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COMPARATIVE TREATISE OF REGULATIONS ON FISHERIES CRIMINAL ACTS IN INDONESIA AND THE REPUBLIC OF CHINA

TRATADO COMPARATIVO DAS REGULAMENTAÇÕES SOBRE ATOS CRIMINAIS NA PESCA NA INDONÉSIA E NA REPÚBLICA DA CHINA

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Abstract
The fisheries sector faces serious challenges in the form of environmentally destructive fishing practices, the use of illegal fishing gear, and overexploitation that threatens the sustainability of fish resources. This study aims to analyze the comparison of regulations and law enforcement against fisheries crimes in Indonesia and the Republic of China in order to identify similarities, differences, and policy implications for strengthening fisheries criminal law in Indonesia. This study uses a socio-legal approach with a comparative method, which views fisheries law as a social practice closely related to state policy, law enforcement mechanisms, and the socio-economic conditions of fishing communities. Analysis of legislation is still carried out as part of legal policy mapping, but is combined with a study of the practice of law enforcement and implementation. Research data was obtained through a review of Indonesian and Chinese fisheries regulations, court decisions related to fisheries crimes, law enforcement reports, as well as statistical data and official publications representing the empirical conditions of fisheries crime handling in both countries. The results of the study show that Indonesia tends to apply a cumulative criminal sanction system in the form of imprisonment and fines, while the Republic of China uses a

Resumo
O setor pesqueiro enfrenta sérios desafios, como práticas de pesca ambientalmente destrutivas, o uso de equipamentos de pesca ilegais e a sobre-exploração, que ameaçam a sustentabilidade dos recursos pesqueiros. Este estudo visa analisar a comparação entre as regulamentações e a aplicação da lei contra crimes pesqueiros na Indonésia e na República da China, a fim de identificar semelhanças, diferenças e implicações políticas para o fortalecimento do direito penal pesqueiro na Indonésia. Este estudo utiliza uma abordagem sociojurídica com método comparativo, que considera o direito pesqueiro como uma prática social intimamente ligada às políticas estatais, aos mecanismos de aplicação da lei e às condições socioeconômicas das comunidades pesqueiras. A análise da legislação ainda é realizada como parte do mapeamento de políticas jurídicas, mas é combinada com um estudo da prática de aplicação e implementação da lei. Os dados da pesquisa foram obtidos por meio da revisão das regulamentações pesqueiras indonésias e chinesas, decisões judiciais relacionadas a crimes pesqueiros, relatórios de aplicação da lei, bem como dados estatísticos e publicações oficiais que representam as condições empíricas do tratamento de crimes pesqueiros em ambos os

cumulative-alternative system that provides greater flexibility to judges. Another difference lies in Indonesia's tendency to give special treatment to small-scale fishermen, while the Republic of China has stricter regulations regarding the protection of endangered fish species. This study recommends strengthening species protection regulations in Indonesia and developing differentiated policies for small-scale fishermen to improve the effectiveness of combating fisheries crime.

Keywords: Fisheries Crimes. Comparative Law. Criminal Sanctions. Indonesia. Republic of China.

países. Os resultados do estudo mostram que a Indonésia tende a aplicar um sistema de sanções penais cumulativas, na forma de prisão e multas, enquanto a República da China utiliza um sistema cumulativo-alternativo que oferece maior flexibilidade aos juízes. Outra diferença reside na tendência da Indonésia de dar tratamento especial aos pescadores artesanais, enquanto a República da China possui regulamentações mais rigorosas em relação à proteção de espécies de peixes ameaçadas de extinção. Este estudo recomenda o fortalecimento das regulamentações de proteção de espécies na Indonésia e o desenvolvimento de políticas diferenciadas para pescadores artesanais, a fim de melhorar a eficácia do combate aos crimes relacionados à pesca.

Palavras-chave: *Crimes Relacionados à Pesca. Direito Comparado. Sanções Penais. Indonésia. República da China.*

1 INTRODUCTION

The waters within the sovereignty and jurisdiction of the Unitary State of the Republic of Indonesia possess vast and diverse fish resource potential. This potential encompasses Indonesian territorial waters, the Indonesian Exclusive Economic Zone, and the open seas accessible under international law. Fish resources constitute a natural resource that can be utilized to the greatest extent for the welfare of the Indonesian people, in accordance with the mandate of Pancasila and the 1945 Constitution of the Republic of Indonesia. Management of fish resources not only contributes to the economy through the State Budget and Regional Budgets, but also provides employment for millions of Indonesians who depend on the fisheries sector. Utilization of fish resources must be carried out optimally, taking into account environmental carrying capacity and the preservation of marine ecosystems to ensure the sustainability of economic benefits for future generations.

Indonesia is the second largest producer of wild sea fisheries in the world after the People's Republic of China, contributing 25% of global fisheries demand. The export value of Indonesia's fisheries sector reached USD 6.24 billion in 2022, with the main

commodities including shrimp, swimming crab, squid, cuttlefish, octopus, and skipjack tuna. The fisheries sector contributes significantly to national food security, with fish contributing 50% of the total animal protein consumed by the Indonesian people. Annual fish consumption in Indonesia shows a consistent upward trend in line with population growth, increasing from 30.4 kg per capita in 2010 to 55.9 kg per capita in 2019. Indonesia's fisheries sector production consists of wild sea fisheries, which contribute 57% of total seafood production, and the remainder comes from the aquaculture sector.

The fisheries sector faces various serious challenges that threaten the sustainability of fish resources and harm national interests. Environmentally damaging fishing practices, the use of prohibited fishing gear, and the overexploitation of fish resources have led to a decline in fish stocks in various Indonesian waters. Fish theft by foreign vessels and other illegal fishing practices cause significant economic losses to the state and threaten the sustainability of national fisheries businesses. Legal issues in the fisheries sector also include weak law enforcement, overlapping authority between agencies, and criminal sanctions that have not provided a maximum deterrent effect for perpetrators of fisheries crimes. This situation demands a strong, comprehensive criminal law enforcement system capable of providing legal certainty for all parties involved in fisheries resource management.

This is evident in the slowdown in the growth of Indonesian open sea fisheries since 2017, with growth not exceeding 6% per year, in line with the 2017 report of the Ministry of Maritime Affairs and Fisheries, which stated that 75% of fishing areas were fully exploited or overexploited. The productivity of Indonesia's fisheries sector remains low compared to other countries in the Asia Pacific region, where in 2018, Indonesia only generated an export value of USD 4.9 million, far below Vietnam, which reached USD 9 million, even though Vietnam only has 3% of the total global open sea fish production. The productivity of Indonesia's fish farming sector also lags behind with an average of only 1 ton per farmer, very low compared to Vietnam, which reached 4 tons per farmer, China, with 10 tons per farmer, and Norway which reached 165 tons per farmer. The Indonesian fisheries sector only contributed 2.8% to Gross Domestic Product in 2020, indicating that despite its high production volume, Indonesia has not been able to optimize the economic added value of the fisheries sector compared to its potential.

Indonesia has enacted Law No. 31 of 2004 concerning Fisheries, which was later amended by Law No. 45 of 2009, as the primary legal instrument for the management and enforcement of law in the fisheries sector. This law regulates various criminal provisions prohibiting a number of acts in fisheries activities that can harm the state and damage the sustainability of fish resources. Criminal provisions in the Indonesian fisheries law include a prohibition on the use of explosives, chemicals, and fishing gear that damage the environment, as well as the obligation to have a permit to conduct a fisheries business. The regulated criminal sanctions include imprisonment and fines with a cumulative system aimed at providing a deterrent effect on perpetrators of fisheries crimes. Criminal liability in the Indonesian fisheries law also regulates the involvement of corporations as subjects of criminal law by imposing accountability on corporate managers involved in fisheries crimes.

The Republic of China (RC) is one of the countries in East Asia that relies heavily on the fisheries sector as a key pillar of its national economy. It boasts a thriving fisheries industry, producing hundreds of thousands of metric tons annually, and is one of the largest exporters of fisheries products in Asia. The Republic of China's legal system, a blend of Japanese legal traditions and Continental European civil law, has undergone significant developments in fisheries management and law enforcement. The Republic of China enacted the 2018 Fisheries Act as the legal basis for fisheries management, governing various aspects, from licensing and conservation to criminal provisions for perpetrators of fisheries crimes. The Republic of China's fisheries criminal law enforcement is considered sound and effective compared to other countries in the East Asian region. Therefore, the country's experience can serve as an important reference for Indonesia in improving its fisheries criminal law enforcement system.

Furthermore, the Republic of China is the world's largest producer of offshore fish and a leader in the global fisheries industry, with production far surpassing that of other countries. China excels not only in production volume but also in the productivity of the aquaculture sector, averaging 10 tons per farmer, ten times higher than Indonesia. China's superiority in the fisheries sector is supported by more advanced technology, an organized management system, and significant investment in research and development in the fisheries industry. China's dominant position in the global fisheries market makes it an

important reference in Indonesia's efforts to increase the productivity and added value of the national fisheries sector through downstreaming and modernization programs.

Comparing fisheries criminal law between Indonesia and the Republic of China is important for identifying similarities and differences in the regulation of criminal acts, criminal sanctions, and criminal liability in both countries. The similarities between the two countries lie in the use of administrative legislation containing criminal sanctions to control deviant behavior in the fisheries sector. The main difference lies in the formulation of criminal sanctions: Indonesia adopts a cumulative system that requires simultaneous imprisonment and fines, while the Republic of China adopts a cumulative-alternative system that gives judges the flexibility to impose one or both sanctions simultaneously.

A comparative analysis of fisheries criminal law between Indonesia and the Republic of China can provide new perspectives in efforts to improve the Indonesian fisheries criminal law system. Identification of weaknesses and deficiencies in Indonesian fisheries law can be done by examining the improved regulations in the Republic of China's legal system. An evaluation of the criminal sanctions system and corporate criminal liability can also encourage reform of Indonesian fisheries criminal law to make it more effective in preventing and addressing fisheries crimes. This legal comparison is expected to provide concrete recommendations for both countries to improve the quality of fisheries criminal law enforcement to achieve sustainable and equitable fisheries resource management and optimal benefits for public welfare.

2 RESEARCH METHODS

This study uses a socio-legal approach with a comparative law method, which views law as a social practice that interacts with institutional structures, public policy, and community dynamics. This approach was chosen to understand the regulation of fisheries crimes not only from the perspective of the text of the regulations, but primarily from the way the law is implemented, enforced, and responded to in practice in Indonesia and the Republic of China. Thus, the law is analyzed as law in action, influenced by social, economic, and institutional factors.

In this study, fisheries legislation in both countries is treated as an empirical object of study that reflects the direction of criminal law policy in the fisheries sector, rather than as a basis for prescriptive normative analysis. The main focus of the study is on the relationship between regulatory design, law enforcement mechanisms, and the effectiveness of criminal sanctions in combating fisheries crime. A comparative approach is used to compare regulatory patterns and law enforcement practices in Indonesia and the Republic of China, taking into account the different social and institutional contexts of each country.

The data used in this study consists of secondary data and field data. Secondary data includes fisheries legislation, court decisions related to fisheries crimes, official reports from ministries and law enforcement agencies, fisheries statistics, publications from international institutions, and relevant previous research findings. This data serves to map the policy framework and law enforcement practices that have developed in both countries.

Meanwhile, field data was obtained through a review of law enforcement reports on fisheries crime cases, including illegal fishing, the types of violations that were most prevalent, and the sanctions imposed, as well as through indirect observation of case handling practices based on institutional documentation and field reports that represent the empirical conditions of the fisheries sector. This field data is used to capture the reality of law implementation and to assess the extent to which legal provisions work effectively in a real social context.

Data analysis was conducted using a descriptive-comparative approach from a socio-legal perspective, integrating empirical findings and legal policy analysis. The analysis process focused on mapping law enforcement practices, identifying patterns in the application of criminal sanctions, and comparing Indonesia and the People's Republic of China in their handling of fisheries crimes. The results of the analysis were then used to draw conclusions about the characteristics, effectiveness, and implications of fisheries crime regulations in both countries, so that this study is expected to provide a comprehensive and contextual understanding of fisheries law in practice.

3 RESULTS AND DISCUSSION

1. Regulation of Fisheries Crimes in Indonesia

The utilization of fish resources must be carried out for the greatest prosperity and justice for the interests of the nation and state while still paying attention to the principle of sustainability of fish resources and their environment. Ratification of the United Nations Convention on the Law of the Sea in 1982 through Law Number 17 of 1985 places Indonesia with sovereign rights to utilize, conserve, and manage fish resources in the Indonesian Exclusive Economic Zone and the high seas based on applicable international requirements or standards. The fisheries sector has an important and strategic role in national economic development, especially in increasing the expansion of employment opportunities, income distribution, and improving the standard of living of the nation in general and small fishermen and small fish farmers in particular.

The need for a legal instrument capable of addressing all aspects of fisheries resource management and anticipating developments in legal and technological needs led to the enactment of Law Number 31 of 2004 concerning Fisheries, replacing Law Number 9 of 1985, which was deemed unable to address developments in fisheries development. Law Number 31 of 2004 was amended through Law Number 45 of 2009 to address several weaknesses in fisheries management, bureaucracy, and law enforcement. These changes include increased oversight and law enforcement, a coordination mechanism between investigative agencies in handling fisheries crimes, the application of stricter criminal sanctions and fines, improvements to procedural law, and the expansion of the jurisdiction of the fisheries court.

The Indonesian Fisheries Law regulates fisheries management based on the principles of benefit, justice, partnership, equity, integration, openness, efficiency, and sustainability. Fisheries management is carried out by taking into account the division of authority between the central and regional governments and is supported by fisheries research and development, improved education and training, outreach, fisheries facilities and infrastructure, information systems, and fisheries statistics.

The Indonesian legal system adheres to the Continental European legal system, or civil law, inherited from the Dutch colonial period, where codification is the primary source of law. Codification is an authoritative, comprehensive, and systematic collection

of legal clauses divided into several books or sections that are interrelated and connected to compile specific legal material. Furthermore, the characteristics of administrative penal law indicate that criminal provisions in fisheries law function as administrative law enforcement instruments supported by criminal sanctions to ensure compliance with fisheries resource management regulations. Indonesian law explicitly regulates actions that fall into the category of criminal offenses, as presented in the table, including:

Table 1

Fisheries Crimes in Indonesia Based on Law Number 31 of 2004 in conjunction with Law Number 45 of 2009

No	Chapter	Types of Crimes
1	Article 84 paragraph (1)	Fishing with chemical, biological or explosive substances
2	Article 84 paragraph (2)	The captain/crew of the ship is fishing with prohibited substances
3	Article 84 paragraph (3)	The ship owner/company carries out fishing activities using prohibited materials.
4	Article 84 paragraph (4)	Fish farming with prohibited substances
5	Article 85	Possessing/using prohibited fishing equipment
6	Article 86 paragraph (1)	Pollution and/or damage to fish resources
7	Article 86 paragraph (2)	Cultivating fish that endangers fish resources
8	Article 87	Conservation area violations
9	Article 88	Adding/removing harmful fish
10	Article 89	Handling and processing of fish does not meet requirements
11	Article 90	Import/export of fish without a health certificate
12	Article 91	Using hazardous materials in fish processing
13	Article 92	Fishing business without a Fisheries Business License (SIUP)
14	Article 93 paragraph (1)	Indonesian vessels without a Fishing License (SIPI)
15	Article 93 paragraph (2)	Foreign vessels without SIPI
16	Article 93 paragraph (3)	Indonesian ships do not carry original SIPI
17	Article 93 paragraph (4)	Foreign ships do not carry original SIPI
18	Article 94	Fishing vessels without a Fishing Vessel Permit (SIKPI)
19	Article 94A	Forgery and/or use of fake SIUP, SIPI, and SIKPI
20	Article 95	Building/importing/modifying ships without approval
21	Article 96	Not registering fishing vessels
22	Article 97 paragraph (1)	Foreign ship captains do not store fishing gear in the hold
23	Article 98	The captain does not have a sailing permit
24	Article 100A	Forgery involving officials
25	Article 100B	Criminal acts committed by small fishermen
26	Article 100C	Violation of Article 7 paragraph (2) by small fishermen

Regarding the application of criminal sanctions, Law Number 31 of 2004 in conjunction with Law Number 45 of 2009 adopted two main types of criminal sanctions, namely imprisonment and fines, as law enforcement instruments against perpetrators of fisheries crimes. The imprisonment threatened in the fisheries law varies from the lightest

threat of imprisonment for a maximum of one year to the most severe threat of imprisonment for a maximum of ten years, depending on the level of seriousness and danger posed by the crime. Meanwhile, the threatened fines also show a very wide variation, ranging from a fine of at least one hundred million rupiah to a fine of up to twenty billion rupiah, reflecting the economic losses and environmental damage that can be caused by fisheries crimes.

The threat of a maximum prison sentence of ten years is imposed on the most serious crimes as regulated in Article 84 paragraph (2) and Article 84 paragraph (3) concerning fishing using chemicals, biological materials, or explosives carried out by the captain, ship owner, or owner of a fishing company. The threat of a maximum fine of twenty billion rupiah is imposed on foreign-flagged fishing vessels that carry out fishing in the Indonesian Exclusive Economic Zone without having a Fishing Permit as regulated in Article 93 paragraph (2) and Article 93 paragraph (4) which reflects the government's seriousness in eradicating illegal fishing by foreign vessels.

The Indonesian Fisheries Law also regulates criminal liability not only for individuals as legal subjects but also for corporations that commit fisheries crimes as stipulated in Article 101. According to Article 101, if a fisheries crime is committed by a corporation, the criminal charges and sanctions are imposed on its management with a fine increased by one-third of the sentence imposed. This provision shows that the fisheries law adheres to a conventional model of corporate criminal liability where corporations cannot be held directly accountable but responsibility is transferred to the management or leadership of the corporation that committed the crime.

In essence, criminal liability is a mechanism created to respond to violations of a specific, agreed-upon act. Criminal liability is accountability for crimes committed by individuals. Criminal liability applies to individuals who commit a crime. Criminal liability is essentially a mechanism created by the Criminal Code to address violations of a "contrary agreement" for a specific act.

This model of corporate criminal liability follows the teachings of Article 59 of the Criminal Code, which stipulates that in the case of a criminal act committed by a manager or commissioner of a corporation, the manager or commissioner is prosecuted as the guilty party. The addition of one-third of the fine imposed on corporate managers is intended to increase the sanction, considering that crimes committed within the

corporate sphere are usually carried out in an organized manner and cause greater losses than crimes committed by individuals. This increased sanction for corporations differs from the treatment given to perpetrators from economically disadvantaged groups, who are actually given leniency in the criminal system. This different regulation reflects the principle of distributive justice, where sanctions are adjusted according to the economic capacity and the seriousness of the perpetrator's actions. This difference in criminal treatment is clearly visible in the special provisions governing criminal liability for small-scale fishermen and small-scale fish farmers.

The Indonesian Fisheries Law provides special treatment for small-scale fishermen and small-scale fish farmers in terms of the criminal sanction formulation system as a form of support for economically weak communities. As Article 100B stipulates that fisheries crimes committed by small-scale fishermen or small-scale fish farmers are subject to a maximum prison sentence of one year or a maximum fine of two hundred and fifty million rupiah using the conjunction "or" which indicates an alternative formulation system. This alternative formulation system gives judges the flexibility to impose only one type of punishment, namely imprisonment or a fine according to the condition and economic capacity of the convict without having to impose both simultaneously.

This policy of differentiating the criminal system is based on the consideration that small-scale fishers and small-scale fish farmers generally commit fisheries crimes not out of malicious intent but due to limited knowledge of fisheries regulations or due to economic pressures to meet daily needs. This more humane approach to imposing sanctions on small-scale fishers reflects that fisheries criminal law is not solely oriented towards retribution but also considers aspects of social justice and the sustainability of coastal community livelihoods. The bias towards small-scale fishers and small-scale fish farmers through the formulation of alternative sanctions system demonstrates that fisheries law is not only oriented towards punishment but also considers aspects of social justice and the economic conditions of communities dependent on the fisheries sector.

Thus, corporate criminal liability, while still using a conventional model, has signaled that fisheries businesses cannot hide behind legal entities to avoid criminal sanctions for crimes committed in their business activities. The goal of restoration or recovery is also a consideration in the enforcement of fisheries criminal law, which is not

only oriented towards punishing perpetrators but also towards efforts to restore the environmental and fishery resource damage that has occurred through compensation mechanisms and ecosystem restoration. The entire Indonesian fisheries criminal liability system is designed to create a balance between the protection of fishery resources, the economic interests of fishermen and fisheries business actors, and justice for communities whose livelihoods depend on the sustainability of fishery resources as capital for sustainable national economic development.

4 COMPARISON OF FISHERIES CRIME REGULATIONS IN THE REPUBLIC OF CHINA AND INDONESIA

Quoting the views of Tay Shen Wang, Sistem law The Republic of China is a n g a bun g a n a tau p e rp a du a n from Japanese legal traditions and Civil Law. This condition is based on the development of Taiwanese law in the 20th century which reflects the complex heritage that the Tay Shen Wang termed " one land with two national flags." The Republic of China's legal system was heavily influenced by the Japanese government that ruled Taiwan from 1895 to 1945, and then by the Mainland Chinese government from 1945 to 2000. The legal systems introduced by pre-war Japan and Mainland China are more closely aligned with modern Western individualist and liberal law. Thus, Taiwan has been exposed to Western legal reception through both political influences, which have shaped its unique national legal system.

The characteristics of the civil law system adopted by the Republic of China are reflected in the use of codification as the primary source of law, where statutory regulations serve as the primary reference in dispute resolution and law enforcement. The legal codification in the Republic of China was designed systematically and comprehensively by dividing various areas of law into specific laws that regulate in detail the substance, procedures, and sanctions for violations. The influence of Japanese legal traditions is evident in the structure and formulation techniques of laws and regulations, which prioritize clarity of norms, legal certainty, and effective law enforcement through administrative sanctions supported by criminal sanctions. The legal system of the Republic of China also adopts modern legal principles such as the protection of human rights, due process of law , and the limitation of state authority through a mechanism of

checks and balances, which are characteristic of a democratic state based on the rule of law. The development of this legal system then became the foundation for the formation of various sectoral regulations, including those in the areas of natural resource management and fisheries.

The management of the fisheries sector in the Republic of China is regulated through special legislation that reflects the characteristics of administrative penal law, as well as the country's civil law tradition. The Republic of China enacted the Fisheries Act 2018 as the primary legal basis for managing the fisheries sector, regulating various aspects, from licensing and conservation to criminal provisions for perpetrators of fisheries crimes. The Fisheries Act 2018 is an update of previous fisheries regulations, adapted to developments in the global fisheries industry and the increasingly pressing demands for fisheries resource conservation.

This law establishes the basic principles of sustainable fisheries management by balancing economic utilization with the protection of marine ecosystems. The Fisheries Act 2018 comprises several chapters that comprehensively regulate the rights and obligations of fisheries business actors, licensing mechanisms, operational standards for fishing, and criminal sanctions for violators. The existence of this law reflects the seriousness of the Republic of China government in developing a productive fisheries industry while remaining responsible for environmental sustainability. The criminal provisions in the Fisheries Act 2018 are specifically regulated in Chapter 7 Penal Provision, which contains 10 categories of fisheries crimes with varying forms and levels of seriousness. The various crimes are outlined in the following table:

Table 2

Classification of Fisheries Crimes in the Republic of China

No	Class of Criminal Acts	Chapter
1	Fishing with toxic substances	Article 60 paragraph 1
2	Fishing with explosives or other dynamites	Article 60 paragraph 1
3	Fishing with electricity or other narcotics	Article 60 paragraph 1
4	Violation of the prohibition on catching, harvesting, or processing certain aquatic organisms	Article 60 paragraph 2
5	Violation of the prohibition on the sale or possession of aquatic organisms or their derivative products	Article 60 paragraph 2
6	Violation of the prohibition on the use of certain fishing gear and fishing methods	Article 61
7	Changing the name of a fishing vessel or registration number	Article 62 subparagraph 1

8	Damaging, removing or destroying signs in fishing areas or fishing gear	Article 62 subparagraph 2
9	Erecting fences, buildings, or fishing gear that block fish migration routes without permission	Article 62 subparagraph 3
10	Conducting fishing business without a permit issued by the competent authority	Article 64 subparagraph 1

The formulation of criminal offenses in the Republic of China's fisheries law reflects the characteristics of administrative penal law, where administrative norms are supported by criminal sanctions to ensure compliance with applicable regulations by fisheries business actors. The classification of fisheries crimes is based on the level of danger posed to the sustainability of fish resources, damage to marine ecosystems, and the detrimental economic impacts on the state and fishing communities. These criminal provisions are designed to create a deterrent effect for perpetrators while simultaneously imposing strict sanctions on those who have committed fisheries crimes. The systematic formulation of criminal offenses in the Republic of China's fisheries law demonstrates a maturity in anticipating various forms of crime in the fisheries sector, which continue to develop along with advances in fishing technology.

Less serious administrative violations, such as conducting a fishing business without a permit or violating operational restrictions, are regulated in Articles 64 and 65, which carry administrative fines without the threat of imprisonment. This criminal law structure demonstrates a proportional approach, where sanctions are adjusted to the level of danger posed to the sustainability of fish resources and the protected public interest. The distinction between criminal offenses punishable by imprisonment and administrative violations subject only to fines reflects the philosophy of modern criminal law, which distinguishes between crimes and violations.

The fundamental difference between the criminal law systems of Indonesia and the Republic of China lies in the criminal sanction formulation system adopted by each country in its criminal legislation. Indonesia adopts a cumulative sanction formulation system that requires judges to impose imprisonment and a fine simultaneously on perpetrators of criminal acts without providing the option to impose only one type of sanction. The Republic of China adopts a cumulative-alternative sanction formulation system that gives judges the flexibility to choose between imposing imprisonment alone, a fine alone, or both at the same time depending on considerations of justice and the

concrete circumstances of the case at hand. This is seen, for example, in Article 60 paragraph 1 " shall be subject to imprisonment for a period of not exceeding five years, short-term imprisonment, or in addition thereto a fine of not exceeding one hundred and fifty thousand New Taiwan Dollars ." This system differs from Indonesia, which uses the word and in its sanction formulation, meaning the judge is obliged to impose both (pure cumulative).

The differences in the formulation of these sanctions reflect different philosophies of punishment, where Indonesia places greater emphasis on retribution and deterrence through the imposition of dual sanctions, while the Republic of China allows judges to adjust the severity of sanctions to the characteristics of the perpetrator and the act committed. The flexibility in the Republic of China's sanction formulation system allows for better individualization of punishment by considering factors such as the level of culpability of the perpetrator, the impact caused, and the economic capacity of the convict to pay the fine. Another difference lies in the differences in treatment of punishment based on the category of perpetrator, where Indonesia regulates special treatment for perpetrators from economically vulnerable groups, while the Republic of China does not differentiate treatment based on the perpetrator's economic capacity. The Indonesian criminal law system provides exceptions to the punishment system for small-scale fishermen and small-scale fish farmers by implementing an alternative sanction system that allows judges to impose imprisonment or fines alone without having to impose both as stipulated in the specific provisions of the fisheries law.

This differential policy is based on considerations of social justice, where perpetrators from economically disadvantaged backgrounds often commit crimes not out of malicious intent but due to limited legal knowledge or the pressing economic needs to meet daily needs. The Republic of China does not recognize differential criminal treatment based on the scale of the perpetrator's business or economic capacity in its fisheries law, so all perpetrators of fisheries crimes are subject to the same standard of sanctions regardless of their socioeconomic background. Indonesia's approach of providing differential treatment for small-scale fishermen reflects the principle of distributive justice in criminal law, which recognizes that formal equality does not necessarily result in substantive justice if it ignores differences in the socioeconomic conditions of the parties.

The Republic of China has developed a more structured criminal offense classification system, distinguishing between violations that fall into the category of criminal offenses that carry a prison sentence and administrative violations that only carry a fine without the threat of deprivation of liberty. The gradation of sanctions in the Fisheries Act 2018 is structured in a hierarchy, starting from the most serious violations, such as the use of toxic materials and explosives, which carry a maximum prison sentence of five years, to moderate violations, such as violations of fishing gear restrictions, which carry a maximum prison sentence of six months, to minor administrative violations, such as licensing violations, which only carry administrative fines.

An important aspect that differentiates the two legal systems is the regulation regarding the prohibition of catching rare and endangered species which is explicitly regulated in the Fisheries Act 2018 but has not been expressly regulated in Indonesian fisheries law. The provisions in Article 44 subparagraph (1) of the Fisheries Act 2018 authorize the competent authority to establish regulations regarding restrictions or prohibitions on catching, harvesting, or processing certain aquatic organisms including rare and endangered species. This prohibition regulation is subject to the threat of " Any person who violates the rules promulgated by the competent authority pursuant to subparagraph (1) and (2) of Article 44, paragraph 1 shall be subject to imprisonment not exceeding three years, short-term imprisonment, or in lieu thereof or in addition thereto a fine of not exceeding one hundred and fifty thousand New Taiwan Dollars."

Indonesia does not yet have similar provisions in its fisheries law, although protection of endangered species is regulated in other laws, such as the Law on the Conservation of Biological Natural Resources and Ecosystems. However, there is one criminal provision in the Republic of China Fisheries Law that should also be regulated in Indonesian fisheries law, and vice versa. For Indonesia, this is the provision prohibiting the capture of rare and endangered species. Provisions or regulations regarding such prohibitions have not been regulated in Indonesian fisheries law, either before or after the amendment.

This regulation aims to prevent the loss of certain species that have ecological value crucial to the balance of marine ecosystems. Without this provision, perpetrators would be free to capture these species and trade them illegally on the black market. Lessons learned from the Republic of China's regulations on the protection of endangered

species can be considered by Indonesia to supplement criminal provisions in its fisheries law to provide more comprehensive legal protection for marine biodiversity, which is an integral part of a sustainable fisheries ecosystem.

Thus, the fundamental differences in the regulation of fisheries crimes between Indonesia and the Republic of China, as outlined above, reflect differing criminal law policy choices in responding to the problem of illegal fishing and violations of fisheries regulations in each country. To provide a more systematic overview of these differences, a comprehensive comparison between the two fisheries criminal law systems can be seen in the following table:

Table 3

Comparison of Fisheries Crime Regulations in Indonesia and the Republic of China

No	Comparative Aspects	Indonesia	Republic of China
1	Sanction Formulation System	Cumulative (prison sentence AND mandatory fine must be imposed simultaneously)	Cumulative-Alternative (the judge can choose imprisonment, a fine, or both)
2	Differences in Sentencing	There is special treatment for small fishermen with an alternative sanctions system (Article 100B)	There is no differentiation based on the scale of the business actor
3	Protection of Endangered Species	Not yet explicitly regulated in the Fisheries Law	Regulated in Article 44 subparagraph (1) and Article 60 paragraph 2
4	Classification of Criminal Acts	Almost all violations are punishable by imprisonment and fines.	Distinguishing between criminal offenses (imprisonment) and administrative offenses (fine only)
5	Forgery of Licensing Documents	Specifically regulated in Article 94A	Not explicitly regulated
6	Maximum Criminal Threat	10 years imprisonment and a fine of Rp. 20 billion	5 years imprisonment and a fine of 150,000 New Taiwan Dollars
7	Corporate Accountability	Burden on administrators with the addition of 1/3 of the fine (Article 101)	Burden on managers or agents of legal entities (Article 63)

A comprehensive comparison of the fisheries criminal law systems of Indonesia and the Republic of China shows that although both countries adhere to the civil law tradition and use an administrative penal law approach in enforcing fisheries law, there are fundamental philosophical differences in their approaches to sentencing. Indonesia tends to adopt a stricter retributive approach with a cumulative sanction system that emphasizes the deterrent effect through the simultaneous imposition of imprisonment and fines, while the Republic of China provides judges with broader discretion through a cumulative-alternative system that allows for individualization of sentences based on the

characteristics of the case and the perpetrator. This difference reflects different orientations in the objectives of sentencing, with Indonesia emphasizing general deterrence to prevent fisheries crimes that harm the state, while the Republic of China prioritizes flexibility and proportionality in imposing sanctions.

The comparative advantages of each system demonstrate that no single model is inherently superior to another, but rather that each has its own strengths and weaknesses depending on the social, economic, and cultural legal context of the country in question. Indonesia's system, which provides preferential treatment for small-scale fishers, reflects sensitivity to the socioeconomic conditions of coastal communities dependent on the fisheries sector for their daily needs, a policy not yet adopted by the Republic of China. Conversely, the Republic of China's system, which explicitly regulates the protection of rare and endangered species and clearly distinguishes between criminal and administrative violations, demonstrates a level of maturity in the gradation of sanctions, a lesson for Indonesia in its efforts to reform its fisheries criminal law in the future.

This comparative analysis provides important implications for efforts to improve the fisheries criminal law systems in both countries, where Indonesia can consider adopting specific provisions regarding the protection of rare and endangered species as stipulated in the Republic of China's Fisheries Act 2018, while the Republic of China can consider accommodating special treatment for small-scale fishers in its criminal system as has been implemented in the Indonesian fisheries law. The convergence of the best practices of these two legal systems is expected to produce a more comprehensive regulatory framework in preventing and overcoming fisheries crimes that are not only effective in providing a deterrent effect to perpetrators but also fair in considering the socio-economic conditions of fishing communities and responsive to the need for marine biodiversity conservation to ensure the sustainability of fisheries resources for future generations.

5 CONCLUSION

A comparison of fisheries crime regulations between Indonesia and the Republic of China reveals fundamental differences in their penal philosophies, despite both adopting civil law traditions and using an administrative penal law approach. Indonesia

implements a cumulative sanction system that mandates simultaneous imprisonment and fines with the aim of maximizing deterrence, while the Republic of China adopts a cumulative-alternative system that provides judges with flexibility in imposing sanctions according to the specific circumstances of the case. The comparative advantage of each system lies in Indonesia's support for small-scale fishers through an alternative sanction system that reflects distributive justice, while the Republic of China excels in regulating the protection of rare and endangered species and a more structured gradation of sanctions between criminal and administrative violations.

Lessons learned from both systems indicate that Indonesia needs to adopt specific provisions regarding the protection of endangered species as stipulated in Article 44 subparagraph (1) and Article 60 paragraph 2 of the Fisheries Act 2018, while the Republic of China can consider accommodating special treatment for small-scale fishers in its criminal justice system. The convergence of best practices from both legal systems is expected to produce a more comprehensive regulatory framework in preventing and addressing fisheries crimes that are not only effective in providing a deterrent effect but also fair in considering the socio-economic conditions of fishing communities and responsive to the needs of marine biodiversity conservation. Efforts to improve the fisheries criminal law system by adopting the best practices of both countries are key to realizing sustainable, equitable fisheries resource management that provides optimal benefits for community welfare and the sustainability of marine ecosystems for future generations.

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Authors' Contribution

All authors contributed equally to the development of this article.

Data availability

All datasets relevant to this study's findings are fully available within the article.

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