
A Criminological Study of Fish Bombing in North Halmahera Regency, North Maluku Province, Indonesia

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Abstract

This study aims to analyze the factors causing fish bombing in North Halmahera Regency, North Maluku Province, Indonesia as in the past three years, there have been seven cases that occurred in this area. This study also analyzes the mitigation efforts of the North Halmahera Water Police against blast fishing. This is empirical legal research or non-dogmatic research which views humans as a social phenomenon because this research focuses on recognizing people's behavior. The results showed that fishing using explosives was still rampant in North Halmahera Regency. The factors that cause this include: low economic income, low education which results in the people's limited insight on protecting coral reef ecosystems, and weak law enforcement. Then, the countermeasures carried out by the water police face serious obstacles, such as a shortage of field personnel and a very small budget available.

Keywords: *Fishing, Explosives, Countermeasures, Criminology, North Halmahera*

INTRODUCTION

Indonesia is a maritime country as most of its territory consists of seas. According to the Indonesian Forum for the Environment, Indonesia is the largest archipelagic country in the world, which has 17,480 islands and a coastline of 95,181 km. Based on the United Nations Convention on the Law of the Sea in 1982 (UNCLOS), Indonesia has sovereignty over a maritime area of 3.2 million km² of waters – consisting of 2.9 million km² of archipelagic waters and 0.3 million km² of the territorial sea. In addition, Indonesia also has the exclusive right to utilize marine resources covering an area of 2.7 km² in the waters of the Exclusive Economic Zone (EEZ)¹.

These geographical conditions provide wealth in the form of marine and fish resources. Indonesia has spacious and rich marine waters that are the potential for developing fisheries. If this potential is optimally cultivated by adhering to sustainable fishing methods, it will have an impact on increasing the country's foreign exchange from exports of marine fishery

¹ Nunung Mahmudah, *Illegal Fishing* (Jakarta: Sinar Grafika, 2015).

commodities, increasing nutrition, especially animal protein for the community, and increasing fishermen's income.²

Economically, the results of marine resources have contributed to the formation of the national gross domestic product by 22% in 2014. Indonesia's territory reaches 5,193,253 km², which consists of 1,890,754 km² of land and 3,302,498 km² of the sea (Seminar Indonesia 2014-2019, Maritime Axis for Welfare and Justice, Rokhmin Dahuri, Menara Batavia, Thursday 14 August 2014). Biophysically, coastal areas in Indonesia are the center of the world's tropical marine biodiversity as almost 30% of the world's mangroves and coral reefs are in this country's area. However, with so much coastal and marine wealth, unfortunately, more than 5,254,400 people in coastal areas live in poor conditions.³

This condition shows the less-than-optimal utilization of marine resources which is exacerbated by the weakness of the marine security system. The rise of fishing theft cases with more sophisticated fishing gear shows that less attention is paid to the supervision and protection of Indonesian territorial waters. These cases often occur without any serious effort from the government to uncover them. Weak supervision and law enforcement against the perpetrators of illegal fishing prevent perpetrators from becoming deterred.⁴

Environmentally friendly fishing is a conscious and planned effort to wisely use fish resources using fishing gear and fishing procedures for sustainable fisheries development without disturbing the environmental quality. Environmentally friendly fishing is a policy in catching fish from the authorities (government) to regulate fish resources, to sustain their existence. The governmental policy is issued in the form of a set of binding laws and regulations.⁵

In addition to fish resources in the marine area, the coral reef is a fertile ecosystem and a gathering place for various types of fish. Thus, this is the most comfortable place for fishermen. Coral reefs areas have the highest pressure of exploitation and many fishermen used various types of fishing gear. Fishermen who live along the coast of Indonesia, can design and manufacture their own fishing gear, according to their wishes. This makes monitoring very difficult.

The catching fish methods that are currently prohibited in almost all parts of the world include fishing using chemical poisons or poisons derived from plants; bombs; electrocution; dynamite; and other explosives. All of these methods are prohibited because the level of destruction is very high for fish and their habitats. Indeed, such methods of fishing are very economical because they require a small capital. One can obtain a lot of fish in a short time. However, the large fish catch will only take place once or several times because the methods experience environmental damage. There will also be fish resource degradation, thus one day there will be no more fish to be caught.⁶

One prohibited method of catching fish is using explosives, as the use of such a method in coral reef areas will not only kill and paralyze the target fish so that fishermen can easily collect

² Marhaeni Ria Siombo, *Hukum Perikanan Nasional Dan Internasional* (Jakarta: Gramedia Pustaka Utama, 2010).

³ Mahmudah, *Illegal Fishing*.

⁴ Mahmudah.

⁵ Marhaeni Ria Siombo, *Hukum Perikanan Nasional Dan Internasional* (Jakarta: Gramedia Pustaka Utama, 2010).

⁶ Siombo.

them, but it also destroys and kills other coral animals. It will destroy the main building blocks of the coral reef ecosystem. In addition, it will also cause unnecessary deaths to fish larvae and other non-target animals, even though they play an important part in determining the stability and productivity of the coral reef ecosystems. One of the serious problems that happen is the impact of using explosives on coral reefs in the formation of small coral fragments (rubble) which are usually unstable, making it difficult to become a place for new coral planula to attach. Therefore, the recovery process of coral reef ecosystems becomes difficult or slow⁷.

The Republic of Indonesia showed its commitment to protecting the survival of coral reef ecosystems, fisheries and other marine biotas, as stated in Article 84 paragraph (1) of Law number 45 of 2009 concerning amendments to Law number 31 of 2004 concerning Fisheries. This law states that “Any person who in the fishery management area of the Republic of Indonesia intentionally catches fish and/or cultivates fish using chemicals, biological materials, explosives, tools and/or methods, and/or buildings that can harm and/or endanger the preservation of natural resources, fish and/or their environment as referred to in Article 8 paragraph (1), shall be punished with imprisonment for a maximum of 6 (six) years and a fine of a maximum of Rp. 1,200,000,000.00 (one billion two hundred million rupiahs).” Although this law has been enacted approximately 15 years ago, fishing activities using prohibited methods are still rampant in areas in Indonesia, one of which is North Halmahera Regency, North Maluku Province.

North Maluku is an archipelago located on the equator. It is located at 1240 to 1290 east longitude and 30 north latitude to 30 south latitude. Its territory comprises 353 large and small islands, both inhabited and uninhabited. The largest and most important island is Halmahera and other important islands include Ternate, Bacan, Makian, Sula, Morotai, Obi, and Tidore.

The land area of North Maluku is 32,000 km², while the sea area is 107,381 km². In the south it is bordered by the Seram Sea, in the north, it is directly bordered by the Pacific Ocean, in the east it is bordered by the Halmahera Sea and in the west, it is directly adjacent to the Maluku Seas.

Tobelo, North Halmahera is one of the regencies in North Maluku Province where fish bombing is still rampant. Based on the pre-research that the author carried out, in the last three years, there have been seven fish bombing cases that occurred in the district of North Halmahera. Of these seven cases, there is one case where the perpetrator is a recidivist. It means that the enactment of Law number 45 of 2009 concerning the amendment to Law number 31 of 2004 concerning Fisheries does not necessarily change the mindset of the North Halmahera Regency people concerning the environmentally friendly way to catch fish.

Data from the Department of Marine Affairs and Fisheries of North Halmahera Regency concerning the development of marine fishery production in Tobelo, North Halmahera showed that in 2016 it amounted to 15,015 tons, in 2017 it amounted to 18,870 tons, and in 2018 it increased drastically to 27,523 tons. This data indicates that the amount of marine fishery production from 2016 to 2018 experienced a significant increase. When compared to the data on cases of fish bombing, it can be concluded that fishing using explosives has a very negative impact on the amount of existing marine fishery production in Tobelo, North Halmahera.

⁷ M. Natsir Nessa, Jamaludin Jompa, and Hasmin, *Ekosistem Terumbu Karang (Valuasi Ekonomi)* (Yogyakarta: Pustaka Al-Zikra, 2014).

⁸ Mahjub Abdul Aziz, “Tinjauan Kriminologi Terhadap Illegal Fishing Di Morotai” (n.d.).

Therefore, the synergy between the regional government and the concerning institutions must continue to be strengthened to maintain a stable amount of marine fishery production for the sake of sustainable fish consumption for residents of North Halmahera Regency and the surrounding area⁹.

Based on the background above, in this paper, the authors will analyze the “**Criminological Study on Fish Bombing in North Halmahera Regency, North Maluku Province, Indonesia.**”

RESEARCH METHODS

A. Research Location

This research was conducted in Mawea Village, East Tobelo District, North Halmahera Regency, North Maluku Province, Indonesia. The researchers conducted research at North Halmahera Regional Water Police, North Halmahera District Marine and Fisheries Service, and North Maluku Police Directorate of Water Police to obtain data on fish bombing.

B. Research Type

The type of research used is empirical legal research or non-dogmatic research that views law as a social phenomenon. This legal research obtains data directly from the community.

Empirical legal research with a sociological juridical understanding model uses community behavior as an object of study. People’s behavior that arises as a result of interacting with the existing norm system is studied.

C. Types and Sources of Data

The types of data used in this study are primary and secondary data.

1. Primary data

Primary data is data obtained directly from research results, namely research conducted directly from the field concerning fish bombing perpetrators and people closest to the perpetrators. It is carried out by observing and interviewing some people, in this case, people named Simon, Lot Ambari, Nias, Jun, and Leon.

2. Secondary Data

Secondary data is library data, namely data that can provide explanations on primary legal materials. It includes research results from textbooks, scientific journals, the internet, etc.

D. Data Collection Techniques

The authors used the following data collection techniques:

- a. Primary data is obtained through direct interviews with fish bombing perpetrators, the perpetrators’ family, and their closest people. These are the parties related to fishing activities using explosives.
- b. Literary research, where the data is collected by reading books, papers, online literary materials, laws, and other sources on fishing using explosives.

E. Data Analysis Techniques

⁹ Pemerintah Kota Halmahera, “Data Dinas Kelautan Dan Perikanan Halmahera Utara Tahun 2016-2018” (Halmahera, 2018).

Data analysis is an activity in research that is carried out by conducting a study or review of the data processing results assisted by the obtained theories. In simple terms, it is an activity of providing an analysis, which can mean challenging, criticizing, supporting, adding or commenting, and making a conclusion on the research results with the researchers' own thoughts with the help of the theory they mastered¹⁰.

ANALYSIS

A. Factors causing fish bombing in North Halmahera Regency

Based on the results of the author's research, fish bombing occurred due to the following factors:

1. Economical Factor

As Aristotle stated that poverty can lead to crime or rebellion. The crime of fish bombing in Mawea Village, East Tobelo District, North Halmahera Regency happened due to economic factors. The author interviewed Simon a fish bombing perpetrator.

December 14, 2018, at 06:30 GMT+9, interview with Simon and his partner, Lot.

Ambari, Nias, and Jun departed from Mawea Village to the waters around Meti Island to look for fish. In addition to fishing nets and arrows, they also brought explosives as a means of anticipation if the fish caught did not meet expectations. After a few hours of circling the waters, their catch was not as much as expected. As a result, they agreed to use explosives though at were all afraid to use them, after the fish caught were collected, they rushed to land. But before they arrived on land, a Directorate of Water Police of the North Maluku Regional Police Speed Boat approached their boat at full speed. Simon and his colleagues tried to escape from the pursuit, but they failed and they were arrested and secured along with evidence.

Simon admitted that their motive for catching fish using explosives was that they were desperate. They had no money to buy fish for the celebration of the 40th night of his mother's death. They used explosives as a last resort, even though at that time he was afraid of using these explosives. From the results of the interviews with the 4 (four) perpetrators conducted by the researchers, each of them admitted that they do not have a permanent job. Sometimes they farm, sometimes they fish, and sometimes they even become carpenters. Their income each month is not fixed and it varied, from Rp. 500,000 to Rp. 1,000,000 (USD 38,8-68,6).

2. Educational Factor

A person's level of education greatly impacts her daily life. Someone who has a high level of education will have a better way of thinking compared to those with lower levels of education. Those with a high level of education, tend to have a better and more systematic mindset. Meanwhile, those with lower educational levels tend to have narrower mindsets. So sometimes he makes wrong decisions when faced with life problems.

The authors interviewed the wife of Lot Ambari, named Ratna. She stated that Lot did not graduate from elementary school, he only reached the 3rd grade of elementary school and then he quit because he did not realize the importance of education. Meanwhile, Simon's father never received a formal education.

¹⁰ Halmahera.

The author also interviewed Samuel Hontong, one of the perpetrators of the fish bombing in Central Tobelo Tengah sub-district, North Halmahera Regency. To the author, the perpetrator said that his education level was only up to grade 6th grade of elementary school.

Judging from the educational background of the fish bombing perpetrators in North Halmahera Regency, the author concludes that a person's education highly influences his daily actions. Low education might cause people to undergo law violating actions.

3. The Lack of Awareness Factor

According to Hasibuan, awareness is the attitude of a person who voluntarily obeys all regulations and is aware of her duties and responsibilities. In this condition, a person truly understands her rights and obligations. In conducting the research, the author found several factors that led to the occurrence of fishing using explosives. In addition to economic and educational factors, another contributing factor was the lack of public awareness of the prohibition of fishing using environmentally destructive methods. The author interviewed Lot Ambari, one of Simon's colleagues who participated in the fish bombing. Lot admitted that during his life in Mawea Village, he had been caught fish bombing 3 times, although, in Mawea Village, the North Halmahera District Government once held socialization concerning environmentally friendly fishing and has distributed assistance in the form of longboats and fishing nets for residents who work as fishermen 3 times a year. Unfortunately, the aid is not distributed equally to each fisherman. Therefore, even though he already knows that fishing using explosives is legally prohibited, he still insists on doing it as a form of protest against the government which seems discriminative.

Apart from that, the author also interviewed Irman, a resident of Luari Village, North Tobelo sub-district, North Halmahera Regency, who is the son of Iskandar Keneki. To the author, Irman said that his father had been arrested twice by the North Halmahera Police Force. In the first arrest, his father was sent to prison. After he was released from prison, his father was arrested again due to a fish bombing by the North Halmahera Police Force but was released because due to a lack of evidence.

4. The Lack of Supervision Factor

Another factor that causes the rise of fishing using explosives is the lack of supervision from the North Halmahera Water Police. The supervision in the form of sea patrols is only carried out approximately 18 times a month and 216 times a year. Even then, it is carried out only at a few targeted points to adjust to the police force's budget. Patrols are conducted at Tobelo sub-district, Kalipitu village, Kakara village, North Tobelo district, Gorua village, Luari village, Central Tobelo district, Pitu village, East Tobelo district, Mawea and Meti villages, South Tobelo district, Leleoto Village, North Kao Sub-district, and Daru Village.

The author interviewed a North Halmahera Water Police Officer, Police Brigadier Engelberth Jesajas S. He said that the agency did not have a sufficient budget so members only patrolled at certain points. They do not reach the boundaries of the North Halmahera district. In addition to the lack of budget that the government has disbursed to the North Halmahera Water Police Force, there was also a lack of personnel to handle the vast area of North Halmahera Regency.

5. The Law Enforcement Factor

Another factor that causes fishing using explosives to happen is the weak law enforcement against the perpetrators. Thus, the perpetrators are never deterred and they continue to undergo

similar actions. This is one of the common weaknesses of the North Halmahera Regency Government and in this case the Marine Service and Fisheries, the Indonesian Navy, and the North Halmahera Water Police.

As far as the author observes, the application of Law number 45 of 2009 concerning amendments to Law number 31 of 2004 concerning Fisheries, as amended in Law number 11 of 2020 concerning Job Creation, with the provisions and criminal sanctions in articles 93, 94, 94a, 98, 100a, 100b, 100c, has not yet been fully implemented. There is a lack of implementation, even though these laws have regulated various punishments, ranging from fines to imprisonment, namely a fine of one hundred million to twenty billion rupiahs, as well as imprisonment for a minimum of one year and a maximum of seven years.

According to the author's interview with a North Halmahera Water Police Officer, Police Brigadier Engelberth Jesajas S., one of the perpetrators who had been arrested by his unit was a recidivist, namely Lot Ambari, a resident of Mawea Village, East Tobelo District, North Halmahera Regency. From the results of this interview, the author can conclude that to minimize the actions of fish bombing, the cooperation between all parties, namely the North Halmahera Regency Government and in this case the Marine Service and Fisheries, the Indonesian Navy, and the North Halmahera Water Police is required.

Indonesia is one of the archipelagic countries where most of its territory comprises seas. It has a very large and diverse fishery potential. The fishery potential is an economic potential that can be utilized for the benefit of the nation's future. Optimal utilization is directed at the utilization of fish resources by taking account of the existing capacity and sustainability to improve the small fishermen's standard of living, improve the welfare of the people, increase the country's foreign exchange, and to even create high competitiveness.

B. The Efforts to Control Fish Bombing in North Halmahera Regency

Fish bombing prevention efforts must be routinely carried out by all parties, to raise awareness of the public against the impacts caused by unsustainable and unlawful fish-catching methods.

The countermeasures that have been carried out to eradicate acts of fish bombing in the jurisdiction of North Halmahera Regency are as follows:

1. Preventive Measures

Preventive efforts are one of the efforts made in the North Halmahera Regency. The preventive actions were carried out in a planned, systematic and directed manner. It aimed to minimize the use of explosives in fishing. Preventive efforts that have been carried out in North Halmahera Regency undergoing counseling on the law in villages as further explained below.

2. North Halmahera Regency Marine and Fisheries Service

The Marine and Fisheries Service of North Halmahera Regency routinely carries out legal counseling in villages, especially in villages where the community is not aware of the law, almost 12 times a year. One of the villages where counseling is most often carried out is Mawea Village. The service gave the community an understanding of the applicable law. It emphasized to the community that it is important to obey the law and the community is also given an understanding of the importance of preserving the sea and the ecosystems. The service also informed the people of the dangers of the fish bombing. They are also advised to always

report to the Maritime Affairs and Fisheries Service, Indonesian Navy, and the Water Police if they found some people who fish using explosives.

3. North Halmahera Police Headquarters

The North Halmahera Water Police has taken various preventive and repressive actions to enforce the law in the North Halmahera territorial waters. It has encouraged society to catch fish using eco-friendly manners and provided them with an understanding of the importance of protecting the sea and coral reef ecosystems as they are an inseparable unit. As for the repressive measures, the North Halmahera Water Police has arrested perpetrators 8 times from 2016 to 2019.

The North Halmahera Water Police also implements a superior program, namely Canga Maritim. Canga Maritim is a team created based on the Decree of the Chief of Police for the Resort of North Halmahera number: kep/01/I/2017/Res North Halmahera. This team aims to provide excellent service to the community in general. It is professional and reliable. The activities carried out by the Canga Team include conducting patrols in the jurisdiction of North Halmahera Regency, campaigning on environmental issues, and distributing stickers containing the mobile phone numbers and social media accounts of the Canga Team. It aims to ease the public's to access information so that they can easily report any incidents that occur in society.

In addition, the Maritime Canga Team also has another program, namely, Needs Expenditure. Every time the Team conducts patrols, it is always inserted with the Needs Expenditure program. For example, for people who do not have a Police Record Certificate and Fingerprint, are all served by the Team. So, on the patrolling next session, the Police Record Certificate and fingerprints that have been made earlier are handed over to that person.

4. Repressive Efforts

Repressive efforts are efforts made by law enforcement officers after a crime has occurred which include arrests, examination of the perpetrators to find out the sanctions that are appropriate for catching fish using explosives, to the process of sentencing by judges.

According to the author's interview with a member of the North Halmahera Water Police, Police Brigadier Engelberth Jesajas S., the legal actions that have been carried out by the Police in tackling fish bombing include, making arrests and inspections as well as strictly enforcing the law in applying the sanctions to each fish bombing perpetrator.

In handling fish bombing cases, legal protection that can be used as a guide in taking action against the perpetrators is needed. Based on the UNCLOS in 1982, the Indonesian government has ratified Law number 17 of 1985. Then it has also issued Law number 45 of 2009 concerning Amendments to Law number 31 of 2004 concerning Fisheries as amended in Law number 11 of 2020 concerning Job Creation. This is so that the fish bombing perpetrators can be dealt with following the applicable laws. This law follows international provisions in the field of fisheries. It accommodates problems regarding fish bombing and it can keep pace with the current technological developments.

The police prioritize the implementation of Law number 45 of 2009 concerning Amendments to Law number 31 of 2004 concerning Fisheries as amended in Law number 11 of 2020 concerning Job Creation. Due to the enactment of this law, all legal provisions regarding supervision have bigger roles, such as stopping, examining, catching, and criminalizing the

fish bombing perpetrators. It is hoped that the application of the right laws and regulations can provide a deterrent effect to the perpetrators of the crime of fish bombing.

CONCLUSION

Based on the description above, the researchers conclude that the factors that influence the occurrence of criminal acts of fish bombing in North Halmahera Regency are: (1) the low economic condition of the community, (2) the educational level is low so they think more instantly without considering the impact, (3) the lack of awareness. The perpetrators are indifferent to the applicable laws and regulations, (4) the lack of supervision so the perpetrators are more flexible in breaking the law, and (5) the lack of law enforcement so the perpetrators are never deterred from their actions.

Efforts to tackle fish bombing are carried out in North Halmahera Regency. There are preventive including, a collaboration between related agencies, conducting routine patrols in the legal area of North Halmahera Regency, and holding regular legal counseling at certain points. The repressive efforts include arresting and examining perpetrators, as well as strict law enforcement against fish bombing perpetrators.

SUGGESTIONS

The suggestions that researchers want to convey to the Department of Marine Affairs and Fisheries are as follows:

1. The Fisheries Service, the Navy, and the North Halmahera Water Police should carry out the socialization of law regularly at certain points and provide a comprehensive understanding of the impact of fishing using explosives.
2. In terms of carrying out supervision in the field, there should be an increase in human resources. The supervision activity must be equipped with supporting facilities and infrastructure. The government should improve routine security operations and optimally function posts established through the Maritime Cana program, as a source of information in the field.

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