



## Reconstruction of legal sanctions policy on illegal fishing evidence eradication based on welfare value

R Juli Moertiono<sup>1</sup>, Gunarto<sup>2</sup>, Anis Mashdurohatun<sup>3</sup>

<sup>1</sup> Doctorate Student of Faculty of Law Sultan Agung Islamic University Semarang, Indonesia

<sup>2,3</sup> Faculty of Law Sultan Agung Islamic University Semarang, Indonesia

### Abstract

The fish supply in Indonesia has decreased and one of the contributing factors is Illegal Fishing. Some fishing practices that are classified as illegal and cause overfishing include, fishing vessels that deliberately enter the waters of the Exclusive Economic Zone (hereinafter referred to as EEZ) a country without permission and overfishing, fishing vessels that have obtained permits legally but do illegal actions by moving from a designated fishing ground (violation of fishing ground), the writer discussed the problem in this article with the main problems studied, are the weaknesses of the Legal Sanction Policy on the Elimination of Illegal Fishing Evidence) and How to Reconstruct Legal Sanctions Policy on the Elimination of Illegal Fishing Evidence Based on the Welfare Value of Small Fishermen using dangerous fishing gear (chemical, explosive and biological). The study was studied with the paradigm used in this study is the constructivism paradigm and the type of research is a qualitative study with a socio-legal approach.

Research shows that the Legal Sanction Policy Against Illegal Fishing is Not Yet gave a Welfare for Small Fishermen simply because in implementing this policy still causes "controversy", in the policy of destroying Illegal Fishing seized goods in article 76A, 76B, and 76C. The Weaknesses of Legal Sanctions Policy on the Elimination of Illegal Fishing Evidence, including the destruction of Illegal Fishing confiscated fishing vessels, triggers the problem of bilateral relations between countries, causing pollution to the sea (Marine Pollution) which causes damage to coral reefs, the death of fish and damage to the marine biota ecosystem and high maintenance costs because there is no good coordination between the government and fishermen cooperative institutions that are able to manage it, there are no institutions or agencies that oversee the management of seized ships and there is no lack of utilization of fisheries education and training institutions (Quick Education) that make fishermen are not able to operate the seized ships to overcome this problem, the authors propose legal reconstruction to deal with the problems as mentioned.

**Keywords:** reconstruction, illegal fishing, welfare of small fishermen

### Introduction

The emergence of a new problem of Illegal Fishing was made a major issue at the global level by the FAO, arguing that the world fish supply has decreased and one of the contributing factors is Illegal Fishing. Some fishing practices that are classified as illegal and cause overfishing included. fishing vessels that deliberately enter the waters of the Exclusive Economic Zone (hereinafter referred to as EEZ) a country without permission and overfishing, fishing vessels that have obtained permits legally but do illegal actions by moving from a predetermined fishing area (violation of fishing ground), by using dangerous fishing equipment (chemicals, explosives and biological). It is no different from what happens in Indonesian waters, forms of Illegal Fishing practices include cases without SIUP, fishing gear cases, fishing gear cases that do not fit the specified size, cases do not have SIB (Sailing Permit), capture cases fish is not in accordance with SIUP and trawler use cases.

In reality, Indonesian fisheries resources are currently exploited by fishery entrepreneurs, who are generally controlled from other countries, by violating the law and operating without regard to the principle of sustainability. Fisheries management is one of the national developments so that it is carried out in a planned manner and is able to increase the prosperity and welfare of the people with environmental preservation for the present and the future.

Indonesia has more than 2.6 million fishermen, and 140

million residents who depend on marine and coastal ecosystems for their livelihoods. Illegal Fishing practices cause Indonesia's economic losses to reach ± 20 billion dollars per year, threatening 65% of Indonesia's coral reefs from overfishing and deadening opportunities for Indonesian fishermen to get 1 million tons of fish each year. Seeing violations and crimes in the field of fisheries, especially illegal, unreported, and unregulated (IUU) fishing activities in Indonesian waters is very alarming, because it needs to be taken firm and integrated steps by all relevant government agencies in order to eradicate them.

Article 76A of RI Law No. 45 of 2009 Concerning Fisheries: "In objects and / or tools used in and / or resulting from fishery crime can be seized for the country or destroyed after obtaining the approval of the head of the district court".

This article is very controversial considering the consequences arising from the destruction of Illegal Fishing confiscated vessels triggered the problem of bilateral relations between countries, causing pollution to the sea (Marine Pollution) which caused damage to coral reefs, the death of fish and damage to marine biota ecosystems.

Seeing from the problem presented above, the writer discussed the problem in this article with the main problems studied, as follows:

1. What are the weaknesses of the Legal Sanctions Policy on the Eradication of Evidence of Illegal Fishing in

- Indonesia currently ?
- How to Reconstruct Legal Sanctions Policy on Illegal Fishing Evidence Eradication in Indonesia Based on Welfare Values?

### Method of Research

The paradigm that is used in the research this is the paradigm of constructivism which is the antithesis of the understanding that lay observation and objectivity in finding a reality or science knowledge<sup>[1]</sup>. Paradigm also looked at the science of social as an analysis of systematic against *Socially Meaningful Action* through observation directly and in detail to the actors social are concerned create and maintain or manage the world of social small fishermen in terms of the ship seized through Illegal Fishing.

The research in writing this dissertation is a qualitative research. Writing aims to provide a description of a society or a certain group of people or a description of a symptom or between two or more symptoms.

Approach (*approach*) the research is to use the approach of Socio-Legal<sup>[2]</sup>, which is based on the norms of law and the theory of the existing legal enforceability of a sociological viewpoint as interpretation or interpretation.

### As for the source of research used in this study are

- Primary Data, is data obtained from information and information from respondents directly obtained through interviews and literature studies.
- Secondary Data, is an indirect source that is able to provide additional and reinforcement of research data. Sources of secondary data in the form of: Legal Materials Primary and Legal Materials Secondary and Legal Materials Tertiary

In this study, researchers used data collection techniques, namely literature study, interviews and documentation. In this study, the researcher is a key instrument that is the researcher himself who plans, collects, and interprets the data<sup>[3]</sup>. Qualitative data analysis is the process of searching for, and systematically compiling data obtained from interviews, field notes and documentation by organizing data into categories, describing it into units, synthesizing, compiling into patterns, selecting important names and what will be studied and make conclusions.

### Research result and discussion

#### 1. Weaknesses of the legal sanctions policy on the eradication of evidence of illegal fishing in Indonesia currently

Based on its purpose, penal sanctions are aimed at inflicting special suffering on the offender so that he feels the consequences of his actions, and is a form of denunciation of the perpetrator's actions. While the purpose of the sanctions measures more is to educate and give the effect of a deterrent. As for the types of crime according to the Penal Code consists of 1) Penal principle, such as the Death Penalty, imprisonment, confinement, fines., and cover, 2) Penal addition, the form of revocation of the rights of a

particular, Confiscation of goods specified and Announcements judge's decision<sup>[4]</sup>.

Acts of illegal fishing (*Illegal, Unreported and Unregulated (IUU) Fishing*) can be categorized into three groups, namely (1) *Illegal Fishing* namely activities catching fish is illegal in the waters of the region or EEZ of a country, or do not have permission from the state of the; (2) *Unregulated fishing* is activity arrests in the waters of the region or EEZ of a country that does not abide by the rules that apply in the state of the; and (3) *Unreported fishing* are activities of fishing in the sea in of the region or EEZ of a country that is not reported to both operational as well as the data the ship and the results of their catch. Practice the largest in *IUU fishing* is catching fish by other countries without the consent of the country concerned, or in other words, the theft of fish by the foreign (*Illegal Fishing*).

#### Acts of penal fisheries in Indonesia in general can be divided into 4 (four) groups as follows

- Catching fish without permission
- Catching fish by using permissions false
- Catching fish by using the forbidden environmental-harmful tool.
- Catching fish by species (species) that are not in accordance with the permit.

Since the year 2014 until July 2017 listed 317 ships *illegally* have sunk after *inkracht*. In the year 2017 (July 2017) as many as 367 ships *Illegal Fishing*, both boats fishing Indonesia and boat fishing alien, successfully secured which comprises the top 95 boats fishing *illegally* were arrested by PSDKP-CTF, 53 were arrested by the Navy, 195 were arrested by the Police, and 24 captured by Bakamla. Besides that, still many cases of acts of penal fishery that occurred since the year 2009, where the Law of Fisheries changed, until now, as has been described in sub-section earlier. Translation of cases of acts of penal fishery data and vessel perpetrators of acts of penal fisheries mentioned in above shows acts of penal fishery is still often the case either that conducted by vessels fishing Indonesia and boat fishing alien. This means that the rule of law offense of penal fishery can be said to have not been effective. By because it, research it will analyze the provisions of the penal fishery in the Law of Fisheries (the substance of the law of penal fishery) as one of the factors that affect the *ineffectiveness* enforcement of the law of penal fisheries such, which will be studied from three aspects, namely the act penal, liability penal, and penal system<sup>[5]</sup>.

The Ministry of Fisheries stipulate that sanctions were given to the perpetrators of *Illegal Fishing* in the form of confinement body (imprisonment) and fines. According to the author, this is a weak point where the Fisheries Law cannot ensnare perpetrators of foreign nationality if the country does not have a bilateral agreement to Indonesia. Can we all know that the Countries most often come to Indonesia with *illegal* dredge the fish in Indonesia? To crew the ship of nationality Countries such, it automatically based

<sup>1</sup> Faisal, (2010), *Menerobos Positivisme Hukum*, Rangkang Education, Yogyakarta.

<sup>2</sup> Johnny Ibrahim, (2005), *Teori dan Metodologi Penelitian Hukum Normatif*, Bayumedia, Surabaya.

<sup>3</sup> L. Moleong, (2002), *Metode Penelitian Kualitatif*, PT Remaja Rosdakarya, Bandung.

<sup>4</sup> Mahmud Kusuma,(2009), *Menyelami Semangat Hukum Progresif; Terapi Paradigmatik Atas Lemahnya Penegakan Hukum Indonesia*, Antony Lib bekerjasama LSHP, Yogyakarta.

<sup>5</sup> Ediwarman, (2012), "Paradoks Penegakan Hukum Pidana Dalam Perspektif Ksggggggggggriminologi di Indonesia", *Jurnal Kriminologi Indonesia*, Edisi No. 1 Vol. 8.

on Law International in case this is the Law of Sea International UNCLOS in 1982, reiterated in Article 73 that " Sentencing State beaches are imposed against violations of regulatory legislation fishery zone economy exclusively is not allowed to include confinement, if not there is an agreement otherwise between the countries concerned, or any form of punishment the body more."

### The difficulty combating *Illegal Fishing* in Indonesia is according to Iqbal as follows <sup>[6]</sup>

- a. The combination of more than 2 people means that a double -flagged ship is registered in two different countries. The act of falsifying certificates of deletion is carried out at least by ship owners, supporters and direct actors in the field.
- b. Alleged acts of penal offense seriously, as many fishermen *illegally* are violating the law, of disabling the transmitter, using a tool catchers are forbidden and tool catcher that damage, switch the charge of *illegal*, counterfeit documents boats and book notes.
- c. The skipper foreigners who work are *illegal* in the period of time is not certain, although it has no legal nationwide that prohibit the use of the crew of the ship alien but still there are a lot handler sea (*fishing master*) who works at the top of the ship that did the cruise length. It is demonstrated that the planning that is sufficiently mature to commit acts of crime.
- d. The pursuit of profit and / or power to reason major presence of evil fishery is to gain profit and benefit financially are great with the effort is minimal and take advantage of the tendency of some officials of the level of the high and the politicians to commit corruption.
- e. Operations at the level of International: fishing *illegally* operating in several countries, catching fish in various areas, by using the flag vessels are not appropriate and degrade the results catch directly to other countries, and selling fish in the market internationally with prices that high.
- f. The use of the structure of commercial or business: operating catching fish illegally managed by companies large, often established by the investment of foreign, have permission to operate, but they violate the law and evade taxes.

Furthermore, weakness Policy Sanctions Law of Destruction of Goods Evidence of Illegal Fishing ialah as can be seen in Article 69 paragraph (4) of the act specifically drownings and / or burning boat fishing alien based on evidence starters are quite this means the ship immediately immediately drowned at sea. By fulfilling requirements subjectively and / or condition of the objective as defined in Directive Technical Implementation Measures Special To The Boat Fishing using foreign Flag, namely the skipper and / or children fruit boat fishing alien perform resistance and / or maneuvers that endanger ships Supervisory Fisheries and the crew of his ship at the time of Ships Fisheries Supervisor stop, inspect and / or bring the ship to the nearest port; Weather conditions make it impossible to pull / carry or escort ships to the nearest port; and / or vessel fishery flagged foreigners suffered broken weight that can

<sup>6</sup> Moch Iqbal, (2012), Penegakan Hukum Pidana "Illegal Fishing" Penelitian Asas, Teori, Norma dan Praktek Penerapannya, Laporan Penelitian, Puslitbang Hukum dan Peradilan Badan Litbang Diklat Kumdil Mahkamah Agung RI, Jakarta.

pose danger to the safety of the suspect and the ship inspectors fishery <sup>[7]</sup>.

As Stated in Article 69 paragraph (4) confirmed the presence to do the drowning and / or burning boat fishing alien. Conditions in the ocean differ with the conditions in the ground, the regime and the sea is different with the regime of the land, so that the laws are used differently as well. In order to regulate, and maintain the relationship between public international needed laws to ensure the certainty that is needed in every orderly relationship. A situation that was in the field as the ship that unrest could lead to costs of care are high it is also so difficult investigation in the mainland as a factor applied Article 69 paragraph (4). In Article 69 paragraph (4) is not with the determination of the court, so the commander of the ship superintendent of fisheries as executor *head to head* with the ship offender *Illegal Fishing*. The commander of this must be careful in making the decision to sink the ship, when they incorrectly take decisions anyone who will be responsible for the country in terms of this that will be in the blame.

While Article 76A of the Destruction of goods proof vessel fishery by way of drowning and / or burnt by the determination of the court. Weakness in the article is related about the cost of the sinking of the ship is very varied, increasingly large ships increasingly large costs are incurred State because the ship that will be sunk are vary. Some are made of plywood, wood, or iron. Related to the size of the ship was definitely costs are incurred is different, because the distance of shot is far or near. When will drown sought a place that is safe, a place that would be intended to do the sinking of the surveyed first advance in order to not obstruct the path cruise, do not disturb the people brought the ship that will be sunk into the place it and it needs a charge again.

In the year 2006, 359 ships flagged Indonesia has been arrested for doing catching fish are illegally in the waters of Australia, while 49 others seized the device and the results of their catch. In 2005 there were 279 Indonesian ships captured and 325 seized. Generally the problems of fishermen in the border region are also related to the matter of fuel and also access to markets. Often two problems that become obstacles main of the fishermen to improve the quality of the economy and welfare. By because it is, necessary protection against fishing small are experiencing problems with the country neighbor. Protection of the form of assistance and the provision of assistance law for facing the country <sup>[8]</sup>.

## 2. Reconstruction of legal sanctions policy on illegal fishing evidence eradication in Indonesia based on welfare values

Based on the regulation policy sinking of the ship that are listed in the Act No. 45 Year 2009 Article 69 Paragraph 1-4 of Fisheries does not and necessarily do, but socialized first advance by using conventional Diplomacy. Diplomacy has five primary stages, namely *designing and preconditioning, conditioning, exercising, evaluating, and reapproaching*.

<sup>7</sup> Bondaroff, P., (2015), "The Illegal Fishing and Organised Crime Nexus: Illegal Fishing as Transnational Organised Crime", Global Initiative Against Transnational Organized Crime and The Black Fish, 2015 Edition.

<sup>8</sup> Flora Libra Yanti, (2016), "Hukum Penyelundupan: Gagalnya Penyelundupan Melalui Laut", Majalah GATRA, Edisi No. 46 Vol. XXII, (September 2016).



First, the stages of *designing and preconditioning*. At this stage, the design of the diplomacy format is simulated to estimate the possibility of *feedback* to be received. Second, the *conditioning* stage. In the context of this, the government needs to examine the extent to which the objectives of communication will respond to the message that was about to be delivered as well as aspects of the message of what course that needs to be considered. The next diplomatic steps are to socialize this policy to the ambassadors of countries whose fishermen are suspected of frequently carrying out *Illegal Fishing*. In order to do this, the CTF and the Ministry of Foreign Affairs has been doing socialization policy of this with a number of ambassadors of other big-neighboring nations. It is hoped that the socialization can be continued to the respective governments so that it can be benefitted both to the business people and the fishermen.

There are several types of *Illegal Fishing*, stipulated in Article 84 to Article 101. The acts of illegal fishery is divided, acts of criminal pollution, destruction of the resources of fish and catching fish by using materials explosives, use of materials chemistry, acts of criminal management of the source of power of fish and acts of criminal fishing business without a permit. All the acts of vandalism and catching fish which means there is destruction of the ecosystem and biota sea included in among coral reefs to plankton that live in the sea. By using materials explosives, materials chemistry and various use tool aids that can damage the ecosystems that exist in the sea should be noted that the Act that can be used as well as possible to protect the resources of Indonesia's Sea<sup>[9]</sup>.

Provisions concerning Follow- Criminal is regulated in Article 84 to Article 101 of Law Number 45 Year 2009 About Fishing. One of the examples of Article provisions of criminal fishery category of offense. Article 85 of Law No. 45 Year 2009 About Fishing With formula as follows: "Any person who with deliberate own, to master, carrying, and / or using a tool catcher of fish and / or tool aids the capture of fish which disturb and undermine the sustainability of the source of power of fish in ship catcher of fish in the management of fisheries of State of the Republic of Indonesia as referred to in Article 9 shall be punished by criminal imprisonment for 5 (five) years and a fine of the many Rp. 2,000,000,000.00 (two billion rupiah)."

The Strategy for Indonesia to maintain sovereignty in the field of marine and fisheries, one of them with the destruction of the foreign flagged fishery ship do with the way the drowning and / or burning ship by Article 69 paragraph (4) at the stage of pre-investigation, and Section 76A on the stage of the investigation. The action of this is a step concrete are applied CTF to tackle *IUU fishing* in the waters of Indonesia.

One of the team of the Ministry of Maritime Affairs and Fisheries (MMAF) to the Director General of Supervision Source Power Marine and Fisheries (PSDKP) unit Directorate handling of Abuse said: "*Law of Fisheries provides the basis that Article 69 paragraph (4) acts specifically drownings and / or burning is already appropriate by law. Before moving to the article 69*

*paragraph (4), should see Article 76A of the items of evidence. According to sources, Article 69 paragraph (4) is before the ship in brought into the harbor nearby, with a note regarding to what are stipulated in the Law on Fisheries is evidence starters were enough. The context of drowning and / or burning is the method, because the purpose is actually destroyed. Destroyed by way burned up first and then sunk, there is also a direct sunk without burned, and there were actually on fuel at the port on land, such as in Bitung because of its size that is small, even when taken to sea are proven to be difficult. Article 69 paragraph (4) in essentially the process that instantly made drownings at sea, the goods proof course (boats) that sunk but the law still running, after the ship is documented. With a record of the ship is in accordance with the Law on Fisheries and Kepdirjen already meet the requirements, namely: alien ship, with no documents of licensing, and the terms of the others are subjective already meet the requirements. Having performed the actions specifically mentioned, in the ship which is composed of the Master and all the workers at the top of the ship is a series of crew aboard as suspects were brought to the ground. With records, items of evidence in the form of boat fishing is in the document as a substitute for items of evidence in the form of audio video visual or photo along with the name of ship that, at the point of coordinates how many drowned, reason drownings what and along with witnesses. The process of justice still running, perform the process of the investigation because no suspects, witnesses, file completed and then submitted to the prosecutor, and the prosecutor prosecute cases of such. Here the items of evidence already sunk and are known by the prosecutor, the prosecutor here not as an executor, but is investigating fisheries, namely the supervisory fishery. Against crew boats that are not used suspects should be repatriated as soon as possible that the case is the immigration that authorities stipulated in Article 83A. "*

Elucidation of Article 69 Paragraph (4) gives the sense that the "evidence starters are enough" is evidence beginning to suspect the existence of acts of crime in the field of fisheries by foreign Flagged Vessel, for example vessels fishing flagged foreigners do not have the SIPI and SIKPI, and clearly capture and / or transporting fish when entering the territory of the Republic of Indonesia fisheries management. The provisions of this shows that the measures specifically are not able to do with arbitrary, but only carried out if the investigator and / or supervisor fishery sure that vessels fishing flagged foreigners are actually commit acts of crime in the field of fisheries<sup>[10]</sup>.

In line with the sinking policy of the ship, during the period October 2014 - April 5, 2016, the Minister of Maritime Affairs and Fisheries had sunk 176 (one hundred seventy-six) KII and KIA which were found conducting *IUU Fishing* in Indonesian waters. Following the development of the time, of data from the CTF latest until April 2017 regarding details per action sinking of the ship offender acts of criminal fishery can be known through the table presented below<sup>[11]</sup>:

<sup>9</sup> Khopiatuziadah,(2012), "Evaluasi Pengadilan Perikanan dalam Penegakan Hukum di Bidang Perikanan dalam Rangka Perubahan kedua Undang-Undang tentang Perikanan", Jurnal Legislasi Indonesia, Vol. 14, No. 1, Jakarta: Direktorat Jenderal Peraturan Perundang-Undangan Kementerian Hukum dan Hak Asasi Manusia RI.

<sup>10</sup> Harkristuti Harkrisnowo,(2004), "Transnational Organized Crime: Dalam Perspektif Hukum Pidana dan Kriminologi", Indonesian Journal of Internasional, Edisi No. 2 Vol. 1,edisi Januari 2004.

<sup>11</sup> Direktorat Jenderal Pengawasan Sumber Daya Kelautan Dan Perikanan,(2017) "Kerja Nyata Pengawas Mewujudkan Kedaulatan", Warta Pengawasan, Edisi 1.

NO	TAHUN	NEGARA									TOTAL
		MALAYSIA	FILIPINA	VIETNAM	INDONESIA	THAILAND	PNG	RRT	NIGERIA	BELIZE	
1	2014	-	1	3	-	2	2	-	-	-	8
2	2015	12	35	36	10	19	-	1	-	-	113
3	2016	27	22	59	5	-	-	-	1	1	115
4	2017	11	18	46	6	-	-	-	-	-	81
JUMLAH		50	76	144	21	21	2	1	1	1	317

**Fig 1:** Recapitulation of destruction / department of TPP actors  
October period 2014 - April 2017

The Directorate General of PSDKP together with the Indonesian Navy and National Police through the coordination of the Task Force 115. The Illegal Fishing Task Force formed in January 2015, was tasked with developing and carrying out law enforcement operations in combating illegal fishing in the Indonesian jurisdictional sea. Effectively and efficiently with the utilization of operating personnel and equipment. In coordinating the Task Force 115 assisted by various Ministries / Institutions namely the Ministry of Maritime Affairs and Fisheries (KKP), the Ministry of Finance (in this case the Directorate General of Taxes and the Directorate General of Customs and Excise), the Ministry of Foreign Affairs, the Ministry of Transportation, the Indonesian National Army Navy (TNI-AL), Indonesian National Police (POLRI), Attorney General's Office of the Republic of Indonesia, Maritime Security Agency (Bakamla), Financial Transaction Reports and Analysis Center (PPATK) and State Intelligence Agency (BIN) <sup>[12]</sup>.

The eradication of illegal fishing by the act of sinking foreign fishing vessels is a form of law enforcement efforts conducted by Indonesia, here can be seen the strength between government agencies related to the establishment of an appropriate strategy for sinking ships not causing problems in the future.

Law enforcement of IUU fishing is carried out using a multi-regime approach to law or a multi-door approach, where criminal law enforcement is carried out not only based on the Fisheries Law, but also other related laws and regulations such as the Shipping Law, the Immigration Act, the Washing Criminal Act Money, the Corruption Crime Act, the Environmental Protection and Management Act, the Human Rights Act, the Financial Act, etc. So that the enforced legal efforts not only impose administrative sanctions, but through the process of criminal law enforcement.

Based on the foregoing, the authors then formulate the reconstruction of the relevant legislation. The Reconstruction of Legal Sanctions Policy on the Elimination of Illegal Fishing Based on the Value of Welfare of Small Fishermen is as follows:

- a. Article 76A Republic of Indonesia Law No. 45/2009 concerning Fisheries is deleted.
- b. Article 76B of RI Law No. 45 of 2009 concerning Fisheries changes into: Evidence of fishery crime that is perishable or requires high maintenance costs Must be auctioned and / or converted to fishermen through a fishing cooperative and the maintenance costs are submitted to the fishing cooperative with the approval

of the head of the district court.

- c. Article 76C paragraph (5) of RI Law No. 45 of 2009 Concerning Fisheries changes to: Objects and / or tools seized from the results of fishery crime in the form of fishing vessels Must be submitted to the joint business group of fishermen and / or fisheries cooperatives whose supervision submitted to the Ministry of Maritime Affairs and Fisheries in order to achieve the welfare of small fishermen and the holding of skills and education provisions through Fisheries education and training institutions (Quick Education).

## Conclusion

1. Weaknesses of Legal Sanctions Policy on the Elimination of Illegal Fishing Evidence currently including the Destruction of Illegal Fishing confiscated vessels triggered the problem of bilateral relations between countries, causing marine pollution (Marine Pollution) which caused damage to coral reefs, the death of fish and the destruction of marine biota ecosystems and high maintenance costs because there is no good coordination between the government and fishermen cooperative institutions that are able to manage it, there is no institution or agency that oversees the management of seized ships and there is no lack of utilization of fisheries education and training institutions (Quick Education) which makes fishermen unable to operate the seized ships.
2. Based on that, the author then formulate the reconstruction of the relevant legislation. The Reconstruction of Legal Sanctions Policy on the Elimination of Illegal Fishing Based on the Value of Welfare of Small Fishermen is as follows:

**A.** Article 76A Republic of Indonesia Law No. 45/2009 concerning Fisheries is deleted.

**B.** Article 76B of RI Law No. 45 of 2009 concerning Fisheries changes into: Evidence of fishery crime that is perishable or requires high maintenance costs Must be auctioned and / or converted to fishermen through a fishing cooperative and the maintenance costs are submitted to the fishing cooperative with the approval of the head of the district court.

**C.** Article 76C paragraph (5) of RI Law No. 45 of 2009 Concerning Fisheries changes to: Objects and / or tools seized from the results of fishery crime in the form of fishing vessels Must be submitted to the joint business group of fishermen and / or fisheries cooperatives whose supervision submitted to the Ministry of Maritime Affairs and Fisheries in order to achieve the welfare of small fishermen and the holding of skills and education provisions through Fisheries education and training institutions (Quick Education).

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<sup>12</sup> Harkristuti Harkrisnowo, (2012), "News-letter Komisi Hukum Nasional", Komisi Hukum Nasional, Jakarta.

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