



## Legal Certainty Regarding Administrative Actions by the Marine and Fisheries Resources Supervision Agency in Maritime Inspections

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### Abstract

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Fishermen are granted permission to catch fish, which includes the registration of vessels and their equipment, as well as the payment of fees and other charges. The determination of quotas and catch limits is also carried out, in relation to the availability of certain types of fish within specific time periods. This research was conducted using an empirical method, by observing the actual facts and processes of licensing in the field. The implementation of supervision procedures for administrative actions by the PSDKP Surveillance Unit (Satwas PSDKP) within the working area of the Tanjungbalai PSDKP Office is carried out in accordance with applicable regulations through patrols and inspections of vessels and sailing permit documents, with the aim of ensuring compliance with fisheries regulations. Obstacles in the implementation of administrative supervision procedures by the Satwas PSDKP in Tanjungbalai include limited patrol facilities and infrastructure, unpredictable weather conditions, a shortage of supervisory personnel, and difficulties in coordinating with related agencies, all of which can reduce the effectiveness of field operations.

**Keywords:** Fisheries; Sea; Marine life

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### INTRODUCTION

Legal certainty is applied in administrative actions taken by the Marine Energy and Fisheries Monitoring Unit (Satwas PSDKP) in Tanjungbalai during vessel inspections at sea. Administrative actions such as warnings, confiscation of fishing equipment, or vessel detention are often taken against licensing violations, the use of illegal fishing equipment, and fishing zone violations. Research results show that these actions are in accordance with Law No. 45 of 2009, which replaced Law No. 31 of 2004, in conjunction with Law No. 32 of 2014, and Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. 69/Permen-KP/2020 concerning the Organization and Work Procedures of the Technical Implementation Unit for Marine and Fisheries Resources Supervision. However, there are still obstacles in terms of documentation, procedural transparency, and limited human resources, which have implications for legal certainty for fishermen (Sapriani 2024).

Natural resources, especially fish in the sea, are abundant and were once thought to be inexhaustible. Not only that, in the past, the population was relatively small, so living needs were also limited (Emiel Salim Siregar 2024).

Based on Article 1 Paragraph 1 of Law No. 45 of 2009 concerning Amendments to Law Law No. 31 of 2004 on Fisheries, fisheries encompass all activities related to the management and utilization of fish resources and their



environment, from pre-production, production, processing, to marketing, carried out within the fisheries business system.

Law No. 11 of 2020 concerning Job Creation (Job Creation Law) revises and simplifies various organic and sectoral laws and regulations through the concept of a job creation bill (omnibus law), marking its first application in Indonesian legislation.

Fishing is defined as an activity to obtain fish in non-cultivated waters, using any equipment or method, including activities using boats to load, lift, store, cool, process, and/or preserve fish (Emiel Salim Siregar 2024).

Indonesia's national waters are vast and rich in fish, with a catch capacity of nearly 6.4 million tons per year, a total energy capacity of 305,650 tons per year, and a marine economic capacity of nearly USD 4 billion per year. In 2007, the total fish catch in Indonesia reached 4,924,430 tons. Such smuggling activities have a negative impact because they cause significant losses to state revenue. Customs covers all matters related to the supervision of the movement of goods entering or leaving customs areas, and the collection of import and export duties. The customs area is the area of Indonesia that includes land, water, and airspace, as well as certain positions in the Exclusive Economic Zone and continental shelf where national law applies. North Sumatra, which borders Malaysia, is one of the main entry points for the smuggling of illegal goods into Indonesia (Gunawan Suratmo 2018).

The fisheries zone is unique because it has characteristics that other zones, such as agriculture or mining, do not have. Therefore, addressing issues in this zone requires a special approach. Not only does it experience fugitive resources and the complexity of aquatic life and physical conditions, but the management of fishery resources also faces challenges related to common property resources. The interaction of these factors gives rise to externalities that lead to overfishing, which ultimately depletes fish stocks.

Fishermen are granted permits to catch fish, which include registration of vessels and equipment, and payment of levies and other fees. Quotas and catch limits are also set, depending on the availability of certain fish species during a given period. One of the tasks and functions of the Ministry of Maritime Affairs and Fisheries (KKP) is to operate a unit that supervises marine and fishery resources, namely the Directorate General of Marine and Fishery Resources Supervision (Ditjen PSDKP). This supervision is carried out so that marine and fish resources can be utilized optimally for the benefit of the national economy and the country. (Djoko Tribawono 2018)

Therefore, the losses arising from illegal, unreported, and unregulated (IUU) fishing and overfishing need to be reduced, and if possible, eliminated entirely, so that marine energy and fishery resources (SDI) can be utilized and provide benefits to the Indonesian people, especially fishermen and fish farmers.

Thus, it is necessary to review the laws and regulations in the field of fisheries, especially in the context of SDI management, so that weaknesses and strengths from a legal perspective can be identified early on, and the necessary coordination steps can be formalized to ensure that inter-agency cooperation runs efficiently.

The use of hazardous materials at sea is strictly prohibited in Indonesian waters and constitutes a criminal offense. Based on the facts outlined, the defendant and other witnesses committed a criminal offense in fishing in a manner that damaged the environment, using explosives that could destroy the marine ecosystem.

In Indonesia, fishermen are unaware of the correct techniques. They use techniques that have the potential to damage the seabed and coral reefs. They often use fish bombs, which are capable of catching large quantities of fish. Several fish species die and coral reefs are destroyed as a result of these bombs. The role, involvement, and compliance of the community with the Fisheries Law are reference factors, through government policies in regulating fisheries law with sustainability.

## **METHODS**

A method is related to a performance rule used by users to achieve a goal. Empirical legal research is a method used by researchers that utilizes empirical facts such as human behavior, both verbal actions obtained based on direct observation of actual behavior and interviews (Nasution, 2024)). This study uses empirical research, namely direct interviews with parties who are related to and have authority over the research conducted by the author, and is carried out directly. This study was conducted at the PSDKP Office, located in Asahan Mati Village, Tanjung Balai District, Asahan Regency, North Sumatra Province.

The primary data in this study were interviews with the Marine and Fisheries Service, the Environment Service, and fisheries sector supervisory agencies that could support the acquisition of this primary data. The data provided explanations regarding primary legal materials, such as the implementation of Law No. 6 of 2023 and its derivatives, as well as the results of legal journal research. Therefore, in this case, the researcher used secondary legal materials to tie in the primary legal materials. Data analysis is an important component of the scientific method because it provides meaning and significance in answering research challenges. Analysis is an effort by researchers to connect theory (*dassolen*) with practice (*dassein*). Conducting analysis also requires evaluation of existing hypotheses.

## **RESULTS & DISCUSSION**

### ***Results***

#### **Implementation of Supervisory Procedures for Administrative Actions by Satwas PSDKP in Maritime Inspections in the Working Area of the PSDKP Tanjungbalai Office**

Indonesian waters are regulated by the 1939 *Teritoriaal Zee En Marietieme Kringen Ordonnantie*, published in *Staatsblad* 1939 No. 442 and effective as of September 25, 1939. Regarding territorial waters, Article 1 of the ordinance states, among other things, that the width of Indonesian territorial waters is 3 nautical miles, measured from the lowest waterline of the islands listed in the Indonesian territory. The implementation of administrative oversight procedures by the PSDKP Satwas in conducting checks at sea in the working area of the Tanjungbalai PSDKP Office is attempted through regular sea patrols, document checks, fishing

equipment checks, and checks on catches to ensure they comply with applicable laws and regulations. (Rosyadi 2025)

Law enforcement in waters, as carried out by the water police, requires a prior description of the position of the police itself as the highest institution that forms the water police carrying out police duties in waters. The police are one of the state institutions that have a significant position in the legal system. Within the legal system, the implementation of the law is greatly influenced by structural aspects, namely legal institutions, and other factors such as legal substance and the legal culture of citizens (Sadjijono 2019).

The obstacles and difficulties in implementing administrative supervision procedures by the Tanjungbalai PSDKP Satwas include limited patrol facilities, poor weather, personnel shortages, and coordination issues with related institutions. The acceptance and enactment of the 12-mile territorial sea concept originated from the 1958 international maritime law (UNCLOS), which stipulates that territorial waters are extended to 12 nautical miles from the baseline at low tide.

The duties and authorities of Satwas PSDKP in supervising marine energy and fishery resources in the Tanjungbalai area include monitoring, law enforcement, and protection of marine energy and fishery resources through checks, enforcement actions, and guidance in the Malacca Strait waters from the Batu Bara area to South Labuhanbatu. (Rosyadi 2025)

To date, in formulating legal objectives in the context of maritime law, experts have expressed different opinions, some of which are outlined below:

a. For ethical theory, the purpose of law is simply to achieve justice. This theory was first proposed by the Greek philosopher Aristotle in his works *Ethica Nicomachea* and *Rhetorica*, which state that the sacred duty of law is to give each person their due rights.

b. According to the theory of utility, developed by Jeremy Bentham, the purpose of law is simply to achieve utility. This concept emphasizes the good of the majority, without considering the aspect of justice. For Bentham, the essence of happiness is pleasure and a life free from suffering; therefore, humans have a role to optimize happiness and minimize suffering. An action is judged to be good or bad based on its consequences: an action is considered good if it creates good, and bad if it causes harm.

c. The juridical-dogmatic theory, derived from a positivistic approach to law, views law as an autonomous and independent system of norms. For adherents of this school of thought, the main purpose of law is to ensure legal certainty, which is achieved through the establishment of clear and firm provisions. For this theory, even if the implementation of the law appears to be unfair or does not provide significant benefits to most citizens, it is not a problem as long as legal certainty is maintained.

The standard procedure for checking ships or fishermen at sea attempted by Satwas PSDKP includes ship identification, checking permit documents, fishing equipment, catch, and interviews with the crew in accordance with standard operating procedures (SOP). (Rosyadi 2025)

The agreement on joint development for the implementation of the 1982 Law of the Sea Agreement has made a significant contribution to the creation of *opinio juris sive necessitates* (legal obligations).

The specific regulations that form the legal basis for Satwas PSDKP in conducting inspections at sea are largely based on Law No. 45 of 2009 concerning Fisheries and implementing regulations issued by the Ministry of Maritime Affairs and Fisheries (KKP).

It should be noted that there is currently a strong tendency for countries to resolve disputes over continental shelf boundaries between two countries with opposing or adjacent coastlines through joint development conventions. In practice, such conventions are accepted as part of customary international law because countries do not raise objections (Fina Triana Maretta 2018).

The legal basis for fishing business activities is stipulated in Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. Per. 30/Men/2012 concerning Fishing Businesses in the Fisheries Management Area of the Republic of Indonesia, Chapter I General Requirements, Article 4, which states that the fishing industry is a subject that carries out activities in the field of fisheries, whether it has a legal entity or not.

Satwas PSDKP ensures compliance with legal procedures throughout the inspection process by reviewing SOPs, documenting activities, conducting internal monitoring, and preparing formal reports.

The legal basis for the implementation of fisheries businesses is Law No. 45 of 2009 concerning Fisheries, which is a replacement for Law No. 31 of 2004. In addition to the requirements of the law, fisheries activities are also regulated in Regulation of the Minister of Maritime Affairs and Fisheries No. Per. 30/Men/2012.

In order for an industry to carry out its activities, it must first obtain a permit from the competent authority. In principle, there are two types of permits required: an area permit and an industrial business permit. Every industry must have both of these permits, regardless of its legal status. Because it relates to the fisheries zone, after obtaining an area permit from the Department of Natural Resources, the industry applies for a SIUP fisheries business permit, then applies for a SIPI fishing permit and a SIKPI fish transportation permit issued by the Ministry of Maritime Affairs and Fisheries (Gatot Supramono 2018).

Administrative actions taken by Satwas PSDKP at sea are transparent to the parties being inspected, accompanied by news of inspection activities and written explanations to the parties concerned. The law on fishing vessel registration is in accordance with the following three types of permits:

a. SIUP is in accordance with Law No. 45 of 2009 concerning Fisheries, Article 1 point 16: SIUP is a written permit that must be possessed by every fishing industry to carry out fishing activities using the facilities specified in the permit.

b. SIPI in accordance with Law No. 45 of 2009 concerning Fisheries, Article 1 point 17: "A fishing permit (SIPI) is a written permit that must be possessed by every fishing vessel to carry out fishing; SIPI is an integral part of SIUP."

c. SIKPI is in accordance with Law No. 45 of 2009 concerning Fisheries, Article 1 point 18: "A fish transport vessel permit (SIKPI) is a written permit that must be possessed by every fishing vessel to carry out fish transportation."

Fishermen or vessels that are inspected are given a description of their rights and obligations during the inspection, and a description of their rights and obligations before and during the inspection. These three permits are used in

fishing, fish farming, and fish processing, which includes pre-production, creation, management, and marketing, in accordance with Article 25 of Law -Law No. 31 of 2004 concerning Fisheries, which states that fishing activities are carried out in a business system that includes pre-production, production, management, and marketing. The implementation of a fishing business without these three permits is considered illegal fishing and is a violation of the law. Because the Indonesian government has implemented a fishing vessel registration system, specifically the Ministry of Maritime Affairs and Fisheries has regulations related to the management of energy resources in Indonesian waters (M Ghufon 2015). Satwas PSDKP confirms that inspection actions do not exceed the authority granted by law and are based on laws and regulations and tiered supervision from leaders.

Referring to the interpretation of illegal fishing, four main types of illegal fishing that are commonly found in Indonesia can be identified: fishing without a permit, fishing using a fake permit, fishing using prohibited fishing equipment, and fishing using methods that are not in accordance with the permit held. Fishing, according to Article 1 point 5 of Law No. 31 of 2004 concerning Fisheries, is defined as activities to obtain fish in non-cultivated waters using any equipment or method, including activities that use boats to load, lift, store, cool, process, digest, and/or preserve fish. To date, the internal guidelines or standard operating procedures (SOPs) used by Satwas PSDKP to assess administrative violations at sea are formal documents from the Ministry of Maritime Affairs and Fisheries. Illegal fishing, often referred to as fish theft (illegal fishing), is very detrimental to both the country and traditional fishermen who are Indonesian citizens. Not only that, citizens as consumers are also harmed because they cannot enjoy the fruits of the sea in their own country. Macroeconomically, fish stolen in Indonesia is then processed with adequate equipment, thereby increasing its selling price outside the country (Rosyadi 2025).

If violations are detected, officials record the incident, issue warnings, or seize documents depending on the severity of the violation. Coordination with the Water Police and the Indonesian National Armed Forces (TNI) Navy is carried out to ensure legal procedures and security in the field.

Many vessels operating in Indonesian waters still do not have a fishing business permit (SIUP), fishing permit (SIPI), or fish transport vessel permit (SIKPI) when conducting fishing and fisheries management activities. In addition to fishing without a permit, another form of violation is the use of fake permits. The use of fake permits by fishing vessels is strictly prohibited under Article 28A of Law No. 45 of 2009 concerning the Replacement of Law No. 31 of 2004 concerning Fisheries, which reads:

No person shall:

- a. Forge SIUP, SIPI, and/or SIKPI, and/or
- b. Use fake SIUP, SIPI, and/or SIKPI.

The issue of incomplete documents is handled by requesting the complete documents or referring them for further verification. Permit forgery can take the form of vessels that are not suitable for the designated fishing area or fishing vessels that do not meet the applicable capacity or size requirements.

This is in line with the case studied regarding the implementation of fisheries businesses to create controlled and conducive conditions for business operations,

where parameters are needed to assess whether a regulation can be implemented efficiently. In discussing the effectiveness of the implementation of requirements, it is necessary to consider the factors that influence legal and social phenomena in the actual implementation of legal norms, which are parameters for evaluating the effectiveness of law enforcement. For Soerjono Soekanto, these factors include: Factors that Influence Law Enforcement

1. Legal or legislative factors;
2. Factors related to law enforcement officials;
3. Factors related to infrastructure and equipment that support the law enforcement process;
4. Social factors, namely the social sphere in which the law applies or is implemented, which are related to legal understanding and compliance with the norms that govern the lives and attitudes of citizens;
5. Cultural factors, namely the work and feelings of humans based on human initiative in social life.

These five aspects are closely interrelated, as they are central to law enforcement or the application of legal norms, and constitute the dimensions of their effective implementation.

Administrative checks must be carried out as early as possible so as not to harm the parties being investigated. The principle of proportionality is applied, whereby actions are adjusted to the level of violation. If there are objections or complaints, the issues are resolved through internal clarification and applicable legal mechanisms. Satwas PSDKP balances the protection of energy resources with the rights of fishermen through a coaching-based approach and fair law enforcement (Rosyadi 2025).

### **Obstacles or Constraints in the Implementation of Administrative Supervision Procedures by the Tanjungbalai PSDKP Satwas**

A group of residents whose livelihoods are largely derived from fishing and the utilization of other marine energy sources. The KSOP has high expectations of the central and regional governments, including increased budget support, development of the patrol fleet, strengthening of the data system, and increased human resource competence through training. Unchanging regulatory support is also needed so that the KSOP can carry out its duties more freely (Marheni Ria Sihombo 2010).

Life in coastal areas is greatly influenced by natural conditions, especially wind, waves, and ocean currents, so fishing activities do not take place throughout the year. The vast sea waters are rich in various types of fish and fishery potential, with a catch capacity of 6.4 million tons, a cultivation capacity of 1,223,437 ha, and a marine capacity of nearly USD 4 billion per year. Maximizing the use of this potential while adhering to the principles of sustainable fisheries will have the following effects:

- a. Increased foreign exchange earnings from marine product exports;
- b. Improved nutrition for residents, especially animal protein;
- c. Increased income for fishermen.

The position of local residents and fishermen is very important because they are very close to marine activities. Through the empowerment of coastal

communities and partnership programs, data on suspicious activities can be reported more quickly to the authorities. (Rosyadi 2025)

In law enforcement, actions must be in line with the values contained in the applicable norms, and behavior must be in accordance with these values, in order to create, maintain, and uphold discipline in society. In carrying out law enforcement, activities that harmonize the values outlined in established rules and attitudes as a series of final stages of value interpretation are necessary to create, maintain, and preserve peace in social life.

Significant strategic steps include: strengthening inter-agency synergy, developing maritime surveillance technology, increasing the number of joint patrols, and strengthening cooperation with coastal communities. Not only that, international cooperation with neighboring countries is also needed, given that smuggling in the Malacca Strait involves cross-border activities.

## **CONCLUSION**

The implementation of administrative oversight procedures by the PSDKP Satwas in the working area of the Tanjungbalai PSDKP Office is carried out in accordance with applicable requirements through patrols and checks of vessels and sailing permits, with the aim of ensuring compliance with fisheries regulations.

Obstacles in the implementation of administrative oversight procedures by the PSDKP Task Force in Tanjungbalai include limited patrol facilities and infrastructure, unpredictable weather conditions, a shortage of supervisory personnel, and difficulties in coordinating with related institutions, which can reduce the effectiveness of field operations.

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### **Interview**

- Wawancara penulis dengan Imran Rosyadi, selaku Satwas PSDKP Dalam Pemeriksaan Dilaut Wilayah Kerja Kantor PSDKP Tanjungbalai, pada Tanggal 04 November 2025