

STRENGTHENING INDONESIA'S MARITIME SOVEREIGNTY: IMPLEMENTING A SINGLE AGENCY MULTI-TASKS MODEL TO COMBAT IUU FISHING

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Abstract

Indonesia's location between the Indian and Pacific Oceans positions it as a crucial maritime route, thereby revealing significant maritime opportunities. This strategic location also presents significant vulnerabilities, especially from foreign vessels involved in unlawful activities, including illegal, unreported, and unregulated (IUU) fishing. IUU fishing represents a widespread issue that threatens regional security and the sustainability of marine ecosystems, ultimately impacting food security and economic viability. This research adopts a normative legal methodology, incorporating an extensive literature review to examine the philosophical underpinnings and regulatory benchmarks pertinent to Indonesia's enforcement framework addressing IUU fishing. This analysis scrutinizes current legal resources and explores the intricate dynamics of overlapping jurisdictions among maritime agencies, intensifying enforcement inefficiencies and generating operational uncertainties. This study proposes implementing the Single Agency Multi-Tasks (SAMT) system as a comprehensive approach to enhance law enforcement efforts targeting foreign vessels involved in IUU fishing within Indonesia's Fisheries Management Areas (FMAs), considering the existing challenges. The SAMT framework aims to centralize authority within the Marine Security Agency (BAKAMLA) to streamline operations and improve regulatory compliance, ultimately contributing to a strong maritime governance structure. The results highlight the importance of implementing legal reforms and establishing coordinated governance mechanisms by national and international maritime regulations. This study significantly enhances the discussion surrounding optimizing fisheries management and reinforcing Indonesia's sovereignty in its maritime areas while also tackling the widespread challenges IUU fishing activities present.

Keywords: *IUU Fishing; Single Agency Multi-Tasks (SAMT); Marine Security Agency (BAKAMLA); Fisheries Management Areas (FMAs); Maritime Governance.*

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1. Introduction

Indonesia's geographical location between the Indian and Pacific oceans also makes Indonesia an international shipping route. The existence of this international shipping lane makes Indonesia's maritime potential very large. However, it can also be a threat, foreign ships flock to

illegally infiltrate Indonesia's sea territory.¹ The maritime threats can be divided into 2 (two), namely threats to regional security and threats to the preservation of Indonesia's marine resources.² IUU fishing encompasses many illicit activities, including under-reporting the number of fish caught and using prohibited fishing gear.³ IUU fishing is a global phenomenon that has significant economic, social and environmental impacts.⁴ (IUU) fishing refers to one of the most serious threats to the global marine ecosystem and fish stocks worldwide.⁵

According to the Food and Agriculture Organization of the United Nations (FAO), three distinct categories define illicit, unreported, and unregulated (IUU) fishing. In the first place, illegal fishing refers to operations carried out by foreign vessels that fish in the waters of another state without permission or in violation of the laws of that state. Fishing that is not formally recorded is called "unreported fishing," the second term. Third, operations in regions that do not have management procedures in place to control the catch are included in the category of unregulated fishing. The term "illegal, unreported, and unregulated" (IUU) fishing refers to a collection of activities that include breaking national, regional, or international regulations, failing to register fishing operations and their catches, misreporting or underreporting this information, and so on. In addition, it encompasses fishing activities carried out by vessels that do not have a state of origin, as well as fishing activities carried out in regions that are administered by Regional Fisheries Management Organizations (RFMOs) without being a member of those organizations, and other activities that are difficult for states to monitor and regulate. With the beginning of industrial-scale fishing fleets from the Soviet Union in the 1950s, the history of illegal, unreported, and unregulated (IUU) fishing can be traced back to the 1950s. Fleets of a similar nature from East Asia, Europe, and the United States of America in the 1970s followed this. Before the United Nations Convention on the Law of the Sea (UNCLOS) established exclusive economic zones (EEZs) for countries around 200 miles in 1982 and the establishment of regional fishing management organizations (RFMOs) beginning in the 1960s to regulate high seas fishing species quotas, such fishing was largely unregulated and unreported, which eventually led to it being classified as illegal and categorized as IUU.⁶

Therefore, the fishing sector is one of the most important sectors.⁷ Fisheries management is necessary to sustain food security and to meet other societal objectives.⁸ Indonesian FMA is divided into several areas which can be seen in the following figure:

- ¹ Andrizal Andrizal, John Dirk Pasalbessy, and Arman Anwar, "Aspek Interoperabilitas Antara Lantamal IX Dengan Kamla Zona Bahari Timur Dalam Penegakan Hukum Di Laut Maluku Ditinjau Dari Perspektif Harmonisasi Hukum," *PAMALI: Pattimura Magister Law Review* 1, no. 2 (2021): 121–146, <https://doi.org/10.47268/pamali.v1i2.621>.
- ² Desi Yunitasari, "Penegakan Hukum Di Wilayah Laut Indonesia Terhadap Kapal Asing Yang Melakukan Illegal Fishing Mengacu Pada Konvensi United Nations Convention On Law Of The Sea 1982," *Jurnal Pendidikan Kewarganegaraan Undiksha* 8, no. 1 (2020): 61–78, <https://ejournal.undiksha.ac.id/index.php/JJPP/article/view/23551>.
- ³ United States Government Accountability Office, "Coast Guard: Asset, Workforce, and Technology Challenges Continue to Affect Law Enforcement Missions," United States Government Accountability Office, 2023, <https://www.gao.gov/products/gao-24-107144>.
- ⁴ Andrew J. Temple et al., "Illegal, Unregulated and Unreported Fishing Impacts: A Systematic Review of Evidence and Proposed Future Agenda," *Marine Policy* 139 (2022): 105033, <https://doi.org/10.1016/j.marpol.2022.105033>.
- ⁵ Mohammad E. A. Alqattan, Tim S. Gray, and Selina M. Stead, "The Illegal, Unreported and Unregulated Fishing in Kuwait: Problems and Solutions," *Marine Policy* 116 (2020): 103775, <https://doi.org/10.1016/j.marpol.2019.103775>.
- ⁶ Alqattan, Gray, and Stead.
- ⁷ Benny Irawan et al., "State Responsibility and Strategy in Preventing and Protecting Indonesian Fisheries Crews Working on Foreign Fishing Vessels from Modern Slavery," *Australian Journal of Maritime & Ocean Affairs*, 2024, 1–21, <https://doi.org/10.1080/18366503.2024.2333107>.
- ⁸ Steven X. Cadrin and Shuya Nakatsuka, "Marine Stewardship Council's Fisheries Standard: Updated Best Practices for Promoting Sustainable Seafood," *Marine Policy* 163 (2024): 106083, <https://doi.org/10.1016/j.marpol.2024.106083>.



Figure 1. Fisheries Management Area in Indonesia

Source: <https://maritimnews.com/wp-content/uploads/2017/04/Picture1.png>. Retrieved June 6, 2022.

Each FMA has its uniqueness, and fishery potential stocks. If management is not managed properly, there will be overfishing or excessive fishing.⁹ The most common illegal fishing activity in the Indonesian FMA is fishing theft by foreign-flagged fishing vessels, especially from some neighboring countries.¹⁰ Foreign ships are flocking to illegally FMA/ WPPNRI.¹¹ IUU fishing is often found in several areas, especially IUU Fishing is believed to take place in 3 (three) fisheries management areas that have the highest potential, namely in the Arafura Sea, Sulawesi Sea and Natuna Sea (most of the South China Sea).¹² Indonesia's rich fisheries attract illegal fishing by foreign vessels, especially from neighboring countries. Indonesia FMA represents Indonesia's sovereignty and sovereign rights in FMA/ WPPNRI.¹³ In the last two decades, both IUU fishing and fisheries crime have featured prominently in discussions and official narratives not always

⁹ Belardo Prasetya Mega Jaya et al., "Republic of Indonesia Sovereign Right in North Natuna Sea According to United Nations Convention on the Law of the Sea 1982," *Australian Journal of Maritime & Ocean Affairs* 16, no. 1 (2024): 127–40, <https://doi.org/10.1080/18366503.2023.2206261>.

¹⁰ Belardo Prasetya Mega Jaya, Afandi Sitamala, and Danial Danial, "State Exclusivity of Fisheries Resources on Exclusive Economic Zone in Efforts to Support the Fisheries Availability as a Means of Increasing Food Security for the State," in *Joint Proceedings of the 2nd and the 3rd International Conference on Food Security Innovation (ICFSI 2018-2019)* (Atlantis Press, 2021), <https://doi.org/10.2991/absr.k.210304.039>.

¹¹ Belardo Prasetya Mega Jaya and Muhamad Uut Lutfi, "The Law Enforcement Towards Foreign Vessels Which Did Illegal, Unreported and Unregulated Fishing (IUU-Fishing) In Indonesia Fisheries Management Areas," *Jurnal Dinamika Hukum* 20, no. 1 (2020): 245–55, <https://doi.org/10.20884/1.jdh.2020.20.1.2838>.

¹² Rodon Pedrason, Yandry Kurniawan, and Purwasandi Purwasandi, "Handling of Illegal, Unreported and Unregulated (IUU) Fishing," *Jurnal Pertahanan: Media Informasi Tentang Kajian Dan Strategi Pertahanan Yang Mengedepankan Identity, Nasionalism Dan Integrity* 2, no. 1 (2016): 71–90, <https://jurnal.idu.ac.id/index.php/DefenseJournal/article/view/87>.

¹³ Mohamad Fasyehhudin et al., "Hak Berdaulat Pemerintah Indonesia Dalam Memberikan Penamaan Laut Natuna Utara Menurut Hukum Internasional (Laut Natuna Utara Vs. Laut China Selatan)," *Gorontalo Law Review* 6, no. 1 (2023): 113–120, <https://doi.org/10.32662/golrev.v6i1.2599>.

concerned with fishery management especially those related to maritime security.¹⁴ Maritime security depends on strong and effective law enforcement to protect national interests, safeguard marine resources, and combat transnational crimes. However, overlapping authority and sectoral supervision create enforcement issues. Mahfud MD noted cases where one agency's actions were undermined by another, disrupting law enforcement.¹⁵

Enforcing maritime law and ensuring security require authority to regulate and enforce compliance, along with the capability to monitor foreign vessels in Indonesia's Fisheries Management Area. Indonesia currently employs a multi-agency system, where multiple institutions share overlapping authority.¹⁶ There are several law enforcement agencies in Indonesian waters, resulting in overlapping authorities and trying to dominate each other. This fragmentation raises concern about potential confusion and inefficiencies in enforcing maritime border security. The diversity of policies, including Indonesian laws, presidential decrees, regulations, and ministerial guidelines, presents a challenge for maritime authorities in terms of consistent navigation and application. These regulations often lack cohesion and suffer from limited coordination among these authorities, leading to the absence of a unified approach.¹⁷

According to Associate Expert Policy Analyst at the Directorate of Law of the Marine Security Agency (BAKAMLA), Colonel BAKAMLA Hudiansyah Is Nursal said, due to overlapping regulations and authorities, it results in difficulty in unity of command, ambiguity of responsibility, and becomes an obstacle to international cooperation. As a result, patrols are lax in one area and overlapping patrols in another, and vessels of economic actors are inspected multiple times, increasing time at sea and impacting logistics costs.¹⁸ The issues above highlight the inefficiency of Indonesia's "Single Agency Multi-Tasks" system. This system is unsustainable, and Indonesia needs to adopt a new approach. The Single Agency Multi-Tasks system is seen as an effective solution to maritime law enforcement, security, and safety. Unlike the previous system, it centralizes enforcement activities, providing a more coordinated and efficient solution.

Based on the preceding background, this paper will discuss and propose a solution to address overlapping authority among law enforcement agencies, using the Single Agency Multi-Tasks system to enforce laws against foreign vessels involved in IUU fishing in Indonesia's FMA. It will also outline the law enforcement procedures under this system. Previous research, such as Kurnia Saleh's journal, focused on forming a single agency for maritime security, while this study specifically examines the Single Agency Multi-Tasks approach.¹⁹ The originality or novelty in this study is finding the solution on law enforcement against foreign vessel through single agency multi-task and examine the role of "Marine Security Agency" to become a Coast Guard in Indonesian FMA and the other Countries.

2. Method

This research is a normative legal Research. This study was conducted by doing literature study in order to find the philosophy to observe way of thinking, official standard and structures which will then regulate certain issues. In addition, this research also examines the background

¹⁴ Maurice Beseng, "The Nature and Scope of Illegal, Unreported, and Unregulated Fishing and Fisheries Crime in Cameroon: Implications for Maritime Security," *African Security* 14, no. 3 (2021): 262–85, <https://doi.org/10.1080/19392206.2021.1982241>.

¹⁵ Dian Erika Nugraheny, "Penanganan Keamanan Laut Indonesia, Tumpang Tindih Kelembagaan Hingga Aturan Hukum," *Kompas.Com*, January 8, 2020, https://nasional.kompas.com/read/2020/01/08/06332531/penanganan-keamanan-laut-indonesia-tumpang-tindih-kelembagaan-hingga-aturan?lgm_method=google&google_btn=onetap.

¹⁶ Peni Susetyorini, "Kebijakan Kelautan Indonesia Dalam Perspektif UNCLOS 1982," *Masalah-Masalah Hukum* 48, no. 2 (2019): 164–77, <https://doi.org/10.14710/mmh.48.2.2019.164-177>.

¹⁷ Ridwan Arifin, Margaretha Hanita, and Arthur Josias Simon Runturambi, "Maritime Border Formalities, Facilitation and Security Nexus: Reconstructing Immigration Clearance in Indonesia," *Marine Policy* 163 (2024): 106101, <https://doi.org/10.1016/j.marpol.2024.106101>.

¹⁸ Hudiansyah Hudiansyah, "Interview with Associate Expert Policy Analyst at the Directorate of Law of the Marine Security Agency (Bakamla)," (n.d.).

¹⁹ Kurnia Saleh, "Peningkatan Keamanan Laut Melalui Rekonstruksi Kelembagaan Lembaga Penjaga Laut Dan Pantai," 2022.

of the regulation of the issue at hand. Furthermore, the collected legal materials are then analyzed using descriptive techniques by describing primary, secondary, and tertiary legal materials. This research is categorized as descriptive analytical, aiming to gather accurate data and provide a detailed description of the problem's object.

3. Results and Discussion

3.1. Single Agency Multi-Tasks Becomes a Solution to Overlapping Authority Between Law Enforcement Officers Against Foreign Vessels Conducting IUU Fishing in the Indonesian FMA and the Other Countries

Law enforcement is defined as government activity based on international law or state sovereignty (a fundamental principle that forms the basis of relations between countries).²⁰ As a legal entity, the state must adhere to both national and international laws that govern the sea.²¹ According to Soewardi, law enforcement enforces legal provisions through integration of rules and behavior. Effective enforcement requires maintaining and supervising compliance with national and international laws in Indonesia's jurisdictional waters and beyond (EEZ and high seas), particularly in fisheries.²² Law enforcement on the sea is a step or action and effort in order to maintain and supervise the observance of legal provisions both national law and international law that applies in the sea of Indonesian EEZ.²³ Law enforcement at sea is crucial to ensure security and address threats like illegal fishing, which violate national and international laws. Such actions aim to protect legal order and national interests.²⁴ Law enforcement officials are also obliged to carry out the obligation to carry out security and implement the mandate of Article 44 of the UNCLOS 1982.²⁵

The implementation of law enforcement at sea is adjusted to the legal regime which can be divided into: the implementation of law enforcement in internal waters, archipelagic waters contiguous zones, continental shelf, exclusive economic zone and high seas. For Indonesia, law enforcement at sea is intended primarily to ensure the implementation of the principle of the archipelago state in the context of implementing the archipelago concept, which includes the realization of the archipelago as a political, social and cultural, economic and defense and security unit. We can It is known that in Indonesia, especially Indonesian FMA, there are several institutions or agencies in enforcing fisheries law in Indonesian FMA, namely: The Marine Security Agency (BAKAMLA); The Navy Army of Indonesia; Water Police Unit (WPU); Duties of Civil Servant Officers in the Fisheries Sector; Coast Guard Unit; Directorate General of Customs and Excise Ship Unit; Public Prosecutor; and Judge.

The main problem that has become an important concern until now is the overlapping authority of law enforcement agencies. The navy appears to be reluctant to relinquish its long-standing law enforcement and internal security roles resulting in overlap of roles and

²⁰ Belardo Prasetya Mega Jaya, "Transnational Criminal Case Settlement Through International Cooperation (A Case Study of Harun Masiku)," *Ajudikasi : Jurnal Ilmu Hukum* 4, no. 1 (August 1, 2020): 69–82, <https://doi.org/10.30656/ajudikasi.v4i1.2203>; Danial Danial et al., "Standardisation of Work Agreement between Indonesian Fisheries Crew and Foreign Companies," *Transactions on Maritime Science* 13, no. 2 (2024): 1–26, <https://doi.org/10.7225/toms.v13.n02.w09>.

²¹ Belardo Prasetya Mega Jaya et al., *Hukum Laut Internasional: Suatu Pengantar Dan Sejarah Perkembangannya (Buku 1)* (Depok: Rajawali Pers, 2024).

²² Yetty Komalasari Dewi, Arie Afriansyah, and Aristyo Rizka Darmawan, "Comparative Law Enforcement Model at Sea: Lesson Learned for Indonesia," *Indonesian Journal of International Law* 18, no. 1 (2020): 83–104, <https://scholarhub.ui.ac.id/ijil/vol18/iss1/4/>.

²³ Firmansyah Abdul, "Pencurian Ikan Oleh Kapal Asing Di Wilayah Teritorial Indonesia Dalam Perspektif Hukum Positif Di Indonesia," *Lex Et Societatis* 4, no. 1 (2016): 156–64, <https://ejournal.unsrat.ac.id/index.php/lexetsocietatis/article/view/11153>.

²⁴ Didik Heru Purnomo, "Pengamanan Wilayah Laut RI Bagian Barat," *Indonesian Journal of International Law*, 2004, 27–40.

²⁵ Danial Danial, Afandi Sitamala, and Belardo Prasetya Mega Jaya, "Keamanan & Pertahanan Di Selat Sunda Studi Alur Laut Kepulauan Indonesia," *Jurnal Idea Hukum* 6, no. 1 (2020): 46–64, <https://doi.org/10.20884/1.jih.2020.6.1.131>.

responsibilities among the various maritime security agencies in Indonesia.²⁶ This issue arises from unclear regulations regarding the division of authority in Indonesian waters. Similarly, Malaysia, with its vast maritime space from the Strait of Malacca to the west and the Sulawesi Sea to the east, has established several agencies to regulate and govern maritime matters as it aims to become a leading maritime nation.²⁷ The Marine Police, Marine Department, Fisheries Department, Malaysian Maritime Enforcement Agency, and Navy have operated within their respective jurisdictions. However, the absence of a Single Multi-Task Maritime Agency has sometimes hindered Malaysia's ability to effectively enforce laws in its maritime space.²⁸

As a result, suggestions have been made to the government to 'plug the gap' and to unify multiple agencies with overlapping ropes that are affecting the maritime ecosystem in Malaysia. The lack of co-ordination among agencies should be addressed and minimised in order to move forward.²⁹ To realize its vision of becoming a global maritime nation, Malaysia should consider following Indonesia's example by establishing a dedicated ministry for maritime matters. Given Indonesia's larger size and vast maritime space, its move towards creating a Single Agency for maritime affairs is a step in the right direction. Single Agency Multi-Tasks is a concept of thought that exists in ideal conditions that are realized through an organization that has centralized and broad authority in a country to carry out various tasks under its autonomy. The Single Agency Multi-Tasks pattern has the advantage of realizing the country's vision and mission effectively and efficiently through a centralized arrangement and with Single Agency Multi-Tasks having an impact on ideal governance to prevent overlap, competition, and confusion for the public in the field.³⁰

Single Agency Multi-Tasks is also a step to support the realization of good order at sea as the output of law enforcement at sea requires good marine security governance. There needs to be a policy and regulatory arrangement as a supporting tool in realizing security governance at sea, especially Indonesian FMA. In the context of organizing security, safety and law in Indonesian waters and Indonesian jurisdictional areas that are effective and efficient, it is necessary to synchronize the duties and functions of several ministries / institutions that have authority at sea. The Government of the Republic of Indonesia wants the authority in law enforcement at sea to be realized with the Single Agency Multi-Tasks system which will be given its authority to BAKAMLA. The concept of Single Agency Multi-Tasks Multi-Task, means that there is only one agency that is given comprehensive authority within a bureaucratic scope.³¹

The Single Agency Multi-Tasks multi tasks system is believed to be able to make a major contribution in order to synergize law enforcement in the Indonesian sea area because it requires a single agency and the implementation of its operations is in one command. The implementation of one command operation can be carried out by optimizing the authority and capabilities of stakeholders in synergy by not eliminating existing stakeholders whose main functions and/or authorities and laws and regulations mandate their authority. The synergy of authority, strength and capability must be reflected in the organizational structure, mechanisms, procedures and other provisions that support the smooth operation of law enforcement, security and safety at sea.

²⁶ Muhamad Arif and Yandry Kurniawan, "Strategic Culture and Indonesian Maritime Security," *Asia & the Pacific Policy Studies* 5, no. 1 (2017): 77–89, <https://doi.org/10.1002/app5.203>.

²⁷ Izyan Munirah Mohd Zaideen and Mohd Faizal Ramli, "Malaysia Requires a Holistic Maritime Blueprint, Say Analysts," *Maritime Fairtrade*, 2023, <https://maritimefairtrade.org/malaysia-requires-a-holistic-maritime-blueprint-say-analysts/>.

²⁸ Mohammad Zaki Ahmad, "The Case for a Ministry Governing Maritime Affairs," *New Straits Times*, 2023, <https://www.nst.com.my/opinion/columnists/2023/06/917058/case-ministry-governing-maritime-affairs>.

²⁹ Fikry A. Rahman, "Assessing Malaysia's Maritime Governance Capacity: Priorities and Challenges," *Asia Maritime Transparency Initiative*, 2023, <https://amti.csis.org/assessing-malaysias-maritime-governance-capacity-priorities-and-challenges/>.

³⁰ Muhammad Ridha Iswardhana, Wibawa Adi, and Hidayat Chusnul Chotimah, "Strategi Keamanan Laut Pemerintah Indonesia Untuk Menjaga Keamanan Maritim," *NUSANTARA : Jurnal Ilmu Pengetahuan Sosial* 8, no. 6 (2021): 1406–1428, <https://jurnal.um-tapsel.ac.id/index.php/nusantara/article/view/5233>.

³¹ Adi Wibawa, Muhammad Ridha Iswardhana, and Hidayat Chusnul Chotimah, "Pola Interaksi Antar-Lembaga Dan Reformasi Tata Kelola Keamanan Maritim Indonesia: Bakamla RI," *Ministrate: Jurnal Birokrasi Dan Pemerintahan Daerah* 3, no. 3 (2021): 12–26, <https://doi.org/10.15575/jbpd.v3i3.14582>.

By uniting/integrating these authorities in one agency, it will be easier to coordinate and control because the command and control is in one hand (not sectoral).

With the enactment of Government Regulation No. 13 of 2022 on the Implementation of Security, Safety and Law Enforcement in Indonesian Waters and Indonesian Jurisdictional Areas, BAKAMLA is appointed as the coordinator who coordinates the implementation of marine security policy development, prepares national patrol plans, and forms a national security and safety monitoring work team. According to Government Regulation No. 13 of 2022 on the Implementation of Security, Safety, and Law Enforcement in Indonesian Waters and Indonesian Jurisdictional Areas, the authority to carry out law enforcement in Indonesian Waters is BAKAMLA and later in the system Single Agency Multi Tasks. there is a clear and non-conflicting division of tasks regulated by BAKAMLA.³²

The President of the Republic of Indonesia on February 12, 2020 also said that "BAKAMLA is like Indonesia's Coast Guard..." coast guard means an institution that carries out the function of guarding and enforcing laws and regulations at sea and coast which is formed and responsible to the President and technically operational implemented by the Minister. The establishment of the Coast Guard, a national body specifically responsible for surveillance and law enforcement activities at sea, is a solution to solve coordination problems at both the national and regional levels. According to his statement, BAKAMLA will be the embryo of Indonesia's coast guard. Furthermore, the other institutions can return to their respective institutions.³³

Since Indonesia uses Single Agency Multi-Task, the authority to enforce the law against foreign vessels in the Indonesian EEZ specifically becomes the authority of the BAKAMLA. the patrols under the leadership of BAKAMLA command will be more effective and efficient. The agencies that join the division of tasks will be under the command of BAKAMLA. There is a best practice law enforcement system at sea, namely Single Agency Multi-Tasks. The duties and authority of law enforcement up to the search and rescue function and limited defense and security at sea are in one institution only, for example Malaysia, Sweden, China, Vietnam, Sri Lanka, the United States (Strengthening the Customs Function to be part of the Department of Homeland Security). The advantages of this system are: Simple, firm and clear Command System, while the shortcomings: the existence of Administrative, Management and Juridical accountability dispute and not guaranteed to be free from Corrupt practices (Power tend to Corrupt, Absolute Power Corrupt Absolutely).³⁴

The Coast guard institution will have several main functions, namely: The first function is to coordinate all surveillance and law enforcement activities carried out by existing law enforcement agencies. Each institution feels that all parties have the same authority in terms of law enforcement at sea, therefore by separating military and civilian functions through the division of work areas, where The Navy can function as the lead sector in law enforcement activities on the high seas (offshore), and civilians in coastal areas. The second function from *Coast guard* i.e. assisting law enforcement agencies in the regions. This function includes coordinating central government law enforcement agencies involved in surveillance and law enforcement activities at the regional level.

Another function of the Coast guard is to assist the Navy Army in maintaining national sovereignty. The establishment of this institution will require amendments to many existing laws and regulations on the management of Indonesia's marine sectors, as many existing regulations already grant law enforcement authority at sea to the Navy Army. Some points that need to be considered if Indonesia implements Single Agency Multi-Tasks are the dimension of authority that

³² Humas FHUI, "Webinar: Kebijakan Penegakan Hukum Keamanan Laut Pasca Penerbitan PP No.13 Tahun 2022," Fakultas Hukum Universitas Indonesia, 2022, <https://law.ui.ac.id/webinar-kebijakan-penegakan-hukum-keamanan-laut-pasca-penerbitan-pp-no-13-tahun-2022/>.

³³ Humas Sekretariat Kabinet Republik Indonesia, "Presiden Jokowi Ingin Bakamla Jadi Embrio 'Indonesian Coast Guard,'" Sekretariat Kabinet Republik Indonesia, 2020, <https://setkab.go.id/presiden-jokowi-ingin-bakamla-jadi-embrio-indonesian-coast-guard/>.

³⁴ Pusat Kebijakan Pendapatan Negara, "Kajian Pengawasan Lalu Lintas Laut Di Indonesia," Badan Kebijakan Fiskal, Kementerian Keuangan Republik Indonesia, 2014, <https://fiskal.kemenkeu.go.id/kajian/2014/06/30/08462797809998-kajian-pengawasan-lalu-lintas-laut-di-indonesia>.

is operationally explained and/or in the form of an organizational structure, the historical dimension which will be able to consider the suitability of the era and the resource dimension and the institution in exercising authority runs effectively and efficiently.³⁵ This effective exercise has been used by several countries such as United States and China.

There are two law enforcement measures in enforcing IUU fishing in United States, namely The U.S. Coast Guard and the U.S. Navy. They have been are, and will remain complementary. They are not competitors. The Coast Guard has a basket of traditional duties, a collection expanding in variety, quantity, and quality of challenge. the terms by which and ways in which they can best complement each other are: (1) Insofar as practicable, the Navy should leave coast guarding to the Coast Guard. If naval warships happen to be in the right place at the right time and have no truly urgent and stressful national-defense missions to perform, then by all means let them contribute to security at sea in its fullest and broadest sense. (2) the Navy and Coast Guard have fought as a national fleet (43 The Coast Guard should be recapitalized by rapid implementation of its planned Integrated Deepwater System (IDS). (4) as an armed service, the Coast Guard should relocate to the Department of Defense.³⁶

Apart from the United States, China, as the United States' "primary strategic competitor"³⁷, also has a good Maritime Police. The Maritime Police, called "China Coast Guard/CCG" is a national administrative agency tasked with safeguarding maritime rights and interests and enforcing the law on the sea. It has branches and directly subordinate bureaus in coastal regions according to administrative division and task areas, and also has provincial and municipal bureaus and local workstations according to local jurisdiction. A deployment layout covering all terrains and all waters under Chinese jurisdiction is primarily in shape. CCG will stay focused on hotspots and tough issues, intensify regular patrol and regulation, ramp up the clampdown, and implement the "zero tolerance" policy on illegal and criminal activities, so as to safeguard maritime security and stability and contribute to ensuring the beauty and harmony at sea. China Coast Guard conducted all-round, incessant patrols in key sea areas and along main routes.³⁸ the China Coast Guard may be a tool for de-escalation, or at least containment of tensions.³⁹

CCG possessed the small cutter Type 218 (130 tons) and the Seal HP1500- 2 high-speed patrol craft. The primary mission of the Maritime Police was fighting crimes in territorial waters. The "building China into a maritime power" statement impacted the development of China's maritime security policy in significant ways. One such effect was that sifts towards the integration of maritime law enforcement agencies accelerated—something that had long been considered a daunting task. Vice Premier Li Keqiang who visited SOA in February 2013 underscored this sentiment: "maritime law enforcement agencies must be integrated scientifically, and a comprehensive law enforcement must be strengthened. Under the CCG Department, the CCG Headquarter and the CCG Command Center were established. It was determined that they would be responsible for drafting maritime law enforcement mechanisms and measures, proposing various regulations, coordinating the joint command of the maritime law enforcement."⁴⁰

³⁵ Eka Martiana Wulansari, "Penegakan Hukum Di Laut Dengan Sistem Single Agency Multy Tasks," *Rechts Vinding: Media Pembinaan Hukum Nasional*, 2014, https://rechtsvinding.bphn.go.id/jurnal_online/PENEGAKAN_HUKUM_DI_LAUT_DENGAN_SISTEM_SINGLE_AGENCY_MULTY_TASKS.pdf.

³⁶ Colin S. Gray, "The Coast Guard and Navy," *Naval War College Review* 54, no. 3 (2001), <https://digital-commons.usnwc.edu/nwc-review/vol54/iss3/9/>.

³⁷ Yu Minyou and Ni Yao, "Law Enforcement in the Implication of Blue Cooperation – A Reflection of China," *Marine Policy* 163 (2024): 106080, <https://doi.org/10.1016/j.marpol.2024.106080>.

³⁸ China Coast Guard, "China Coast Guard Holds Interview on Maritime Law Enforcement," China Coast Guard, 2021, https://www.ccg.gov.cn/mhenu/news_release/202405/t20240516_2222.html.

³⁹ Douglas Guilfoyle and Edward Sing Yue Chan, "Lawships or Warships? Coast Guards as Agents of (in)Stability in the Pacific and South and East China Sea," *Marine Policy* 140 (2022): 105048, <https://doi.org/10.1016/j.marpol.2022.105048>.

⁴⁰ Masayuki Masuda, "China's Maritime Strategy and Maritime Law Enforcement Agencies: Quest for a Maritime Power," The National Institute for Defense Studies Japan, accessed November 25, 2024, https://www.nids.mod.go.jp/english/publication/joint_research/series10/pdf/04.pdf.

In particular, Chinese fishing fleets reportedly have been frequently escorted by the China Coast Guard being empowered to lead patrolling activities in the contiguous zone and territorial waters China claims in the South China Sea.⁴¹ The China Coast Guard exercises law enforcement authority as stipulated for public security organs, particularly in managing marine fishery resources. It has established coordination mechanisms with the Supreme People's Procuratorate, Supreme People's Court, and various ministries, including the Ministry of Public Security, Ministry of Natural Resources, Ministry of Ecology and Environment, Ministry of Agriculture and Rural Affairs, and the General Administration of Customs.⁴²

3.2. Procedures for Legal Enforcement Against Foreign Vessels Conducting IUU Fishing in Indonesian FMA based on Single Agency Multi-Tasks

Article 71(1) of Law Number 31 of 2004, as amended by Law Number 45 of 2009 on Fisheries, establishes fisheries courts to handle criminal offenses in fisheries. These courts, located within the general judicial environment at district courts, were first set up in North Jakarta, Medan, Pontianak, Bitung, and Tual. The fisheries court specifically deals with criminal acts in fisheries committed by foreign nationals in Indonesia's Fisheries Management Area. While it operates as a specialized court, it follows the Criminal Procedure Code (Law No. 8 of 1981), unless specified otherwise by the Fisheries Law. The criminal justice process in fisheries courts mirrors that of general courts, including:

3.2.1. Preliminary Investigations

An investigation is a systematic process conducted by an investigator to identify and scrutinize incidents suspected of constituting a criminal offense, such as illegal fishing. The primary goal of this investigation is to ascertain whether a formal inquiry can be initiated in line with the Criminal Procedure Code. In fulfilling their responsibilities, investigators are empowered with specific authorities. They can receive reports or complaints from individuals regarding illegal fishing offenses, gather pertinent information, and collect evidence related to the suspected crime. Furthermore, investigators have the authority to command suspected foreign vessels to halt their operations, conduct inquiries, and verify the accuracy and completeness of their documentation. They are also authorized to undertake any other necessary actions as stipulated by relevant legal provisions to ensure comprehensive enforcement of the law.

3.2.2. Full Investigation

Investigators in the field of fisheries are authorized to: Receive a report or complaint from a person about a criminal offense in the field of fisheries; Calling and examining suspects and/or witnesses to be heard; Bringing and confronting a person as a suspect and/or witness to be heard; Searching fisheries facilities and infrastructure suspected to be used in committing fisheries criminal offense; Stop, examine, arrest, bring, and/or detain vessels and/or persons suspected of committing criminal offense in the field of fisheries; Checking the completeness and validity of fisheries business documents; Photographing suspects and/or evidence of criminal acts in the field of fisheries; Bringing in experts needed in relation to criminal offenses in the field of fisheries; Make and sign the minutes of examination; To confiscate the evidence used and/or the result of criminal offense; Conduct termination of investigation; Take other actions that can be legally accounted for.

The investigator as referred to in Article 73 shall notify the commencement of investigation to the public prosecutor no later than 7 (seven) days from the discovery of a criminal offense. For the purpose of the investigation, the investigator may detain the suspect for a maximum of 20 (twenty) days and may be extended by 10 (ten) days. Then the fisheries investigator makes an official report on the implementation of the action and submits the results of the investigation to

⁴¹ Hong Kong To Nguyen, "Law and (Dis)Order in the South China Sea: Analyzing Maritime Law-Enforcement Activities in 2010–22," *Asia Policy* 18, no. 2 (2023): 127–164, <https://doi.org/10.1353/ASP.2023.0027>.

⁴² China Coast Guard, "China Coast Guard Holds Interview on Maritime Law Enforcement."

the public prosecutor no later than 30 (thirty) days from the notification of the commencement of the investigation.

Investigation is conducted by a certain institution whose duties and responsibilities are specifically in the field of fisheries. Fisheries criminal cases have their own court, but the settlement still refers to the Criminal Procedure Code. Countermeasures against illegal fishing in the Exclusive Economic Zone are contained in the provisions of UNCLOS 1982 in the form of division of types of supervision, namely, port state control (supervision by port state), flag state control (supervision by flag state), and coastal state control (supervision by coastal state).

3.2.3. Shakedown

According to Article 1, Point (17) of the Criminal Procedure Code, a shakedown refers to an investigator's action of boarding a vessel to conduct an examination, seizure, or arrest. Investigators may conduct a search of a vessel by presenting a search warrant issued by the head of the local district court. However, in urgent and exceptional circumstances where immediate action is necessary and obtaining prior authorization is not feasible, fisheries investigators are permitted to conduct a search without a warrant. Furthermore, under Article 111(1) of the United Nations Convention on the Law of the Sea (UNCLOS) 1982, if a foreign vessel refuses inspection and attempts to flee, fisheries investigators may engage in hot pursuit if there is reasonable suspicion of illegal activity. Investigators have the authority to issue a warning for the vessel to stop. If the warning is ignored, they may disable the vessel to prevent escape. Once captured, the vessel is seized and handed over to the relevant authorities for legal action. The right of hot pursuit extends into the Exclusive Economic Zone (EEZ) but must cease if the vessel enters its own country's territorial waters or the EEZ of a third country. An example of this enforcement in practice is the pursuit and arrest of two Vietnamese vessels in Indonesia's EEZ near Natuna.⁴³

3.2.4. Arrest

According to Article 18 of the Criminal Procedure Code, arrest is an investigative action involving the temporary restriction of a suspect's or defendant's freedom when sufficient evidence exists to support an investigation, prosecution, and/or trial. The arrest must be conducted in accordance with the legal procedures outlined in the statute. The execution of an arrest requires investigators to present an official assignment letter and issue an arrest warrant to the suspect. This warrant must include the suspect's identity, the reason for the arrest, a brief description of the alleged crime, and the location of the examination. However, in cases where a suspect is caught red-handed, fisheries investigators are authorized to make an immediate arrest without a warrant. In such instances, the arresting officer must promptly hand over the suspect and any related evidence to the nearest investigator or assistant investigator.

3.2.5. Detention

According to Article 1, Point (21) of the Criminal Procedure Code, detention refers to the placement of a suspect or defendant in a designated facility by an investigator, public prosecutor, or judge based on a formal decision. Furthermore, Article 20 of the Criminal Procedure Code states that, for the purposes of investigation, prosecution, and judicial examination, an order for detention or continued detention may be issued against individuals strongly suspected of committing, attempting to commit, or aiding in an illegal fishing offense. This decision must be based on sufficient evidence and justified by concerns that the suspect or defendant may flee, destroy or tamper with evidence, or reoffend. In such cases, the captain and crew of the vessel involved may be subject to detention if sufficient evidence exists to support their involvement in the offense.

⁴³ Aseanty Pahlevi, "Peneggelaman Kapal Asing, Bukti Indonesia Serius Perangi Illegal Fishing," Mongabay : Situs Berita Lingkungan, 2015, <https://www.mongabay.co.id/2015/10/20/peneggelaman-kapal-asing-bukti-indonesia-serius-perangi-illegal-fishing/>.

3.2.6. Confiscation

According to Article 1, Point (16) of the Criminal Procedure Code, confiscation refers to a series of actions undertaken by investigators to seize and/or place under their control movable or immovable, tangible or intangible objects for use as evidence in investigations, prosecutions, and trials. In the context of fisheries law enforcement, confiscation may involve fishing gear, caught fish, and vessels used in illegal fishing activities. Confiscation may only be carried out by investigators with prior authorization from the head of the local district court. However, in urgent and exceptional circumstances where immediate action is required, and obtaining prior authorization is not feasible, fisheries investigators are permitted to conduct confiscation without a court permit.

3.2.7. Prosecution

According to Article 1, Point (7) of the Criminal Procedure Code, prosecution in illegal fishing cases is carried out by a legal institution within the prosecutor's office, known as the public prosecutor. Prosecution refers to the actions of the public prosecutor in submitting a criminal case to the authorized district court, in accordance with the applicable legal provisions. The case is then examined and adjudicated by a judge in a court session, following the procedures outlined in the Criminal Procedure Code. Furthermore, Article 75, Paragraph (1) of Law No. 45 of 2009 on Fisheries stipulates that the prosecution of criminal offenses in the fisheries sector is conducted by a public prosecutor appointed by the Attorney General.

3.2.8. Trial and Judgments

The legal process for a criminal offense concludes once the court has rendered a verdict. This stage determines the guilt or innocence of the defendant. According to Article 77 of Law No. 31/2004 on Fisheries, court proceedings in illegal fishing cases must adhere to the applicable procedural law. However, trials for illegal fishing cases differ from ordinary criminal trials, as they fall under the jurisdiction of special courts. Judges presiding over these cases include both career judges and ad hoc judges. Article 78 of Law No. 31 of 2004 on Fisheries stipulates that the panel of judges in illegal fishing cases consists of two (2) ad hoc judges and one (1) career judge.

3.2.9. Execution of Verdict

After the judge determines the verdict, the public prosecutor then carries out the execution of the judge's *incracht* verdict. In the case of illegal fishing committed in Indonesian waters, both the ship owner, captain, and crew will be punished with criminal penalties and fines. In addition, the vessel used for illegal fishing will be sunk and/or burned. In the case of illegal fishing conducted in the EEZ, only administrative sanctions will be imposed and the vessel and crew will be released immediately after paying a reasonable bond as stipulated in Article 73 UNCLOS 1982. Execution will be carried out by the Public Prosecutor. Under the Single Agency Multi-Task system, BAKAMLA is the sole authority for law enforcement, handling supervision, investigation, arrest, and detention of foreign vessels involved in IUU fishing. This system optimizes the capabilities of various agencies through synergy, while maintaining BAKAMLA command for operational execution. BAKAMLA as the chief commander of the collective effort to secure the sea. Even if it only absorbs some of the collective authority from other agencies, it will harmonize operations for better results.⁴⁴

4. Conclusion

The Single Agency Multi-Task (SAMT) approach addresses the issue of overlapping law enforcement against foreign vessels engaged in Illegal, Unreported, and Unregulated (IUU) fishing in Indonesian waters. SAMT centralizes authority under the Marine Security Agency

⁴⁴ Arie Afriansyah, Christou Imanuel, and Aristyo Rizka Darmawan, "Nurturing Hero or Villain: BAKAMLA as the Indonesian Coast Guard," *Politics and Governance* 12 (2024): 1–12, <https://doi.org/10.17645/pag.7806>.

(BAKAMLA) and requires an integrated, single-command system. Effective implementation of SAMT necessitates legal support, including amendments to Law No. 32 of 2014 to clearly define BAKAMLA's role and strengthen its authority in maritime law enforcement.

Under the SAMT system, law enforcement against foreign vessels involved in IUU fishing operates under a unified command led by the BAKAMLA. Fisheries surveillance vessels conduct various enforcement activities, including surveillance, pursuit, searches with warrants, arrests, detentions, and the confiscation of evidence or illicit gains. Following these actions, prosecution is carried out by public prosecutors in accordance with Law on Fisheries. Cases are adjudicated in special courts with both career and ad hoc judges. Upon the issuance of a final court ruling, the public prosecutor executes the decision within their legal authority.

Conflicts of Interest Statement

The authors state that there is no conflict of interest in the publication of this article.

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