

**THE IMPLEMENTATION OF LAW ENFORCEMENT ON THE PROHIBITION OF
CAPTURING AND SMUGGLING LOBSTER BASED ON THE REGULATION OF
THE MINISTER OF MARINE AND FISHERY NUMBER 56 / PERMEN-KP/2016
BY NUMBER 12 / PERMEN-KP/2020**

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ABSTRACT

The Ministry of Maritime Affairs and Fisheries has enacted Ministerial Regulation Number 56/Permen-KP/2016 concerning the Prohibition of Catching and/or Releasing Lobster (Panulirus Spp), Crab (Scylla Spp), and Crayfish (Portunus Spp) from the Territory of the Republic of Indonesia. To answer the research problem, this research uses an empirical juridical legal research type with a law approach and a case approach. The data used are primary data, namely research with data in the field as the main source, namely interviews with informants related to the problems in the research. The results of this study indicate that the responsibility of the perpetrators of the crime of smuggling lobster seeds is regulated in the Regulation of the Minister of Maritime Affairs and Fisheries Number 56/Permen-KP 2016 which prohibits the capture and export of lobster seeds and the Regulation of the Minister of KP Number 12/Permen-KP/2020 allows the prohibition. . Obstacles in law enforcement for the crime of smuggling lobster seeds based on the Minister of Maritime Affairs and Fisheries Regulation Number 56/Permen-KP 2016 and Number 12/Permen-KP/2020, namely the statutory factor associated with the problem, namely the weakness of the previous regulation, namely the Permen-KP In 2016. Law enforcement factors after Permen-KP Number 12/Permen-KP/2020 were issued and the export process of lobster seeds was allowed to breathe a little easier, due to the absence of smuggling crimes and so on.

Keywords: Arrest, Smuggling, Lobster Seed

ABSTRAK

Kementerian Kelautan dan Perikanan telah menetapkan Peraturan Menteri Nomor 56/Permen-KP/2016 tentang Larangan Penangkapan dan/atau Pengeluaran Lobster (Panulirus Spp), Kepiting (Scylla Spp), dan Udang Karang (Portunus Spp) Dari Wilayah Republik Indonesia. Untuk menjawab permasalahan penelitian, penelitian ini menggunakan jenis penelitian hukum yuridis empiris dengan pendekatan hukum dan pendekatan kasus. Data yang digunakan adalah data primer yaitu penelitian dengan data di lapangan sebagai sumber utama yaitu wawancara dengan informan yang berkaitan dengan permasalahan dalam penelitian. Hasil penelitian ini menunjukkan bahwa pertanggungjawaban pelaku tindak pidana penyelundupan benih lobster diatur dalam Peraturan Menteri Kelautan dan Perikanan Nomor 56/Permen-KP Tahun 2016 yang melarang penangkapan dan ekspor benih lobster serta Peraturan Menteri KP Nomor 12/Permen-KP/2020 mengizinkan larangan tersebut. . Hambatan dalam penegakan hukum tindak pidana penyelundupan benih lobster berdasarkan Peraturan Menteri Kelautan dan Perikanan Nomor 56/Permen-KP 2016 dan Nomor 12/Permen-KP/2020 yaitu faktor perundang-undangan yang terkait dengan permasalahan yaitu kelemahan dari peraturan sebelumnya yaitu Permen-KP Tahun 2016. Faktor penegakan hukum setelah Permen-KP Nomor 12/Permen-KP/2020 diterbitkan dan proses ekspor benih lobster dibiarkan bernafas sedikit lebih lega, karena belum adanya kejahatan penyelundupan dan sebagainya

Kata kunci: Penangkapan, Penyelundupan, Bibit Lobster

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A. Introduction.

Indonesia is a country consisting of islands scattered throughout its territory, therefore Indonesia is often referred to as an archipelagic country. Indonesia as an archipelagic country is one of the countries that has the largest and largest archipelago in the world consisting of 17,508 islands with a coastline of 81,000 km² and an area of about 3.1 million km² (0.3 million km² of territorial waters and 2.8 million km² of waters). archipelago) or 62% of its territorial area.¹⁷

The other problem arises when the act of illegal fishing begins to occur in the exclusive economic zone and in the Indonesian territorial sea. As a result of the vast territorial waters of Indonesia and the weak supervision of the authorities on fishery activities, foreign fishermen are often used to carry out illegal fishing in the Indonesian territorial sea. Fishing actions including smuggling of lobster seeds that violate the law can basically be overcome by strong national provisions, and in this case Indonesia is quite advanced in designing its national regulations, but the implementation and enforcement of the law in the field still needs attention.

The provisions of the legislation governing fisheries criminal acts such as Law Number 9 of 1985 concerning Fisheries, which has been replaced by Law Number 31 of 2004 concerning Fisheries. Law Number 31 of 2004 is deemed not yet fully capable of anticipating technological developments and legal needs in the context of managing and utilizing fish resource potential, then amendments are made to Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries. .

From the nineteen types of fisheries crimes above, one of them is a criminal act of importing, releasing, distributing, and/or maintaining fish that is detrimental to the community. This type of crime is a crime of smuggling lobster seeds. In relation to this crime, the Ministry of Maritime Affairs and Fisheries has enacted Ministerial Regulation Number 56/Permen-KP/2016 concerning the Prohibition of Catching and/or Releasing Lobster (*Panulirus Spp*), Crab (*Scylla Spp*), and Crayfish (*Portunus Spp*) from the Territory of the Republic of Indonesia. In a broadcast by the Fish Quarantine Agency, Quality Control and Safety of Fishery Products (BKIPM) of the Ministry of Maritime Affairs and Fisheries, KKP stated that it had foiled 224 cases of smuggling lobster seeds during 2015 to 2018. The total number of lobster seeds that were rescued was 6,661,683, with the total value of fish

¹⁷ Rokhimin Dahuri, *et.al*, *Pengelolaan Sumber Daya Wilayah Pesisir Dan Lautan Secara Terpadu* (Jakarta: Pradnya Paraminta, 1996), hlm. 32

resources that were saved was Rp. 898.772.040.000¹⁸ As a special crime, the criminal act settlement process is carried out and resolved by a special court, or in this case the crime of smuggling lobster seeds by the fisheries court. The basis for establishing a fishery court is Law Number 31 of 2004 concerning Fisheries. Based on the laws and regulations related to fisheries, it shows that there is a specificity in the criminal process, with the stipulation of a special criminal justice system, in the sense that the fisheries law has stipulated the existence of a special criminal justice system and process for examining cases related to criminal acts of fishery.

B. Focus Problems

From the background above, the problem is formulated as follows:

1. How is the implementation of law enforcement against the perpetrators of the criminal act of smuggling leobster seeds based on the Minister of Maritime Affairs and Fisheries Regulation Number: 56/Permen-KP/2016 and Number: 12/Permen-KP/2020?
2. What are the obstacles in law enforcement against perpetrators of criminal acts of smuggling leobster seeds based on the Minister of Maritime Affairs and Fisheries Regulation Number: 56/Permen-KP/2016 and Number: 12/Permen-KP/2020?

C. Research Methodology

The research method in this study was carried out with the following steps:

1. Research Model

The research model used in this study is a qualitative research model that is descriptive analytical

2. Types of Research.

This type of research is juridical and empirical research, namely research with data in the field as the main source, namely interviews with informants related to the problem in research. Empirical research is used to analyze the law which is seen as patterned community behavior in people's lives who always interact and relate to social aspects¹⁹

3. Research Approach

The approach method used is descriptive-analytical-explanatory which uses a type of juridical-normative legal research with a Statute Approach which is aimed at

¹⁸ Pengendalian Mutu dan Keamanan Hasil Perikanan-Kementerian Kelautan dan Perikanan Badan Karantina Ikan, "Penyelundupan Benih Lobster," last modified 2020, www.bkipm.kkp.go.id. Diakses tanggal 22 Januari 2021

¹⁹ Bambang Sunggono, *Metode Penelitian Hukum*, (Jakarta : Raja Grafindo Persada, 2003), hlm.

studying the suitability and consistency between one law and another, or between laws. with the constitution, or between regulations and laws and regulations²⁰ 4. Research Data The sources and types of data used in this study are primary and secondary data, which can be detailed as follows:

a. Primary data

Primary data is the main data obtained directly from the research field by conducting interviews with several informants such as the Indonesian National Police Investigators, Academic Criminal Law Experts, Lobster Seed Smuggling Suspects, and the Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia to obtain the data needed for research. .

b. Secondary Data

Secondary data is data formed in writing obtained from library materials or literature that has a relationship with the object of research. Secondary data contains several legal materials, namely primary, secondary and tertiary legal materials.

1. Primary Legal Material

Primary legal materials are binding legal materials which include:

- a. Law Number 1 of 1946 in conjunction with Law Number 73 of 1958 concerning the Enforcement of the Criminal Code (KUHP)
- b. Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP)
- c. Law Number 16 of 1992 concerning Animal, Fish and Plant Quarantine
- d. Law Number 2 of 2002 concerning the Indonesian National Police
- e. Law Number 17 of 2006 concerning Customs
- f. Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries
- g. Government Regulation No. 27/1983 jo. Government Regulation Number 58 of 2010 concerning Guidelines for the Implementation of the Criminal Procedure Code
- h. Government Regulation Number 15 of 2002 concerning Fish Quarantine

²⁰ Soerjono Seokanto dan Sri Mahmudji, *Penelitian Hukum Normatif; Suatu Tinjauan Singkat*, (Jakarta: Pusat Dokumentasi Universitas Indonesia, 2009), hlm.18

- i. Regulation of the Minister of Marine Affairs and Fisheries Number 56/Permen-KP/2016 concerning Prohibition of Catching and/or Releasing Lobster (*Panulirus Spp.*), Crab (*Scylla Spp.*), and Crab (*Portunus Spp.*) from the Territory of the Republic of Indonesia
 - j. Regulation of the Minister of Marine Affairs and Fisheries Number 12/Permen-KP/2020 concerning Management of Lobster (*Portunus Spp.*) in the Territory of the Republic of Indonesia
2. Secondary Legal Material

Secondary legal materials are legal materials that explain primary legal materials in the form of scientific writings in the field of law against primary legal materials, namely primary legal materials, jurisprudence and legal principles.

3. Tertiary Legal Materials

Tertiary legal materials are materials or writings that can add explanations or explain the primary and secondary legal materials.

D. Finding & Discussion

1. Implementation of Law Enforcement Against Perpetrators of the Crime of Lobster seed Smuggling.

Fisheries crime in the Law of the Republic of Indonesia Number 45 of 2009 concerning Fisheries is any person who deliberately catches fish and/or cultivates fish in Indonesian fishery areas not in accordance with the rules stipulated in the fisheries law. Regarding the definition of fisheries crime itself, the fisheries law does not clearly regulate the definition in detail. However, fisheries crime can be categorized as a crime or as a violation, but in a crime or violation it is not clear what a fishery crime is?²¹

If it is related to the topic being analyzed, the type of fisheries crime being discussed is the capture of marine resources that are not in accordance with regulations or illegal, where in the case of catching lobster seeds (*benur*) which is carried out illegally or illegally even though there is a ministerial regulation that regulates the rules for catching lobster seeds (*benur*) are in the Regulation of the Minister of Maritime Affairs and Fisheries Number 56 of 2016 which is clearly prohibited. Meanwhile, in the Regulation of the Minister of Maritime Affairs and Fisheries Number 12/Permen-KP/2020 concerning

²¹ Nunung Mahmudah, *Illegal Fishing Pertanggungjawaban Korporasi di Wilayah Perairan Indonesia*, (Jakarta : Sinar Grafika, 2015), hlm. 79

Lobster Management (Portunus Spp.) in the Territory of the Republic of Indonesia it is allowed.

In Ministerial Regulation Number 56/PERMEN-KP/2016 concerning restrictions on catching lobsters (*panulirus* spp.), crabs (*Scylla* spp.), and small crabs (*portunus* spp) it is more regulated that the catching of these three species may not be in a spawning state as well as limits and sizes. which one can be caught. The prohibition on fishing in this regulation is intended because the catch of fishermen is currently decreasing due to the many illegal practices related to catching lobster seeds. Restrictions on lobsters, crabs, and crabs provide a chance to spawn for all three before being caught. This is also done so that fishermen can make sustainable use of the Lobster, Crab and Crab populations.

Law enforcement against fisheries crime through Law Number 8 of 1981 concerning Criminal Procedure Code, law enforcers take action after reports or information if there is a fisheries crime, but direct action from the Navy and Police is not infrequently carried out through marine security patrols. Furthermore, the results of the patrol will be processed at the next stage but there must be support from law enforcement agencies so that the law enforcement process can run optimally.

Based on the results of interviews with experts in the field of Fisheries, namely Mr. Saur PJ. Panjaitan, SE as an expert at the Directorate of Fishing Control at the Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia stated that

“My name is Saur PJ. Panjaitan, SE. I quite often provide information as an expert in the field of fisheries, both at the investigation level and at the judicial level”²²

Catching lobster seeds in the Pacitan waters is a serious problem considering that if it continues, it will cause the lobsters to become extinct and small fishermen and fish traders will find it difficult to get merchandise. In addition to the above, the government should issue a strategic policy in terms of eradicating criminal acts in the field of fisheries, which include strengthening marine surveillance institutions, which can be implemented by establishing a marine security agency that functions as an institution that integrates the supervision of marine activities, including illegal fishing and the development of surveillance SOPs. at sea, integration of tiered surveillance systems and strengthening by local government institutions and the community, supervision of institutions at the regional level should be further enhanced, marine and fisheries supervisors must improve

²² Hasil Wawancara dengan Bapak Saur PJ. Panjaitan, SE, selaku Ahli di Bidang Perikanan di Direktorat Pengendalian Penangkapan Ikan Kementerian Kelautan Dan Perikanan RI. Tanggal 28 Mei 2021 Pukul 10:30 WIB

the quality of human resources including civil servant investigators, as well as develop a rapid and integrated system of action.

Based on the results of an interview with Kikih Nofryanto Bin Suropto as a suspect in a fisheries crime, which stated that:²³

“My name is Kikih Nofryanto Bin Suropto. I am a casual worker who works to accommodate by buying fish from fishermen on the coast (pengepul).”

The suspect Kikih Nofryanto Bin Suropto is guilty of a criminal act of releasing, procuring, distributing and or maintaining fish that is detrimental to the fish farming community, fish resources, and or the fish resource environment in the form of lobster seeds into and or out of the Fisheries Management Area of the Republic of Indonesia without permission from the authorities. , as Law Number 45 of 2009 concerning amendments to Law Number 31 of 2004 concerning Fisheries.

Equality in law (equality before the law) of suspects in fisheries crime, namely the existence of equality in the position of everyone in law and government, which is recognized normatively and implemented empirically.²⁴

In the framework of the principle of equality, all discriminatory attitudes and actions in all their forms and applications are recognized as prohibited attitudes and actions, except for specific actions. In Indonesia, the concept of the rule of law used is different from the concept of the state of law *rechtstaats* and the concept of the rule of law, especially in dealing with criminal acts in the field of fisheries. Based on the results of an interview with Fisherman I Yang Fauzi Ayatullah who stated that²⁵

“My name is Yang Yang Fauzi, my background is as a fisherman. My daily activity is fishing to support my family”

Continuous and unrestricted fishing activities for lobster seeds in recent years have threatened the existence of this marine biota. In some areas, the catch of this commodity is decreasing in size, or what is caught is still too young and also, the value of production or capture carried out by Indonesia currently exceeds the existing stock in nature. The absence of good fishing management from fishermen, cultivators and entrepreneurs who manage this marine commodity business has made several areas into the red category (the

²³ Hasil Wawancara dengan Saudara Kikih Nofryanto Bin Suropto, selaku tersangka dalam tindak pidana Perikanan. Tanggal 19 Mei 2021 Pukul 15:45 WIB

²⁴ Utrecht, Pengantar Hukum Administrasi Negara Indonesia, (Jakarta : Ichtar, 1962), hlm. 12

²⁵ Hasil Wawancara Saudara Yang Yang Fauzi Ayatullah, selaku Nelayan I. Tanggal 20 Mei 2021, pukul 11:12 WIB.

population has decreased) including the western Indian Ocean, the west coast of Sumatra, the north coast of Papua, the Java Sea, and the Natuna Sea.

Unlike the previous regulations, the Indonesian Government through the Ministry of Maritime Affairs and Fisheries (KKP) has issued a new regulation related to the export of lobster commodities. The regulation is the Minister of Maritime Affairs and Fisheries Regulation (Permen KP) Number 12 of 2020. This Ministerial Regulation does not only regulate the management of lobsters, this Ministerial Regulation also regulates the management of crabs and crabs. In this regulation, the government grants direct export permits for lobster commodities. Meanwhile, the export of lobster seeds, which were previously prohibited, has been allowed on condition that they must follow a special place of release as regulated in the Decree of the Head of BKIPM Number 37 of 2020.

In accordance with Permen KP Number 12 of 2020, BKIPM is tasked with carrying out supervision at official gates. Meanwhile, the supervision of export lobster clear seeds is carried out by the Directorate General of Marine and Fishery Resources Supervision (PSDKP) and the utilization of lobster seeds for aquaculture activities is carried out by the Directorate General of Aquaculture together with the Directorate General of Capture Fisheries. The determination of the location of cultivation is under the authority of the Directorate General of Marine Spatial Management. Permen KP Number 12 of 2020 already has rules that detail each article, starting from the authority of each institution under the Ministry of Maritime Affairs and Fisheries (KKP) to threats given to people who violate this rule.

2. Obstacles in Law Enforcement on the Crime of Lobster Seed Smuggling.

Exploiting lobster seeds from nature is an incorrect activity, because lobsters are included in the germplasm category that cannot be artificially spawned by humans because until now lobster cultivation can only raise lobsters from lobster seeds to become adult lobsters (lobster enlargement)²⁶ Based on the results of interviews with police investigators, Mr. Kompol. Widharma Jaya S, S.H., S.I.K., M.H who stated that²⁷

“In the implementation of the 2016 Permen-KP, there were many criminal acts, especially regarding the smuggling of Lobster Seeds. However, with the issuance of

²⁶ Maritimnews.id, “Ekspor Benih Lobster dan Pertaruhan Kredibilitas KKP”, Nusantara Maritime News, 2020, <https://maritimnews.id/ekspor-benih-lobster-dan-pertaruhan-kredibilitas-kkp/>, diakses tanggal 29 Mei 2021

²⁷ Hasil Wawancara dengan Bapak Kompol. Widharma Jaya S, S.H., S.I.K., M.H, selaku Penyidik Kepolisian RI. Tanggal 28 Mei 2021 Pukul 14:28 WIB

Permen-KP in 2020, crime cases in the fisheries sector, especially the smuggling of lobster seeds, are very rare.”

The Fisheries Law explains that in the context of preserving ecosystems and breeding fishery resources, the Government regulates and/or develops the use of germplasm related to fish resources. In addition, everyone is obliged to preserve the germplasm related to fish resources and is prohibited from damaging the germplasm. Germplasm is a substance found in groups of living things and is a source or hereditary trait that can be utilized and developed or assembled to create new superior types, to protect existing germplasm from being lost, extinct, or damaged as well as a form of ecosystem protection. which exists.

Based on the results of an interview with Fisherman I Yang Fauzi Ayatullah who stated that:²⁸

"In my opinion, the prohibition of finding and selling lobster seeds is very unfortunate in 2016 to 2020. This is because the sales of lobster seeds are very promising for our lives as fishermen."

Followed by the results of the interview with Fisherman II Mr. Supardi who stated that²⁹

"I think it is almost the same as Mr. Yang Yang, regarding the capture of lobster seeds which were banned by the government before 2020, it is very unfortunate because it can help our economy as fishermen."

That the management of marine and fishery resources must demonstrate the maintenance of the quality of diversity and the availability of resources in sufficient quantities for present and future generations. Management should not only ensure the conservation of the target species, but also the species that inhabit the same or related ecosystems or depend on the target species.³⁰

Therefore, the preservation of germplasm is a mandate not only from the national level government, but also the international community that must be implemented immediately

²⁸ Hasil Wawancara Saudara Yang Yang Fauzi Ayatullah, selaku Nelayan I. Tanggal 20 Mei 2021, pukul 11:12 WIB.

²⁹ Hasil Wawancara dengan bapak Supardi, selaku Nelayan II. Tanggal 20 Mei 2021, pukul 11:12 WIB.

³⁰ Maskur, "Program for Fish GermPlasm Conservation in Inland Waters", *Jurnal Akuakultur Indonesia*, Vol. 1 No. 3, Tahun 2002, hlm. 140

The policy of banning lobster seed catching has been started in 2015, by the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia for the period 2014-2019, Susi Pudjiastuti who stipulates Permen-KP 1/2015 jo. Permen-KP No. 56/2016. Basically, the policy prohibits catching and releasing lobsters in egg-laying conditions. Furthermore, Permen-KP No. 56/2016 adds a provision that the capture and release of lobster seeds can be carried out for educational, research and development purposes.

However, Article 2 of PermenKP No. 12/2020 permits the capture and release of lobsters in or from the territory of Indonesia with the stipulation that "... not in a laying condition that is visible on the outer abdomen..." With these provisions, PermenKP No. 12/2020 permits the export of lobsters in or from the territory of Indonesia in a spawning condition if it is not visible on the lobster's outer abdomen (in this case lobster seeds).

Meanwhile, the practice of smuggling lobster seeds from Indonesia to other countries is still happening. Although the Indonesian government continues to investigate and hunt through a joint team, the practice of smuggling this valuable marine life is still ongoing. Lobster seed smuggling is difficult to stop, but it is increasing even though the regulation regarding the prohibition on the export of lobster seeds by the Ministry of Marine Affairs and Fisheries has been issued, namely through the Minister of Maritime Affairs and Fisheries Regulation Number 56 of 2016 but is still not effective enough to reduce the illegal exploitation of lobster seeds.

Many factors influence the implementation, among others, difficult evidence, research costs that tend to be expensive and differences in perceptions between law enforcement officers as well as interference from certain groups in the court process. Strategies that can be implemented in enforcing the law in the field of fisheries include:

- a. As an effective instrument, the Fishing Law in the management of fishery resources, its role must be increased;
- b. To see activities that have the potential to cause damage or pollution of fishery resources, coordination from the central and regional levels must be improved and carry out periodic monitoring;
- c. The community must also have an active role in it with openness to policy formulation, planning, implementation and evaluation; and
- d. Supervision of activities that have the potential to cause pollution and damage must be increased

Based on the explanation above, it is related to the theory of law enforcement by Soerjono Soekanto which states that law enforcement is influenced by several factors, namely legislation, law enforcement, facilities and infrastructure, society and culture. Legislative factors according to Soerjono Soekanto are associated with problems, namely the weakness of the previous regulation, namely Permen-KP 2016. It is said to be weak accompanied by problems and cases that occur in the field, namely the number of criminal acts of smuggling Lobster Seeds due to the prohibition of exporting lobster seeds regulated in the Ministerial Regulation-KP Number 56/Permen-KP 2016. Meanwhile, Permen-KP Number 12/Permen-KP/2020 is not prohibited from exporting lobster seeds with several applicable provisions.

Based on the results of an interview with Fisherman I Yang Fauzi Ayatullah who stated that³¹

"I thank the government for allowing the capture of lobster seeds to be traded by fishermen. Because of that, we fishermen are very persistent in searching for lobster seeds for us to resell and get a decent profit to meet our daily needs."

Followed by the results of the interview with Fisherman II Mr. Supardi who stated that³²

"The current situation is a great relief for us fishermen, because with the permission to catch lobster seeds we can support our families properly."

Associated with law enforcement factors or authorized agencies in overcoming the crime of smuggling lobster seeds is not commensurate with the crime that occurred. After Permen-KP Number 12/Permen-KP/2020 was issued and the export of lobster seeds was allowed, law enforcement officers could breathe a little easier, because there were no smuggling crimes and so on. All exports are allowed with several provisions as regulated in Permen-KP Number 12/Permen-KP/2020.

The next factor is the factor of facilities and infrastructure, namely the limited facilities and infrastructure in taking action against crime. For example, lobster seed export activities are prohibited, which refers to Permen-KP Number 56/Permen-KP 2016. After Permen-KP Number 12/Permen-KP/2020 is issued and lobster seed export activities are allowed, the facilities and infrastructure to support the crime of exporting seeds lobsters to be safe.

³¹ Hasil Wawancara Saudara Yang Yang Fauzi Ayatullah, selaku Nelayan I. Tanggal 20 Mei 2021, pukul 13:10 WIB.

³² Hasil Wawancara dengan bapak Supardi, selaku Nelayan II. Tanggal 20 Mei 2021, pukul 13:11 WIB.

Community and cultural factors refer to the habits of the Indonesian people, such as fishermen who with the enactment of Permen-KP Number 12/Permen-KP/2020 become prosperous, because they are busy looking for and cultivating lobster seeds which are then sold thereby increasing the fishermen's economy. This is as regulated based on Decree No. 53/KEP-DJPT/2020 which stipulates the lowest benchmark price for lobster seeds is Rp. 5,000, - to Rp. 10,000, - per head. Furthermore, based on the results of a survey conducted by Walhi, exporters can sell their catch of lobster seeds for IDR 180,000 per head.³³

With the export policy, it is hoped that the results of free trade in the form of financial benefits will eventually trickle down and be redistributed equally to all members of society. However, in the context of the lobster seed export permit policy through Permen-KP No. 12/2020, it turns out that this effect does not bring significant benefits for fishermen or small business actors. Moreover, such a growth orientation is primarily aimed at creating markets and wealth for the largest transnational corporations and the wealthiest and elite classes and developing countries.³⁴

Compared to large companies, it is fishermen or small business actors who depend the most for their lives on marine and fishery resources. Instead of providing fishermen with profits from the catch of lobster seeds, this policy is actually more profitable for exporters. In accordance with the principle of sustainable development that requires the realization of justice in one generation, the Government should encourage small fishermen to optimize lobster cultivation by providing maximum access to knowledge, technology, and practices that pay attention to environmental aspects, so that apart from having a higher bargaining price, utilization is also This can be done while preserving the lobster itself.

Based on the results of interviews with experts in the field of Fisheries, namely Mr. Saur PJ. Panjaitan, SE as an expert at the Directorate of Fishing Control at the Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia stated that³⁵

"I can explain that based on the consideration that if referring to the Regulation of the Minister of Maritime Affairs and Fisheries Number 56/PERMEN-KP/2016 dated

³³ Zenzi Suhadi, sebagai Kepala Departemen Advokasi Eksekutif Nasional Walhi sebagaimana dikutip dalam Koran Tempo dalam judul "Izin Ekspor Benih Dinilai Merugikan Nelayan Ada Kesenjangan Penerimaan Nelayan dan Eksportir yang Sangat Besar", <https://koran.tempo.co/read/berita-utama/455086/izin-ekspor-benih-dinilai-merugikan-nelayan>, diakses tanggal 29 Mei 2021

³⁴ Bono Budi Priambodo. *Ikan untuk Nelayan Paradigma UUPA mengenai Pembangunan Perikanan Nasional Indonesia*. (Depok: Badan Penerbit Fakultas Hukum Universitas Indonesia, 2013), hlm. 42

³⁵ Hasil wawancara dengan Bapak Saur PJ. Panjaitan, SE, selaku Ahli di Bidang Perikanan di Direktorat Pengendalian Penangkapan Ikan Kementerian Kelautan Dan Perikanan RI. Tanggal 28 Mei 2021 Pukul 11:20 WIB

December 27, 2016 it is stated that the regulation was issued because of the presence and availability of stock species of lobster (*Panulirus* spp), crabs (*Squilla* spp.), and small crabs (*Portunus* spp) have experienced a decline in population, so it is necessary to limit the capture of lobster (*Panulirus* spp), crabs (*Squilla* spp), and small crabs (*Portunus palagicus* spp), so as to maintain the existence and stock availability of the three species. Therefore, if lobster catches are carried out freely and do not follow the size provisions as stipulated in the Regulation of the Minister of Maritime Affairs and Fisheries Number 56/PERMEN-KP/2016 dated 27 December 2016, then the Lobster type of Fish Resources will decrease and will have a detrimental impact on Resources. The fish itself."

The weakness of Permen-KP Number 56/Permen-KP 2016 invites many levels of crime, especially in the field of fisheries. Meanwhile, one of the considerations for the enactment of Permen-KP Number 12/Permen-KP/2020 is to increase welfare, investment and state foreign exchange. The government considers that by reviving the lobster seed catching business, which was previously prohibited, it can provide benefits to fishermen or business actors. In addition to improving people's welfare and foreign exchange, the implementation of lobster seed export permits through Permen-KP No. 12/2020 also aims to maintain the sustainability of the availability of fishery resources, which is then tried to be realized through the requirements for the success of sustainable harvests of lobster cultivation that are applied to the export of lobster seeds.

The mechanism is claimed to be a way that can be done to take advantage of the economic benefits of lobster seed commodities without eliminating the sustainability factor. However, lobster cultivation activities in Indonesia are currently not optimal, this is inseparable from the explanation that lobsters are included in the germplasm category that cannot be artificially spawned by humans. In addition, the supply of lobster seeds for cultivation is still sourced from wild capture. Whereas the availability of lobster seeds in nature is very dependent on environmental conditions, for example global climate change which causes fluctuations in climatic conditions to be unpredictable will affect fluctuations in water conditions where it is thought to have an impact on the availability of lobster seeds in the waters.³⁶

³⁶ Erlaina, *et.al.*, "Dinamika Kelimpahan Benih Lobster (*Panulirus* Spp.) di Perairan Teluk Gerupuk, Nusa Tenggara Barat: Tantangan Pengembangan Teknologi Budidaya Lobster", *Pusat Penelitian dan Pengembangan Perikanan Budidaya*, Vol. 9 No. 3, Tahun 2014, hlm. 476-477.

In addition, fishermen still prefer to catch lobster seeds rather than cultivating lobster because catching lobster seeds is considered easier and faster to generate profits. This means, if the demand for lobster seed exports continues to increase, then the activities of catching and exporting lobster seeds can have a negative impact on the sustainability of lobster resources.

This is because the current cultivation conditions are not optimal and the availability of lobster seeds in nature is unpredictable, plus there is no accurate data on seed potential, both distribution, season, and catch fluctuations. The above matters should be considered by the Government before enacting Permen-KP Number 12/Permen-KP/2020. To be able to ensure the sustainability of lobster resources. What should be done is to maintain the availability of lobster resources, as well as to emphasize policies to conduct research in order to realize optimal lobster cultivation to a level that is able to guarantee the availability of lobster in a sustainable manner.

E. Conclusion

Based on the discussion contained in the previous chapter and the results of research that has been obtained by the author, it can be concluded, among others, as follows:

1. The implementation of law enforcement on the responsibility of the perpetrators of the crime of smuggling lobster seeds based on the Regulation of the Minister of Maritime Affairs and Fisheries Number 56/Permen-KP 2016 which prohibits the capture and export of lobster seeds and Regulation of the Minister of KP Number 12/Permen-KP/2020 allows this prohibition. The implementation of law enforcement based on the Regulation of the Minister of Maritime Affairs and Fisheries Number 56/Permen-KP 2016 as well as the Regulation of the Minister of KP Number 12/Permen-KP/2020, remains in its stance to run the Ministerial Regulation, because later the loss will not only be experienced by the fishermen themselves but also Indonesia as a whole. as a whole, both social and economic.
2. Obstacles in law enforcement for the crime of smuggling lobster seeds based on the Minister of Maritime Affairs and Fisheries Regulation Number 56/Permen-KP 2016 and Number 12/Permen-KP/2020, namely the statutory factor associated with the problem, namely the weakness of the previous regulation, namely the Permen-KP In 2016. Law enforcement factors after Permen-KP Number 12/Permen-KP/2020 were issued and the export process of lobster seeds was allowed to breathe a little easier, due to the absence of smuggling crimes and so on. The factor of facilities and

infrastructure after the issuance of Permen-KP Number 12/Permen-KP/2020, then these factors are safe. The last obstacle is the community and cultural factors. After the issuance of Permen-KP Number 12/Permen-KP/2020, fishermen become prosperous, because they are busy looking for and cultivating lobster seeds which are then sold, thereby increasing the fishermen's economy.

F. Recommendation.

Based on the conclusions above, the suggestions for the research are as follows:

1. It is hoped that fishery law enforcers must also provide strict sanctions in law enforcement of the criminal act of catching lobster seeds (fry) so it is recommended to be more active in socializing to the community, especially fishermen in order to know the negative impact of the illegal fishing crime. For example, a regional regulation is made so that the regulation regulates the procedure for catching lobsters, namely lobsters may only be harvested every 5 months because the life cycle of lobsters from eggs to adult lobsters takes 7 months. So in less than 5 months if there are fishermen who catch lobsters, it can be said as a crime and can be subject to criminal sanctions. In addition, in terms of supervision, it is not only when there are complaints from the surrounding community that supervision is only held, but supervision must be carried out routinely and continuously and must be supported by increasing human resources, and improving operational supporting facilities and infrastructure. In terms of the regulations that have been set, they must also look at the conditions in the field and consider how the regulations are implemented so that these regulations can be implemented properly and become the legal order that applies in society. In addition, the local government must also issue a regional regulation regarding the regulation of lobster catching.
2. It is hoped that the community needs to have legal awareness about what is being done that can cause harm, namely destroying the marine environment ecosystem so that the community itself is harmed in these practice activities considering that lobster is a marine resource that has considerable economic potential for the survival of the community. In addition, the activities carried out are criminal acts that have legal consequences that have been regulated in the Fisheries Law.

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