

## JURIDICAL ANALYSIS AND SHARIA PERSPECTIVE ON DESTRUCTIVE FISHING PRACTICES IN MEDAN BELAWAN

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### ABSTRACT

Fishing activities using trawl nets and seine nets (locally known as "pukat harimau") are still widely practiced in the waters of Medan Belawan, despite being officially banned by the government. This practice has led to severe damage to marine ecosystems, including seabed degradation, destruction of coral reefs, and the decline of juvenile fish populations. This raises serious concerns about the sustainability of fisheries and the livelihoods of coastal communities. In addition to positive legal approaches, a normative religious approach is needed to examine this phenomenon from the perspective of Islamic law. This study aims to analyze the use of trawl and seine nets from the perspective of Indonesian positive law and Islamic law, as well as to assess the effectiveness of the ban implementation among fishing communities in Medan Belawan District. The research uses a qualitative method with a combination of normative juridical and empirical approaches. Data were collected through document analysis, interviews, and direct field observation. The results show that although trawl fishing has been banned under Law No. 45 of 2009 and Ministerial Regulation No. 2 of 2015, the implementation at the local level faces various challenges. These include the fishermen's economic dependency on high-yield fishing, lack of legal literacy, and limited understanding of Islamic values related to environmental protection. From an Islamic legal perspective, the use of destructive fishing gear is considered *fasād fi al-arḍ* (corruption on earth), violating the principles of *khalifah* (stewardship), *amānah* (trust), and the prohibition of *isrāf* (excess). Thus, synergy between state law enforcement and Islamic-based educational approaches is necessary to promote a fair, sustainable, and sharia-compliant fishing practice.

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### INTRODUCTIONS

Indonesia is the largest maritime country in the world with a water area of 5.8 million km<sup>2</sup> and a coastline of 99,093 km. The potential of Indonesia's fisheries and marine is huge, with the value of capture fisheries production

reaching IDR 155.2 trillion in 2022 and contributing to national GDP of 2.65%. This wealth of marine resources makes the fisheries sector one of the main pillars of the national economy, especially for coastal communities who directly depend on marine products for their livelihoods. (Zainal et al., 2025)

North Sumatra, especially Medan Belawan District, is one of the important fisheries centers in Indonesia with capture fisheries production reaching 128,456 tons in 2021. As a strategic coastal area, Medan Belawan is home to 3,872 fishermen, most of whom depend on fishing activities for their livelihoods. However, behind this great economic potential, Indonesia's fisheries sector faces various serious challenges, especially related to fishing practices that are not environmentally friendly.

One of the fishing practices that is of serious concern is the use of *trawls* and *seine nets*. Among the people of Medan Belawan, the two types of fishing gear are generally known as tiger trawlers. It should be understood that the term "tiger trawl" is a local term used by the fishing community of Medan Belawan to refer to various types of fishing gear that have similar characteristics and environmental impacts, namely *hela trawls* and *trawls*. According to Siregar in his research on the operating pattern of trawling equipment in the waters of Medan Belawan, the term "tiger trawl" has been used for generations by the local fishing community and refers to fishing gear that is in accordance with the definition of *hela trawl* and *trawl* in the Regulation of the Minister of Maritime Affairs and Fisheries Number 2/PERMEN-KP/2015. (Purwanto et al., 2025)

According to research by Nasution, Yonvitner, and Wardiatno, the use of tiger trawls in Belawan waters has caused damage to seabed habitats up to 78% of the sampled area. In areas frequented by tiger trawlers, coral reefs have been damaged by up to 85%, and the population of benthic biota has declined drastically by 62% in the last five years. More worryingly, the study also revealed that 60-75% of tiger trawl catches are small and juvenile fish that are not gonad-immature, thus disrupting the reproductive and regeneration cycles of fish populations.

Seeing the destructive impact of the use of tiger trawls, the Indonesian government has issued a prohibition policy through the Regulation of the Minister of Maritime Affairs and Fisheries Number 2/PERMEN-KP/2015 concerning the Prohibition of the Use of *Trawls* and *Seine Nets* in the State Fisheries Management Area of the Republic of Indonesia. This policy is an implementation of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries which emphasizes the importance of sustainable fisheries management. (Hakim et al., 2021)

According to the Directorate General of Capture Fisheries, since the enactment of the regulation, there has been a 45% decrease in the use of tiger trawls nationally. However, in some areas, including Medan Belawan, the implementation of this policy still faces various challenges. Data from the Medan City Fisheries and Marine Service shows that even though it has been banned, there are still around 23% of fishermen in Medan Belawan who continue to use tiger trawlers secretly. This shows that there is a gap between regulations and their implementation in the field. (Ningsih et al., 2024)

In addition to a positive legal perspective, the use of tiger trawls also needs to be reviewed from the perspective of Islamic law considering that the majority of the Indonesian population, including fishermen in Medan Belawan, are adherents of Islam. In Islamic teachings, humans have a role as caliphs on earth who are entrusted with managing and preserving nature. This concept of caliph emphasizes human responsibility for the environment, as mentioned in the Qur'an Surah Al-Baqarah verse 30:

وَإِذْ قَالَ رَبُّكَ لِلْمَلَائِكَةِ إِنِّي جَاعِلٌ فِي الْأَرْضِ خَلِيفَةً قَالُوا أَتَجْعَلُ فِيهَا مَنْ يُفْسِدُ فِيهَا وَيَسْفِكُ الدِّمَاءَ وَنَحْنُ نُسَبِّحُ بِحَمْدِكَ وَنُقَدِّسُ لَكَ قَالَ إِنِّي أَعْلَمُ مَا لَا تَعْلَمُونَ

" And (remember) when your Lord said to the angels, 'I am going to make a caliph on earth.' They said, 'Do you want to make the one who destroys and sheds blood there, while we praise You and sanctify Your name?' He said, 'Truly, I know what you do not know.'" (QS. Al-Baqarah [2]: 30)

This verse explains that Allah SWT has appointed humans as caliphs (managers) on earth. According to Ibn Kathir in his commentary, caliph means the successor of Allah in upholding His will and implementing His commandments among His creatures. This means that humans are entrusted to manage the earth, including the oceans and its resources, responsibly and not damage it. The practice of using tiger trawlers that damage marine ecosystems can be considered a betrayal of the caliphate's mandate.

According to Mangunjaya, Islam has clear principles in the use of natural resources, among which are the principles of justice, balance, and non-excesses (*israf*). Fishing practices that damage marine ecosystems such as the use of tiger trawls can be categorized as acts that go beyond the boundaries ( (Ramadani & Tanjung, 2025) *israf*) and cause damage (*facades*), both of which are prohibited in Islam as mentioned in the Qur'an Surah Al-A'raf verse 56:

وَلَا تُفْسِدُوا فِي الْأَرْضِ بَعْدَ إِصْلَاحِهَا وَادْعُوهُ خَوْفًا وَطَمَعًا إِنَّ رَحْمَتَ اللَّهِ قَرِيبٌ مِّنَ الْمُحْسِنِينَ

Meaning: "And do not do any harm to the earth after it has been created. Pray to Him with fear and hope. Indeed, Allah's mercy is very near to those who do good." (QS. Al-A'raf [7]: 56)

Imam Al-Qurthubi in his commentary explained that this verse prohibits all forms of destruction on earth, both physical and moral. Physical destruction includes damaging the environment, including marine ecosystems, which will ultimately have a negative impact on humans themselves. The use of tiger trawls that damage seafloor habitats and indiscriminately catch fish is clearly included in this prohibition. (Mulyanto et al., 2025)

The Indonesian Ulema Council (MUI) as the authority of Islamic religious fatwa in Indonesia has not issued a special fatwa on the use of tiger trawls. However, the MUI has issued Fatwa Number 41 of 2014 concerning Waste Management to Prevent Environmental Damage which in principle emphasizes the importance of preserving the environment and preventing damage to the ecosystem. The fatwa, although it does not specifically address tiger trawling, can be the basis of Islamic law in assessing environmentally damaging fishing practices.

In addition, the opinions of contemporary scholars such as Yusuf Al-Qaradhawi in his book "*Islam An Environmentally Friendly Religion*" emphasize the importance of environmental ethics in Islam. Al-Qaradhawi emphasized that excessive exploitation of natural resources, including the sea, is a form of tyranny that is prohibited in Islam. According to him, the use of natural resources must pay attention to the aspect of sustainability and must not sacrifice the interests of future generations. Al-Qaradhawi refers to the hadith of the Prophet Muhammad PBUH narrated by Imam Ahmad:

لَا ضَرَرَ وَلَا ضِرَارَ

"Must not harm (oneself) and must not harm (others)." (HR. Ahmad, Ibn Majah, and Malik)

This principle, known as the rule of "*la dharara wa la dhirara*", is one of the important foundations in environmental fiqh (*fiqh al-bi'ah*). Shaykh Abul Hasan Ali an-Nadwi in his work "*Al-Insanu Bainal Madiyyah wal Islam*" explained that this hadith contains a general principle in Islam that prohibits all forms of actions that cause danger, both to oneself and others, including future generations. The use of tiger trawls that damage marine ecosystems and threaten the sustainability of fishery resources is clearly contrary to this principle. However, the implementation of Islamic values in capture fisheries practices in the Medan Belawan community still faces various challenges. (Qaradhawi, 2018)

Dr. Muzaffar Iqbal in his book "*Islam and Science: Environmental Conservation*" emphasizes the importance of combining religious values with modern scientific knowledge in environmental management. According to him,

religious awareness can be a stronger internal motivation for the community to protect the environment than just compliance with formal regulations. This is in line with the view of the Qur'an in Surah Al-Hasyr verse 7:

وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ

"What the Messenger has given you, accept it. And what he forbids you, leave it. And fear Allah. Indeed, Allah is very severe in His punishment." (QS. Al-Hashr (59): 7)

Shaykh Muhammad al-Ghazali in his commentary "*Nahwa Tafsir Maudhu'i li Suwar Al-Quran*" explained that this verse teaches obedience to Allah and His Messenger in all aspects of life. If it is associated with the context of the use of tiger trawls, the awareness that environmentally damaging practices are contrary to Islamic teachings should be a reinforcing factor for Muslim fishing communities to abandon the practice. (Al-Ghazali, 2023)

This gap in understanding is a challenge in the implementation of the tiger trawling ban in Medan Belawan. On the one hand, the government has issued formal regulations prohibiting the use of tiger trawlers. On the other hand, fishermen's understanding of the ecological and religious dimensions of the ban is still limited, so compliance with regulations tends to be low.

The government's efforts to overcome this problem have been carried out through various programs, such as environmentally friendly fishing gear assistance, alternative skills training, and regulatory socialization. According to the Directorate General of Capture Fisheries, the government has distributed 1,250 units of environmentally friendly fishing gear to fishermen in North Sumatra, including Medan Belawan. However, it seems that these programs have not been fully effective due to various obstacles, such as the mismatch of assistance with the needs of fishermen, lack of assistance, and weak coordination between agencies. (Hidayat et al., 2025)

Based on this phenomenon, it is important to conduct a comprehensive study on the use of tiger trawls in Medan Belawan District by combining positive legal perspectives and Islamic law. This study aims not only to analyze the gap between regulation and its implementation, but also to explore how Islamic values can be an ethical and moral foundation in sustainable capture fisheries practices.

This research has important significance, both theoretically and practically. Theoretically, this research can contribute to the development of interdisciplinary studies that combine legal, ecological, and religious aspects in the context of marine resource management. Practically, the results of this research can be input for the development of capture fisheries policies and programs that are not only effective regulatively, but also have resonance with the religious values of the community, so that the level of compliance can be increased.

Given the complexity of the problem and its significance for the sustainability of marine resources and the welfare of fishing communities, it is important to conduct in-depth research on "The Use of Hela Trawls and Trawls Based on the Perspective of Positive Law and Islamic Law and Their Implementation (Case Study of the Medan Belawan Community)". This research is expected to provide a more comprehensive understanding of the phenomenon of tiger trawl use, as well as become a basis for solutions that pay attention to the ecological, economic, socio-cultural, and religious aspects of the community.

## METHOD RESEARCH

This study combines normative juridical approaches and empirical juridical approaches. A normative approach was used to analyze positive legal rules and Islamic law related to the prohibition of the use of tiger trawls through literature studies. Meanwhile, an empirical approach was used to trace the implementation of the regulation among the fishing community of Medan Belawan District through field research. The research location is in Medan Belawan District, Medan City, North Sumatra. This area was chosen because it is the center of capture fisheries activities with



the practice of using tiger trawls still being discovered, as reported by the North Sumatra Provincial Marine and Fisheries Service. (Rachman et al., 2024)

The data collected consists of primary and secondary data. Primary data was obtained through interviews with fishermen, law enforcement, religious leaders, and local governments, as well as direct observations in the field. Secondary data includes laws and regulations, Islamic legal sources, scientific literature, and additional references such as dictionaries and encyclopedias. Data collection techniques include literature studies, in-depth interviews, participatory observations, focus group discussions, and documentation. Normative data analysis was carried out through content analysis and legal comparison, while empirical data was analyzed using the interactive model Miles, Huberman, and Saldana. Triangulation of methods, sources, and theories is applied to ensure the validity of the findings.

## RESULT AND DISCUSSIONS

### The Use of Tiger Trawls According to a Positive Legal Perspective in Indonesia

The regulation of the use of tiger trawls in Indonesia's positive legal system has come a long way that reflects the evolution of understanding of sustainable fisheries resource management. The history of this regulation began in the New Order era when the government began to realize the negative impact caused by the use of fishing gear that is not environmentally friendly to the sustainability of national fishery resources.

Presidential Decree Number 39 of 1980 concerning the Elimination of Trawl Nets is an important milestone in the history of Indonesian fisheries regulation. This policy was born from empirical conditions that show intense social conflicts between traditional fishermen and modern fishermen who use tiger trawls, especially in the waters of the North Coast of Java. This conflict is not only economic, but also socio-cultural, where modern fishing technology is considered to threaten the existence of traditional fishermen who have depended on the sea for centuries. (Laughs & Radjawane, 2023)

The philosophical background of the Presidential Decree refers to the spirit of Pancasila, especially the fifth precept on social justice for all Indonesian people. The government considers that the use of tiger trawls has created inequality in access to fishery resources, where large-cap fishermen with modern technology can drain massive amounts of fish resources, while small fishermen with traditional fishing gear are increasingly marginalized. This phenomenon is contrary to the ideals of social justice that are the foundation of the Indonesian state.

However, the implementation of Presidential Decree No. 39 of 1980 faces various practical challenges in the field. The technical definition of what is meant by a "trawl net" or tiger trawl is still a matter of debate, allowing for modifications of fishing gear that substantially still have destructive characteristics but are not formally included in the prohibited category. In addition, the weak surveillance and law enforcement system at that time made many fishermen continue to use tiger trawls with various disguises and modifications. (Asarudin et al., 2024)

In the perspective of the hierarchy of Indonesian laws and regulations, the prohibition of tiger trawling has a strong constitutional basis in the 1945 Constitution. Article 33 paragraph (3) which states that "The earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people" gives the state a mandate to manage natural resources, including fishery resources, for the benefit of the people as a whole.

The concept of "maximum prosperity of the people" in the modern context must be understood not only in the short-term economic dimension, but also in the long-term sustainability. The Constitutional Court in several of its rulings has interpreted that the prosperity of the people includes the right of future generations to enjoy sustainable natural resources. This interpretation is in line with the principle of sustainable development which has become a global paradigm in natural resource management. (Hayati et al., 2024)

In addition, Article 28H paragraph (1) of the 1945 Constitution which guarantees the right of everyone to live a prosperous life in birth and mind, to live, and to have a good and healthy living environment also provides a constitutional basis for a protective environmental policy. The use of tiger trawls that damage marine ecosystems can be considered a threat to the constitutional right of the community to have a good and healthy environment.

Article 33 paragraph (4) of the 1945 Constitution which states that "The national economy is organized on the basis of economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining the balance of progress and national economic unity" further strengthens the constitutional basis for the prohibition of tiger trawling. The principles of sustainability and environmental sustainability explicitly mandate that economic activities, including fisheries, must consider environmental impacts and resource sustainability. (Nurmeiana et al., 2020)

Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries is the most comprehensive legal instrument in regulating the prohibition of tiger trawling. This law not only strengthens pre-existing bans, but also provides a more detailed legal framework and stricter sanctions.

Article 9 paragraph (1) of this law expressly states: "Everyone is prohibited from possessing, possessing, carrying, and/or using fishing gear and/or fishing aids that interfere with and damage the sustainability of fish resources on fishing vessels in the fisheries management area of the Republic of Indonesia." This formula has several important characteristics that need to be analyzed in depth.

First, the use of the phrase "everyone" suggests that this prohibition applies universally without exceptions based on social, economic, or professional status. Both small fishermen and large fishing companies are bound by this provision. Second, the prohibition includes not only "use" but also "possess", "possess", and "carry" prohibited fishing gear, thus providing broad scope in law enforcement. (Nurhalimah & Dora, 2024)

Third, the criterion of "disrupting and damaging the sustainability of fish resources" provides an objective standard that can be measured scientifically. This allows for the development of more specific technical regulations based on the results of research and scientific studies on the impact of different types of fishing gear on the sustainability of fishery resources.

Article 9 paragraph (2) gives the Minister the authority to determine the types of fishing gear and fishing aids that are prohibited. This delegation of authority is important because it allows for dynamic regulatory adjustments based on technological developments and the latest research results. Through this mechanism, the government can respond quickly to the emergence of new fishing technology that has the potential to be destructive or modifications of old fishing gear that remain destructive.

Regulation of the Minister of Maritime Affairs and Fisheries Number 2/PERMEN-KP/2015 concerning the Prohibition of the Use of Trawls and Seine Nets in the State Fisheries Management Area of the Republic of Indonesia provides more detailed technical specifications on prohibited fishing gear. This regulation is important because it translates the general principles in the law into technical criteria that can be operationalized in the field. (Domptail et al., 2013)

The definition of a hela trawl in this regulation is "a group of fishing gear made of bagged nets equipped with or without a net mouth opener and its operation by pulling using one or two moving vessels so that the fish are trapped in the net." This definition includes a wide variety of variations of hela trawls, including bottom trawls, midwater trawls, and their various modifications that substantially have similar characteristics. (Salsabila et al., 2021)

Meanwhile, a trawl is defined as "a group of fishing gear made of nets and their operation by pulling those nets using one or two motorized vessels in the same or opposite direction." This definition includes different types of seine nets, including the danish seine, the scottish seine, and their modifications.

The regulation also provides exceptions for some types of fishing gear that technically bear a resemblance to *hela* trawls or trawlers but are considered more environmentally friendly or have minimal impact on the sustainability of fish resources. This exception shows that the government does not absolutely ban all types of fishing gear that use the principle of net pulling, but focuses on fishing gear that is proven to damage marine ecosystems.

Another important aspect of this regulation is the determination of the area where the ban applies. Article 3 states that the prohibition applies throughout the State Fisheries Management Area of the Republic of Indonesia (WPP-NRI), which covers waters within Indonesia's national jurisdiction up to the Exclusive Economic Zone. This wide area coverage shows the government's commitment to protecting Indonesia's marine ecosystem as a whole.

### **Problems of Law Implementation and Enforcement**

Although the regulatory framework on tiger trawling bans has been quite comprehensive, implementation and enforcement on the ground face a complex set of challenges. These challenges are not only technical-operational, but also structural and cultural that are rooted in the characteristics of the fishing community and the geographical conditions of Indonesia.

The first challenge relates to the definition and identification of prohibited fishing gear. In practice in the field, fishermen often modify tiger trawls by changing dimensions, reducing size, or using different local names to avoid detection. This modification creates a "gray zone" in law enforcement, where law enforcement officials have difficulty determining whether or not a fishing gear falls into the prohibited category. ( Henríquez-Antipa & Cárcamo , 2019)

A concrete example of this problem is the use of fishing gear known by the local names "arad", "cantrang", "cotok", or "rauk" which have substantially similar characteristics to tiger trawls but with certain sizes or modifications. Debates about the legal status of fishing gear are often a source of conflict between fishermen and law enforcement officials.

The second challenge is the limited surveillance capacity given the vast area of Indonesian waters. With a coastline of more than 99,000 kilometers and thousands of islands, monitoring fishing activities requires enormous resources. The limited number of patrol boats, surveillance personnel, and monitoring technology makes many areas of water not optimally covered. (Wintergalen et al., 2025)

Data from the Ministry of Maritime Affairs and Fisheries shows that the ratio between the number of surveillance vessels and the area of the area to be monitored is still very disproportionate. This condition is exacerbated by geographical factors in the form of many small islands and hard-to-reach waters, thus creating a "sanctuary" for illegal fishing activities.

The third challenge is related to the socio-economic aspects of the fishing community. For most fishermen, tiger trawlers are not just a fishing tool, but also a representation of a livelihood and social identity that has been entrenched for decades. The change from tiger trawls to other fishing gear requires a technical, economic, and psychological adaptation that is not simple. (Adrianto et al., 2005)

Research conducted in various coastal areas of Indonesia shows that the economic productivity of tiger trawlers in the short term is indeed higher than alternative fishing gear that is environmentally friendly. This creates an economic disincentive for fishermen to switch to more sustainable fishing gear, especially in difficult economic conditions and limited access to capital.

### The Use of Tiger Trawls According to the Perspective of Islamic Law

Islamic law has a comprehensive normative foundation in regulating the use and conservation of natural resources, including marine and fishery resources. This normative foundation is sourced from the Qur'an, the Hadith of the Prophet Muhammad (PBUH), ijma' ulama, and qiyas which collectively form the framework of environmental ethics in Islam known as fiqh al-bi'ah (environmental jurisprudence). (Devy & Rahmi, 2019)

In the Islamic theological perspective, the universe including the ocean and all its contents is a creation of Allah SWT which is given as a trust to humans. The concept of trust is explicitly stated in the Qur'an Surah Al-Ahzab verse 72:

إِنَّا عَرَضْنَا الْأَمَانَةَ عَلَى السَّمَاوَاتِ وَالْأَرْضِ وَالْجِبَالِ فَأَبَيْنَ أَنْ يَحْمِلْنَهَا وَأَشْفَقْنَ مِنْهَا وَحَمَلَهَا الْإِنْسَانُ إِنَّهُ كَانَ ظَلُومًا جَهُولًا

"Indeed, We have offered a trust to the heavens, the earth and the mountains, and they are all reluctant to take up the trust and they are afraid of betraying it, but people accept it. Indeed, man is very unjust and very foolish." (QS. Al-Ahzab (33): 72)

This verse shows that humans have a moral responsibility to maintain and maintain the universe as a mandate from Allah SWT. In the context of the use of marine resources, the concept of trust implies that every fishing activity must be carried out responsibly and not damage the ecosystem that Allah SWT has created in perfect balance.

The concept of caliph (earth's manager) is also a fundamental foundation in Islamic law regarding the use of natural resources. As Allah SWT says in the Qur'an Surah Al-Baqarah verse 30:

وَإِذْ قَالَ رَبُّكَ لِلْمَلَائِكَةِ إِنِّي جَاعِلٌ فِي الْأَرْضِ خَلِيفَةً

Meaning: "Remember when your Lord said to the angels: 'Surely I will make a caliph on earth.'" (QS. Al-Baqarah [2]: 30)

According to Ibn Kathir's interpretation, the word caliph in this verse means a substitute or representative of Allah SWT on earth who is authorized to manage and prosper the earth according to His will. In the context of fisheries, the concept of caliphate means that humans have the right to utilize marine resources to meet their living needs, but with limitations and responsibilities to maintain their sustainability. (An-Nadwi, 2019)

The Qur'an also explicitly prohibits all forms of damage on earth, as Allah SWT says in Surah Al-A'raf verse 56:

وَلَا تُفْسِدُوا فِي الْأَرْضِ بَعْدَ إِصْلَاحِهَا وَادْعُوهُ خَوْفًا وَطَمَعًا إِنَّ رَحْمَتَ اللَّهِ قَرِيبٌ مِّنَ الْمُحْسِنِينَ

"And do not cause any damage on the earth, after it has been repaired, and pray to Him with fear and hope." Indeed, Allah's mercy is very near to those who do good." (QS. Al-A'raf [7]: 56)

Imam Al-Qurthubi in his commentary explained that the prohibition of doing damage in this verse is general and includes all forms of destruction, both to the physical and social environment. In the context of fisheries, the use of fishing gear that damages marine ecosystems such as tiger trawls can be categorized as a form of faqade (damage) that is prohibited in Islam. (Al-Qurthubi, 2018)

Another normative foundation is found in the Qur'an Surah Ar-Rum verse 41 which explains the causality between human actions and environmental damage:

ظَهَرَ الْفَسَادُ فِي الْبَرِّ وَالْبَحْرِ بِمَا كَسَبَتْ أَيْدِي النَّاسِ لِيُذِيقَهُمْ بَعْضَ الْعَمَلِ الَّذِي عَمِلُوا لَعَلَّهُمْ يَرْجِعُونَ

Meaning: "It has been seen that the damage on land and in the sea is caused by the deeds of human hands, so that Allah may feel for them a part of their deeds, so that they may return (to the right path)." (QS. Ar-Rum [30]: 41)

This verse explicitly states that the damage in the sea (al-bahr) is caused by human actions. Imam Al-Tabari in his commentary explained that damage in the sea can be in the form of the extinction of fish species, pollution of waters, and damage to marine ecosystems due to irresponsible human activities. In the modern context, the use of



tiger trawls that damage seabed habitats and indiscriminately catch fish can be categorized as one of the forms of damage referred to in this verse.

The principle of balance (mizan) is also an important foundation in Islamic law regarding the use of natural resources. Allah SWT says in the Qur'an Surah Ar-Rahman verses 7-9:

وَالسَّمَاءَ رَفَعَهَا وَوَضَعَ الْمِيزَانَ ﴿٧﴾ أَلَّا تَطْغَوْا فِي الْمِيزَانِ ﴿٨﴾ وَأَقِيمُوا الْوَزْنَ بِالْقِسْطِ وَلَا تُخْسِرُوا الْمِيزَانَ ﴿٩﴾

"And Allah has exalted the heavens and He has laid down a balance, so that you do not go beyond the limits of the balance. And set the scales justly, and do not diminish the balance." (QS. Ar-Rahman (55): 7-9)

According to Muhammad Abduh in Tafsir Al-Manar, the concept of mizan in this verse does not only literally mean scales, but also the cosmic balance created by Allah SWT in the universe. In the context of marine ecosystems, the principle of mizan requires humans to maintain a balance between the utilization and preservation of resources, and not to overexploit that can damage the ecological balance. (Mahfuzah & Tanjung, 2024)

#### **Legal Effectiveness Related to the Ban on Tiger Trawling in the Community of Medan Belawan District**

The implementation of the regulation banning tiger trawling in Medan Belawan District shows a significant gap between the legal norms that have been established and the reality on the ground. Based on the results of empirical research conducted through in-depth interviews with various stakeholders, direct observation, and document analysis, it was revealed that the effectiveness of the law related to the ban on tiger trawling is still very low. This condition reflects what in legal theory is referred to as *legal ineffectiveness*, where formally established legal norms are not able to create the expected behavioral changes in society.

The results of interviews with traditional fishermen and community leaders in Medan Belawan show that although the Regulation of the Minister of Maritime Affairs and Fisheries Number 2/PERMEN-KP/2015 has been in effect for almost a decade, the practice of using tiger trawls still continues openly. This indicates the weak law enforcement and supervision system in the region. One of the concrete indicators of the ineffectiveness of this regulation can be seen from the demonstration event carried out by the traditional fishing community at the office of the Directorate of Water and Air Police (Polairud) on February 13, 2025. Based on the testimony of key informants, the results of the demonstration showed an inadequate response from law enforcement officials:

*"The demonstration at Polairud on February 13, 2025, the results of the demonstration according to the residents of Polairud said yes there was no action and the execution was just neglect and until now they are still operating freely in the traditional fishing zone and there have been no sanctions until now (Interview with traditional fishermen, 2025)."*

According to the theoretical framework of the application of law proposed by Soerjono Soekanto in the theoretical foundation of this research, the effectiveness of the law is highly dependent on five main factors:

1. legal substance,
2. legal structure,
3. the legal culture of the community,
4. Facilities and Infrastructure,
5. as well as the law enforcement factors themselves.

In the context of Medan Belawan, law enforcement factors show the most serious dysfunction. Empirical findings reveal a very troubling practice in law enforcement, namely the arrest of offenders who are then released due to intervention from certain parties. Based on the informant's statement:

*"There was indeed an arrest for the trawler violator, but the member of the apparatus who arrested him released him because he received a call from the chairman to be released and finally the violator was free."*

The findings of the research from the informants of the Indonesian Traditional Fishermen Unit (KNTI) reveal a more worrying dimension related to the alleged systematic involvement of various parties in perpetuating the illegal practice of tiger trawling. Based on the testimony of KNTI informants, it was revealed that there was an alleged structured flow of funds from tiger trawlers to various related organizations and agencies. According to the informant's statement:

*"There is an allegation of the distribution of funds from tiger trawlers to HSNI (Indonesian Fishermen's Association), Polairud, and Lantamal as a form of compensation for the neglect carried out (Interviews with traditional fishermen)."*

Even more worrying, KNTI informants reported that there were bribery attempts offered directly to their organizations. This indicates that corrupt practices do not only occur at the level of law enforcement officials, but also involve efforts to suppress critical voices from civil society organizations:

*"The authorities once offered financial assistance to KNTI under the pretext that the organization would not cause a commotion or protest related to tiger trawling violations (Interview with KNTI, 2025)."*

These findings corroborate the analysis that the problem of tiger trawling in Medan Belawan is not only a problem of weak law enforcement, but has developed into a systematic network involving multiple stakeholders with interrelated economic interests. In the context of regulatory capture theory, this condition suggests that regulators have not only failed to perform their functions, but have also become part of the system they are supposed to oversee.

The KNTI informant's statement also confirmed the allegation that the patrol activities that have been carried out by the supervisory apparatus are more performative than substantive. Based on their observations:

*"The patrols carried out so far are only formalities, and there is a strong suspicion that the patrol activities are actually used as a modus operandi to withdraw funds from tiger trawlers (Interview with KNTI, 2025)."*

The consistent response pattern of Polairud officers when confronted with evidence of violations also indicates a structured avoidance strategy. According to the KNTI informant:

*"When asked why there were no arrests for violators, the answer given by Polairud was always the same: 'Okay, we will be disciplined. Yesterday we went on patrol but found no violations.' This repeated response without being accompanied by concrete action shows a lack of serious commitment to law enforcement (Interview with KNTI, 2025)."*

This phenomenon shows the existence of what Donald Black in "The Behavior of Law" calls *selective enforcement*, where law enforcement is not carried out consistently and fairly against all violators. This selectivity in law enforcement not only damages the credibility of the legal system, but also creates a *moral hazard* for violators who feel safe from legal sanctions. Even more worrying, the findings of the study indicate the existence of allegations of corruption in the body of law enforcement officials. Based on the perception of the local community:

*"The officials who live in Belawan live in luxury because of the income from the trawlers, not only trawlers, even from land (interview with PSDKP, 2025)."*

Although this statement is still in the form of conjectures and public perceptions, it reflects a very high level of distrust of the integrity of law enforcement officials. In the context of *legal legitimacy* theory, public distrust of the authorities will have a negative impact on voluntary compliance with the law.

The surveillance system, which is supposed to be at the forefront of preventing violations of the use of tiger trawls, also shows fundamental weaknesses. Based on the results of the interview, although PSDKP (Marine Resources and Fisheries Supervision) and Polairud have patrol boats that are actively operating, the supervision carried out tends to be purely formal. When the researcher asked about the seriousness of the authorities in carrying out surveillance, the informant gave an alarming answer:

*"From your observation, if the apparatus goes to the field, they are serious or is it just a formality to work? It's just a formality (Interview with PSDKP, 2025)."*

This formalistic supervision indicates the absence of strong *political will* to completely eradicate the practice of using tiger trawlers. In the theoretical framework of Grindle's policy implementation as quoted in the theoretical foundation, the *political will* factor is one of the key variables in the success of policy implementation.

A different perspective emerged from the PSDKP as an institution that has direct authority in the supervision of marine and fishery resources. Based on the results of interviews with PSDKP representatives, this institution claims to have made maximum efforts in handling tiger trawl cases in the Medan Belawan area. According to PSDKP, the handling process that seems slow is not caused by negligence, but because of the obligation to follow strict legal procedures to avoid misapprehension. This reflects the dilemma between the public's demand for quick action and the principle of due process in the legal system.

The PSDKP also emphasized that not all types of trawls are prohibited based on the Regulation of the Minister of Maritime Affairs and Fisheries Number 36 of 2023 concerning the Placement of Fishing Gear and Fishing Aids in the Measured Fishing Zone and the State Fisheries Management Area of the Republic of Indonesia in Inland Waters. The complexity of these regulations is often not understood by the public, thus creating the perception that all trawling practices are violations of the law. The public's lack of understanding of the nuances of this regulation contributes to the occurrence of anarchic acts in the form of burning ships, where people act on assumptions that are not entirely accurate about the legal status of the practice they are protesting.

However, PSDKP acknowledged that there are significant structural obstacles in the implementation of supervisory duties. The main obstacle faced is the limited number of personnel that are not proportional to the size of the surveillance area and the number of fishermen who must be supervised. The ratio between the number of supervisory officers and the population of traditional fishermen is very disproportionate, so the effectiveness of supervision is limited. In addition, budget limitations due to the government's efficiency policies have changed the operational pattern of PSDKP from being proactive through routine patrols to reactive by only responding to community reports.

This change in operational patterns has serious implications for the effectiveness of supervision. Surveillance systems that rely on community reports tend to be suboptimal because not all violations are reported, especially if they occur in remote areas or at certain times when community surveillance activity is low. This condition creates a window of opportunity for violators to operate undetected.

In the face of public criticism related to anarchic actions, PSDKP appeals to traditional fishermen not to act unilaterally and refrain from actions that can cause violence. According to the PSDKP, the official reporting mechanism is a more appropriate procedure because it allows accurate verification of the legality of a fishing practice based on applicable regulations. This appeal reflects PSDKP's efforts to maintain the rule of law formally in conflict resolution, although in practice such formal mechanisms are often considered unresponsive by the public.

Weak coordination between various agencies that have supervisory authority is also a factor that hinders the effectiveness of the law. Based on Article 67 of the Fisheries Law, the supervision of marine and fishery resources is carried out by investigators of fisheries civil servants, the Indonesian Navy, and the Indonesian Police in accordance

with their respective duties and authorities. However, in practice, coordination between these agencies is not effective. The unclear division of duties and responsibilities between agencies creates an *institutional gap* that is exploited by violators to avoid legal sanctions.

Based on a comprehensive analysis of the factors that affect the effectiveness of the law related to the ban on tiger trawling in Medan Belawan, several recommendations can be formulated to improve the effectiveness of regulatory implementation.

First, strengthening the surveillance and law enforcement system through: increasing surveillance capacity by increasing the number and quality of patrol vessels and equipping them with modern technology such as radar and satellite communication systems; improving coordination between agencies by forming an integrated task force with a clear division of duties and responsibilities; the implementation of technology-based surveillance systems through the optimization of the Vessel Monitoring System (VMS) and other technologies for real-time monitoring; and the implementation of a strict anti-corruption system through the establishment of an independent internal oversight unit and a whistleblower protection system to protect whistleblowers of alleged corruption.

Second, reform of the supervisory institutional system through: periodic rotation of supervisory personnel to prevent collusion with offenders; the establishment of an external supervisory team involving academics and NGOs to ensure supervisory independence; as well as the implementation of a transparency and public accountability system in reporting the results of supervision. (Maasah, 2023)

Third, a participatory approach and community empowerment through strengthening the Pokmaswas program by optimizing the role of the Supervisory Community Group as the eyes and ears of supervision at the local level; the provision of alternative economic programs in the form of environmentally friendly fishing gear assistance in accordance with local conditions accompanied by adequate technical assistance; and increasing market access by developing a marketing system that provides premium prices for catches with environmentally friendly fishing gear.

Fourth, strengthening education and legal awareness through intensive socialization programs by conducting a socialization program on the regulation and ecological impact of tiger trawls in a sustainable manner; integration of environmental education by integrating marine conservation education in formal and informal education curricula; and the use of social media to use social media platforms for environmental and legal awareness campaigns. (Maryani et al., 2020)

Based on the comprehensive analysis that has been carried out, it can be concluded that the effectiveness of the law related to the ban on tiger trawling in the Medan Belawan District Community is still very low. This ineffectiveness is caused by various interrelated factors, ranging from weak law enforcement, limited institutional capacity, to complex political and political economic factors. The latest findings from KNTI reveal that this problem has developed into a systematic network involving multiple stakeholders with interrelated economic interests, thus requiring a more comprehensive institutional reform approach.

This condition not only harms fisheries resource conservation efforts, but also creates social injustice and damages the credibility of the legal system. To improve the effectiveness of the law, a holistic approach is needed that does not only rely on *law enforcement*, but also considers the social, economic, and cultural aspects of the local community. More importantly, institutional system reform is needed to address the root causes of corruption and collusion that have undermined the oversight system. The integration of positive law with Islamic values and local wisdom as discussed in the theoretical foundation can also be an effective strategy to increase public compliance with regulations.

These empirical findings also confirm the relevance of the theory of law application that has been discussed in the theoretical foundation, especially related to the factors that affect the effectiveness of the law as stated by Soerjono



Soekanto. The Medan Belawan case shows that the success of legal implementation does not only depend on the quality of the legal substance, but also on the factors of legal structure, community legal culture, and the commitment of law enforcement officials in carrying out the legal mandate consistently and fairly. The findings from KNTI also reinforce the relevance of the theory of regulatory capture which shows how certain economic interests can "catch" regulators and turn supervisory functions into instruments to perpetuate violations. Lawrence M. Friedman's theory of legal compliance and Gary Becker's theory of economic analysis of crime have also proven relevant in explaining the phenomenon of non-compliance that occurred in Medan Belawan, where weak sanctions enforcement creates economic incentives for law violations.

## CONCLUSION

Based on the results of a study on the use of tiger trawls in Medan Belawan District, it was found that this practice is strictly prohibited by Indonesia's positive law. The prohibition is contained in Law Number 45 of 2009 concerning Fisheries and is clarified through the Regulation of the Minister of Maritime Affairs and Fisheries Number 2/PERMEN-KP/2015. This fishing gear is considered to damage marine ecosystems, harm traditional fishermen, and threaten the sustainability of fishery resources. However, the implementation of this rule in the field still faces many obstacles. There are still fishermen who use tiger trawls secretly due to weak supervision, lack of law enforcement, and the government's efforts to encourage fishermen to switch to more environmentally friendly fishing gear.

From the perspective of Islamic law, the use of tiger trawls is also seen as contrary to the principles of sharia. Islam emphasizes the importance of protecting the environment (hifz al-bi'ah), avoiding damage (fa'adah), not exaggerating (israf), and maintaining the survival and property of human beings (hifz al-nafs and hifz al-mal). Although there is no MUI fatwa that explicitly prohibits tiger trawling, the basics of the Qur'an, the hadith of the Prophet, and the rules of fiqh are strong enough to state that the use of this fishing gear is not in accordance with Islamic teachings. In the Islamic view, human beings as caliphs on earth have a moral responsibility to maintain the balance of nature and not destroy it for the sake of momentary gain.

The reality on the ground shows that there is a gap between existing regulations and the socio-economic conditions of the fishing community. Many fishermen continue to use tiger trawlers because they are considered more economically profitable and because of their limitations in accessing or using alternative fishing gear. In addition, legal and environmental education is still minimal, the supervision of the apparatus is inconsistent, and the government's environmentally friendly fishing gear assistance program is often not on target. This makes efforts to eradicate tiger trawls not run effectively and do not touch the root of the problem.

For this reason, a stronger synergy is needed between positive law and Islamic religious approaches in dealing with this problem. A religious approach that instills awareness that protecting the sea is part of a religious obligation can build moral motivation from within fishermen. The role of religious leaders, scholars, and Islamic educational institutions is very important in providing education that touches on spiritual and social aspects. On the other hand, the government also needs to improve the quality of assistance, training, and assistance to fishermen so that they are truly able to switch to more sustainable fishing gear. A repressive approach alone is not enough; It needs to be combined with a persuasive approach based on religious values, economic empowerment, and environmental education as a whole.

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