

# Research on the Interface between Fisheries Law and Criminal Law

## -- Taking the Forgery of Fishing Licenses as the Entry Point

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### ABSTRACT

In response to the strategy of building a strong maritime nation and the need for ecological civilization construction, and to address the challenges of disordered coordination between the fishery and criminal law fields, this article takes the act of forging and trading fishing licenses as the core entry point to systematically study the coordination between the Fishery Law and criminal law. Firstly, it expounds on the connotation and necessity of the coordination between the Fishery Law and criminal law, clarifying the progressive functions of the two laws. Then, it reviews the current regulatory status of the two laws regarding this behavior, pointing out three core issues: the blurring of the boundaries between crime and non-crime due to imperfect legislation, irregularities in the collection and use of evidence in cases involving licenses, and the absence of a supervision mechanism. Specific countermeasures are proposed to improve the subsidiary criminal law provisions of the Fishery Law, refine the rules for evidence in cases involving licenses, and construct a supervision system combining external reinforcement with internal pre-emptive prevention and control. The purpose of this study is to clarify the legal application boundaries of the act of forging and trading fishing licenses, promote smooth coordination between the fishery and criminal law fields, and provide institutional support for the protection of fishery resources and stable management order.

### KEYWORDS

Fishing License; Crime and Non-crime; Coordination between Criminal Justice and Fisheries Administration; Protection of Fishery Resources.

## 1. INTRODUCTION

In the context of promoting the strategy of building a maritime power and ecological civilization, fishing licenses serve as the core carrier for controlling fishery resources and maintaining order, and their standardized use is crucial. However, the frequent occurrence of forging and trading fishing licenses not only undermines the "voucher fishing" management system but also exposes the shortcomings in the coordination between the Fishery Law and the Criminal Law. Although both laws regulate this behavior, issues such as the blurring of the boundaries between crime and non-crime, irregular evidence collection in cases involving certificates, and the absence of a supervision mechanism have led to "different punishments for the same case" and impeded case transformation. This article takes the forging and trading of fishing licenses as a starting point, systematically studies the connotation and necessity of the coordination between the two laws, analyzes existing problems, and proposes countermeasures to improve legislation, standardize evidence, and strengthen supervision. The aim is to clarify the boundaries of legal application, promote smooth coordination

in fishery law enforcement, and provide institutional support for the protection of fishery resources and stable management order.

## **2. OVERVIEW OF THE INTERFACE BETWEEN THE FISHERIES LAW AND THE CRIMINAL LAW**

### **2.1. The Meaning of the Connection between the Fisheries Law and the Criminal Law**

The integration of the Fisheries Law and the Criminal Law refers to the legal mechanism within the scope of fisheries management, which aims to jointly regulate illegal fishing activities through the orderly integration of the two laws. It primarily operates alongside relevant provisions and judicial interpretations concerning the transfer of administrative law enforcement cases. The key lies in clarifying the jurisdictional boundaries between administrative violations and criminal offenses. It is necessary to effectively control minor violations through administrative penalties, while also relying on criminal accountability to ensure that serious criminal acts are punished according to law. Specifically, for acts such as illegally forging, buying, selling, and using fishing licenses, the fisheries administrative department is responsible for investigating and handling such cases. If it is found that someone has forged a license but has not caused widespread disorder in the fisheries industry, or if they have only occasionally used forged documents without causing serious consequences, the case will be punished according to the provisions of the Fisheries Law, such as confiscating the forged license and imposing a fine. If the number of forged licenses is large, they are repeatedly resold to others, or if forged documents are used to engage in fishing activities, seriously disrupting the local fisheries resource management order, resulting in damage to fishermen's rights and interests and disruption of the fisheries supervision process, it indicates that such behavior has exceeded the scope of "general violations" and the case needs to be transferred to the judicial authorities. Subsequently, the judicial authorities will refer to the relevant provisions of the Criminal Law to determine whether a crime has been committed. If so, the criminal responsibility of the parties involved will be pursued according to law, such as imprisonment, detention, or fines. Overall, this integration refers to relying on the Fisheries Law for daily supervision first, and then adhering to the bottom line of "serious violations" based on the Criminal Law. The ultimate goal is to maintain the order of fisheries resource management, protect the legitimate rights and interests of fishermen, and ensure that the fishing license system can truly play its due role.

### **2.2. The Necessity of the Connection between the Fisheries Law and the Criminal Law**

In the field of fisheries, the core essence of the coordination between criminal and administrative laws is actually reflected in the institutional coordination between the "Fisheries Law of the People's Republic of China (2013 Amendment)" (hereinafter referred to as the "Fisheries Law") and the "Criminal Law of the People's Republic of China (2017 Amendment)" (hereinafter referred to as the "Criminal Law"). These two laws share commonalities in their scope of adjustment [1]. Specifically, both laws prioritize the protection of fishery resources, the regulation of fishery production order, and the maintenance of fishery ecological security as their core objectives. This provides a practical foundation at the content level for subsequent coordination and avoids a disconnect in coordination caused by a completely separate scope of adjustment. Not all acts infringing legal interests are considered crimes, and the Criminal Law serves as the last line of defense for protecting legal interests. Only acts that seriously infringe legal interests are defined as crimes, which is actually a manifestation of the restraint of the Criminal Law[2]. In practice, the implementation of this principle requires clear judgment criteria. For example, whether the act of forging fishing licenses causes serious disorder in fishery management order, etc. Without such specific definitions, it is easy for administrative

agencies to encounter the dilemma of "not daring to transfer" or "not willing to transfer" when transferring criminal cases, weakening the practical effectiveness of the Criminal Law defense line. Specifically, illegal fishing activities within China should be regulated primarily through administrative fines, confiscation of fishing gear, temporary suspension of licenses, and other means stipulated in the Fisheries Law; only when the harmful consequences of the behavior meet the aforementioned criteria of "seriously infringing legal interests" do relevant provisions in the Criminal Law, such as the crime of forging, altering, or trading state agency documents, need to be invoked for accountability. From the perspective of legal function positioning, the Fisheries Law and the Criminal Law form a progressive relationship, with the Fisheries Law focusing on "routine regulation" and the Criminal Law focusing on "special punishment". Only when there is seamless coordination between the two in terms of responsibility determination and evidence standards can administrative regulation avoid "condoning" serious violations and prevent excessive intervention by the Criminal Law from increasing the burden on fishery production entities, ultimately maximizing the coordinated role of the two laws in safeguarding fishery ecology and resource security.

### **3. CURRENT STATUS OF THE CONNECTION BETWEEN THE FISHERY LAW AND THE CRIMINAL LAW**

In cases involving illegal fishing activities, the illegal forgery, sale, and use of fishing licenses are not uncommon. Both the "Fisheries Law" and the "Criminal Law" have imposed relevant legal regulations on such behaviors. Based on clear legal provisions and combined with the case handling process in practice, the two laws respectively undertake the roles of administrative regulation and criminal punishment. From the perspective of the "Fisheries Law", Article 43 clarifies the administrative liability boundaries for such behaviors. For those who engage in the forgery, sale, alteration, or transfer of fishing licenses, the fishery law enforcement department may impose administrative penalties such as confiscating illegal income and revoking fishing licenses, and may also impose a fine of up to 10,000 yuan. This provision is mainly targeted at general illegal behaviors that do not meet the standards for criminal accountability, and achieves control over certificate violations in daily fishery management through administrative penalties.

At the level of criminal regulation, Article 280, Paragraph 1 of the Criminal Law provides a basis for accountability for serious violations of fishing license regulations. Since fishing licenses are documents issued by state organs in accordance with the law, the act of forging, altering, or trading such documents can be directly classified under the punishment scope of the crime of "forging, altering, or trading official documents, certificates, or seals of state organs." This crime is an optional charge and a behavioral offense. The law does not specifically stipulate the threshold for conviction and the standard for completion. In theory, as long as the relevant act is committed, it may constitute a crime [3].

It can be seen that both the "Fisheries Law" and the "Criminal Law" have made relevant provisions against the acts of forging, altering, buying, and selling fishing licenses. However, judging from the current punishment standards of fishery regulations and criminal regulations, the two laws have not yet made a reasonable distinction between crimes and non-crimes. If a person commits the act of forging and buying fishing licenses, there is no clear standard for whether they should be subject to administrative penalties or directly upgraded to criminal behavior. This can easily lead to situations where "the same behavior is treated differently".

### **4. ISSUES IN THE COORDINATION OF FISHERY LAW ENFORCEMENT**

The specific forms of coordination in the fishery sector primarily manifest in three aspects: first, the linkage between fishery administrative supervision departments and public security organs; second, the docking between public security organs and procuratorial organs; and third, the collaboration

between fishery administrative supervision departments and procuratorial organs. However, given that the third type of collaboration pertains to corruption and dereliction of duty crimes, this section will not delve into it for the time being [4].

#### **4.1. Imperfect Legislation**

The normative forms of the connection between criminal law and administrative law can be broadly divided into three types. The first type is typically regulated in a single provision within the "legal responsibility" section, such as "If a violation of this law constitutes a crime, criminal responsibility shall be investigated in accordance with the law." This type of regulation is relatively vague. The second type directly stipulates administrative penalties for specific illegal situations within a particular provision, further clarifying the degree of harm caused by the violation. If the violation meets certain criteria, it is then clearly defined as a crime, and criminal responsibility is investigated in accordance with the law[5]. The third type involves generalizing and regulating "constituting a crime requiring criminal responsibility" through a single provision, and then explicitly stipulating administrative penalties in specific provisions before initiating the criminal responsibility investigation procedure[6]. In China's connection between criminal law and administrative law, the second type is the main normative form applied. However, Article 43 of the Fisheries Law does not follow this pattern. It does not divide the levels of illegal situations for the act of forging, buying, selling, or using fishing licenses, but only generally stipulates that "if a violation constitutes a crime, criminal responsibility shall be investigated in accordance with the law." This is actually closer to the first type of regulation. This divergence from the mainstream pattern has exacerbated confusion in identification during law enforcement. Taking the crime of forging, altering, buying, or selling state agency documents as an example, this article explores how administrative law enforcement personnel determine whether the same illegal act constitutes a crime in practice. The core issue of such determination mainly focuses on the classification of objective behaviors and the identification of specific manifestations. Paragraph 1 of Article 280 of the Criminal Law clarifies the types of acts and identification basis for the crime of forging, altering, buying, or selling state agency documents. Among them, "forging" refers to the imitation of false documents by those without production authority or the production of false documents by those with production authority beyond their authority; "altering" refers to modifying real documents to change their original information; "buying" and "selling" refer to the purchase or sale of real and forged or altered documents. The Criminal Law and related supporting judicial interpretations do not set clear thresholds or differentiation standards for quantity, circumstances, or other factors for criminalization. Article 43 of the Fisheries Law stipulates the types of illegal acts involving fishing licenses, including "altering," "buying," "selling," "leasing," and "transferring in other forms." Among them, altering is similar to the meaning of altering in the Criminal Law, and buying is consistent with the term "buying" in the Criminal Law. It also clearly stipulates that the perpetrator shall bear administrative responsibilities such as confiscation of illegal income, revocation of licenses, and fines, but it also fails to specify identification and differentiation standards such as the severity of the circumstances and quantity thresholds. As fishing licenses are administrative management documents issued by state organs in accordance with the law, the acts of "altering" and "buying and selling" fishing licenses fall within the scope of both legal regulations. However, the Criminal Law does not clearly define the distinction between this crime and administrative violations, and the Fisheries Law and fisheries administrative regulations also lack provisions for potential criminal offenses. There is neither an upper limit standard for administrative violations nor conditions for triggering criminal accountability. This regulatory gap makes it difficult to clearly determine whether the same illegal act involving fishing licenses should bear administrative or criminal responsibility in practice, resulting in a disconnect between fisheries administrative regulations and criminal regulations in distinguishing between crimes and non-crimes.

## **4.2. Issues on the Collection and Use of Evidence**

The effective transformation of administrative evidence into criminal evidence is a prerequisite for achieving coordination between administrative and criminal law enforcement, and an inherent requirement for effectively investigating criminal liability [7]. In judicial practice, verifying the "qualification" of administrative evidence often becomes an obstacle to the coordination between administrative and criminal law enforcement [8]. In the process of coordinating administrative and criminal law enforcement, the verification of the authenticity of evidence is a crucial step, with the core lying in verifying the source and content attributes of the evidence. Evidence in judicial proceedings can be divided into two major categories: physical evidence and verbal evidence. Generally speaking, physical evidence, due to its inherent properties, is difficult to be forged, altered, or tampered with, and can be directly applied in the criminal justice process. However, in the field of fisheries, such objective physical evidence is easily lost throughout the entire process of evidence investigation, collection, and use. In cases of forging and using fishing licenses, due to the lack of clear standards and basis, fisheries law enforcement personnel have a weak awareness of evidence, so they are prone to overlook some key evidence that determines the direction of the case during the evidence collection process, leading to the failure to file the case in a timely manner [9] and harming the legitimate rights and interests of relevant personnel. In practical operations, some evidence materials are difficult to be simply summarized [10]. For example, in the field of fisheries law enforcement, materials such as expert conclusions, inspection records, on-site records, and inspection documents do not fall within the strict category of verbal evidence; however, these materials are issued by law enforcement personnel or professionals, carrying a certain subjective tendency, so the probability of deviations and errors is difficult to completely avoid. If the evidence collection work in cases by fisheries administrative departments and public security agencies is incomplete or insufficient, it can also cause deviations in expert opinions. For example, in cases of forging and using fishing licenses, if the key anti-counterfeiting marks and registration information pages of the forged license are not fully extracted, and only a copy of the license is collected, due to the potential loss of key anti-counterfeiting features and blurry information in the copy, it will be impossible to accurately verify the forged traces of the license, ultimately leading to a mismatch between the expert opinion and the actual situation of the case, as well as the confessions of the involved personnel.

## **4.3. Absence of Supervision**

In the practical scenario of fishery law enforcement coordination, both procuratorial organs and administrative agencies bear the function of supervisory entities. Among them, procuratorial organs legally enjoy the supervisory authority over case transfers by administrative agencies and case filings and investigations by public security organs. For public security organs, the law clearly stipulates the specific procedures and standards for case filing supervision, and supervision can be implemented through written notifications, follow-up verification, and other methods. However, regarding the supervision of administrative agencies' transfer of fishery-related illegal cases, existing norms do not provide specific statements. There are neither unified conditions for initiating supervision nor operational procedures, nor is there a guarantee of the enforceability of supervisory opinions. It solely relies on procuratorates at all levels to issue guiding opinions based on individual cases. This flexible supervision is difficult to form effective constraints, ultimately resulting in minimal supervisory effects. Given that the lack of supervision by administrative agencies in the case transfer process can easily lead to a gap in coordination, and even the problem of "cases that should be transferred but are not" in fishery-related criminal cases, it is necessary to strengthen supervision over administrative agencies and improve the supervision procedures of the entire coordination process [11]. At the same time, the supervision by administrative agencies exhibits strong lag, often initiating only after cases have been transferred or entered subsequent stages, often missing the critical nodes for timely correction. This not only fails to prevent transfer omissions in advance but also makes it difficult to track the progress of case coordination in real time. Therefore, its supervisory effect is not very ideal,

unable to effectively supervise the operation of fishery law enforcement coordination, thereby affecting the smooth transformation of fishery-related illegal cases from administrative handling to criminal accountability [12].

## **5. SUGGESTIONS FOR IMPROVING THE COORDINATION BETWEEN CRIMINAL JUSTICE AND FISHERY ADMINISTRATION**

### **5.1. Improve the Subsidiary Criminal Law Provisions of the Fisheries Law**

In the regulatory practice of counterfeiting and reselling fishing licenses, the subsidiary criminal law provisions contained in the "Fisheries Law" are the fundamental cause of the ambiguity in defining whether such behavior constitutes a crime or not, as well as the chaos in legal application [13]. Therefore, it is necessary to directly abolish the subsidiary clause in the "Fisheries Law" that states "if a crime is constituted, criminal responsibility shall be investigated in accordance with the law," which leads to confusion in connection. For behaviors such as counterfeiting and reselling fishing licenses, which are regulated by both the "Fisheries Law" and the "Criminal Law," an independent and decentralized legislative model should be adopted for regulation. Here, "decentralization" needs to be understood from two perspectives: firstly, for behaviors that are extremely egregious, have significant social harm attributes, and are not suitable for regulation through administrative penalties, they should be directly classified and regulated under the scope of criminal law; secondly, for other illegal behaviors that may involve criminal offenses, their criminal regulatory content should be listed separately in the "Fisheries Law" and even other non-criminal legal norms. In this way, it not only enhances the deterrent effect of the Fisheries Law but also fundamentally resolves the issue of ambiguous and chaotic connections. Regarding Article 43 of the "Fisheries Law," which involves serious illegal actions such as altering and trading fishing licenses, it should be directly regulated by Paragraph 1 of Article 280 of the "Criminal Law." However, for less serious illegal situations such as leasing or transferring fishing licenses through other means, relevant administrative penalty provisions should still apply for regulation.

### **5.2. Improve the Rules for Evidence Collection and Utilization**

Physical evidence, due to its stable attributes and objective characteristics, can be directly used as evidence. However, the realization of its probative value still relies on the judicial authorities' meticulous verification of the legitimacy of the evidence source, the standardization of the preservation method, the rigor of the verification process, and the qualification of the appraisal subject. In practice, some illegal fishing entities often adopt covert means to avoid law enforcement verification when committing illegal acts such as forging and trading fishing licenses. They may conceal the original fishing license in non-operating vessels or private warehouses, alter the copy and transfer it to a third-party storage location, or even destroy related transaction records, communication vouchers, and other supporting materials. Such deliberate concealment and transfer of evidence not only easily leads to the loss of key evidence but also disrupts the integrity of the evidence chain in the case, seriously interfering with subsequent evidence collection and judicial application, thereby hindering the administrative and judicial connection in illegal fishing cases. Therefore, to address such acts of evading evidence collection, it is crucial to enhance the professional capabilities of law enforcement personnel in evidence collection, preservation, and fixation. Specifically, firstly, it is necessary to improve supporting legal norms. In the existing regulations related to the administrative and judicial connection in fisheries, it is further clarified the types of evidence that can be used to prove illegal fishing and document violations in fishing cases, such as anti-counterfeiting feature comparison materials of fishing licenses, electronic payment records of document transactions, etc. At the same time, operational standards for evidence collection should be refined, such as the requirements for on-site inspection records during the extraction of original documents and the

consistency comparison process during the verification of copies, to provide clear evidence collection guidelines for law enforcement personnel and avoid omissions in evidence collection due to vague legal provisions. Secondly, it is necessary to strengthen special training and practical training for law enforcement personnel. On the one hand, it is necessary to systematically explain the rules of evidence in criminal litigation, the transformation standards of fishery administrative evidence and criminal evidence, and help law enforcement personnel clarify the boundaries of evidence collection. On the other hand, it is necessary to set up simulated evidence collection scenarios for illegal fishing cases, training law enforcement personnel in emergency evidence collection skills in case of sudden situations such as the refusal of case-related personnel to submit documents or the transfer of evidence.

### **5.3. Improve the Supervision Mechanism**

The so-called supervision, from its literal meaning, refers to observation and urging. Therefore, improving the supervision system needs to be centered around these two perspectives: observation and urging [14]. Specifically, priority should be given to implementing relevant measures for the external supervision mechanism. Among them, the procuratorial organs' access to information and appropriate investigation powers are the core components of the external supervision mechanism, and thus, these two powers of the procuratorial organs need to be further strengthened. Regarding the protection of access to information, the construction of an information sharing mechanism can be deepened to provide support for the procuratorial organs to perform their procuratorial duties more conveniently. The scope of appropriate investigation powers covers two levels: one is to investigate and verify typical fishery violations such as the forgery and trading of fishing licenses, and the other is to investigate and supervise the performance of duties by other relevant authorities. Furthermore, a key reason for the ineffective supervision of administrative organs by the procuratorial organs lies in the fact that administrative organs are the main source of funding for the procuratorial organs. This constraint makes it difficult for the procuratorial organs to fully exert their due supervisory role. Secondly, the internal supervision mechanism of administrative organs should also be improved simultaneously, forming a synergy with external supervision to enhance the overall supervision efficiency. From current practice, internal supervision is mostly focused on post-event supervision. This form of supervision often has significant loopholes when dealing with illegal activities such as the forgery and trading of fishing licenses. Such behaviors are often covert, and post-event supervision often intervenes only after illegal fishing activities have occurred and fishery resources have been damaged. This makes it difficult to trace the source of illegal activities and impossible to timely block the subsequent harm caused by license abuse. Therefore, supplementing post-event supervision with improved pre-event supervision mechanisms can address such issues more accurately and reduce regulatory failures caused by lagging supervision.

## **6. CONCLUSION**

This study takes the forgery and trading of fishing licenses as the entry point to systematically explore the coordination mechanism between the Fisheries Law and Criminal Law. It clarifies the connotation and necessity of their connection, reveals core problems including ambiguous crime-non-crime boundaries due to imperfect legislation, irregular evidence collection and use, and lack of effective supervision, and proposes targeted solutions such as improving subsidiary criminal law provisions, refining evidence rules, and constructing a dual supervision system of external reinforcement and internal prevention. The coordination between the Fisheries Law and Criminal Law is an important institutional guarantee for advancing the maritime power strategy and ecological civilization construction. By clarifying the legal application boundaries of relevant illegal acts, this study aims to resolve the dilemma of "different punishments for the same case" in practice, promote the smooth connection between fishery administrative law enforcement and criminal justice, and provide strong legal support for protecting fishery resources and maintaining stable management order. It should be

noted that the coordination mechanism between the two laws is a systematic project that requires continuous optimization in practice. Future research can further expand the scope of investigation, combine more typical cases to conduct in-depth empirical analysis, and explore more scientific and operable coordination paths. It is also necessary to pay attention to the dynamic adjustment of relevant legal provisions and supervision mechanisms in response to the new situations and challenges in the development of the fishery industry, so as to continuously enhance the effectiveness of legal regulation and better safeguard the sustainable development of the fishery industry and marine ecological security.

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