

Article

# Law Enforcement Against the Criminal Acts of Lobster Seed Smuggling in West Tanjung Jabung Regency (Study of Case Register Decision Number: 144/Pid.Sus/2023/Pn.Klt)

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**Abstract:** Lobster is one of Indonesia's marine resources that has high economic value and is very important for the country's economy, but excessive lobster fishing and smuggling of lobster seeds have caused a decrease in the productivity of marine resources and significant state losses, so effective law enforcement efforts are needed to protect Indonesia's marine resources from these illegal acts. The problem in this study is how the law is enforced by the West Tanjung Jabung Police against the crime of smuggling lobster seeds (Study of Case Register Decision Number: 144 / Pid.Sus / 2023 / Pn Klt ), and what factors are the causes. The research method used is normative juridical, a type of legal research that focuses on the analysis and interpretation of legal norms that apply in a legal system. The study shows that the three defendants in the crime of smuggling lobster seeds were sentenced to 2 years in prison and a fine of IDR 5,000,000 based on Article 27 number 26 Article 92 of Law Number 6 of 2023 concerning Job Creation. The factors causing this crime include internal factors (economic and education) and external factors (politics, environment, and lack of security). Suggestions from the study are: Reviewing the lobster seed export policy. Improving coordination between law enforcement officers and community participation. Improving the capacity and competence of law enforcement personnel.

**Keywords:** Criminal act, Law Enforcement, Lobster Seed Smuggling.

## 1. Introduction

Source Power natural as well as the ecosystem that exists in Indonesia has role important in support life society . Therefore , it is very necessary sustainable , harmonious management and utilization , as well as equivalent For increase prosperous life for Indonesian society and the people man in a way overall in a way area . Sector fisheries and maritime affairs own contribution Enough crucial in the stages improvement economy national , especially in the creation of field work , improve income , and increase level life society . So that required sustainable and resource - based management public For maintain sustainability source Power maritime as well as environment . Because of this it is for the sake of achieving use source Power in a way optimal effectiveness and sustainable , must optimized role supervision fishery as well as involvement public in the matter supervision fishery effective and efficient maritime affairs .

One of cracked Power Indonesia's fishery resources include lobster . The lobster business presents a highly profitable opportunity due to its rising prices. High international market demand for lobster has attracted many fisheries businesses to capitalize on this opportunity. However, this situation has also fueled unhealthy business practices, including smuggling. Furthermore, high demand for lobster has also created new demand from other countries, specifically for Indonesian lobster seeds .

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Factors such as poorly controlled access to areas, high global demand for fisheries, and personal motivation for illegal profit can trigger an increase in smuggling. Smuggling remains a serious problem in Indonesia and requires appropriate action. However, the lack of firmness and certainty in law enforcement allows various parties to engage in illegal lobster seed smuggling. The seafood industry, with its significant potential and promising profits, makes smuggling easier and more lucrative.

Lobster seed smuggling is a criminal act that is clearly stated in the Fisheries Law, namely "Law No. 31 of 2004 which was later amended by Law No. 45 of 2009 concerning Fisheries, specifically in Article 88 and Article 92".

Article 88: "Anyone who knowingly brings in, takes out, holds, distributes, and/or maintains fish that are detrimental to the community, fish farming, fish resources, and/or the environment of fish resources into and/or outside the fisheries management area of the Republic of Indonesia, can be punished with a maximum prison sentence of 6 (six) years and a maximum fine of Rp. 1,500,000,000.- (one billion five hundred million rupiah).

Article 92: "Anyone who knowingly carries out a fishing business in the fisheries management area of the Republic of Indonesia without having a Fisheries Business License (SIUP) can be punished with a maximum prison sentence of 8 (eight) years and a maximum fine of IDR 1,500,000,000 (one billion five hundred million rupiah)".

The trade in lobster larvae (*benur*) is considered a crime under applicable law. Lobster larvae smuggling causes both material and non-material losses to the state. Material losses reach hundreds of billions of rupiah, and non-material losses can lead to a decline in lobster populations in Indonesian waters, particularly in Tanjung Barat Regency.

## 2. Proposed Method

The method used is descriptive analytical research. This method is used to describe the research object in detail and analyze it based on legal principles, regulations, and legal theories. The type of research used is normative juridical. Normative juridical research is a type of legal research that focuses on the analysis and interpretation of legal norms that apply in a legal system. This research aims to understand and explain the meaning, scope, and implications of these legal norms. In normative juridical research, researchers will analyze legal texts, such as laws, regulations, and court decisions, to understand how these legal norms are applied and interpreted.

## 3. Results and Discussion

### Law Enforcement by the West Tanjung Jabung Police Against the Crime of Lobster Seed Smuggling (Study of Case Register Decision Number: 144/Pid.Sus/2023/Pn Klt)

West Tanjung Jabung Police are enforcing the law against the crime of smuggling lobster seeds. At the trial held at the Kuala Tungkal District Court, the three defendants were charged by the Public Prosecutor with a single charge, namely Article 27 number 26 Article 92 of Law No. 6 of 2023 concerning the Determination of Perpu No. 2 of 2022 concerning Job Creation into Law in conjunction with Article 55 Paragraph (1) point 1 of the Criminal Code. with the following elements:

1. Each person

According to the provisions of Paragraph 2, Article 1 Point 14 of Law Number 6 of 2023 concerning the Determination of Government Regulation in Lieu of Law Number 2 of 2023 concerning Job Creation into Law, it is stated that Every Person is an individual or corporation, what is meant by Every Person is every person who is capable of being responsible for his actions criminally, in this case is Defendant I "ASS", Defendant II "DP", and Defendant III "WA" whose identities are all as stated in the Public Prosecutor's Indictment Case Register Number: PDM-34 / KTKAL / 08/2023 Dated August 16, 2023. Based on the Indictment and Demands of the Public Prosecutor, then the examination of the identity of the Defendants can be justified that those being tried at the trial at the Kuala Tungkal District Court are indeed the three defendants whose identities have been stated so that no

error in persona occurs, then Based on the observations of the Panel of Judges, the defendants were seen following the trial process well, answering questions clearly, and showing full awareness during the trial process, the Defendants were deemed not to have mental disorders, so that they have the ability to be responsible for their actions. Therefore, they are considered as legitimate legal subjects and fulfill the element of "every person" in the law. ;

2. Intentionally conducting a fisheries business without a business permit in the Fisheries Management Area of the Republic of Indonesia.

Meaning of intentionally / *opzettelijk* as *willens en weten* or as wanting and knowing, where in this case it is wanting something unlawfully and knowing that it is a crime. Based on Article 1 of the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia No. 18/Permen-KP/2014 Concerning the Fisheries Management Area of the Republic of Indonesia, hereinafter abbreviated as WPPNRI, is a fisheries management area for fishing, fish farming, conservation, research, and fisheries development which includes inland waters, archipelagic waters, territorial seas, additional zones, and the exclusive economic zone of Indonesia, then based on Article 2 WPPNRI is divided into 11 (eleven) areas, one of which includes the waters of the Karimata Strait, the Natuna Sea and the South China Sea; Based on the statements of witnesses, expert statements, written evidence and statements of the Defendants connected with the evidence, legal facts were obtained that the Defendants were arrested by the Joint Team of the West Tanjung Jabung Police on Wednesday, July 12, 2023 while sterilizing clear lobster seeds which, based on the *locus delicti* in the *a quo* case, were found to have entered the Jambi Regional Waters, namely the Republic of Indonesia State Fisheries Management Area (WPPN-RI) 711.

Based on the provisions of Paragraph 2, Article 1 Point 22 of Law Number 6 of 2023 concerning the Determination of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, it is stated that Fisheries Business is an activity carried out with a Fisheries business system which includes pre-production, production, post-production, processing, and marketing, then based on Article 26 which reads:

Every person who carries out a fishery business in the fishery management area of the Republic of Indonesia must have a business permit from the Central Government or Regional Government, which includes fishing, fish cultivation, fish transportation, fish processing, and fish marketing, in accordance with the applicable authority and provisions. then based on Article 7 Number 1 The capture and/or removal of lobsters from Indonesian waters can only be carried out by fulfilling the following applicable provisions :

- a. Lobsters that are not in egg-laying condition and meet certain sizes, Catching and/or removing lobsters from Indonesian waters can only be done if the lobster has a carapace length of more than 6 cm and weighs more than 150 grams per tail, for the types of sand lobster (*Panulirus homarus*), rock lobster (*Panulirus penicillatus*), batik lobster (*Panulirus longipes*), and Pakistani lobster (*Panulirus polyphagus*).
- b. Lobsters that can be caught and/or removed from Indonesian waters must meet the requirements of not being in an egg-laying condition and must have the following dimensions: carapace length of more than 8 cm and weight of more than 200 grams per tail for the lobster species (*Panulirus spp.*).

Based on the suitability of the witnesses' statements and the statements of the Defendants linked to the evidence, it was found that the legal facts were that the defendants distributed clear lobster seeds, but the Defendants could not show the SIUP (Fisheries Business License) or other permits related to clear lobster seeds, so that they have fulfilled the elements of conducting a fishery business in the form of transportation in the Fisheries Management Area of the Republic of Indonesia (WPPN-RI) 711 without a business license. So that the element of "having intentionally in the Fisheries Management Area of the Unitary State of the Republic of Indonesia carried out a fishery business that does not have a business license" is considered to have been fulfilled according to the law;

3. Those who do it, those who order it to do it, and those who participate in doing it;

What is meant by the element of "Person who commits" (pleger) in criminal law is: A person or individual who alone commits a criminal act and fulfills all the elements of a criminal event. While "Person who orders" (doen plegen) is: A person who does not directly commit a criminal act, but orders another person (plegen) to carry out the criminal act. In this connection there are at least two people involved, namely: the person who orders (doen plegen) and the person who is ordered (plegen). So, in this case, the person does not directly commit a crime, but orders or tells another person to do the act.

What is meant by a person who participates (medepleger) is a person who cooperates with another person, namely at least 2 (two) people or more who all commit a criminal act; based on the previous considerations, it is proven that the Defendants have their respective roles, namely Defendant I played a role in providing vehicles and transporting clear lobster seeds to West Tanjung Jabung, then Defendant II played a role as a driver who brought clear lobster seeds from Bandar Lampung to West Tanjung Jabung and Defendant III played a role as a driver who brought clear lobster seeds from Bengkulu to West Tanjung Jabung so that according to the Panel of Judges, the actions of the defendants contained elements of awareness and cooperation between the person who ordered (doen plegen) and the person who was ordered (plegen) to carry out the crime. This shows that there was an agreement and conscious cooperation to carry out the criminal act together, so that this third element has been fulfilled by the actions of the Defendants.

In the decision-making process, the judge must pay attention to two things, namely: Juridical considerations and non-juridical considerations. Juridical considerations are based on legal facts revealed in the trial process, such as: the indictment from the Public Prosecutor, statements given by the defendant and witnesses, evidence, and relevant articles in criminal law regulations. While non-juridical considerations are the judge's considerations in deciding a case based on factors outside the law, for example the defendant's background. In enforcing the law in this case, the defendants' actions have damaged the lobster breeding in Indonesian waters;

If we pay attention to non-juridical elements, it can be seen from the background of the defendant's circumstances, the defendant's condition which can be taken into consideration as a mitigating circumstance or a circumstance which can reduce the level of guilt or punishment for the defendant, such as

- The defendants have responsibilities as heads of families.
- The defendants showed polite and respectful behavior during the trial.
- The defendants had no previous criminal records.
- The defendants showed genuine remorse for their actions, admitted their mistakes, and promised not to repeat them.

Because all elements of the single indictment of the Public Prosecutor have been fulfilled, the three defendants are declared to have been legally and convincingly proven guilty of committing a crime. "Intentionally in the Fisheries Management Area of the Republic of Indonesia, they carried out a fishing business that did not have a business permit together" as in the single indictment, the defendants were sentenced to imprisonment for 2 (two) years each and a fine of Rp. 5,000,000.00 (five million rupiah) each with the provision that if the fine is not paid, it will be replaced with imprisonment for 3 (three) months each .

### **Factors Causing the Crime of Lobster Seed Smuggling**

The strategic waters of West Tanjung Jabung and its proximity to the waters of other neighboring regions and countries make it vulnerable to smuggling crimes (lobster seeds), which are a superior commodity with high economic value and are the target of fishermen's catch. One type of lobster that has high value is the Pearl Lobster or Spiny Lobster, which has physical characteristics of a greenish blue color on the shell and large and small bright yellow spots, making it one of the main targets of smugglers. With a high selling value, pearl lobsters are targeted by smugglers to be sold on the black market .

Lobster seed smuggling is a transnational crime involving the shipment of lobster seeds across national borders. The prohibition on the shipment of lobster seeds is clear, yet the activity continues. Therefore, it is necessary to investigate the factors driving this violation. These factors include:

### 1) Internal Factors

Includes economic factors as well as educational factors

#### a. Economic Factors

Financial instability and poverty are the primary drivers for communities, especially those living in coastal areas, to engage in lobster seed smuggling as a means of meeting their daily needs. These economic factors often lead communities to rely on lobster seed smuggling for their livelihoods, despite their awareness of the risks and legal consequences associated with such activities, especially given the high poverty rate, limited employment opportunities, low quality human resources (HR), and inadequate infrastructure .

#### b. Education factors

From the results of the interview conducted with Mr. Rafli Fadilah Achmad , as the Judge of the Kuala Tungkal District Court who handled case Number 144/Pid.Sus/2023/Pn Klt .

"Education plays a crucial role in influencing someone to commit smuggling. A low level of knowledge about social rules and norms can prevent someone from understanding the consequences of their actions. Education provides knowledge and understanding of what is right and wrong, and helps someone make informed decisions. Thus, education can help prevent someone from committing crimes, including smuggling. Furthermore, education can also help someone understand their own strengths and weaknesses, enabling them to make wiser decisions. "

### 2) External Factors

#### a. Political Factors

Before the regulation prohibiting the capture and shipment of lobster seeds, this action was not considered a crime and was often carried out by the community, but after the regulation was implemented, the act of sending lobster seeds became illegal and was considered a crime.

#### b. Environmental Factors

Environmental factors can also influence the crime of lobster seed smuggling, as individuals living in safe environments are more likely to engage in smuggling. Environmental factors contributing to this crime include the need for connection with others or the environment, a lack of self-control, and active interaction with people working in the lobster sales sector.

#### c. Lack of Guarding Factor

The lack of strict security in certain areas, especially at certain hours, provides an opportunity or chance for perpetrators of the crime of smuggling lobster seeds to carry out their actions freely and without fear, so that they can easily smuggle lobster seeds from one area to another.

## 4. Conclusions

Law enforcement by the West Tanjung Jabung Police against the crime of lobster seed smuggling (Case Register Decision Study Number: 144/Pid.Sus/2023/Pn Klt) was carried out effectively, where the lobster seed smuggling case submitted to the trial against three defendants with the initials "ASS", Defendant "DP" and Defendant "WA" was completed. In the trial held, the three defendants were charged by the Public Prosecutor with a single indictment, namely Article 27 number 26 Article 92 of Law Number 6 of 2023 concerning the Determination of Perpu Number 2 of 2022 concerning Job Creation into Law Jo. Article 55 Paragraph (1) 1 of the Criminal Code. As in the single indictment of the Public Prosecutor, the panel of judges sentenced the defendants to 2 (two) years imprisonment each and a fine of Rp. 5,000,000.00 (five million rupiah) each with the provision that if the fine is not paid it will be replaced with imprisonment for 3 years each. (three months;

From the discussion of the factors causing the crime of lobster seed smuggling in Indonesia, it can be concluded that: Internal factors consist of economic factors and educational factors. External factors consist of political factors, environmental factors and lack of supervision.

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