

Criminal Policy on Destructive Fishing Activities in Serutbar, Indonesia

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Abstract

Fishing communities around the North Seram and North West Seram (Serutbar) Marine Protected Areas often carry out destructive fishing activities. This study aimed to examine and analyze criminal policies for destructive fishing activities in the Serutbar Marine Conservation Area. The research method used is normative legal research supplemented by a socio-legal approach. The approach used in this study is a statutory approach and a conceptual approach. The data collection technique is a literature study complemented by field data obtained through observation and in-depth stakeholder interviews. Furthermore, the data were analyzed qualitatively. Based on the research results, Gale-Gale Village and Sawai Village's fishing communities around the Serutbar Waters Conservation Area often carry out destructive fishing activities. The factors that cause them to carry out destructive fishing are economic needs; very simple fishing gear; the provision of assistance needs to be put on target; Pokmaswas being less empowered; and a lack of inter-agency oversight. Meanwhile, countermeasures to overcome destructive fishing can be carried out through penal and non-penal approaches. And a need for inter-agency oversight. Meanwhile, countermeasures to overcome destructive fishing can be carried out through penal and non-penal approaches. And a need for inter-agency oversight. Meanwhile, countermeasures to overcome destructive fishing can be carried out through penal and non-penal approaches.

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1. Introduction

Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 18/PERMEN-KP/2014 concerning Fisheries Management Areas of the Republic of Indonesia In Article 1 states that the Fisheries Management Areas of the Republic of Indonesia are fisheries management areas for fishing, fish farming, conservation, research, and fishery development which includes inland waters, archipelagic waters, territorial sea, additional zones, and Indonesia's exclusive economic zone. Furthermore, Article 2 paragraph (1) number 8 states that the Fisheries Management Area of the Republic of Indonesia 715 covers the waters of Tomini Bay, Maluku Sea, Halmahera Sea, Seram Sea, and Berau Bay.

In the Republic of Indonesia State Fisheries Management Area (WPPNRI) 715, besides being designated for fishing, cultivation, research, and development, it is also used for conservation. The Seram Sea, which is included in WPPNRI 715, has the North Seram and North West Seram Waters Conservation Area (SERUTBAR), which was formed based on the Decree of the Minister of Maritime Affairs and Fisheries No. 50/KEPMEN-KP/2021. Establishing this marine conservation area is an important instrument for managing marine and fishery resources. Marine protected areas are expected to maintain and increase marine biodiversity, especially coral reef, mangrove, and sea grass ecosystems, to increase fisheries productivity.¹

Marine Protected Areas, as sustainable fisheries zones, aim to utilize aquatic biota towards environmentally friendly utilization efforts in aquaculture and capture fisheries activities so that it can become an alternative source of income for the community.² However, in practice, the utilization of this sustainable fishing zone cannot be avoided destructive fishing activities even though there is already a Decree of the Minister of Maritime Affairs and Fisheries No. 114/KEPMEN-KP/SJ/2019 concerning the National Action Plan for Supervision and Management of Destructive Fishing Activities for 2019-2023.

¹ Teuku Muttaqin Mansur and Marzuki Marzuki, "Pengelolaan Kawasan Konservasi Perairan Daerah di Provinsi Aceh Berbasis Hukum Adat Laot," *Jurnal Geuthèë: Penelitian Multidisiplin* 1, no. 1 (March 29, 2018): 65, <https://doi.org/10.52626/jg.v1i1.11>.

² Zola Febriani and Khairul Hafsar, "Dampak Pengelolaan Kawasan Konservasi Perairan Terhadap Hasil Tangkapan Nelayan Pulau Mapur Kabupaten Bintan," *JURNAL MARITIM* 1, no. 2 (February 24, 2020): 69, <https://doi.org/10.51742/ojsm.v1i2.69>.

Based on previous research, the North Seram and North West Seram Marine Protected Areas are fishing locations using non-environmentally friendly fishing gear such as compressors, causing damage to coral reefs and loss of marine biota. In the North Seram and North West Seram Marine Protected Areas, it is common to find certain types of fish that are destructive and not environmentally friendly, namely the use of bombs, potassium, and compressor hoses.³ Furthermore, research conducted by Ayal et al. explained that reef fishing activities carried out by fishermen in Sawai Bay which is part of the waters of North Seram and North West Seram Districts, indicated destructive fishing activities, namely the use of explosives, poisoning, and coal mining.⁴

2. Problem Statement

The authors are interested in doing more in-depth research related to the criminal policy of destructive fishing activities in the waters conservation area of North Seram and North West Seram so that the core of the problem to be discussed is what are the factors that cause people to carry out destructive fishing and how to overcome them.

3. Methods

This type of research is qualitative research. Researchers analyzed the reciprocal relationship between law and social facts in this study. According to Noor Muhammad Aziz, normative legal research analyzes the reciprocal relationship between legal and social facts. Legal facts are the independent variable, and social facts are the dependent variable. So, the law functions as a tool of social order.⁵

In this study, three data collection methods will be carried out: library research, observation, and interviews. These three data collection methods are expected to generate sufficient data for analysis and interpretation. The research location is on Seram Island, in North Seram and North West Seram Districts, Central Maluku

³ - Abd. Asis and - Y. A. Lewerissa, "Destructive Fishing Criminal Policy in Fisheries Management Area (WPP) 715 Seram Sea," *Dialogos*, v. 25, 2021, 130, <http://repository.unhas.ac.id/id/eprint/7036/>.

⁴ Frederik W. Ayal, James Abrahamsz, and Reinhardus Pentury, "Identifikasi Aktivitas Perikanan Merusak Di Teluk Sawai," *TRITON: Jurnal Manajemen Sumberdaya Perairan* 17, no. 2 (October 31, 2021): 126, <https://doi.org/10.30598/TRITONvol17issue2page125-134>.

⁵ Noor Muhammad Aziz, "Urgensi Penelitian Dan Pengkajian Hukum Dalam Pembentukan Peraturan Perundang-Undangan," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 1, no. 1 (April 30, 2012): 4, <https://doi.org/10.33331/rechtsvinding.v1i1.104>.

Regency, Maluku Province. This location was chosen because most of the population work as fishermen and are near the North Seram and North West Seram Marine Protected Areas. The villages intended for data collection are Sawai Village and Gale-Gale Village. The estimated time for field data collection is between April and May 2022.

Researchers have identified several key informants in the destination area, namely village heads/traditional elders, male and female fishermen, and those who carry out capture fisheries activities around the Marine Protected Area. The informant met the following criteria: (1) had local knowledge about the history of the Village/Country (2) was an active participant in capture fisheries activities. In addition to key informants, this study also places other important variables in the analytic approach through other informants if needed. This variable provides an overview of the situation, which can then be studied in depth on information from key informants that will be found in the field through the snowballing method.

Besides using observation and interview methods, this study also conducted a literature study. A literature study is expected to support the data obtained in the field. Through literature studies obtained through digital channels, institutional and personal libraries, and written sources from the field or government in the form of manuscripts, demographic data, or regulations, it is hoped that literature studies can provide a variety of perspectives from various parties in viewing the causes of destructive fishing activities and how to tackle destructive fishing activities in the North Seram and North West Seram Marine Protected Areas.

After all the data has been collected, data analysis will be done using qualitative data analysis, namely by describing the data through word forms and used to interpret and interpret spoken or written data from the person or behavior observed.⁶

⁶ Lexy J. Moleong, *Metodologi Penelitian Kualitatif* (Bandung: Remaja Rosdakarya, 2018), 4.

4. Discussion

4.1. Criminal and Destructive Fishing Policy

4.1.1. Criminal Policy

Sudarto put forward three meanings of criminal policy: in a narrow sense, the general principles and methods that form the basis of reactions to law violations in the form of crimes. In a broad sense, the overall function of the law enforcement apparatus, including the workings of the courts and the police. In the broadest sense, all policies are taken through legislation and official bodies that aim to uphold central norms in society. On another occasion, Sudarto argued that criminal policy is a reasonable attempt by society to deal with crime.⁷ This is in accordance with what was formulated by Marc Ancel that Criminal Policy is the rational organization of the control of crime by society. In line with Marc Ancel, G. Peter Hoefnagels also stated that criminal policy is the rational organization of the social reaction to a crime, and criminal policy is the rational organization of social reactions to a crime.⁸

According to G. Peter Hoefnagels, crime prevention efforts can be pursued through; 1) Application of criminal law (criminal law application), 2) Prevention without punishment, 3) Influencing views of society on crime and punishment through mass media (influencing views of society on crime and punishment/mass media). Thus, efforts to overcome crime can be pursued using two approaches, namely the penal approach (using criminal law) and non-penal (without using criminal law).⁹ The criminal policy is basically an effort to tackle crime as a reasonable effort from society to overcome crime. According to Barda Nawawi Arief, criminal policy or crime prevention, efforts are essentially an integral part of efforts to protect society (social defense) and efforts to achieve prosperity for society (social welfare). The ultimate goal of criminal policy is to provide public protection to achieve public welfare.¹⁰

⁷ Sudarto, *Kapita Selekta Hukum Pidana* (Bandung: Alumni, 1981), 113–14.

⁸ Barda Nawawi Arief, *Beberapa Aspek Kebijakan Penegakan Dan Pengembangan Hukum Pidana*, Revisi (Bandung: Citra Aditya Bakti, 2005), 47.

⁹ Yanti Amelia Lewerissa, "Kebijakan Kriminal Perburuan Burung Wallacea Di Kepulauan Aru," *SASI* 27, no. 3 (October 7, 2021): 310, <https://doi.org/10.47268/sasi.v27i3.310>.

¹⁰ Sahat Maruli Tua Situmeang, "Kebijakan Kriminal Dalam Penegakan Hukum Untuk Mewujudkan Keadilan Dalam Perspektif Hak Asasi Manusia," *Res Nullius Law Journal* 1, no. 1 (November 25, 2019): 31, <https://doi.org/10.34010/rnlj.v1i1.2492>.

4.1.2. Destructive Fishing

Fishing activities in a destructive way, known as destructive fishing, is one of the main threats to managing Indonesia's fisheries potential. Destructive fishing is a fishing activity using materials, tools, or methods that damage fish resources and the environment, such as using explosives, toxic substances, electric shocks, and other fishing tools that are not environmentally friendly.¹¹ Destructive fishing causes widespread damage to coral reefs. Damaged coral reefs cause fish to lose their habitat and create difficulties for fishermen to catch fish. In addition, it takes a very long time to restore damaged coral reefs.

Destructive fishing is common in waters with coral reefs and tropical countries such as Indonesia. The use of dangerous materials/devices or fishing gear prohibited from operating in Indonesia or areas that are not following the permits issued is often carried out by fishermen, with the target catch being reef fish.¹² The use of explosives and poisons can cause damage to coral reefs and their ecosystems.¹³ Destructive fishing is part of illegal capture fisheries, where fishing activities use explosives and poisons that can damage marine biota and coral reefs.¹⁴ Thus, it can be concluded that destructive fishing activities, also called destructive fishing, are fishing activities using explosives and poisons and fishing gear that is not under permits in prohibited areas, so the consequences of this destructive fishing activity can negatively impact marine ecosystems.

4.2. Destructive Fishing Criminal Policy in the North Seram and North West Seram Marine Protected Areas

4.2.1. Factors Causing Destructive Fishing Activities in the North Seram and North West Seram Marine Protected Areas

¹¹ Attachment to the Decree of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 114/KEPMEN-KP/2019 concerning the National Action Plan for Monitoring and Mitigating Destructive Fishing Activities for 2019-2023

¹² Bakri Rudiansyah, "Peran Aparatur Negara dalam Penanganan Kegiatan Perikanan yang Tidak Sah di Perairan Raja Ampat," *POLITIK* 11, no. 2 (February 9, 2016): 1718, <http://journal.unas.ac.id/politik/article/view/158>.

¹³ PDSI KOMINFO, "Menjaga Laut Dari Ancaman Destructive Fishing," Website Resmi Kementerian Komunikasi dan Informatika RI, accessed June 9, 2023, http://content/detail/9919/menjaga-laut-dari-ancaman-destructive-fishing/0/artikel_gpr.

¹⁴ Nurliah Nurdin, "Kajian Efektifitas Kebijakan Pada Kasus Destructive Fishing Menuju Pengelolaan Wilayah Pesisir Berbasis Masyarakat Pada Pulau-Pulau Kecil," *Jurnal Bumi Lestari* 10, no. 2 (2010): 245.

In interviews with the fishermen of Gale-Gale Village, they admitted that they still carried out fishing activities using explosives (bombs) and chemicals such as potassium and grass spraying agents and even compressors. The fishermen know the negative impact that will occur if the destructive fishing activities are allowed to continue; it will cause damage to coral reefs and the destruction of fish resources around the North Seram and North West Seram Marine Protected Areas. However, economic necessity causes fishermen to continue doing this destructive fishing activity. The fishermen need help going to sea too far because the types of fishing gear that are very simple and the types of fishing vessels that are very traditional cannot reach other fishing areas.

The fishermen of Sawai Village also conveyed the same thing. The fishermen also admit that until now, destructive fishing activities are still being practiced. Various factors have caused them to continue carrying out destructive fishing activities, including the people of Sawai Village, who generally work as fishermen. They feel that the assistance provided by the Maritime Affairs and Fisheries Service of Central Maluku Regency needed to be on target. Providing assistance in the form of fishing gear or fishing boats to the community is assessed only on a "who knows who gets" basis. This means that the provision of assistance by the Maritime Affairs and Fisheries Service is only to a group of well-known people, and it turns out that they do not work as fishermen.

Meanwhile, the fishermen did not receive assistance due to a lack of information (deliberately covered up). They needed better relations/know the Department of Maritime Affairs and Fisheries, who went to the location to assist. Because of this gap and injustice, the community is protesting by catching fish around the Conservation Area using dangerous fishing gear.

In addition, fishermen's fishing gear and vessels cannot reach other fishing grounds, so they can only carry out capture fisheries activities around the North Seram and North West Seram Marine Protected Areas. In Sawai Village, there is a Community Monitoring Group (Pokmaswas) as a form of community participation in minimizing illegal fishing activities, including destructive fishing activities. However, according to them, Pokmaswas are under-empowered and even seem unable to work optimally

because there is no budget and a lack of coordination between institutions, both the Maritime Affairs and Fisheries Service of Central Maluku Regency, the Maritime Affairs and Fisheries Service of Maluku Province and the Pokmaswas itself.

Pokmaswas consists of a chairperson and seven members who are state children or members of the Sawai Village community. At the same time, the perpetrators of destructive fishing activities are also the people of Sawai Village, so Pokmaswas do not significantly impact overcoming destructive fishing activities due to the lack of legal awareness from the people of Sawai Village about the dangers of destructive fishing activities.

Meanwhile, in an interview conducted with the Head of the Maritime Affairs and Fisheries Service for Central Maluku Regency, Mr. La Ode Masidu, he explained that there are still destructive fishing activities carried out by the fishing communities of the two villages. Central Maluku Regency's Maritime Affairs and Fisheries Service has provided outreach and appeals to stop destructive fishing activities. However, still, fishermen from Gale-Gale Village and fishermen from Sawai Village have yet to heed the call from the Maritime Affairs and Fisheries Service. Furthermore, the Head of Maritime Affairs and Fisheries Office of Central Maluku Regency explained that the existence of Law no. 23 of 2014, as amended by Law no. 2 of 2015 concerning the Regional Government, hampered the work of the Maritime Affairs and Fisheries Service of Central Maluku Regency because the oversight function was transferred to the Maritime Affairs and Fisheries Service of Maluku Province. According to the Kadis, geographically, they know better about the conditions or whereabouts of the fishermen because the locations are closer to Gale-Gale Village and Sawai Village, so the control and supervision functions will be easier to carry out when compared to the supervision carried out by the Maritime Affairs and Fisheries Service of Maluku Province. Although according to the Kadis, there is already a Community Monitoring Group (Pokmaswas) only in Sawai Village, while there has yet to be in Gale-Gale Village. Geographically they know better about the conditions or whereabouts of the fishermen because the locations are closer to Gale-Gale Village and Sawai Village, so the control and supervision functions will be easier to carry out when compared to the supervision carried out by the Maritime Affairs and Fisheries Service of Maluku

Province. Although according to the Kadis, there is already a Community Monitoring Group (Pokmaswas) only in Sawai Village, while there has yet to be in Gale-Gale Village. Geographically they know better about the conditions or whereabouts of the fishermen because the locations are closer to Gale-Gale Village and Sawai Village, so the control and supervision functions will be easier to carry out when compared to the supervision carried out by the Maritime Affairs and Fisheries Service of Maluku Province. Although according to the Kadis, there is already a Community Monitoring Group (Pokmaswas) only in Sawai Village, while there has yet to be in Gale-Gale Village.

Destructive fishing activities are often carried out by communities around the North Seram and North West Conservation areas, as can be seen in the data submitted by the Directorate General of Water and Air Police (Dir Polair) Polda Maluku, which is shown in the chart below:

Table 1. Data on the Handling of Destructive Capture Fisheries Cases Handled by the Maluku Regional Police Water Police, 2017-2022

No	Year	Amount	Evidence
1	2017	2	2 pieces of explosives (fish bomb)
2	2018	1	Explosives
3	2019	1	Two homemade bombs packaged in a Sosro bottle, one lighter, box of matches without content
4	2020	1	Nine pieces of explosives, nine pieces of explosive fuses, one piece of gas lighter and two boxes of lighter sticks, one piece of scissors, one stick of explosive compactor
5	2021	1	Compressor 2 PK
6	2022	1	Four fish bombs packed in bottles with four wicks, one box of wooden matches, one pack of gas lighters, three rings of mosquito coils, a compressor, and slank.
TOTAL		7	

Source: Data from the Moluccas Polda Water Police Director

Based on the data above, 7 cases of destructive fishing activities can be handled by the Polda Maluku Regional Police Directorate from 2017 to 2022. With details, in 2017, there were 2 cases; from 2018 to 2022, there were 1 case each. The destructive fishing activities around North Seram and North West Seram are generally fishing activities using explosives and compressors.

The modus operandi of the people of Gale-Gale Village and Sawai Village carried out destructive fishing, including in the form of;

- 1) Fishing activities or activities are carried out at night, making it difficult to detect
- 2) Fooling officials or the public by putting potassium in a clean 5-liter gene so they think it is plain water.
- 3) Explosives have been assembled in such a way in packaged bottles as a way to trick officials or the public.
- 4) Entering or smuggling raw materials for making explosives (wooden matches) into bales of used clothes (paws and cars), which are smuggled through the "rat route" from South Sulawesi Province to Maluku.

The impact of destructive fishing carried out by the fishing communities of Gale-Gale Village and Sawai Village, if allowed to continue continuously, will cause:

- 1) Damage/disruption of marine ecosystems around the Serutbar conservation area.
- 2) Damage to coral reefs which has an impact on decreasing the quality and quantity of fish resources around the Serutbar conservation area.
- 3) Disruption of marine tourism around conservation areas due to damage to coral reefs which are one of the attractions for tourists.
- 4) Declining regional income from marine tourism activities and shortages of raw materials (fish) due to capture fisheries activities that damage the environment.

4.2.2. Efforts to Overcome Destructive Fishing Activities in the North Seram and North West Seram Marine Protected Areas

Efforts to overcome a crime are a policy or effort in tackling crime or criminal policy. There are two approaches to crime prevention policies: penal and non-penal. Related to the problem of efforts to tackle destructive fishing activities in the North Seram and North West Seram Marine Protected Areas, a penal approach and a non-penal approach can also be carried out.

Penal approach or approach using criminal law means (in this case, criminal sanctions) tackling crime. Destructive fishing activities carried out by the community (fishermen) of Gale-Gale Village and Sawai Village in the North Seram and North West Seram (Serutbar) Marine Protected Areas are an act that violates the law. Destructive fishing activity is a form of illegal fishing. To overcome the problem of destructive fishing activities in the Serutbar Waters Conservation Area, this can be done by using related legislation, namely Law No. 31 of 2004 concerning Fisheries in conjunction with Law No. 45 of 2009 concerning Amendments to Law No. 31 of 2004. Article 84 states that:

Every person deliberately in the Indonesian Fish Cultivation Territory catches and cultivates fish using chemicals, biological materials, explosives, tools/or methods, and buildings that can harm and endanger preserving natural resources. Fish and 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 up to Rp. 1. 200,000,000.00 (one billion two hundred million rupiahs).

Furthermore, Article 84, paragraph (2) to paragraph (4) regulates criminal provisions for perpetrators of fishing using explosives, such as those carried out by captains or ship owners and their crew, fishing boat owners, fish farming companies, and those in charge of farming companies. Fish, of course, with different criminal sanctions.

In addition, Article 85 states that:

Everyone who deliberately owns, controls, carries, and uses fishing gear and fishing aids that disturb and damage the sustainability of fish resources in the fishery management area of the Republic of Indonesia as referred to in Article 9 shall be punished with imprisonment for a maximum 5 (five) years and a maximum fine of Rp. 2,000,000,000.00 (two billion rupiah).

Criminal law has limitations when used as a means of overcoming crime. As for the limitations of criminal law as a means of overcoming crimes that are repressive in nature as stated by Schultz, the rise and fall of crime in a country is not related to changes in its law or trends in court decisions but is related to the operation or functioning of changes major cultural changes in people's lives. The same thing was also conveyed by Johannes Andenaes, who stated that the operation of criminal law must always be seen from its entire cultural context. There is an interplay between law and other factors that shape our attitudes and actions. Donald R. Taft and Ralph

W England have also said that the effectiveness of criminal law cannot be measured accurately. According to them, law is only one means of social control. Customs, religious beliefs, group support and disapproval, pressure from interest groups, and the influence of public opinion are more efficient means of regulating human behavior than legal sanctions.¹⁵

Thus, in crime prevention, it is necessary to have a non-penal approach to prevent a crime from occurring. A non-penal approach is an approach that does not use criminal law (criminal sanctions) in tackling crime and is preventive. Given the limited capacity of criminal law, the non-penal approach is the key to successful crime prevention. You can anticipate or prevent crime by studying the factors that cause it. So that in tackling destructive fishing crimes using a non-penal approach, it can be done in the following ways:

- 1) Improve coordination between institutions. In this case, there is coordination between the Maritime Affairs and Fisheries Service of the Province of Maluku and the Office of Maritime Affairs and Fisheries of the Central Maluku Regency so that they can work together or coordinate in tackling destructive capture fisheries activities in the Serutbar Marine Protected Area.
- 2) The Provincial and District Maritime Affairs and Fisheries Services must be on target. Assisting indiscriminately. But get to the right target group so they can utilize the assistance as well as possible. It can also minimize inequality or injustice in society. So as not to cause disappointment in the community.
- 3) Campaigns and education on the dangers of destructive fishing for the sustainability of fish resources. The Maritime Affairs and Fisheries Service of Maluku Province and the Maritime Affairs and Fisheries Service of Central Maluku Regency need to carry out campaigns and educate the public about the dangers of destructive fishing in the Serutbar Waters Conservation Area.
- 4) Empowerment of Pokmaswas is further enhanced by paying attention to operational costs and group welfare so that they, too, can work enthusiastically.

¹⁵ Barda Nawawi Arief, "Kebijakan Pidana" (Universitas Diponegoro, n.d.), 15-17.

- 5) Increase the awareness and mentality of the people of Gale-Gale Village and Sawai Village so that they no longer engage in destructive fishing activities.
- 6) Breaking the chain of circulation of raw materials for making fish bombs originating from outside the Maluku region (especially from the Pangkep and Selayar areas - South Sulawesi) to prevent destructive fishing activities from occurring.
- 7) Breaking the chain of trade in caught fish by destroying the ecosystem or fish resources around the Serutbar Waters Conservation Area.

4.3. A Comparative Study with Australian Waters

In Australia, as in other countries, including Indonesia, the government has a key role in fisheries management. The Australian Government, States, and Territories manage Australian fisheries within their relevant jurisdictions. The problem of illegal, unreported, and unregulated (IUU) fishing is a serious problem faced by the Australian government in the management and utilization of fisheries.

With the increasing demand for fishery products and the decline in fishery resources, the problem of IUU fishing is increasing. Destructive fishing using explosives or dangerous fishing gear, part of IUU Fishing, concerns the Australian government.

The governments of Indonesia and Australia have entered into a bilateral agreement to address capture fisheries issues in border areas. Based on legal investigations, three agreements between Indonesia and Australia discuss the activities of cross-border fishermen, especially traditional fishermen. The three agreements, namely: first, the Memorandum of Understanding between the Government of Australia and the Government of the Republic of Indonesia Regarding the Operations of Traditional Indonesian Fishermen in Areas of the Australian Exclusive Fishing Zone and Continental Shelf, which was signed on November 7, 1974, The second agreement, Memorandum of Understanding between the Republic of Indonesia and the Government of Australia Concerning the Implementation of Provisional Fisheries Surveillance and Enforcement Arrangement. The second agreement, which took place from 27-29 October 1981, was due to the Australian government announcing the fishing area on November 1, 1979, from 12 miles to 200 miles. The Government of Indonesia did the same thing on March 21, 1980, later confirmed by Law No. 5 of

1983 concerning the Indonesian Exclusive Economic Zone. This is because many Indonesian traditional fishermen still commit violations in the agreed area. Third, Agreed Minutes of the Meeting Between Indonesian and Australian Officials on Fisheries. This third agreement was held on April 29, 1989. This third agreement is a practical guide to the implementation of the 1974 MOU BOX and the changes made to the 1981 agreement.¹⁶

5. Conclusion

Based on the descriptions that have been presented in the previous chapters, it can be concluded that: The factors that cause destructive fishing activities around the North Seram and North West Seram Conservation Areas are in the form of: economic needs factors; difficulty going out to sea too far due to very simple types of fishing gear and very traditional types of fishing vessels; the provision of assistance by the Maritime Affairs and Fisheries Service of Central Maluku Regency was not on target; The Pokmaswas are under-empowered and even seem unable to work optimally because there is no budget and a lack of coordination between institutions, both the Maritime Affairs and Fisheries Service of Central Maluku Regency, the Maritime Affairs and Fisheries Service of Maluku Province and the Pokmaswas itself; Fishermen from Gale-Gale Village and fishermen from Sawai Village did not heed the appeal from the Maritime Affairs and Fisheries Service; and the lack of inter-agency control and supervisory functions. Efforts to tackle destructive fishing activities can be carried out in two ways: using penal means (the presence of criminal sanctions), which are applied as repressive means. In addition, there are non-penal facilities as a means of overcoming crime by using a non-criminal law approach, namely in the form of Improving coordination between institutions; assisting with the Provincial and District Maritime Affairs and Fisheries Services must be right on target; Campaigns and education on the dangers of destructive fishing for the sustainability of fish resources; Empowerment of Pokmaswas is further enhanced by paying attention to operational costs and group welfare so that they too can work enthusiastically; Increasing the awareness and mentality of the people of Gale-Gale Village and Sawai

¹⁶ Akhmad Solihin, "Konflik Illegal Fishing di Wilayah Perbatasan Indonesia-Australia," *Marine Fisheries: Journal of Marine Fisheries Technology and Management* 1, no. 2 (2010): 29-36, <https://doi.org/10.29244/jmf.1.2.29-36>.

Village so that they no longer engage in destructive fishing activities; Breaking the chain of circulation of raw materials for making fish bombs originating from outside the Maluku region; Breaking the chain of trade in caught fish by destroying the ecosystem or fish resources around the Serutbar Waters Conservation Area. By taking into account the various limitations of criminal sanctions as a means of overcoming crime, it is necessary to pay serious attention to the factors that lead to the occurrence of the crime itself.

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