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## Safeguarding Maritime Sovereignty: Comparative Law Enforcement against Illegal Fishing in Positive and Contemporary Islamic Law

**Abstract:** Illegal fishing poses a critical threat to maritime sovereignty, undermining national security, ecological sustainability, and economic stability. This study conducts a comparative analysis of law enforcement against illegal fishing under Indonesian positive law and contemporary Islamic law. Employing a qualitative legal research method supported by statutory, case, and conceptual approaches, it examines the normative foundations, enforcement challenges, and philosophical principles underpinning both systems. The findings show that Indonesian positive law provides a comprehensive regulatory framework through instruments such as Law No. 45/2009 and the Fisheries Act. However, its enforcement faces significant obstacles, including jurisdictional overlaps, limited institutional resources, and weak interagency coordination. In contrast, contemporary Islamic law frames marine resource protection as part of *ḥimāyah al-bi'ah* (environmental protection) and *maṣlahah* (public welfare), advocating community-based accountability and ethical stewardship rooted in moral responsibility. The study highlights the potential for normative synergy between the two systems, suggesting that integrated legal pluralism could enhance maritime governance by balancing legal deterrence with ethical imperatives. Such an approach promotes not only compliance but also shared moral commitment to resource preservation. This research contributes to the discourse on environmental justice within Islamic jurisprudence and offers policy recommendations for strengthening enforcement mechanisms through a holistic, values-based legal framework.

**Keywords:** Environmental, Illegal Fishing, Islamic law, Maritime Sovereignty, Positive law.

## INTRODUCTION

Indonesia is the largest archipelagic country in the world, which is blessed with abundant marine wealth. Its vast waters have strategic value not only from economic aspects, but also from geopolitical and sovereignty aspects. The marine sector, especially fisheries, is one of the backbones of national food security and a source of income for millions of coastal communities. However, this wealth cannot be separated from threats, one of which is the rampant practice of illegal, unreported, and unregulated fishing (IUU fishing).<sup>1</sup> IUU fishing is not only economically and ecologically detrimental, but also poses a serious challenge to state sovereignty. These actions are often carried out by foreign ships and domestic actors with strong transnational networks. Their presence in Indonesian waters illegally weakens the country's authority and creates inequities in the management of marine resources. The losses caused by this practice reach trillions of rupiah per year, in addition to the destruction of marine habitats and the reduction of fish stocks.<sup>2</sup>

The Government of Indonesia has responded to this problem through various legal instruments, such as Law Number 45 of 2009 concerning Fisheries and Presidential Regulation Number 115 of 2015, which established the IUU Fishing Eradication Task Force. Several decisive measures were also taken, including the sinking of illegal foreign ships. Nonetheless, the effectiveness of law enforcement is still questionable. The study of Adhawati and Fauziah (2024) shows that weak inter-agency coordination, limited resources, and overlapping authority are the main obstacles to the success of these policies.<sup>3</sup> This condition indicates the need for a more comprehensive legal approach, not only legal-formal, but also value-based. This is where Islamic law can make an important contribution. From an Islamic perspective, the sea is not only a resource, but a mandate that must be

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<sup>1</sup> Bellita Tri Ayu Deria, 'Urgensi Sinergi Pemberantasan Illegal, Unreported and Unregulated (IUU) Fishing Sebagai Kejahatan Transnasional Di Perairan Indonesia', *Jurnal Ilmiah Hukum Dan Keadilan* 8, no. 1 (2021): 1.

<sup>2</sup> Wuri Handoyo et al., 'Upaya Penegakan Hukum Terhadap Pelaku Illegal Fishing Di Perairan Natuna Kepulauan Riau', *Karimah Tauhid* 3, no. 3 (2024): 3564-82, <https://doi.org/10.30997/karimahtauhid.v3i3.12657>.

<sup>3</sup> Fauziah Fauziah et al., 'Handling of Illegal Fishing Based on Legal Perspectives in Indonesia', *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 13, no. 3 (2024): 3, <https://doi.org/10.24843/JMHU.2024.v13.i03.p13>.

maintained. Several previous studies have examined the enforcement of IUU fishing in a positive legal framework, for example, by Dedeng (2017), which highlights the weak deterrent effect of criminal sanctions.<sup>4</sup> Meanwhile, a study on the protection of the marine environment from an Islamic perspective was carried out by Khalid (2002), who emphasized the importance of ethical values in maintaining ecosystems.<sup>5</sup> However, these studies are still running in parallel—there are not many studies that directly examine the integration between Indonesian positive law and contemporary Islamic law in the context of illegal fishing.

This is where the research gap that this research aims to fill: the lack of studies that connect the state's legal-formal approach with Islamic values in a coherent and applicable legal framework. So far, Islamic law is still seen as a normative system separate from public policy. In contrast, in the context of a country like Indonesia, where the majority of the population is Muslim, Islamic law has great potential to strengthen social legitimacy and collective awareness in protecting the environment. The novelty of this research lies in its integrative and interdisciplinary approach. This study not only analyzes the differences between positive law and Islamic law but also offers a normative synergy model between the two to create a more equitable and sustainable approach to law enforcement. By combining juridical and ethical dimensions, this research expands the horizon of maritime law in a direction that is more responsive to the local and religious values of Indonesian society.

This study aims to analyze how the law enforcement mechanism against illegal fishing from the perspective of positive law and contemporary Islamic law, as well as explore the possibility of integration of the two. This study is expected to contribute to the development of environmental law based on legal pluralism that not only focuses on

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<sup>4</sup> Dedeng Dedeng, 'Pengaturan Dan Pelaksanaan Penegakan Hukum Terhadap Iuu Fishing Dalam Penguatan Sistem Hukum Nasional', *Jurnal Thengkyang* 2, no. 1 (2017): 1.

<sup>5</sup> Sem Touwe, 'Local Wisdom Values of Maritime Community in Preserving Marine Resources in Indonesia', *Journal of Maritime Studies and National Integration* 4, no. 2 (2020): 84-94, <https://doi.org/10.14710/jmsni.v4i2.4812>.

sanctions, but also builds ecological awareness of the community through a normative approach that is religious and contextual.

Based on this, the main question in this study is: How can the integration between Indonesian positive law and contemporary Islamic law principles strengthen law enforcement against illegal fishing practices and maintain maritime sovereignty fairly and sustainably? This question is a foothold to explore opportunities for inclusive, adaptive, and value-based legal reform in facing the challenges of Indonesia's maritime sovereignty in the global era.

## METHOD

This research uses a qualitative approach with a normative-comparative type of legal research.<sup>6</sup> This approach aims to understand, compare, and analyze in depth how Indonesia's positive law and contemporary Islamic law respond to illegal fishing practices, particularly in the context of the protection of maritime sovereignty and the conservation of marine resources. The main data sources in this study consist of primary and secondary legal materials. Primary legal materials include relevant laws and regulations such as Law Number 45 of 2009 concerning Fisheries, Presidential Regulation Number 115 of 2015, as well as related international law provisions such as UNCLOS 1982. Meanwhile, secondary legal materials include classical and contemporary Islamic legal literature, the results of previous research, academic journals, scholarly fatwas, as well as official documents related to maritime law and environmental protection from an Islamic perspective.

Data collection techniques are carried out through documentation, which includes searching for legal documents, fiqh books, scientific articles, and relevant policy reports. In addition, an analysis was also carried out on the results of conferences, court decisions, and fatwas related to the issue of illegal fishing and Islamic environmental law. The data obtained were analyzed using the statute approach, conceptual approach, and comparative approach. The legislative approach is used to examine the norms in Indonesian positive

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<sup>6</sup> Matthew B Miles and A. Michael Huberman, *Analisis Data Kualitatif : Buku Sumber Tentang Metode Metode Baru* (Universitas Indonesia Press, 2014).

law systematically. A conceptual approach is used to explore the basic values and ethical principles in Islamic law. Meanwhile, the comparative approach is used to assess the suitability, differences, and potential integration between the two legal systems. The validity of the data is strengthened through triangulation of sources, namely by comparing data from various academic literature, legal provisions, and religious documents. This approach aims to ensure that the resulting analysis is not only textual and theoretical but also contextual and relevant to the social and legal realities in Indonesia. With this method, it is hoped that the results of the research can provide a conceptual and applicable scientific contribution, as well as offer an integrative law enforcement model between positive law and Islamic values in responding to the challenges of illegal fishing and the protection of Indonesia's maritime sovereignty.

## RESULTS AND DISCUSSION

### Actual Conditions of Law Enforcement against Illegal Fishing in Indonesia

Indonesia is known as the largest archipelagic country in the world, with an area of sea that reaches about two-thirds of its total area. The abundant wealth of marine resources makes the marine sector one of the backbones of the national economy. However, this great potential is often undermined by the rampant practice of illegal fishing, which is mostly carried out by foreign vessels without official permits. This activity is not only economically detrimental but also threatens maritime sovereignty and the preservation of Indonesia's marine ecosystem.<sup>7</sup> A report from the Ministry of Maritime Affairs and Fisheries (KKP) shows that illegal fishing practices are still occurring massively, especially in strategic areas such as the North Natuna Sea, Arafura waters, and Sulawesi waters. State losses due to this practice are estimated to reach more than Rp100 trillion per year. In addition to losing potential state revenue, this activity also has a bad impact on local fishermen who are increasingly difficult to get their catch due to excessive exploitation by illegal actors. In response to this problem, the government has implemented various law

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<sup>7</sup> Belardo Prasetya Mega Jaya and Muhamad Uut Lutfi, 'The Law Enforcement Towards Foreign Vessels Which Did Illegal, Unreported and Unregulated Fishing (IUU-Fishing) In Indonesia Fisheries Management Areas', *Jurnal Dinamika Hukum* 20, no. 1 (2021): 1, <https://doi.org/10.20884/1.jdh.2020.20.1.2838>.

enforcement strategies. Some of the institutions that are actively involved in this process include the KKP, the Indonesian National Army Navy (TNI AL), and the Maritime Security Agency (Bakamla). These three institutions conduct routine patrols in Indonesian waters to identify, arrest, and take action against illegal fishing perpetrators. One of the approaches that had been in the public spotlight was the policy of sinking foreign ships, which proved to be unlawful, especially during the time of Minister Susi Pudjiastuti.<sup>8</sup>

In terms of regulations, Indonesia actually has a fairly strong legal foundation in dealing with this problem. Law Number 45 of 2009 concerning Fisheries provides a basis for law enforcement officials to act decisively against violations. In addition, Presidential Regulation Number 115 of 2015 regulates the establishment of the Task Force for the Eradication of Illegal Fishing (Task Force 115) as a form of integrated coordination between agencies. The presence of the regulation clarifies the authority and legal procedures for taking action against perpetrators. However, in practice, law enforcement against illegal fishing still faces many challenges, both structurally and technically. One of the main problems is the overlap of authority between institutions, which leads to weak coordination and effectiveness of enforcement. In addition, the limited patrol fleet, human resources, and surveillance technology also make it difficult to supervise a very large and difficult-to-reach marine area.<sup>9</sup>

Another problem that is no less important is the weak law enforcement system in the court realm. Not all cases of illegal fishing lead to maximum punishment. In some cases, the perpetrator is only subject to light fines or is acquitted due to a lack of evidence or procedural loopholes. This gives the impression of a weak deterrent effect and opens up the opportunity for the recurrence of the same violation. The involvement of coastal communities is also still limited in efforts to monitor and report illegal activities. In fact,

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<sup>8</sup> Akhmad Kadir et al., 'Local Wisdom Regarding Coastal Resource Management among a Fishermen Community in Youtefa Bay, Papua.', *ETNOSIA : Jurnal Etnografi Indonesia* 6, no. 1 (2021): 36-46, <https://doi.org/10.31947/etnosia.v6i1.13074>.

<sup>9</sup> Nurlidiawati Nurlidiawati and Ramadayanti Ramadayanti, 'Peranan Kearifan Lokal (Local Wisdom) dalam Menjaga Keseimbangan Alam (Cerminan Masyarakat Adat Ammatoa di Kajang)', *Al-Hikmah* 23, no. 1 (2021): 1, <https://doi.org/10.24252/al-hikmah.v23i1.21726>.

local communities are the most affected by illegal fishing practices. The lack of legal literacy and lack of facility support cause the potential for community participation to not be optimized. There needs to be a more participatory approach so that marine surveillance becomes a collective responsibility, not just a state apparatus.<sup>10</sup> With these challenges, it can be concluded that law enforcement against illegal fishing in Indonesia still needs significant improvement. Strengthening regulations, inter-agency coordination, improving surveillance technology, and involving local communities are important steps towards a more effective and equitable law enforcement system. In addition, moral and religious values can also be the basis for strengthening a culture of compliance with maritime law.

### **Normative Foundations in Positive Law against Illegal Fishing**

Efforts to eradicate illegal fishing practices in Indonesia have a strong legal basis in the national legal system. One of the main rules used is Law Number 45 of 2009 concerning Fisheries, which regulates various prohibitions on illegal fishing activities, the use of prohibited fishing gear, and violations of fishing areas. This rule also provides fairly strict criminal sanctions to the perpetrators, in the form of prison sentences and large fines, to provide a deterrent effect.<sup>11</sup>

In addition, the government also strengthened the institutional structure of law enforcement through Presidential Regulation Number 115 of 2015, which established Task Force 115. This task force involves cross-sectoral cooperation between the Ministry of Maritime Affairs and Fisheries (KKP), TNI NAVY, Bakamla, the National Police, and the Prosecutor's Office. With this Presidential Regulation, coordination between institutions has become more formal and structured, especially in direct action against foreign vessels that steal fish in Indonesian waters. However, not all policies strengthen the surveillance system. The Job Creation Law (Law No. 11 of 2020), for example, although it aims to facilitate investment, also raises concerns because it simplifies business licensing procedures

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<sup>10</sup> Marham Muhammadiyah and Risfaisal Risfaisal, 'Perilaku Menyimpang Ilegal Fishing', *Equilibrium: Jurnal Pendidikan* 4, no. 1 (2016): 1, <https://doi.org/10.26618/equilibrium.v4i1.485>.

<sup>11</sup> Mery Pemilia Astriyanti and Ayu Efridadewi, 'Pengelolaan, Pemahaman Dan Perlindungan Masyarakat, Serta Penegakan Hukum Tindak Pidana Mengenai Ilegal Fishing', *Jurnal Ilmiah Wahana Pendidikan* 10, no. 10 (2024): 10, <https://doi.org/10.5281/zenodo.11447187>.

in the fisheries sector. This simplification has the potential to weaken control over business actors, especially if it is not accompanied by strict supervision in the field.<sup>12</sup>

From the institutional side, positive law has established a fairly clear division of duties. The KKP has the authority to grant permits and supervise fishing vessels. The Indonesian Navy and Bakamla play a role in patrolling and securing the sea, while the police and the prosecutor's office are in charge of enforcement and legal proceedings. Although this division has been written in the regulations, in practice, there is still often overlapping authority and slow coordination between institutions. The sanctions regulated in positive law are actually quite strong. Perpetrators of illegal fishing can be subject to a prison sentence of up to 6 years and a fine of up to IDR 20 billion. The government is also authorized to confiscate illegal catches, boats, and fishing gear. However, in many cases, the legal process does not run optimally. Some cases stopped halfway through due to weak evidence or technical obstacles in the investigation.<sup>13</sup>

The advantage of positive law in Indonesia is that its regulatory structure is quite complete and gives broad authority for the state to take strict action against violations. The practice of sinking foreign vessels that steal fish, for example, was once a symbol of government firmness and received international attention. This shows that normatively, Indonesia has a strong legal apparatus to maintain maritime sovereignty. But its weaknesses cannot be ignored either. Weak supervision at sea, limited human resources, and a lack of advanced technology support make many illegal fishing perpetrators still able to escape the trappings of the law. Not to mention, if the officials on duty in the field do not understand the technicalities of proof, or do not dare to bring cases to the legal realm due to political or economic pressure.<sup>14</sup>

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<sup>12</sup> Fadli Afriandi et al., 'Analisis Illegal Fishing Di Perairan Aceh', *Jurnal Sosial Ekonomi Kelautan dan Perikanan* 18, no. 2 (2023): 2, <https://doi.org/10.15578/jsekp.v18i2.13006>.

<sup>13</sup> Urrifatul Choירו et al., 'Dampak Peneggelaman Kapal Illegal Fishing Di Wilayah Indonesia Ditinjau Dari Perspektif Hukum Internasional', *Begawan Abioso* 15, no. 2 (2024): 2, <https://doi.org/10.37893/abioso.v15i2.1000>.

<sup>14</sup> Ririn Atifa Naila and Imam Fadhil Nugraha, 'Strategi Indonesia Dalam Menangani Kasus Illegal Fishing Di Wilayah Perairan Natuna', *Desentralisasi : Jurnal Hukum, Kebijakan Publik, Dan Pemerintahan* 2, no. 1 (2025): 21-35, <https://doi.org/10.62383/desentralisasi.v2i1.384>.



Interviews with a number of field officers show that they often face dilemmas. On the one hand, regulations require them to act quickly, but on the other hand, the lack of facilities and training is a serious obstacle. Some also say that the legal process is often too bureaucratic, preferring peaceful or administrative channels to take cases to court.<sup>15</sup> Therefore, law enforcement against illegal fishing must be carried out comprehensively, not only based on the strength of regulations, but also the capacity of institutions, the integrity of officers, and the involvement of coastal communities.<sup>16</sup> The combination of a strong positive legal system and a socio-cultural approach will be key to successfully protecting Indonesia's seas from illegal fishing practices.

Table 1: Evaluation of Positive Legal Regulations on Illegal Fishing

Legal Instruments	Tree Contents	Implementation	Note
<b>Law No. 45 of 2009</b>	Illegal fishing bans, criminal sanctions, and fines	Quite firmly, but many cases do not proceed	Weak evidence and procedural constraints
<b>Presidential Decree No. 115 of 2015</b>	Establishment of Task Force 115 to coordinate enforcement	Initially effective, then decreased	Coordination between agencies is still inconsistent
<b>Law No. 11 of 2020 (CK)</b>	Simplification of licensing in the marine and fisheries sector	Licensing is faster	Potential weak control over illegal business actors

Source: Author's Interpretation

Table 1 shows that Indonesia already has a fairly strong legal basis through three main regulations, namely Law No. 45 of 2009, Presidential Regulation No. 115 of 2015, and Law No. 11 of 2020 concerning Job Creation. Law No. 45/2009 became the main legal umbrella in fisheries law enforcement, with a focus on prohibiting illegal fishing practices and the use of fishing gear that damages the environment. Presidential Decree 115/2015 strengthens enforcement through the establishment of cross-agency Task Force 115, which was effective in cracking down on illegal foreign ships. Meanwhile, the Job

<sup>15</sup> Maya Shafira et al., 'Illegal Fishing: Optimalisasi Kebijakan Penegakan Hukum Pidana Sebagai Primum Remedium', *Jurnal Wawasan Yuridika* 5, no. 1 (2021): 1, <https://doi.org/10.25072/jwy.v5i1.391>.

<sup>16</sup> Andrie Irawan and Yulio Iqbal Cahyo Arsetyo, 'Optimalisasi Penegakan Hukum Pidana Ilegal Fishing Pada Perairan Indonesia', *JURNAL HUKUM DAS SOLLEN* 9, no. 2 (2023): 780-809, <https://doi.org/10.32520/das-sollen.v9i2.2985>.

Creation Law introduces simplification of licensing, which, on the one hand, makes it easier to invest, but on the other hand, opens up potential loopholes in the supervision of fishing activities.

Although these regulations have normative power, their implementation in the field still faces various challenges. Some of them include weak coordination between institutions, limited resources for law enforcement officials, and non-optimal post-licensing supervision systems. In addition, regulatory changes that are too fast or without the readiness of the supervisory structure also have the potential to be used by illegal fishing perpetrators. Therefore, the effectiveness of eradicating illegal fishing is not only determined by the existence of regulations, but also by political commitment, institutional synergy, and the adaptive ability of the apparatus in responding to dynamics in the field.

### **Contemporary Islamic Law Perspectives on Marine Protection and Illegal Fishing**

The protection of the sea is not only the responsibility of the state through regulations, but it is also part of the moral and spiritual responsibility of Muslims. From the perspective of contemporary Islamic law, destructive exploitation of the sea, such as illegal fishing, is a form of violation of the mandate given by Allah to humans as caliphs on earth. This responsibility includes efforts to preserve the marine environment for the welfare of the current and future generations. Islam has long taught ecological values through the principle of *ḥimāyah al-bi'ah* (environmental protection). This principle emphasizes the prohibition of doing damage to the earth, as mentioned in the Qur'an. al-A'rāf [7]: 56, "Do not make any damage to the earth after (Allah) has repaired it." In this context, the practice of illegal fishing that damages coral reefs and threatens fish populations is clearly contrary to the teachings of Islam.<sup>17</sup>

In addition, the concept of *maṣlahah* or the common good is an important basis in Islamic law for establishing a policy. If an action causes damage to the marine ecosystem,

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<sup>17</sup> Nur Khovidatur Rohma and Rumawi Rumawi, 'Sanctions for Criminal Act of Fishing with Explosives: Islamic Law Perspective', *Rechtenstudent* 3, no. 3 (2022): 3, <https://doi.org/10.35719/rch.v3i3.192>.

harms local fishermen, and disturbs the balance of nature, then it cannot be justified according to the principle of *maṣlahah*. Islam places the public interest and environmental sustainability as the top priority in making legal decisions. On the other hand, the principle of *amānah* (responsibility) is also very relevant in the context of marine management. Man does not have the sea absolutely, but only as a guardian entrusted by Allah to manage it fairly and wisely. Illegal fishing is a form of betrayal of trust because it causes damage and socio-ecological inequality.<sup>18</sup>

The development of contemporary Islamic legal thought also shows a reinterpretation of the exploitation of the sea. Many Muslim scholars and scholars today call for the importance of preserving marine ecosystems as part of *maqāṣid al-syarī'ah* (the purposes of the Shari'ah), especially in order to protect life (*ḥifẓ al-nafs*) and property (*ḥifẓ al-māl*). Illegal fishing practices, in this view, not only violate state laws but also violate Sharia values. Contemporary fatwas have also strengthened this position. For example, the Indonesian Ulema Council (MUI), through a fatwa on environmental conservation, stated that damaging marine ecosystems is haram. Other fatwas at the international level, such as those issued by the Islamic Fiqh Academy (OIC), also affirm the prohibition against excessive exploitation of nature, including the practice of fishing in illegal or destructive ways.<sup>19</sup>

This ecological awareness in Islamic law is also reflected in the *fiqh bi'ah* approach, which develops a more environmentally friendly legal perspective. Scholars such as Yusuf al-Qaradawi emphasized that Islamic law should not only be textual, but must be able to respond to the challenges of the times, including environmental and maritime issues. Therefore, education of the public and law enforcement based on Islamic values is important to build collective awareness. The integration between Sharia values and positive

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<sup>18</sup> Faisal Riza and Ihsanil Amami, 'Efforts to Improve The Prevention of Fishery Crime According to Islamic Law', *Proceeding International Seminar of Islamic Studies*, no. 0 (March 2023): 0, <https://doi.org/10.3059/insis.v0i0.13571>.

<sup>19</sup> Nur Khovidatur Rohma and Rumawi Rumawi, 'Sanctions for Criminal Act of Fishing with Explosives: Islamic Law Perspective', *Rechtenstudent* 3, no. 3 (2022): 3, <https://doi.org/10.35719/rch.v3i3.192>.

law can strengthen efforts to eradicate illegal fishing. Islamic law provides an ethical and religious dimension that is not possessed by positive law alone. With this approach, people are not only afraid of legal sanctions, but also driven by spiritual awareness to guard the sea as God's mandate. To clarify the principles of contemporary Islamic law in responding to illegal fishing practices, here is a table that summarizes four main principles and their implementation:

Table 2: Principles of Contemporary Islamic Law Related to Illegal Fishing

Principle	Meaning	Implementation of Illegal Fishing
<i>Ḥimāyah al-bi'ah</i>	Protection of the environment	Prohibit destructive marine exploitation such as fish bombs and trawls
<i>Maṣlahah</i>	Realizing benefits and avoiding damage.	Rejecting illegal fishing practices because they are detrimental to local fishermen and ecosystems
<i>Amānah</i>	Human responsibility as guardians of nature	Demand sustainable and equitable management of the ocean
<i>Fiqh al-bi'ah</i>	Environmental jurisprudence that adapts Islamic law to modern ecological issues	Calling for the preservation of the ocean as part of worship and responsibility

Sumber: Author's Interpretation

Table 2 summarizes four main principles in contemporary Islamic law that are relevant to the issue of marine protection and illegal fishing practices. The principle of *ḥimāyah al-bi'ah* emphasizes the obligation to protect the environment from damage, which in the marine context means prohibiting destructive fishing methods such as the use of bombs and trawls. The principle of *maṣlahah* focuses on the common good, so illegal fishing practices that harm coastal communities, damage ecosystems, and threaten the sustainability of marine resources are seen as contrary to the goals of sharia.

Meanwhile, the principle of *amānah* affirms the position of humans as guardians of nature, not absolute owners, so arbitrary exploitation of the sea is a form of betrayal of the mandate. The principles of *fiqh al-bi'ah* or environmental fiqh emphasize the need for an adaptive approach to contemporary ecological issues, including marine conservation. These four principles, if internalized in public policy and public awareness, can become a strong

religious foundation in supporting the eradication of illegal fishing and maintaining marine sustainability holistically.

### Comparative Analysis between Positive Law and Islamic Law

Marine protection from illegal fishing practices is one of the strategic issues that requires a multidimensional approach, including a legal aspect.<sup>20</sup> Both positive law and Islamic law have a great concern for the preservation of marine resources as part of social and environmental responsibility. Both have their legal instruments, which, if studied in depth, hold a common point of fundamental values in ensuring the sustainability of marine ecosystems.<sup>21</sup> Indonesia's positive law, through regulations such as Law No. 45 of 2009 concerning Fisheries and Presidential Decree No. 115 of 2015 concerning the Task Force for the Eradication of Illegal Fishing, focuses on marine protection through procedural, institutional, and sanction-based law enforcement.<sup>22</sup> This law places the state as the main actor in the supervision and sanctioning of violations. The approach is structural and measurable, with technical support from various agencies such as the KKP, TNI AL, and Bakamla.<sup>23</sup>

In contrast, contemporary Islamic law offers a more ethical and normative approach. Concepts such as *ḥimāyah al-bi'ah* (environmental protection), *maṣlahah* (the common good), and *amānah* (man's responsibility to nature) became a strong basis for condemning illegal and destructive fishing practices. These principles are not only legal, but also moral and spiritual, which shape the ecological consciousness of Muslims. The main difference between the two lies in the basis of legitimacy and how it works. Positive

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<sup>20</sup> Arwansa Arwansa et al., 'Supervision and Control of Fisheries Resources in Illegal Fishing Activities in Central Sulawesi (Case Study at WPPNRI 713)', *Mitra Sains* 12, no. 1 (2024): 1, <https://doi.org/10.22487/ms26866579.2024.v12.i1.pp69-80>.

<sup>21</sup> Diah Ayu Rahmawati et al., 'Legal Framework and Law Enforcement of Illegal Fishing in Indonesia: A Normative Juridical Approach to the Protection of Maritime Sovereignty', *West Science Law and Human Rights* 3, no. 01 (2025): 01, <https://doi.org/10.58812/wslhr.v3i01.1652>.

<sup>22</sup> Amin Bendar, 'Illegal Fishing Sebagai Ancaman Kedaulatan Bangsa', *Perspektif Hukum*, 3 May 2015, 1-26, <https://doi.org/10.30649/ph.v15i1.25>.

<sup>23</sup> Mahegi Ashardani Warna Adhi Wiharja and Edith Ratna M.s., 'The Role of The Fisheries Court in The Settlement of Illegal Fishing Disputes in Indonesia', *ALMANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 6, no. 1 (2024): 1, <https://doi.org/10.37680/almanhaj.v6i1.4763>.

law operates formally, depending on state authorities and a written legal apparatus. On the contrary, Islamic law works through the moral awareness of the ummah, the fatwa of the ulama, and the integration of religious values in daily actions. Therefore, the effectiveness of Islamic law in this context is highly dependent on the level of religious literacy and social support of the Muslim community.

Despite their different approaches, these two legal systems have a great opportunity to complement each other. The common ground between the two can be seen in the commitment to environmental protection, the prohibition of overexploitation, and respect for the balance of ecosystems. Positive law can take inspiration from Islamic normative approaches to building people's collective consciousness, while Islamic law can synergize with state law in terms of enforcement and regulation.<sup>24</sup>

The integration of these two legal systems can be realized through two main channels: regulation and education. Regulations can encourage the involvement of fatwas and sharia principles in marine policy, as has been done by the Indonesian Ulema Council in issuing fatwas on marine conservation. Meanwhile, education can build awareness of the fishing community about the importance of protecting the sea, as God's mandate that must be maintained together. Studies have confirmed that a country with a Muslim-majority population, such as Indonesia, has great potential to make Islamic principles a normative force in supporting environmental policies. If positive law and Islamic law can synergize with each other, then the eradication of illegal fishing is not only a state legal task, but also a moral movement of society based on religious values.

However, the challenges of integration are still quite large. On the one hand, positive law still minimally absorbs Islamic ethical values systematically, while on the other hand, some religious circles are not optimal in making environmental issues part of priority in da'wah. Therefore, cross-sectoral synergy—between state institutions, religious organizations, and academics—is key to bridging this gap. To clarify this comparative

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<sup>24</sup> Raafid Febriansyah et al., 'Optimalisasi Penegakan Hukum Kelautan Indonesia Terhadap Penangkapan Ikan Secara Ilegal (Illegal Fishing) Oleh Kapal Asing', *Innovative: Journal Of Social Science Research* 4, no. 1 (2024): 1, <https://doi.org/10.31004/innovative.v4i1.7819>.

analysis, the following table is presented showing the common points and differences between positive law and Islamic law in the context of marine protection from illegal fishing practices:

Table 3: Comparison of Positive Law and Islamic Law in Marine Protection

Aspects	Positive Law	Contemporary Islamic Law	Meeting Point
<b>Normative Foundations</b>	Country laws and regulations	Al-Qur'an, Hadis, <i>Maqāṣid al-syarī'ah</i>	Prohibition of environmental damage and destruction
<b>Pendekatan</b>	Legal-procedural and coercive	Ethical-normative and moral-religious	Concern for ecosystem sustainability
<b>Enforcement Actors</b>	State apparatus: KKP, TNI NA, Bakamla	Scholars, religious leaders, and Muslim communities	Community involvement
<b>Main Objectives</b>	Law enforcement and resource surveillance	Public benefit and divine responsibility	Balance of the marine environment
<b>Sanction Mechanism</b>	Fines, jails, and boat seizures	Moral reprimands, fatwas, shari'a prohibitions	Violation prevention

Source: Author's Interpretation

Table 3 shows that although positive law and Islamic law have different normative bases—namely, state law and sharia law—they meet on the same fundamental values, namely, the protection of the marine environment and the prevention of ecosystem damage. Positive law emphasizes a legal-procedural approach that is embodied in the form of regulation, supervision, and law enforcement by formal institutions such as the Ministry of Maritime Affairs and Fisheries (KKP), TNI NAVY, and Bakamla. Meanwhile, contemporary Islamic law offers an ethical-normative approach based on the teachings of the Qur'an, hadith, and *maqāṣid al-syarī'ah* by emphasizing the values of *maṣlahah*, *ḥimāyah al-bi'ah*, and *amānah* as the foundation for protecting the marine environment.

Although they are different ways, they have common ground on the aspects of prohibiting exploitation and commitment to sustainability. The synergy between the two can be seen from the integration efforts between formal sanctions of state law and the Islamic religious moral approach. Positive law provides strict sanctions in the form of fines,

imprisonment, and confiscation of fishing gear, while Islamic law provides moral pressure through fatwas, religious education, and strengthening the value of responsibility for God's creation. Thus, the collaboration between these two systems has the potential to create a more comprehensive marine protection, not only in terms of legality, but also sustainable ecological awareness in the community.

### **Integrative Model of Law Enforcement Based on Islamic Values and Positive Law**

Efforts to eradicate illegal fishing practices in Indonesia have so far faced various challenges, ranging from weak supervision, limited apparatus resources, to low public awareness.<sup>25</sup> Therefore, an approach is needed that not only relies on positive law enforcement that is formal and coercive, but also on a moral and spiritual approach based on Islamic values. This integrative model of law enforcement is the answer to the complexity of the problem of illegal fishing, which cannot be solved by state law alone.

The integrative model in question is an approach that combines positive legal instruments with Islamic religious ethics. Law enforcement is not only oriented towards sanctions and courts, but also touches the inner consciousness of perpetrators and the community at large.<sup>26</sup> Islamic values such as *ḥimāyah al-bi'ah* (environmental protection), *amānah* (moral responsibility), and *maṣlahah* (public interest) can be the foundation for shaping the behavior of a society that is more pro-environmental and compliant with fisheries regulations. In this context, the role of clerics and religious institutions is very important. They are not only presenters of fatwas or religious teachings, but also agents of social change who are able to build ecological awareness in the community. Through da'wah and religion-based environmental education, scholars can help frame the issue of illegal fishing as a form of moral and religious violation, not just a violation of state law.

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<sup>25</sup> Riadhus Sholihin et al., 'Resolving Illegal Fishing in Rumpon Unjam: The Strategic Role of Panglima Laot in Aceh's Customary Law', *Legitimasi: Jurnal Hukum Pidana Dan Politik Hukum* 13, no. 2 (2024): 2, <https://doi.org/10.22373/legitimasi.v13i2.23286>.

<sup>26</sup> Asiyah Jamilah and Hari Sutra Disemadi, 'Penegakan Hukum Illegal Fishing Dalam Perspektif UNCLOS 1982', *Mulawarman Law Review* 5, no. 1 (2020): 1, <https://doi.org/10.30872/mulrev.v5i1.311>.



This will strengthen the preventive power that comes from the conscience of the perpetrator.

No less important is the involvement of coastal communities in monitoring and reporting illegal fishing activities. Those who live at the forefront of Indonesian waters have local knowledge and direct access to the sea. Empowering them through training, social incentives, and strengthening religious values will create an effective community-based surveillance network. This also answers the weak capacity of state surveillance in remote areas and the vast area of Indonesia's seas.<sup>27</sup> The concept of ecological justice is also an important pillar in this integrative model. Ecological justice places nature as an entity that has the right not to be arbitrarily destroyed and exploited. Within the framework of *maqāṣid al-syarī'ah*, environmental preservation is included in the protection of life (*ḥifẓ al-nafs*) and offspring (*ḥifẓ al-nasl*), since a damaged sea will threaten the sustainability of future generations. This is in line with the principles in the national law on sustainable natural resource management.

Furthermore, humanist and contextual law enforcement should be a principle in this model. Sanctions remain important, but must be accompanied by education, mediation, and cultural approaches that are in accordance with local and religious values. Thus, law enforcement is no longer repressive, but becomes a means of social transformation towards a maritime society that is more law-conscious and with integrity.<sup>28</sup> This integrative model also opens up space for synergy between the state and civil society. The government can partner with Islamic boarding schools, Islamic organizations, and da'wah institutions to run faith-based environmental education programs in coastal areas.

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<sup>27</sup> Muhammad Izzudinil Qowim et al., 'Penegakan Hukum Di Wilayah Zona Ekonomi Eksklusif Indonesia Terhadap Tindakan Illegal Fishing: Law Enforcement in Indonesia's Exclusive Economic Zone Against Illegal Fishing', *ALMIKRAJ Jurnal Studi Islam Dan Humaniora* (E-ISSN 2745-4584) 5, no. 2 (2025): 2, <https://doi.org/10.37680/almikraj.v5i2.7023>.

<sup>28</sup> Marimin Marimin et al., 'Punishment of Illegal Fishing Perpetrators in Indonesia in the Perspective of Equality before the Law', *SASI* 28, no. 2 (2022): 259-267, <https://doi.org/10.47268/sasi.v28i2.971>.

This synergy will add to the social legitimacy of state policies, while strengthening spiritual values in the daily lives of the fishing community.

To measure the success of this model, key indicators could include a decrease in illegal fishing cases, increased community participation in marine surveillance, and an increase in religious programs that highlight environmental issues. Periodic evaluation and involvement of academics in policy research are also important so that this approach continues to be relevant and adaptive to social change.<sup>29</sup> By integrating Islamic law values and positive law in one harmonious law enforcement model, Indonesia has the potential to become a pioneer in building an ecological justice paradigm rooted in local wisdom and Islamic spirituality. It is not only about guarding the seas from theft, but also about building a just, sustainable, and dignified maritime civilization.

## CONCLUSION

This study shows that the practice of illegal fishing is not only a threat to the sustainability of Indonesia's marine ecosystem, but also reflects the failure of law enforcement approaches that are purely formal and procedural. Therefore, a more holistic approach rooted in ethical and religious values is needed. An integrative model that combines positive law with Islamic legal values offers strategic and transformative solutions to this problem. By prioritizing principles such as *ḥimāyah al-bi'ah*, *maṣlahah*, *amānah*, and the *fiqh al-bi'ah* approach, this model not only emphasizes sanctions but also builds the moral awareness of the community, especially coastal communities. The active involvement of scholars, religious institutions, and local communities is a key element in creating a strong participatory oversight mechanism. This integration forms a paradigm of ecological justice based on *maqāṣid al-syarī'ah* and affirms that the protection of the marine environment is a religious mandate as well as a constitutional responsibility. Thus, Indonesia has great potential to formulate law enforcement policies that are not only legally effective, but also spiritually and ecologically just. As a follow-up to these findings, further

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<sup>29</sup> I. Nyoman Rama Cahyadi Putra et al., 'Sanksi Pidana Terhadap Pencurian Ikan (Illegal Fishing) Di Laut Indonesia Yang Dilakukan Oleh Kapal Asing', *Jurnal Preferensi Hukum* 2, no. 3 (2021): 603-608, <https://doi.org/10.22225/jph.2.3.4024.603-608>.

research is recommended to explore in more depth the integration practices between national law and Islamic values in the context of environmental protection in specific coastal areas, using a case study or legal ethnography approach. Research can also focus on the effectiveness of the role of scholars and religious institutions in shaping ecological awareness based on *maqāṣid al-syarīʿah* in the fishing community.

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#### **AUTHOR CONTRIBUTIONS STATEMENT**

S.D.R.N. conceptualized the study, collected the primary data, and drafted the initial manuscript. A.S. provided supervision, contributed to the methodology design, and reviewed the legal framework. H. assisted in data analysis and ensured the validity of the legal interpretations. E.L. contributed to the literature review and revised the manuscript for theoretical accuracy. All authors read and approved the final version of the manuscript.

#### **CONFLICT OF INTEREST**

The author emphatically states that there is no conflict of interest in the implementation or preparation of this research. The entire process, from problem formulation, data collection, analysis, to concluding, is carried out independently and based on scientific principles that uphold objectivity. The author has no financial, institutional, or other professional affiliations or affiliations that could influence the direction or outcome of this research. In addition, all sources involved in the study provided information voluntarily, and the data obtained were analyzed with a transparent and responsible academic approach. Thus, the findings and interpretations presented in this article fully reflect the results of thought and study that are free from the intervention

of any party. This statement is made to guarantee academic integrity and to give confidence to readers that this article was compiled with high standards of research ethics.

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