

# Legal Framework and Law Enforcement of Illegal Fishing in Indonesia: A Normative Juridical Approach to the Protection of Maritime Sovereignty

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## ABSTRACT

The paper will attempt to discuss illegal fishing in Indonesia from a legal framework and law enforcement perspective and its implications for the protection of maritime sovereignty. Based on this, the research will apply a normative juridical approach, studying in detail the laws, regulations, and practices of enforcement and the various challenges and opportunities arising out of them. Indonesia legal framework through the Fisheries Law no 45 of 2009 and the Presidential Decree no. 115 of 2015 set a good backbone regarding IUU fishing activities; still, poor enforcement is highly seen due to shortcomings in limited resources, corruption, fragmented jurisdiction, and less international cooperation. The paper analyses these discrepancies and assesses Indonesia's current legislation and the efforts carried out on tackling IUU in comparison to relevant international practices. It also gives some recommendations on how to strengthen the legal definition, mechanisms of enforcement, increasing resource allocations, and improvement in international cooperation. The result shows that integrated efforts with more transparency and accountability are needed in order to properly protect Indonesia's maritime sovereignty effectively.

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## 1. INTRODUCTION

As the world's largest archipelagic state, Indonesia owns immense marine resources within both its Exclusive Economic Zone and territorial waters, playing an important role in economic development, food security, and ecological balance within the country [1], [2]. However, illegal fishing practices, popularly called IUU fishing, now present a serious challenge to the maritime

sovereignty and sustainable management of Indonesia's natural resources [3], [4].

IUU fishing activities contravene the economic potentials that are surrendered through fish stocks being threatened, damage to local livelihoods, and immense revenue losses [5]. In 2022, the Ministry of Maritime Affairs and Fisheries estimated IUU fishing annually caused trillions of rupiah in state losses. Apart from the economic impact, IUU

fishing is also impeding environmental sustainability by destroying an ecosystem in marine life, including coral reefs and the seabed. This is also a security threat, since it involves the entry of foreign vessels into Indonesian waters, thus causing disputes and increasing tension in international relations.

In this regard, Indonesia has made such urgency by promulgating domestic laws, among others, through Law No. 45/2009 concerning Fisheries, and Presidential Decree No. 115/2015 on Combating Illegal Fishing, as well as an internationally agreed normative legal umbrella, namely the United Nations Convention on the Law of the Sea (UNCLOS). The different tools have nonetheless failed to help surmount such challenges as gaps in their application, weak institutional capacity, and insufficient stakeholder coordination in enforcing the required statutes [6]–[8].

Illegal, unreported, and unregulated (IUU) fishing poses a significant threat to Indonesia, an archipelagic state heavily reliant on marine resources for economic, environmental, and social purposes. In 2022, IUU fishing caused economic losses amounting to trillions of rupiah, undermining the livelihoods of coastal communities, depleting fish stocks, and jeopardizing food security (Aliyah et al., 2024). These activities not only disrupt the sustainable management of marine resources but also infringe on Indonesia's maritime sovereignty. Addressing this issue requires robust enforcement mechanisms and enhanced international cooperation.

Indonesia's legal framework, including Fisheries Law No. 45 of 2009 and Presidential Decree No. 115 of 2015, provides a solid foundation for combating IUU fishing. However, enforcement remains inconsistent due to limited institutional capacity, fragmented jurisdiction, and inadequate resources [9]. The challenges are further exacerbated by corruption and the complexity of prosecuting foreign vessels involved in illegal fishing while maintaining diplomatic relations with neighboring countries [10]. Moreover, destructive fishing practices have severely damaged coral reefs and marine

ecosystems, threatening biodiversity and further complicating enforcement efforts [9].

Given the transnational nature of IUU fishing, domestic measures alone are insufficient. Regional and international cooperation is essential to address the issue effectively. Establishing collaborative frameworks for data sharing, joint patrols, and intelligence exchange with neighboring countries could significantly improve enforcement and resource management [10], [11]. Strengthening these efforts is crucial for safeguarding Indonesia's marine biodiversity and ensuring the long-term sustainability of its fisheries sector.

### Research Objectives

This paper, therefore, endeavors to analyze and examine Indonesia's legal framework and law enforcement mechanisms on illegal fishing from a normative juridical perspective. Specifically, this study aims to attain the following objectives, to wit:

- 1) To analyze whether Indonesia's legal framework is sufficiently clear in responding to IUU fishing activities.
- 2) To assess the effectiveness of the law enforcement mechanisms in combating illegal fishing and protecting Indonesia's maritime sovereignty.
- 3) To identify the challenges and limitations faced by Indonesian law enforcement agencies in implementing and enforcing fisheries laws.
- 4) To compare Indonesia's legal and enforcement strategies with international best practices in combating illegal fishing.
- 5) To propose recommendations for strengthening Indonesia's legal framework, improving enforcement mechanisms, and enhancing international cooperation to address illegal fishing.

## 2. LITERATURE REVIEW

### 2.1 Concept and Impact of Illegal Fishing

Illegal, unreported, and unregulated (IUU) fishing poses significant threats to marine biodiversity and economic stability, particularly in Indonesia, where it results in financial losses of approximately USD 3 billion annually and contributes to extensive environmental degradation [12]. Globally, IUU fishing causes an estimated \$23.5 billion in economic losses, severely affecting the livelihoods of legal fishers and disrupting marine ecosystems, thereby threatening biodiversity [13], [14]. Destructive fishing practices further exacerbate environmental degradation, undermining the sustainability of fishery resources [2]. Addressing this issue requires a multifaceted approach involving technological innovations, stronger legal frameworks, and international cooperation. Strengthened enforcement mechanisms are crucial for tackling IUU fishing effectively, while collaborative efforts are essential to avoid diplomatic tensions and ensure the sustainable management of shared marine resources [2], [15].

### 2.2 Legal Framework on Illegal, Unreported and Unregulated Fishing in Indonesia

The Indonesian legal framework concerning IUU fishing consists of domestic and international instruments. Domestically, Law No. 45 of 2009 on Fisheries emphasizes conservation and sustainable management, with enforcement against illegal activities, thus empowering the authorities to take action against foreign vessels in Indonesian waters. Further, by means of Presidential Decree No. 115 of 2015, these efforts were solidified through the prohibition of foreign vessels from IUU fishing within the Exclusive Economic Zone, while establishing specialized units for monitoring. The internationally binding nature of UNCLOS reinforces Indonesian rights over the EEZ and supports the institution of legal measures toward the protection of maritime sovereignty and resources.

### 2.3 Enforcement Mechanisms and Challenges

The enforcement of Indonesia's legal framework against illegal fishing faces significant challenges despite various measures implemented. Key obstacles include insufficient resources, limited personnel, and inadequate technology for monitoring extensive maritime areas, as noted by [16]. Corruption within local enforcement bodies and inconsistent legal practices further complicate these efforts [11], [17]). Additionally, the transnational nature of illegal fishing allows foreign vessels to exploit Indonesia's waters, evading detection [17]. Resource limitations, such as inadequate funding and personnel, hinder the Indonesian Navy and BAKORKAMLA from conducting effective patrols. Corruption within local enforcement agencies undermines legal actions against illegal fishing [11], while the lack of advanced monitoring technologies limits the ability to oversee vast maritime territories [17]. Strengthening regional cooperation through ASEAN and international agreements is essential for effective enforcement against illegal fishing [17], [18]. A multi-faceted strategy involving diplomatic, legal, and operational measures is necessary to combat illegal fishing effectively [19].

### 2.4 Role of International Cooperation

International cooperation is essential in addressing illegal fishing, particularly through Indonesia's involvement in regional fisheries management organizations (RFMOs) like the IOTC and WCPFC. These organizations facilitate collaboration via information sharing, joint monitoring, and standardized regulations, which are crucial for effective enforcement. Indonesia's bilateral agreements with Malaysia and Vietnam exemplify successful joint maritime patrols that enhance compliance and law enforcement in shared waters. However, challenges persist in ensuring full adherence to these agreements. RFMOs serve as primary platforms for cooperation among fishing nations, promoting sustainable fishing practices (Hutniczak et al., 2019) and implementing conservation and management measures (CMMs) to combat illegal,

unreported, and unregulated (IUU) fishing [20]. Indonesia has taken significant steps against IUU fishing, including sinking illegal vessels and restricting fishing rights to local ships [21]. These actions not only protect marine resources but also address associated issues like human trafficking (Arnakim & Shabrina, 2019). Despite these efforts, compliance remains inconsistent, highlighting the need for improved enforcement mechanisms [22]. The complexity of maritime disputes can hinder effective governance and cooperation among states [22].

### **2.5 Proposed Legal Reforms and Recommendations**

A number of reforms have been recommended by scholars and policy thinkers to further strengthen Indonesia's legal and institutional frameworks against illegal fishing. Punitive measures in the form of more serious sentences for repeat offenders are needed to deter IUU fishing, [23] argue, along with an increase in the capacity for enforcement through investing in satellite monitoring systems and drones to improve surveillance and response. [24] propose an integrated data-sharing platform among Southeast Asian countries, allowing for a regional and international approach that could streamline the monitoring and enforcement process. Further, developing public-private partnerships with the fishing industry can lead to improved compliance and the development of better monitoring systems.

## **3. METHODS**

### **3.1 Approach**

A qualitative research design has been applied in this study to identify whether the legal framework of Indonesia is efficient in protecting its maritime sovereignty against illegal fishing activities. The research involves a critical review of primary and secondary legal sources comprising national laws, international conventions, legal case studies, and reports from relevant government agencies. This has enabled comprehensive

scrutiny of the legal instruments at work and how they have impacted law enforcement in Indonesia.

### **3.2 Data Collection**

Data for this research are from various sources. However, the greater part of them comes from legal documents, government reports, and academic literature. Mainly, primary sources being used are basic key legislations such as Law No. 45 of 2009 concerning Fisheries, Presidential Decree No. 115 of 2015, and international treaties like UNCLOS. These legal documents provide the basis to protect Indonesia's maritime sovereignty and regulate fishing activities within its borders. Government reports and other published documents from the MMAF, the Indonesian Navy, and BAKORKAMLA regarding illegal fishing policy enforcement, effectiveness, and case studies on enforcement actions thus present practical challenges in law enforcement.

Secondary sources in this study include scholarly articles, book reviews, and earlier studies on IUU fishing in Indonesia; general maritime law; and enforcement mechanisms. These will therefore help to contextualize the legal understanding of Indonesia's existing legal framework and its limitations through studies on regional and international cooperation, legal reforms, and enforcement barriers. International organizations' reports, such as those from the Food and Agriculture Organization (FAO), World Bank, and World Wildlife Fund (WWF), provide further contributions with respect to the global dimension of illegal fishing and Indonesia's standing within international legal frameworks.

### **3.3 Data Analysis**

The data analysis in this research is conducted in two stages. First, through a detailed document analysis, an assessment of the clarity, effectiveness, and capacity of law enforcement for the existing legal provisions is conducted. This will involve a critical review of the definition of illegal fishing, powers of enforcement authorities and penalties, and international obligations, among other things, in order to identify legal

lacuna and defects that call for reform. The second approach is the comparative analysis of the Indonesian legal framework against others in Southeast Asia and global best practices. This comparison entails a review of legal responses to illegal fishing in neighboring countries and regional cooperation with the aim of pointing out successful enforcement models and strategies that can be applied within an Indonesian context.

## 4. RESULTS AND DISCUSSION

### 4.1 Effectiveness of the Legal Framework

The legal framework governing illegal fishing in Indonesia has gone through remarkable development, especially with the establishment of Law No. 45 of 2009 on Fisheries and the Presidential Decree No. 115 of 2015. These provide a good foundation in terms of the regulation of fishing activities, the determination of punishment, and protection of Indonesia's maritime sovereignty. While comprehensive, the legal framework faces a number of challenges that undermine its effectiveness:

#### 4.1.1 Clarity and scope of legal provisions

While Indonesia's legal provisions in the fishery sector are drafted upon an appropriate scope and objective, ambiguities in the application of some provisions often result in inconsistent enforcement. For example, the definition of "illegal fishing" defined in the Fisheries Law is broadly stated and lacks criteria that would differentiate between prohibited acts. This lack of clear definitions enables the subjective application of laws, whose enforcement can be inconsistent. A well-set legal definition of illegal fishing would, therefore, enhance enforcement through harmonization.

#### 4.1.2 Difficulties in the Application of Sanctions

In most cases, the stated legal sanctions against illegal fishing activities have been relatively severe and include penalties such as fines, seizures of vessels, and imprisonment. However, there are various difficulties that arise concerning the execution

of these penalties. The lack of coordination of laws amongst various levels of the government engaged in enforcement is a major problem. While the MMAF is designated as having principal jurisdiction over fisheries laws, other enforcing agencies are also involved in enforcing the country's fisheries law-the Indonesian Navy, BAKORKAMLA, and local police. This fragmented enforcement structure often results in delay in decisions and duplication of efforts as well as confusion among different agencies for defining responsibility for any particular instance.

### 4.2 Effectiveness of the Enforcement Mechanism

Strengthening the enforcement mechanism policies in Indonesia included a blanket ban on fishing by foreign fishing vessels and a formation of the task force to jointly deter illegal fishing within the country. Some important gaps persisted regarding enforcement:

#### 4.2.1 Resource Limitation

While Indonesia has invested much in the development of maritime surveillance-for example, with satellite tracking systems-these tools are still limited by their coverage and capacity. The Indonesian archipelago consists of over 17,000 islands, separated by ocean, creating a very severe logistical challenge for any law enforcement. The newly expanded Indonesian Coast Guard does not have the personnel and equipment to effectively surveil the entire EEZ. For instance, [25] asserts that Indonesia's law enforcement agencies entrusted with maritime activities are so deficient in resources that effective patrolling of all Indonesia's waters is entirely out of the question.

#### 4.2.2 Corruption and Political Influence

Corruption within the ranks of local law enforcement agencies is also one of the major impediments towards effective dealing with IUU fishing. Corruption among the officials at the local level, as stated by [26], has largely kept the illegal fishing free of dire consequences. In some cases, IUU fishing vessels are able to bribe local authorities or

fishermen in an effort to avoid detection or arrest. This serves to undermine the effectiveness of the legal framework and enforcement systems and allows IUU fishing to continue undeterred.

#### **4.2.3 International Cooperation and Transnational Challenges**

One of the main barriers to effective enforcement is the transnational nature of illegal fishing. Illegal fishing in Indonesia's EEZ by foreign vessels occurs frequently; many of them enter the country by exploiting legal loopholes or through laxly coordinated enforcement mechanisms of international arrangements. While Indonesia is part of regional fisheries management organizations, international regulations are still poorly enforced because of a lack of cross-border coordination. The absence of a regionalized standard approach to combating illegal fishing makes it difficult for Indonesia to involve neighboring countries in addressing IUU fishing across borders.

#### **4.3 Challenges in Implementation and Compliance**

A number of challenges impede the effective implementation of Indonesia's legal framework against illegal fishing, such as a general lack of public awareness and ineffective mechanisms for monitoring. A significant barrier is the low level of public awareness about illegal fishing regulations, particularly in rural and coastal communities. Many local fishers, especially in remote areas, are often unaware of the legal implications or long-term consequences of illegal fishing on marine resources. Economic pressures exacerbate this issue, as fishers may prioritize immediate financial needs over sustainability. In addition, this awareness about the legal framework and compliance for these communities requires public awareness campaigns and community engagement; it is highly necessary according to [27].

Additionally, monitoring and reporting systems remain fragmented and inept. Whereas surveillance technology has increased with the introduction of automatic identification systems-AIS-and satellite monitoring, its use varies between different

enforcement agencies, according to [28]. Limited real-time data exchange between national and local authorities further delays the identification and response to illegal fishing activities [28], [29]. Addressing these gaps requires enhanced inter-agency coordination and increased investment in technology to build a more robust and integrated monitoring system [30].

#### **4.4 Benchmarking against International Best Practice**

While Indonesia is considered to have relatively developed policies in combating IUU fishing compared to other countries facing similar challenges, its overall performance in certain aspects still needs more work. For example, countries like Vietnam and Thailand have developed more comprehensive regional coordination frameworks, such as joint maritime patrols and shared databases of IUU fishing vessels, which have really helped increase accountability and decrease IUU fishing in their waters [31]. Similarly, the Philippines has adopted an integrated approach by strengthening bilateral agreements with neighboring countries and enhancing transparency in its law enforcement processes [31]. Indonesia could benefit from adopting similar strategies, particularly in enhancing regional collaboration and intelligence sharing on illegal fishing activities.

The current efforts undertaken by Indonesia display a very strong commitment to combating IUU fishing but simultaneously reveal loopholes toward effectiveness. For instance, it encompasses diplomatic, legal, and operational measures within its maritime security strategy, especially within the critical areas of the Natuna Sea [17]. The Regional Border Management Agency has also advocated for more stringent law enforcement and community-oriented approaches to marine resource management [32]. However, while the legal framework provided by Law No. 45 of 2009 gave the foundation for fisheries management, enforcement remains inconsistent [33]. Enhancing inter-agency collaboration and adopting advanced regional coordination

mechanisms, similar to those of neighboring countries, could enhance Indonesia's efforts in combating illegal fishing significantly.

#### **4.5 Recommendations for Improvement**

From the findings, a few recommendations are in order to further better Indonesia's legal framework and mechanisms of enforcement:

##### **4.5.1 Securing Clarity and Revision of Legal Provisions**

The legal framework of Indonesia would be better enforced regarding illegal fishing if the definition were clearly expressed and articulated in detail concerning the stipulated regulations on enforcement mechanisms. Revision and harmonization at both national and regional levels will be necessary to maintain consistency in enforcement practices.

##### **4.5.2 Strengthening Resource Allocation**

More resources need to be invested in the accompanying surveillance technologies: drones, satellite imagery, and AIS. Additional resources must also be directed into personnel training and increasing enforcement officer numbers to follow through and ensure Indonesia's broad territorial reach is effectively policed.

##### **4.5.3 Regional and International Cooperation**

Indonesia needs to further develop regional and international cooperation, establishing better relationships through neighboring countries and international organizations. Establishment of a common data-sharing platform and synchronization of joint patrols with neighboring nations would enhance enforcement in shared waters.

##### **4.5.4 Combating Corruption**

This would require combating corruption in these enforcing agencies. Better mechanisms for accountability and increased transparency in Indonesia need to be

incorporated into the structure of law enforcement; it could be offering protection to people who become whistleblowers when reporting corruption cases, and stricter punishments for corrupt officials.

##### **4.5.5 Community Engagement and Awareness**

It is also very important to establish local community engagement in education and outreach programs. The more empowered the local fishers are with knowledge of legal fishing practices and the long-term benefits of sustainable fisheries management, the less the illegal fishing practices.

## **5. CONCLUSION**

Indonesia is faced with significant challenges in enforcing its legal framework to combat illegal fishing and protect its maritime sovereignty. Despite the comprehensive laws, like the Fisheries Law and Presidential Decree, their partial enforcement, scarcity of resources, and corruption among local authorities seriously weaken their application. Moreover, transnational illegal fishing requires an increase in coordination at both the national and international levels. The Indonesian efforts could be further advanced by refining the legal definitions, developing the enforcement infrastructure, and deepening cooperation with neighboring countries. This will be further supported by public awareness campaigns and anti-corruption measures that will help make Indonesia's legal framework effective. Drawing upon international best practices, Indonesia has the ability to better manage and sustain its marine resources in a manner that provides long-term security of maritime sovereignty.

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