological, and philosophical aspects in sentencing that are educational preventive to prevent the recurrence of similar crimes. The study's suggestions include the need for regulatory changes to accommodate new technologies in fishing such as the use of fish finders and GPS, as well as the implementation of stricter sanctions against foreign vessels. In addition, judges are expected to consider the justice and sustainability of the ecosystem in deciding on criminal sanctions to create sustainable environmental protection and fishery resources.

References

- Akmal, D. U. (2023). Indonesian State of Law: The Essence of Human Rights Protection in the Establishment of Laws and Regulation. *Primagraha Law Review*, 1(1).
- Aldyan, A. (2023). The Indonesian State Law System Is Based on The Philosophy of Pancasila and Constitution. *Res Judicata*, 6(1). <https://doi.org/10.29406/rj.v6i1.4939>
- Azhary. (2015). *The State of Indonesian Law (Normative Juridical Analysis of Its Elements)*. UI Press.
- Damanik, R. (2008). *Fishing for the Last Fish (A Fact of Crisis in the Indonesian Sea)*. Walhi.
- Dudayev, R., Hakim, L. L., & Rufiati, I. (2023). Participatory fisheries governance in Indonesia: Are octopus fisheries leading the way? *Marine Policy*, 147. <https://doi.org/10.1016/j.marpol.2022.105338>

- Hudi, N., Muhadar, M., & Yudianto, O. (2023). The Concept of Corporate Criminal Liability in the Fisheries Sector After the Job Creation Law Application. *Jurnal Dinamika Hukum*, 23(3). <https://doi.org/10.20884/1.jdh.2023.23.3.3557>
- Izza Elvany, A. (2020). Formulation Policy Regarding the Smuggling of Lobster Seeds in Indonesia. *Lentera Hukum*, 7(1). <https://doi.org/10.19184/ejhl.v7i1.16916>
- Kanter, E. Y., & Sianturi, S. R. (2012). *Principles of Criminal Law in Indonesia and Its Application*. Storia Grafika.
- Karina, I. (2021). Criminal Liability for the Use of Illegal Fishing Gear. *Fiat Iustitia : Law Journal*, 2(1).
- Lamintang, P. A. F. (2007). *Fundamentals of Indonesian Criminal Law*. Citra Aditya Bakti.
- Muhammad, R. (n.d.). *Portrait of the Indonesian Court Institution*. PT Raja Grafindo Persada.
- Prasetyo, T. (2011). *Criminal Law*. Raja Grafindo Persada.
- Saputra, R., & Emovwodo, S. O. (2022). Indonesia as Legal Welfare State: The Policy of Indonesian National Economic Law. *Journal of Human Rights, Culture and Legal System*, 2(1). <https://doi.org/10.53955/jhcls.v2i1.21>
- Supramono, G. (2011). *Criminal Procedure Law and Criminal Law in the Fisheries Sector*. PT. Rineka Cipta.
- Supriadi, & Alimudin. (2001). *Fisheries Law in Indonesia*. Sinar Grafika.
- Sutiyoso, B. (2006). *Methods of Legal Discovery*.
- Sutrisno, E., & Warassih, E. (2016). Harmonization of Fisheries Law for Fishermen Empowerment in Indonesia. *South East Asia Journal of Contemporary Business, Economics and Law*, 11(4).
- Witbooi, E., Ali, K. D., Santosa, M. A., Hurley, G., Husein, Y., Maharaj, S., Okafor-Yarwood, I., Quiroz, I. A., & Salas, O. (2020). Organized crime in the fisheries sector threatens a sustainable ocean economy. *Nature*, 588(7836). <https://doi.org/10.1038/s41586-020-2913-5>