JIHAD: Jurnal Ilmu Hukum dan Administrasi
Vol. 8 No. 3 September 2026
p-ISSN : 2745-9489, e-ISSNl 2746-3842
DOI: *10.36312/jihad.v8i2.11337/*https://ejournal.mandalanursa.org/index.php/JIHAD/issue/archive

Analysis of Law Enforcement Against Violations of Fishing Permits (SIPI), Fishing Vessel Permits (SIKPI), and Fisheries Business Permits (SIUP) Reviewed from Law Number 45 of 2009

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Article Info

Article history:
Accepted: 19 Agustus 2026
Publish: 2 September 2026

Keywords:
Fisheries Business License;
Illegal Fishing;
SIPI;
SIKPI;
SIUP.

Abstract

The licensing provisions in fisheries business activities, namely the Fisheries Business License (SIUP), Fishing License (SIPI), and Fish Transport Vessel License (SIKPI), are state control instruments for the orderly and sustainable utilization of fish resources. Violations of the obligation to own these permits are not merely administrative in nature, but are categorized as criminal acts in the fisheries sector as regulated in Law Number 31 of 2004 concerning Fisheries as amended by Law Number 45 of 2009. This article aims to analyze the regulation of SIPI, SIKPI, and SIUP according to Law Number 45 of 2009 and their legal enforcement, by taking a case study of Decision Number 72/Pid.Sus-Prk/2024/PN.Rkb. This research uses a normative legal research method with a legislative approach, a case approach, and a conceptual approach. The research results show that the regulation of SIUP, SIPI, and SIKPI has a clear legal basis but has undergone adjustments to norms after the implementation of the risk-based licensing policy through the Online Single Submission system, without eliminating the criminal nature of violations for large-scale business actors. Law enforcement in the field is still hampered by overlapping authority between institutions, limited supervisory facilities, difficulties in proving on the high seas, and disparities between sanctions and economic benefits for perpetrators, resulting in less than optimal deterrence. Strengthening of technology-based supervisory systems, institutional synergy, and a proportional legal approach between the ultimum remedium function for small-scale fishermen and firm action against large business actors and foreign vessels are needed.

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1. INTRODUCTION

Indonesia is an archipelagic nation with the second-longest coastline in the world and a vast Exclusive Economic Zone stretching between the Pacific and Indian Oceans. Therefore, it possesses enormous potential for fishery resources for public welfare and national development (P, N. S. & Rao, 2026). This vast marine resource potential demands a firm legal framework for its management, ensuring its utilization maximizes the nation’s benefits without compromising the sustainability of the resources themselves (Boyd, McNevin & Davis, 2022). One key instrument the government uses to control the exploitation of fishery resources is the fisheries business licensing mechanism, implemented through three interrelated permits: the Fisheries Business License (SIUP), the Fishing License (SIPI), and the Fishing Vessel License (SIKPI).

These licensing requirements are regulated in Law Number 31 of 2004 concerning Fisheries, as amended by Law Number 45 of 2009. This was enacted in response to various weaknesses in previous regulations, particularly weak law enforcement against illegal, unreported, and unregulated fishing practices that cause significant economic losses to the state each year. The absence of or violation of the requirement to possess a SIUP, SIPI, and SIKPI is not merely viewed as an administrative violation, but has been categorized as a fisheries crime, punishable by imprisonment and substantial fines, given the significant losses caused by illegal fishing practices, including economic losses, damage to marine ecosystems, and disruption to state sovereignty over its natural resources (Alzeedi & Katz, 2026).

In practice, violations of this permit requirement frequently occur in various forms, ranging from vessels operating without a SIPI or SIKPI at all, to the use of expired permits, to deviations from the fishing grounds, gear types, and fishing routes specified in the permit. This issue has become increasingly complex following the enactment of the risk-based business licensing simplification policy through the Online Single Submission (OSS) system following the Job Creation Law, which requires harmonization of administrative norms regarding business licensing with criminal norms governing the legal consequences of violating these licensing obligations (De Almeida Corrêa, *et. al*., 2026).

One case that reflects the complexity of law enforcement for fisheries licensing violations is Decision Number 72/Pid.Sus-Prk/2024/PN.Rkb in the Rangkasbitung District Court. This case places the issue of violations of fisheries business licensing provisions within the context of practical fisheries criminal law enforcement, while also illustrating how the norms of Law Number 45 of 2009 were applied by the Panel of Judges to concrete events in the field (Prayitno, *et. al*., 2026).

Studies on law enforcement in the field of fisheries business licensing have been widely discussed in the fisheries law literature, highlighting both normative regulatory aspects and institutional aspects of maritime oversight. However, most previous studies tend to discuss fisheries licensing issues in general or focus on large-scale vessels and foreign-flagged vessels, while studies that examine the application of fisheries licensing norms to small-scale individual businesses through concrete court decisions are relatively limited. This article attempts to fill this gap by analyzing the regulation and legal enforcement of SIPI, SIKPI, and SIUP through a study of Decision Number 72/Pid.Sus-Prk/2024/PN.Rkb, so that it is hoped that it can provide a more complete picture of the application of fisheries licensing norms in daily judicial practice.

Based on the background description, the problem formulation to be answered in this article is: first, how are the regulations regarding Fishing Permits (SIPI), Fish Transport Vessel Permits (SIKPI), and Fisheries Business Permits (SIUP) according to Law Number 45 of 2009; and second, how is the law enforcement against criminal acts of violations of SIPI, SIKPI, and SIUP as reflected in Decision Number 72/Pid.Sus-Prk/2024/PN.Rkb. The purpose of this study is to determine and analyze the enforcement of criminal law against violations of fisheries business permits in the decision, as well as to determine and analyze the legal considerations of the Panel of Judges in issuing decisions related to the relevant fisheries licensing criminal cases. Theoretically, this study is expected to enrich the treasury of criminal law knowledge in the field of fisheries, while practically it is expected to be input for law enforcement officers, policy makers, and fisheries business actors in understanding the legal construction of fisheries business permits and their criminal consequences.

2. METHOD

This research is a normative legal research, namely legal research conducted by examining library materials or secondary data on legal principles and reviewing them in the practice of legal application. The approaches used include a statute approach to examine the Criminal Code (KUHP), the Criminal Procedure Code (KUHAP), and related laws and regulations; a case approach by referring to the ratio decidendi of the Cibinong District Court Decision Number 260/Pid.B/2025/PN Cbi dated May 22, 2025; and a conceptual approach that starts from the views and doctrines that have developed in the science of criminal law and marriage law. The legal materials used consist of primary legal materials in the form of the 1945 Constitution of the Republic of Indonesia, Law Number 1 of 2023 concerning the Criminal Code, Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, Law Number 24 of 2013 concerning Population Administration, and the Decision of the Cibinong District Court a quo; secondary legal materials in the form of books, journals, and relevant previous research results; and tertiary legal materials in the form of legal dictionaries and other supporting articles. The technique of collecting legal materials is carried out through literature studies and document studies, while the analysis is carried out qualitatively with the deduction method, namely starting from the major premise in the form of applicable legal norms, then the minor premise in the form of legal facts in the a quo case, to draw conclusions on the formulation of the problem being studied.

3. RESULTS AND DISCUSSION

Marriage is a legal event that not only gives rise to legal consequences for the parties involved, but also gives rise to legal consequences for children born of the marriage, particularly regarding civil status, inheritance rights, and status as legitimate children. Law Number 1 of 1974 concerning Marriage affirms that marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on the One Almighty God. The origin of marriage, in this context, refers to the legal facts regarding the validity of a marriage, including the identity of the parties, previous marital status, and the existence or absence of any impediments to the marriage. When these facts are concealed, falsified, or fabricated to create a picture that does not correspond to the actual situation, the act has the potential to fulfill the elements of the crime of falsifying the origin of marriage. Conceptually, falsification (vervalsing) in criminal law is defined as the act of making something untrue or making something false appear as if it were genuine, with the intention of benefiting oneself or another person, or harming another party. In the context of marriage, falsification of origin can take the form of false information regarding widow or widower status, concealment of consanguineous relationships that are obstacles to marriage, to falsification of population documents such as birth certificates, family cards, or certificates of unmarried status. Prodjodikoro (2003) emphasized that the element of intent (opzet) is an essential element in the crime of falsification, because the perpetrator must want the emergence of a situation that is not in accordance with the truth and know that the information he provides is false.

The provisions regarding criminal acts against origin and marriage in the colonial legacy of the Criminal Code are specifically regulated in Chapter XIII Book Two, specifically Articles 277 to 280. Article 277 of the Criminal Code threatens a maximum prison sentence of six years for anyone who intentionally obscures a person’s origin, while Article 278 of the Criminal Code regulates the criminal threat for the act of recognizing a child as one’s own child even though he knows that he is not the father of the child. Article 279 of the Criminal Code more specifically imposes a maximum prison sentence of five years for anyone who marries knowing that their existing marriage, or the marriage of another party, constitutes a legal obstacle, while Article 280 of the Criminal Code regulates the act of deliberately failing to disclose the existence of an obstacle to a legal marriage, with the penalty being increased to a maximum of seven years if the perpetrator also conceals this fact. This series of articles shows that the legislators place honesty regarding marital origin and status as a protected legal interest (rechtsgoed), not merely a civil matter.

Soesilo (1995) in his commentary on the Criminal Code explains that the intention of the legislators in formulating Articles 277 and 278 is to protect the legal interests of the child concerned, particularly the right to maintenance, inheritance rights, and guardianship rights. Concealment of origin does not always mean actively making false statements, but can also be a passive act that causes the other party to obtain a false impression regarding a person's identity or status, so that this offense includes both active acts (commissie) and acts of omission (omissie). In terms of the elements of the crime, criminal acts against the origin of marriage are generally formal crimes and also require a subjective element in the form of knowledge by the perpetrator (wetenschap) of the existence of a barrier to a valid marriage, so that this crime is completed (voltooid) when the act of entering into a marriage or concealing the barrier has been carried out, without needing to wait for concrete consequences in the form of real losses for the victim.

Chazawi (2017) classifies the crime of falsifying marital origins as part of crimes against public trust (misdrijven tegen de publieke trouw), because this offense essentially protects public trust in the truth of documents and information related to a person's legal status. This public trust is important because a person's marital status and origins have broad legal implications, not only limited to husband and wife relationships, but also concerning the rights of third parties such as other heirs, creditors, and the state in the context of population administration. In many cases, this act is intertwined with falsification of documents as regulated by Article 263 of the Criminal Code, especially if the perpetrator also falsifies the marriage certificate or book, so that the provisions of concurrent criminal acts (concursus) apply. In addition to being regulated in the Criminal Code, the regulation regarding the origin of marriage is closely related to Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, which requires that marriage must be based on the consent of both prospective bride and groom and may not be carried out if there are obstacles to marriage. Prawirohamidjojo (2016) emphasized that the principle of monogamy adopted by the Marriage Law makes any false information regarding previous marital status an act that can give rise to legal defects, both from a civil perspective in the form of annulment of marriage, and from a criminal perspective in the form of a criminal act of falsification. This provision is reinforced by Law Number 24 of 2013 concerning Population Administration which requires population data to be submitted correctly and accurately, so that falsification of population documents supporting a marriage that hides a person's origin can also be subject to administrative population criminal sanctions. Darmabrata (2004) added that in the practice of registering marriages at the Office of Religious Affairs and the Civil Registry Office, information regarding the origin and marital status of the prospective bride and groom is generally based on administrative documents such as a certificate of unmarriage, a divorce certificate, or the death certificate of a previous partner. This reliance on administrative documents opens the door to falsification of marital origins, as marriage registrars generally lack the authority or means to substantively verify the material veracity of the submitted documents. As a result, marriages conducted on the basis of false information remain administratively registered, even though they materially contain serious legal flaws. Developments in national criminal law have also brought about updates to the regulation of this offense. Through Law Number 1 of 2023 concerning the Criminal Code, which came into effect on January 2, 2026, the provisions originally spread across Articles 277 to 280 of the old Criminal Code have been reorganized more systematically in Articles 401 to 404 of the new Criminal Code. This reform was carried out as part of the recodification of national criminal law that is more responsive to the development of Indonesian societal values, without abandoning the substance of protection for the honesty of the origin and legality of marriage that has been adopted since the colonial legacy of the Criminal Code, while emphasizing the proportionality of criminal threats and a stricter separation of the crimes of cohabitation and adultery. The above description shows that Indonesian positive law has not explicitly and independently regulated a legal qualification called "the crime of falsifying the origin of marriage." This concept is not found as a separate article nomenclature, but is scattered and must be constructed from a combination of the provisions of Article 279 of the Criminal Code regarding obstructed marriage, provisions regarding falsification of documents, and provisions of the Marriage Law and the Population Administration Law. The core of the criminal act is not falsification of documents in the technical sense as regulated in the crime of falsification of letters (Articles 263 to 266 of the Criminal Code), but rather concealment or dishonesty regarding the existing marital status as a legal barrier (wettelijk beletsel) for subsequent marriage, with the element of knowledge of the perpetrator (wetenschap) as the determining subjective element.

The legal construction of this offense can be fully examined through the Cibinong District Court Decision Number 260/Pid.B/2025/PN Cbi. Based on the revealed legal facts, the Defendant Popon Ela Hayati entered into a secret marriage with Eperison Hutauruk on March 15, 2013, which was stated in a private marriage statement without being registered with the authorized agency. At that time, Eperison Hutauruk was still the legal husband of Dermawan Simbolon, whose marriage was conducted in a Catholic manner on December 3, 1993 and was proven by the Testimonium Matrimonii and Marriage Certificate Number 3201-KW-21102015-0004. In the secret marriage procession, Eperison claimed to be a widower and the Defendant claimed to be a widow, which confession did not correspond to the actual situation. Dermawan Simbolon only discovered the concealment of the status in September 2017, but the police report was only filed on April 22, 2024, after the relationship between the Defendant and Eperison was known to have continued until January 2024. The provisions of Article 279 paragraph (1) number 2 and paragraph (2) of the Criminal Code are the basis for the Public Prosecutor's alternative charges as well as the basis for the Panel of Judges' sentencing. Soesilo (1995) in his annotation emphasized that the requirement for sentencing according to this article is that the perpetrator knows that he or she, or the other party he or she intends to marry, is still bound by a marriage that has not been dissolved through divorce. The expert presented by the Public Prosecutor emphasized the same thing, namely that the important element of this article is the perpetrator's knowledge of the existence of the legal obstacle, not the validity of the registration of the newly held marriage. Thus, the so-called offense as "falsification of the origin of marriage" is more appropriately understood as concealment or dishonesty regarding the status of an existing marriage (verzwijging van een wettelijk beletsel), not falsification of documents in the technical sense of Article 263 of the Criminal Code. The Panel of Judges, referring to the Circular Letter of the Supreme Court Number 4 of 2016 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber in 2016, emphasized that a marriage conducted by a husband with another woman without the permission of his legal wife can be subject to Article 279 of the Criminal Code. An interesting legal consideration from this decision is the affirmation that unregistered marriages that are not registered by the state can still be qualified as "marriages" within the meaning of Article 279 of the Criminal Code, in line with the principle in Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, which states that a marriage is valid if it is carried out according to the religious law and beliefs of each party, regardless of whether or not the administrative registration obligation is fulfilled. This construction shows that Indonesian criminal law, in protecting the order of marriage, does not depend the validity of marriage solely on state registration, but rather on validity according to religious law, an approach that is consistent with the pluralistic nature of Indonesian family law.

Judging from the law enforcement theory developed by Soekanto (2014), there are five factors that influence the effectiveness of law enforcement, namely the legal factor itself, the law enforcement factor, the means or facilities factor, the community factor, and the cultural factor. The a quo decision shows the complex dynamics of these five factors. From the legal factor perspective, the formulation of Article 279 paragraph (1) 2 of the Criminal Code is open and open to multiple interpretations because it does not explicitly define whether the "marriage" in question includes unregistered marriages, so that on the one hand it provides room for interpretation by judges to reach the practice of unregistered marriage as a crime, but on the other hand it has the potential to create legal uncertainty. From the law enforcement factor perspective, the evidentiary process shows the caution of the Panel of Judges by presenting eight factual witnesses and three experts across disciplines, namely criminal law, Catholic marriage law, and Islamic marriage law, to ensure the validity of the two marriages in question before issuing a decision, reflecting the application of the prudential principle in proving crimes intertwined with interfaith family law. The facility factor is also relevant to consider, considering that this type of offense is highly dependent on the availability of administrative evidence in the form of marriage certificates, marriage declarations, and church documents as well as documents from the Office of Religious Affairs (KUA), which in the a quo case actually complement each other even though they originate from different registration systems. Meanwhile, societal and cultural factors appear most prominent in this case. Witness testimony shows that the practice of unregistered marriage, including the disguise of status as a "widower" by Eperison and acceptance without strict verification by the parties marrying, is still alive and sociologically accepted in some communities, even though administratively it is prone to causing harm to third parties. This phenomenon is what some experts call the gap between law on the books and law in action, where strict criminal norms are confronted with social customs that are permissive of unregistered marriages, so that law enforcement against this offense in practice is highly dependent on the existence of a report from the injured party — in this case, the report was only filed more than a decade after the second marriage took place. The issue of the lapse of time between the incident and the report also touches on the issue of the statute of limitations for prosecution as regulated in Article 78 and Article 79 of the Criminal Code, which the Defendant's Legal Counsel used as a defense excuse. The Panel of Judges rejected this excuse on the grounds that the criminal threat of Article 279 of the Criminal Code, namely a maximum imprisonment of seven years for crimes accompanied by concealment, places the statute of limitations for prosecution at twelve years from the time the act was committed, so that the report submitted in April 2024 for the March 2013 act was still within the legal time limit, especially since the intense relationship between the Defendant and Eperison continued until January 2024. This consideration illustrates the application of the theory of law enforcement from the aspect of legal certainty (rechtszekerheid), where the institution of the statute of limitations is intended to provide a clear time limit so that prosecution is not carried out within an unreasonable range, but at the same time must be interpreted carefully so that it does not become a loophole for the perpetrator to avoid criminal responsibility for acts whose legal consequences are still ongoing.

From the perspective of criminal law theory, this decision is also worth examining through the three main schools of thought in criminal law, namely the absolute or retributive theory which views punishment as retribution for a wrong that has been committed, the relative or objective (utilitarian) theory which views punishment as a means of prevention, and the combined theory which combines elements of retribution and objectives. The Public Prosecutor's demand for a one-year prison sentence reflects an orientation towards the aspects of retribution and general prevention, considering that this offense is seen as damaging the legal order of marriage which has an impact on third parties, namely the legal wife and children from the first marriage.

However, the Panel of Judges ultimately imposed a lighter sentence, namely ten months in prison, by considering mitigating factors such as the Defendant's confession which facilitated the trial, remorse for his actions, and the Defendant's prior convictions, thus reflecting the application of the combined punishment theory which balances the element of retribution proportional to the victim's losses with the goal of rehabilitation for the perpetrator. Overall, law enforcement against perpetrators of the crime of falsifying the origins of marriage based on practice in Indonesia, as illustrated in the a quo decision, at the normative level has a fairly clear legal basis, but in practice still faces various structural challenges. The characteristics of this offense, which sociologically functions like a complaint offense, makes the law enforcement process highly dependent on the initiative of the injured party to report. Proving the element of intent or the perpetrator's knowledge of the existence of obstacles to a valid marriage is also a crucial point that requires caution by law enforcement officials. In addition, the weak integration of population data and marriage registration systems between religious and government institutions, the disparity between the maximum penalty threat and the penalties imposed in practice, and the legal culture of society that still places the issue of the origins of marriage as a private matter, also contribute to factors that hinder optimal law enforcement against this offense.

4. CONCLUSION

Based on the analysis above, two conclusions can be drawn. First, the concept and regulation of the crime of falsifying the origin of marriage according to positive law in Indonesia is basically not formulated as a separate crime qualification with explicit legal nomenclature, but rather is spread and must be constructed from a combination of Articles 277 to 280 of the old Criminal Code, Law Number 1 of 1974 concerning Marriage and its amendments, and Law Number 24 of 2013 concerning Population Administration, which was then systematically updated into Articles 401 to 404 of Law Number 1 of 2023 concerning the National Criminal Code without changing the essence of protection against the principle of open monogamy and honesty of the origin of marriage. Second, law enforcement against perpetrators of this crime, as illustrated in Cibinong District Court Decision No. 260/Pid.B/2025/PN Cbi, has a clear legal basis at the normative level. However, in practice, it still faces structural challenges, such as the nature of the offense resembling a complaint offense, difficulties in proving intent, weak integration of population data systems and marriage registration across institutions, and a legal culture that tends to position this issue as a private matter to be resolved amicably.

Lawmakers and policymakers are advised to formulate a more explicit definition of "marriage" in the context of offenses concerning the origin of marriage, including clarifying its scope for unregistered marriages, to reduce multiple interpretations in the application of Article 279 of the Criminal Code and its equivalent in the National Criminal Code. In addition, it is necessary to strengthen the integration of the population data system (Population Administration Information System/SIAK) with the interfaith marriage registration system (Marriage Management Information System/SIMKAH and other religious institutions), so that the potential for falsification of marital origins can be prevented from the administrative stage. Law enforcement officials also need to be encouraged to be more proactive in handling this crime without solely relying on victim reports, as well as providing education to the public about the right to pursue criminal legal channels, so that the legal culture that tends to resolve this issue amicably is no longer a major obstacle to upholding legal certainty and protection for the institution of marriage in Indonesia.

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