

**LEGAL ANALYSIS OF THE REGULATION OF THE MINISTER OF MARINE AFFAIRS AND FISHERIES NUMBER 7 OF 2024 CONCERNING LOBSTER SEED MANAGEMENT FROM THE PERSPECTIVE OF MASLAHAH MURSALAH: A STUDY OF LOBSTER SEED EXPORT POLICY**



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**Abstract**

Minister of Maritime Affairs and Fisheries Regulation Number 7 of 2024, especially Article 18 paragraph (1) which states that supervision of BBL commodities, lobsters (*Panulirus spp*) crabs (*Scylla spp*) in fish quarantine installations and/or at entry and/or exit points is carried out by the agency carrying out duties in the field of fish quarantine. This research aims to carry out a juridical analysis of this article and examine its impact from the perspective of *maslahah murrasa* in Islamic law, which emphasizes maintaining public benefit and preventing loss. This research uses a normative juridical approach in the form of library research, namely researching texts/scripts. The research model used is a bibliographic review of texts/manuscripts of regulations, rules, and policies related to the research theme. The analysis used is content analysis. The results of this research show that the issuance of a ban on the export of lobster seeds aims to preserve lobsters so that they do not become extinct and to improve the welfare of small fishermen in Indonesia. The review of *maslahah murlahan* is very much in accordance with the study of *maslahah murlahan*, following the proposition of the Al-Qur'an surah al-An 'am verse: 108, and is reinforced by the fiqh rule "indeed, resisting harm must take precedence over attracting benefits." The conclusion that can be drawn from this research is, if seen based on Article 18 of the Minister of Maritime Affairs and Fisheries Regulation Number 16 of 2022, this is the right policy when viewed from the perspective of the problem of *maslahah murlahan*.

**Keywords:** Management, Export of Lobster Seeds Permen KP NO. 7 of 2024, *Maslahah Mursalah*

## INTRODUCTION

One of the products exported from the Indonesian fisheries subsector is lobster also called crayfish, which is an important part of the country's shrimp fishery. The potential and trade value of this commodity is very high so it needs to be developed further. Based on Indonesia's statistical records in 2005, lobster is the fourth most popular export commodity among crustaceans, after the *genera Penaeus, metapeaneus, and Macrobrachium*. Given its wealth of natural resources, Indonesia should be the world's largest supplier of lobster.

The population of this very valuable biota has been threatened by the absence of restrictions on lobster seed exports and the spread of uncontrolled fishing activities. Naturally, the existence of biota in nature will decline if it is caught excessively and repeatedly without being allowed to develop. In addition, Indonesia still uses natural seeds and minimal lobster seeding technology. Therefore, the Indonesian government is prohibited from exporting or selling lobster seeds as marine biota. Indonesia prohibits the export of lobster seeds as an effort to realize the sustainability of marine biota and prevent bad things from happening.

Regulation of the Minister of Maritime Affairs and Fisheries No. 1 of 2015 concerning lobster fishing was issued by Indonesia in 2015. The Ministry of Marine Affairs and Fisheries is led by Minister Susi Pudjiastuti. To give certain marine species time to breed before being collected and traded, restrictions are imposed on the size of lobsters that can be exported, and the export of lobsters that are laying eggs is prohibited.

The export of lobster seeds was then prohibited through the Regulation of the Minister of Maritime Affairs and Fisheries (Permen KP) Number 17 of 2021 concerning the management of lobsters (*panulirus spp.*), crabs (*scylla spp.*), and swimming crabs (*portunus spp.*) in the territory of the Unitary State of the Republic of Indonesia. Republic of Indonesia which was implemented during the time of Sakti Wahyu Trenggono as Minister. Article 18 of the Ministerial Regulation of Maritime Affairs and Fisheries reads:

- 1) Everyone is prohibited from releasing clear lobster seeds (*puerulus*) anywhere other than on the land of the Republic of Indonesia.
- 2) People who harvest clear lobster seeds (*puerulus*) that do not match the identity as referred to in Article 2 paragraph (1) are breaking the law.

The export of lobster seeds is currently prohibited, and this is more than enough to provide legal justification for authorities to impose sanctions and investigate further lobster seed shipments from Indonesia. Every citizen countries, without exception, are prohibited from exporting lobster seeds according to the information contained in this article. Anyone who exports lobster seeds after the Minister of Marine Affairs and Fisheries Regulation is issued is breaking the law. On the other hand, there are advantages and disadvantages to the prohibition on lobster seed exports issued by the Minister of Marine Affairs and Fisheries Regulation.

Many people strongly believe that lobster seed exports should be banned and support the law being enacted. However, there are still many parties who oppose the implementation of this regulation. Those who disagree come from fishermen and businessmen who consider the ban to have a negative impact on the nation. Businessmen and fishermen who disagree with the implementation of the KP regulation that prohibits the export of lobster seeds have filed a judicial review (JR) to the Supreme Court of the Republic of Indonesia.

In essence, the government's policy prohibiting the export of lobster seeds into the territory of the Republic of Indonesia is still unclear in terms of motivation purpose, and procedure. A comprehensive scientific study is needed to find out.

Opponents, including business people and fishermen, argue that the Minister of Maritime Affairs and Fisheries does not have the authority to restrict lobster seed exports based on Article 7 paragraph (1) of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries. The Minister of Maritime Affairs and Fisheries does not have the authority to stipulate laws related to the prohibition of lobster seed exports, following Law Number 6 of 2023 concerning Job Creation. "The Minister is the minister who organizes government affairs in the field of Trade," according to Article (1) Number 55 of the Government Regulation. In other words, the Minister of Trade of the Republic of Indonesia is the one who has the authority to prohibit exports and determine what types of goods are permitted.

In addition to being a hot topic among academics and legal observers in the country, the Indonesian Minister of Maritime Affairs and Fisheries has imposed a ban

on lobster seed exports. This regulation was previously revoked but has now been re-enacted. The fact that each minister in charge has a different prohibition policy shows how unclear the need to immediately ban lobster seed exports is. Therefore, it is interesting to observe how the Indonesian Minister of Maritime Affairs and Fisheries implements the laws and regulations related to the ban on lobster seed exports. To find out how urgent the current ban on lobster seed exports is, scientific legal research needs to be conducted.

Regarding the management of lobsters (*panulirus spp.*), crabs (*scylla spp.*), and crabs (*Portunus spp.*) in the territory of the Republic of Indonesia, is Article 18 of the Regulation of the Minister of Maritime Affairs and Fisheries (Permen KP) Number 16 of 2022 regulated? fulfills the formal and substantive requirements for the formation of legislation in Indonesia, thus giving rise to the assumption that the Regulation of the Minister of Maritime Affairs and Fisheries

The fishery violates higher regulations. On the other hand, the export of seeds lobster is banned, which is a policy that is morally and practically beneficial for Indonesian society, especially fishermen and business owners.

Susi Pudjiastuti, the Indonesian Minister of Maritime Affairs and Fisheries, was the first person to declare a ban on lobster seed exports because it would have a negative impact on the country and fishermen. In addition to being profitable in the short term, this approach is also prone to diversion if there is no strict supervision. 8 Another marine resource found in Indonesia is lobster seeds, which need to be cultivated there to improve the welfare of fishermen. With a production share of 31.59 percent of global lobster production, Indonesia is the second largest producer in the world, after Vietnam (62.5 percent).

If the study of fiqh *siyasah* provides a basis for analysis of the urgency of the Minister of Maritime Affairs and Fisheries to implement the law prohibiting the export of lobster seeds, then the study of *masalah mursalah* is worth consulting. Because of the many variations in the understanding of *masalah mursalah* when viewed from an editorial perspective, there is only one fundamental similarity in terms of content, namely the determination of laws in areas that are not mentioned at all in the Qur'an or the

Qur'an-Sunnah, with consideration of the welfare or interests of human life, which is based on the idea of drawing benefits and avoiding damage. The benefits of the *maslahah mursalah* method are not refuted or negotiated by the Sharia through certain arguments, and the presence of Sharia also does not support it. This *maslahat* is considered to be felt because, regardless of the reasons that support or deny it, this *maslahat* is an absolute *maslahat* that is in accordance with the spirit of the sharia but has no special relationship with the text of the sharia.

Therefore, it makes sense if we look at the lobster seed export ban from the perspective of *maslahah mursalah*. The lobster seed export ban that was imposed government through the Regulation of the Minister of Marine Affairs and Fisheries needs to be observed in the investigation of the *Mursalah* issue. It is important to determine whether the export of lobster seeds is the right thing to do and benefits the Indonesian people in general, and fishermen in particular, or whether, on the contrary, the export of lobster seeds is an illegal act and harms the Indonesian people and fishermen. Considering that the *maslahah mursalah* is a Sharia argument and a source for making lobster seeds, the ban on the export of these products needs to be reviewed based on its research. law, and events whose texts do not contain laws and which *ijma*, *qiyas*, or *istihsan* determined in accordance with the laws desired by the general public.

## RESEARCH METHOD

The method used in this study is normative juridical, namely "legal research that places law as a building of a norm system. The norm system that is built is about the principles, norms, rules of laws and regulations, court decisions, agreements, and doctrines (teachings), and refers to legal norms". (Achmad, 2017). Thus, this research emphasizes secondary sources of materials in the form of regulations and legal theories, in addition to examining legal rules that are scientific and theoretical and can be used to analyze the problems discussed. In terms of its nature, this research is prescriptive, meaning that this research aims to provide an overview or formulate a problem according to existing circumstances/facts.

The research model that will be used in the research is by reviewing the literature on texts/manuscripts of regulations, rules, and policies related to the research theme. The approach that the author will use is the legislative approach, case approach, and comparative approach. In the Normative Legal Research that the author conducted, primary data sources were not used. The data sources in this study were obtained from indirect sources. Therefore, in this study, the author only uses secondary data sources. Meanwhile, data collection techniques are carried out using documentation/document review techniques.

## RESULTS AND DISCUSSION

Ban on seed exports lobster in the territory of the Republic of Indonesia is a policy that has changed in each period of ministers in office. Changing leaders means different types of policies taken by each minister. The ban on lobster seed exports was first implemented during the term of the Minister of Marine Affairs and Fisheries, Susi Pudjiastuti, through the Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia Number 1 of 2015 concerning the Catch of Lobsters (*Panulirus spp*), Crabs (*Scylla spp*), and Crabs (*portunus pelagicus spp*). The Minister of KPP's regulation was issued and stipulated in Jakarta on January 6<sup>th</sup>, 2015.

Susi Pudjiastuti's consideration in banning exports is because the existence and availability of lobsters (*panulirus spp*), crabs (*scylla spp*), and swimming crabs (*portunus pelagicus spp*) have experienced a population decline, so it is necessary to limit their capture. Quoting the official website of the Ministry of Maritime Affairs and Fisheries, there are at least two main reasons why Susi issued the ban, including the following:

- 1) Increasing Lobster Added Value. One of Susi's reasons for banning lobster seed exports is to increase the added value of the lobster itself before it is traded on the global market. In addition, Susi wants the lobster population to grow sustainably in Indonesian waters before it becomes scarce.

- 2) Other countries benefit more Not only by prohibiting exports. Ministerial Regulation Number 1 of 2015 signed by Susi also prohibits all forms of lobster seed capture. Because, so far, lobster seed capture has benefited neighboring countries,

especially Vietnam. The community that is allowed to capture lobster seeds will sell lobster seeds to other countries, then exported by the country with a higher value than that sold by Indonesia. Vietnam often benefits from receiving lobster seed supplies from Indonesia. Vietnam's export figures reach 1,000 tons per year, while Indonesia can only export 300 tons per year.

The previous minister, Susi Pudjiastuti, had banned the trade of lobsters under 200 grams or in the form of seeds. Susi also asked that lobsters with eggs not be traded outside Indonesia. The policy that covers it is Ministerial Regulation Number 56 of 2016 concerning Lobster Catching.

With the enactment of the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 12 of 2020 concerning the management of lobsters (*panulirus spp*), crabs (*scylla spp*), and Crab (*Portunus spp*) in the territory of the Republic of Indonesia, then the Minister of Marine Affairs and Fisheries Regulation No. 2016 concerning the Prohibition of Catching and/or Exporting Lobsters (*Panulirus spp*), Crabs (*Scylla spp*), and Crab (*Portunus spp*) from the Territory of the Republic of Indonesia has been revoked, which was in effect during the leadership of the Minister of Marine Affairs and Fisheries under the leadership of the Minister, Susi Pudjiastuti.

Currently, in the era of the Minister of Maritime Affairs and Fisheries Sakti Wahyu Trenggono, the regulation related to the ban on the export of clear lobster seeds has been banned again, through the Regulation of the Minister of Maritime Affairs and Fisheries (Permen KP) Number 16 of 2022 concerning the Management of Lobsters (*Panulirus spp*), Crabs (*Scylla spp*), and Crab (*portunus spp*) in Indonesian waters.

Currently, in the era of the Minister of Maritime Affairs and Fisheries, Sakti Wahyu Trenggono, the regulation related to the ban on the export of clear lobster seeds has been banned again, through the Regulation of the Minister of Marine Affairs and Fisheries (Permen KP) Number 16 of 2022 concerning the Management of Lobsters (*Panulirus spp*), Crabs (*Scylla spp*), and Crabs (*Portunus spp*) in Indonesian Waters Acting Director General of Aquaculture of the Ministry of Marine Affairs and Fisheries of the Republic of Indonesia, TB Haeru Rahayu said, "The policy of banning the export of BBL is carried out as an effort to encourage the growth of aquaculture lobster in Indonesia and drive

economic growth. Because, lobster is one of the export commodities with high economic value, it is profitable for Indonesia"

This is following the theory of *Al-maslahah al-Hajariyat*, which is the benefit that perfects the main benefit and also eliminates the difficulties faced by humans. This benefit is a legal provision that brings relief to human life in transactions, this relief is realized by being allowed to carry out *salam* buying and selling, agricultural and plantation cooperation.

Currently, in the era of the Minister of Maritime Affairs and Fisheries, Sakti Wahyu Trenggono, the regulation related to the ban on the export of clear lobster seeds has been banned again, through the Regulation of the Minister of Marine Affairs and Fisheries (Permen KP) Number 16 of 2022 concerning the Management of Lobsters (*panulirus spp*), crabs (*scylla spp*), and swimming crabs (*portunus spp*) in Indonesian waters. Acting Director General of Aquaculture of the Ministry of Marine Affairs and Fisheries of the Republic of Indonesia, TB Haeru Rahayu said, "The policy of banning the export of BBL is carried out as an effort to encourage the growth of aquaculture lobster in Indonesia and drive economic growth. Because lobster is one of the export commodities with high economic value, it is profitable for Indonesia (Zaini, 2022).

Meanwhile, Acting Director General of Capture Fisheries of the Ministry of Marine Affairs and Fisheries Muhammad Zaini said, "There are several provisions that must be adhered to to be able to catch lobster larvae in Indonesian waters. For example, catching lobster larvae can only be carried out by small fishermen who are registered in a fishing group at the fishing location and have been determined by the Provincial Office. Furthermore, small fishermen who catch lobster larvae must submit a registration to the Online Single Submission (OSS) Institution, either directly or can be facilitated by the Office. Catching lobster larvae must also use environmentally friendly fishing gear" (Trenggono, 2022).

The current Minister of Maritime Affairs and Fisheries, Sakti Wahyu Trenggono, delivered a decision regarding the ban on the export of lobster seeds (BBL). Trenggono said the Regulation of the Minister of Maritime Affairs and Fisheries Number 17 of 2021 concerning the management of lobsters (*panulirus spp*), crabs (*scylla spp*), and Crab

(*Portunus spp*) in the Territory of the Republic of Indonesia has been completed and has been enacted. This regulation is one of the manifestations of his promise after being inaugurated as Minister of Maritime Affairs and Fisheries in December 2020. Lobster clear seeds are one form of Indonesian marine wealth that must be cultivated in Indonesian territory. Furthermore, the Ministry of Maritime Affairs and Fisheries conducts periodic socialization, coaching, and supervision to provincial, district, and city governments as well as to fishermen to convey clear regulations or standards in BBL management.

In general, juridically, the prohibition of lobster seed exports Based on the Regulation of the Minister of Maritime Affairs and Fisheries Number 17 of 2021 has also been following the provisions of applicable laws and regulations. Both in terms of formality, namely the formation mechanism, or in terms of material, namely regarding the content of the material regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia concerning the prohibition of lobster seed exports. Legally, the prohibition follows Article 17 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, Law Number 31 of 2004 concerning Fisheries, Law Number 39 of 2008 concerning the Ministry of State, Presidential Regulation Number 63 of 2015 concerning the Ministry of Maritime Affairs and Fisheries and Regulation of the Minister of Maritime Affairs and Fisheries Number 48/PERMEN-KP/2020 concerning the Organization and Work Procedures of the Ministry of Maritime Affairs and Fisheries.

Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 17 of 2021 concerning the Management of Lobsters (*Panulirus spp*), Crabs (*Scylla spp*), and Crabs (*portunus spp*) In the territory of the Republic of Indonesia, some regulations apply nationally, the contents of which regulate the management of marine products in the territory. the unitary state of the Republic of Indonesia, one of which concerns the prohibition of exporting lobster seeds.

Article 18 of the Republic of Indonesia's Maritime and Fisheries Regulations concerning the Prohibition on the Export of Clear Lobster Seeds states: 1) Every person is prohibited from doing export of Clear Lobster Seeds (*puerulus*) outside the territory of the Republic of Indonesia; 2) Every person is prohibited from catching lobster seeds

(*puerulus*) that are not for the intended purpose as referred to in Article 2 paragraph (1); 3) Every person is prohibited from catching lobsters (*panulirus spp.*) above the size of clear lobster seeds (*puerulus*) up to a size of 150 (one hundred and fifty) grams for sand lobsters and up to 200 (two hundred) grams for lobsters; 4) Every person is prohibited from: a) transporting lobster seeds in conditions that are not in accordance with the provisions as referred to in Article 6; b) catching and/or releasing lobsters (*panulirus spp.*), in conditions that do not comply with the provisions as referred to in Article 7; c) catching, transporting, and/or releasing crabs (*scylla spp.*) in conditions that do not comply with the provisions referred to in Articles 8 to 10; and d) catching, transporting, and/or releasing crabs (*portunus spp.*) in conditions that do not comply with the provisions as referred to in Articles 11 to 13.

Based on the contents of Article 18 of the regulation of the Minister of Maritime Affairs and Fisheries above, it is known that the government, through the regulation of the Minister of Maritime Affairs and Fisheries, prohibits the export of clear lobster seeds, only clear seeds not banning lobster exports. To provide an explanation and make it easier to understand, in the article of the regulation of the Minister of Maritime Affairs and Fisheries, it is stated regarding the meaning of clear lobster seeds, which reads "clear lobster seeds (*puerulus*) are lobsters that are not yet pigmented (non-pigmented post *larvae*). What is meant by lobster seeds are clear lobster seeds (*puerulus*) that have been pigmented to a size above or equal to 5 (five) grams. So, clear lobster seeds may not be exported and may only be traded within the territory of the Republic of Indonesia.

*Maslahah* is benefit or goodness which includes everything that brings benefits and avoids harm to humans. *Murlah* is regardless of whether or not tied to religious texts directly. In this context, *maslahah murrasa* refers to benefits that are not explicitly mentioned in the Al-Quran or Hadith, but are still considered valid because they are in line with the objectives of sharia.

The basic principles of *Maslahah Murlah* (1) Public benefit are that *Maslahah Murlah* must involve the public interest, not just the interests of certain individuals or groups. (2) Does not conflict with the text, meaning that the benefit must not conflict with the text (the text of the Quran and Hadith) or the basic principles of sharia. (3)

Fulfilling Sharia Objectives (Maqasid al-Shariah) must be in line with maqasid al-shariah, namely the objectives of sharia which include the protection of religion, soul, mind, descendants and property, (4) Realistic Policy: The welfare must be real and realistic, not speculative.

So, based on the explanation regarding the prohibition on the export of lobster seeds based on the Minister of Home Affairs Regulation No. 17 of 2021 concerning the management of lobsters (*panulirus spp*), crabs (*scylla spp*), and swimming crabs (*portunus spp*) in the region Republic of Indonesia. The regulation prohibits the export of clear lobster seeds and provides instructions and guidelines for their management, capture and cultivation.

The policy of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia, Sakti Wahyu Trenggono, through the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia No. 17 of 2021 concerning the Management of Lobsters (*Panulirus spp*), Crabs (*Scylla spp*), and Crab (*portunus spp*) in the territory of the Republic of Indonesia, the contents prohibit

lobster seed exports are inversely proportional to the Policy of the Minister of Marine Affairs and Fisheries, Edy Prabowo, granting lobster seed export permits through the Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia Number 12 of 2020 concerning the Management of Lobsters, Crabs and Crabs. The export permit regulations for lobster seeds during the current term of Minister Sakti Wahyu Ternggono are the same as the policy of the Minister of Marine Affairs and Fisheries in the previous era, Susi Pudjiastuti, who prohibited the export of lobster seeds through the Regulation of the Minister of Marine Affairs and Fisheries Number 56 of 2016 concerning the Prohibition of Catching and/or Exporting Lobsters, Crabs and Crabs.

In article 7 of the regulation of the Minister of Marine Affairs and Fisheries concerning the prohibition of the export of clear lobster seeds, guidelines are also regulated in carrying out lobster capture and its removal from the territory of the Unitary State of Indonesia. Article 7 reads:

- 1) The capture and/or export of lobsters (*panulirus spp*) with harmonized system code 0306.31.20 from the territory of the Republic of Indonesia may only be carried out

with the following provisions:

- a. not in egg-laying condition as seen on the outer abdomen and carapace length above 6 (six) centimeters or weight above 150 (one hundred and fifty) grams per tail for sand lobster (*panulirus homarus*).
  - b. not in egg-laying condition as seen on the outer abdomen and carapace length above 8 (eight) centimeters or weight above 200 (two hundred) grams per tail for other types of lobster (*panulirus spp.*).
  - c. The provisions for catching lobsters (*panulirus spp.*) as referred to in paragraph
  - d. excepted for educational activities, research and development, studies, and/or implementation within the territory of the Republic of Indonesia.
  - e. Educational, research and development, assessment and/or application activities within the territory of the Republic of Indonesia as referred to in paragraph (2) must be equipped with:
    - f. certificate of origin of lobster (*panulirus spp.*) from the technical implementing unit in charge of capture fisheries, the technical implementing unit in charge of aquaculture, or the Service; and.
    - g. A certificate from an agency that carries out tasks in the field of marine and fisheries research.
- 2) The certificate of origin of lobster (*panulirus spp.*) as referred to in paragraph (3) letter a uses the form and format as stated in Attachment I which is an integral part of this Ministerial Regulation. In order to prevent violations of the Minister of Maritime Affairs and Fisheries' regulations regarding the prohibition on the export of clear lobster seeds, the government through the Ministry of Maritime Affairs and Fisheries, supervision of lobster fishing activities in the territory of the Republic of Indonesia, such supervision is carried out in accordance with applicable laws and regulations in the following manner:
- a) Checking the documents for determining the status of a fisherman catching clear seeds Lobster (*puerulus*).
  - b) at the information on the origin of clear lobster seeds (*puerulus*), lobster seeds, crabs

- c) (*scylla spp*), and crabs (*portunus spp.*).
- d) Checking the suitability of the location for catching clear lobster seeds (*puerulus*), lobster seeds, lobsters (*panulirus spp.*), crabs (*scylla spp.*), and swimming crabs (*Portunus spp.*).
- e) Checking the certificate from the agency that carries out tasks in the field of marine and fisheries research.

In addition to supervising fishing activities, the Ministry of Maritime Affairs and Fisheries also supervises lobster seed cultivation activities, these activities are carried out by checking:

- a) Cultivation location.
- b) Carrying capacity of the aquatic environment.
- c) Cultivation facilities and infrastructure.
- d) Waste management.
- e) The number of clear lobster seeds (*puerulus*), lobster seeds, lobsters (*panulirus spp.*), crabs (*scylla spp.*), and swimming crabs (*portunus spp.*) that were restocked.
- f) Business licensing documents

The definition of statutory regulations according to Article 1 number 2 of Law Number 15 of 2019 is "written regulations containing generally binding legal norms and are formed or stipulated by state institutions or authorized officials through procedures stipulated in statutory regulations." Based on the contents of this article, it can be understood that the Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. 17 of 2021 concerning Management of lobsters (*panulirus spp*), crabs (*scylla spp*), and swimming crabs (*portunus spp*) in the territory of the Republic of Indonesia, the contents of which prohibit the export of lobster seeds is one of the laws and regulations in force in Indonesia for lobsters (*panulirus spp*), crabs (*scylla spp*), and swimming crabs (*portunus spp*) which being the object of regulation in the Regulation of the Minister of Maritime Affairs and Fisheries No. 17 of 2021 is marine products in the territory of Indonesia which must be protected so that they do not become extinct and development must be carried out in their management so that they do not become extinct. Based on the above study, the author concludes that based on a positive legal review,

the ban on the export of clear lobster seeds carried out by the Minister of Maritime Affairs and Fisheries is in accordance with applicable legal provisions. The policy of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia, Sakti Wahyu Trenggono, through the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia No. 17 of 2021 concerning the Management of Lobsters (*Panulirus spp*), Crabs (*Scylla spp*), and Crabs (*portunus spp*) in the territory of the Republic of Indonesia, the contents prohibit the export of seeds clear lobster versus.

In contrast to the Policy of the Minister of Marine Affairs and Fisheries, Edy Prabowo, granting export permits for lobster seeds through the Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia Number 12 of 2020 concerning the Management of Lobsters, Crabs and Crabs. The export permit regulations for lobster seeds during the current Minister of Sakti Wahyu Ternggono's term are the same as the policy of the Minister of Marine Affairs and Fisheries in the previous era, Susi Pudjiastuti, who prohibited the export of lobster seeds through the Regulation Minister of Maritime Affairs and Fisheries Number 56 of 2016 concerning the Prohibition of Catching and/or Exporting Lobsters, Crabs and Swimming Crabs.

According to A. Hamid S. Attamimmi, "Attribution of legislative authority is interpreted as the creation of (new) authority by the constitution/grond wet or by the legislator (wetgever) which is given to a state organ, either existing or newly formed for that purpose. (Attamimi, 1990) An example is the attribution of legislative regulations in the 1945 Constitution, in the form of Laws, Government Regulations, Government Regulations in Lieu of Laws (Perpu) and Regional Regulations (Perda).

In Law No. 12/2011, one type of attributive legal regulation outside the 1945 Constitution is also recognized, namely the Presidential Regulation (Perpres), which in the past was known as the Presidential Decree which was of a regulatory nature, the basis of which was Article 4 paragraph (1) of the 1945 Constitution. Meanwhile, delegation in the field of legislation is the transfer/delegation of authority to form regulations from the holder of the authority of origin that gives delegation (*delegans*) to the recipient of the delegation (delegate) with the responsibility for implementing the authority on the delegate himself, while the responsibility of the delegator is very limited. (Attamimi,

1990) For example, from the legislation on delegation, for example, it is depicted in Article 19 paragraph (4) of Law Number 12 of 2006 concerning Citizenship, which states that: "Further provisions regarding the procedure for submitting a statement to become an Indonesian citizen as referred to in paragraph (1) and paragraph (2) are regulated by the Ministerial Regulation". (Dewansyah, 2022)

Ministerial regulations that are formed based on orders from the law are categorized as delegated legislation. Thus, in general delegated legislation is legislation that is formed based on orders from higher legislation. Therefore, the existence and binding power of legislation regulated in Article 8 Article (1) of Law No. 12 of 2011, including the Ministerial Regulation, Article 8 paragraph (2) of Law No. 12 of 2011 does not only regulate the existence of legislation on the basis of delegation (regulations ordered by higher legislation). Article 8 paragraph (2) of Law No. 12 of 2011 also confirms the existence of legislation "formed on the basis of authority". The term "authority" in this provision, of course, is not the authority to form regulations but rather authority in other areas. For example, the Minister exercises authority over certain government affairs which are the authority of the President. This means that if the Minister forms a Ministerial Regulation without "an order from higher legislation", the Ministerial Regulation is still categorized as a legislation.

In fact, in doctrine, there is no such type of legal regulation. This needs to be studied further from the perspective of Legal Science, especially in relation to legal regulations as legal norms which are hierarchical in nature, where lower legal norms seek their validity in higher legal norms as stated by Hans Kelsen or what Joseph Raz calls the chain of validity (Safa'at, 2006).

Ministerial Regulations are formed without any delegation from the regulations higher legislation before the enactment of Law No. 12 of 2011, is known theoretically as policy regulations (*beleidregels*), namely a decision of a state administrative official that is regulatory in nature and indirectly binding on the public, but not a statutory regulation (Magnar, 1997).

Some parties consider this policy to be productive both in economic and ecological aspects. This policy is even associated with political nuances because of the

involvement of politicians in its formulation. Therefore, it is interesting to examine the problem from a legal perspective.

For this reason, it is interesting to examine this problem from the perspective of Islamic law, especially its impact on the benefit of the Indonesian people. Following this, the author conducted a study regarding the ban on the export of clear lobster seeds in the territory of the Unitary State of the Republic of Indonesia from *Maslahah Murlah's* perspective, the results of which are as follows:

Muhammad Musthafa Shalabi in *Al Madkhal Fi Al Fiqh Al Islamy* explains that the use of *maslahah* in the scope of religious matters includes: (Shalabi, 1985)

- 1) There is harmony between *maslahah* which is used as the basis of *maqasid al-syari'ah* and does not conflict with the *qath'i* propositions in order to create benefits and avoid harm.
- 2) It is acceptable to common sense and based on the facts that appear in the use of this *maslahah*, it can eliminate general hardship, namely it can bring benefits to other people and no one feels disadvantaged in its practice.

*Maslahah murlah* is a legal method in Islam that considers benefits that have general access and unlimited and unbounded interests. *Murlah* issues are interests that are decided freely, but are still tied to the basic concept of sharia. Sharia itself is appointed to provide benefits to society in general and prevent strengthened based on the words of Allah SWT in the Qur'an which reads: "And do not curse the gods they worship other than Allah, because they will later curse Allah by going beyond the limits without knowledge. Thus, we make every Ummah think well of their work. Then to their Lord they returned, and He told them what they had done before." (Q. S Al-An'am, verse: 108). (Hidayatullah, 2013)

According to Ahmad Sabiq, he said that "the side of taking the evidence from this verse is that cursing the idols of the infidels has benefits, namely degrading their religion and idols, but when this benefit has an impact, they will insult and curse Allah, so Allah forbids cursing their idols" (Yusuf, 2003).

The ban on lobster seed exports requires more in-depth planning and study regarding its long-term impacts. This is very important to maintain the sustainability of

lobsters and overcome excessive exploitation of lobster seeds that can threaten the survival of lobsters in Indonesia. The policies made must not only prioritize short-term welfare aspects: increasing Non-Tax State Revenue (PNBP) in the fisheries sector, but must also consider the emergence of greater harm: the extinction of lobster species (Hidayatullah, 2013).

In order to know the benefits and benefits of an action or policy, the following things need to be taken into account:

- 1) If the *mafsadah* is greater than the benefit, then avoid *mafsadah*
- 2) That prioritized over achieving these benefits.
- 3) If the benefit is much greater than the *mafsadah* that will arise, then achieving that benefit takes priority over avoiding the *mafsadah*.
- 4) If the benefit and *mafsadah* are balanced, then in general at that time rejecting the *mafsadah* takes priority over achieving the existing benefit.

For this reason, based on the research carried out by the author regarding the ban on the export of clear lobster seeds through the Minister of Maritime Affairs Regulation and Fisheries of the Republic of Indonesia No. 17 of 2021 concerning the Management of Lobsters (*panulirus spp*), crabs (*scylla spp*), and swimming crabs (*portunus spp*) in the territory of the Republic of Indonesia is very appropriate.

Based on the *masalah mursalah*, it is best if lobster seeds are not exported. There are several reasons why this policy can be considered better.

- 1) Maintaining Lobster Populations by not exporting lobster seeds, the lobster population in Indonesian waters can be maintained or even increased. This restriction helps avoid overfishing which can threaten the sustainability of natural resources.
- 2) The development of the local seed industry focuses on the development of the lobster seed industry in the country to increase independence in production, create local jobs, and support regional economic growth.
- 3) Food Security and Food Sovereignty Having sufficient domestic lobster seed resources can ensure food security and food sovereignty, by minimizing dependence on seed imports from abroad.

Based on the analysis of the *masalah mursalah*, several positive and negative aspects were found in the Regulation of the Minister of Maritime Affairs and Fisheries Number 16 of 2022, namely:

1) Positive Aspects

- a. Based on the price that if the price of seeds per lobster tail is 5,000 or 10,000, then maintained for a certain period of time to half to one kilogram in size becomes 300,000-400,000. This shows that the selling value of lobsters is increasing so that many profits are obtained. In addition to the selling price of lobsters being higher, the lobster ecosystem will also be better maintained.
- b. Based on the availability of lobster seed (*puerulus*) capture as referred to in paragraph (1) must take into account the estimated potential of fish resources, the number of catches permitted, and the level of utilization of fish resources as determined by the Minister.

Based on input and/or recommendations from the National Commission for the Assessment of Fish Resources

- a. Based on the Utilization of Technology Electronic reporting of catch results encourages the adoption of technology in the fisheries sector, which can improve data accuracy and operational efficiency. This is part of the *masalah tahsiniyyah* (tertiary benefits) that support innovation and technological progress (Suminto, 2022)
- b. Elimination of Obstructive Rules Elimination of several provisions that are considered irrelevant or obstructive, such as lobster seed traffic regulations, can increase flexibility and efficiency in cultivation.

2) Negative Aspects

- a. Limited Access The electronic reporting requirement can be a burden for areas with limited internet access. This can lead to injustice and socio-economic disparities, contrary to the principle of *masalah* which must be inclusive and fair for all groups in society.
- b. Adaptation and Socialization Cost and Training Time Implementation of this new system requires socialization and training, which can be an additional burden for the government and the community. Lack of understanding and technological skills

can hinder the effectiveness of this regulation, contrary to the purpose of *maslahah* to facilitate and improve the quality of life of the community.

- c. Potential for Abuse and Oversight Challenges of Oversight: Although reporting is done electronically, on-the-ground oversight is still needed to ensure compliance. Failure to do so can lead to abuse of the system, such as inaccurate data reporting, which can undermine the *maslahah*'s objective of maintaining fairness and transparency.

Based on my analysis, this ban has positive and negative effects. The positive and negative effects are as follows.

- 1) The positive effects of this ban are
  - a. Sustainability and Conservation Enhancement Lobster Population Recovery: By banning the export of lobster seeds, the lobster population in Indonesian waters can recover and reproduce naturally. This is important to maintain the balance of the marine ecosystem and prevent overexploitation) Marine Ecosystem Conservation: This ban supports conservation efforts marine ecosystem by ensuring that lobster seeds remain in its natural habitat, which is important for maintaining biodiversity and the sustainability of natural resources.
  - b. Strengthening the Local Economy. Development of Domestic Cultivation Industry With the export ban, lobster seeds that were previously exported can now be used to support the local cultivation industry. This can increase domestic lobster production and create new jobs in the fisheries sector. Value Added Enhancement: Domestically Cultivated Lobsters can be marketed at a higher price both in the local and international markets, providing greater added value to the local economy
  - c. Protection for Local Farmers Price Stability: By reducing the pressure from export demand, the price of lobster seeds in the domestic market can be more stable and affordable for local farmers. This helps reduce production costs and increase profits for farmers. Support for Small Farmers Small farmers who usually have difficulty obtaining quality lobster seeds due to high prices due to export demand will gain easier and more affordable access.
  - d. Quality Improvement and Supervision. Better Quality Control With lobster seeds

remaining in the country, monitoring of the quality and health of the seeds can be done more easily by local authorities. This ensures that the seeds that used in cultivation have good quality and are free from disease. Supervision Efficiency Supervision of lobster seed capture and distribution can be carried out more effectively, preventing illegal and unsustainable practices that can harm marine ecosystems and local economies.

- 2) The negative effects of this ban are: negative effects such as decreased income for fishermen and exporters, price instability in the domestic market, decreased investment, increased risk of illegal trade, and disruption to the global supply chain must be managed carefully. The government needs to implement supporting policies and steps of mitigation to address these challenges and ensure that the benefits of this ban can be optimized without harming the parties involved.

Regulation of the Minister of Marine Affairs and Fisheries Number 7 of 2024, if viewed from the perspective of *maslahah mursalah*, is not appropriate if it allows the export of lobster seeds. So, because it actually benefits other countries and harms society Indonesia, because if it is sold not in the form of seeds it is more profitable. It is better to review it to restore the regulations as regulated by the Regulations of Minister of Maritime Affairs Number 16 of 2022 talks about the ban on lobster seed exports. Seeing from this study, it was found that the positive effects are greater, so based on the benefits, this is better. The author analyzes that the policy of allowing the export of lobster seeds will actually cause more harm, such as extinction and causing losses to local fishermen than its benefits, namely increasing state revenue. This is because if the policy of allowing exports aims to improve the welfare of fishermen, then the policy that allows the export of lobster seeds should not be the right policy. Empowering fishermen by providing assistance in the lobster cultivation process until they are ready for consumption is much more appropriate and contains benefits. The selling price of lobsters that are ready for consumption is higher than the selling price of seeds.

In addition, the survival of lobsters in Indonesia needs to be preserved. Although lobsters in Indonesia are abundant, if the principle is not applied caution and constant capture will lead to extinction. If this happens, of course society will bear the losses. If the

export of lobster seeds is not prohibited and the *masalah murlah* perspective is put aside, it will certainly benefit other countries and be detrimental to the Indonesian people themselves. So, based on *Maslaha Murlah's* study, the export of clear lobster seeds should indeed be prohibited.

## CONCLUSION

The background to the issuance of the ban on lobster seed exports based on Article 18 of the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 7 of 2024 is to replace and revoke the permit for lobster seed which was previously enforced through the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 12 of 2020. In addition, the background to the issuance of the Minister of Maritime Affairs and Fisheries Regulation about the export ban is to maintain the sustainability of lobsters so that they do not become extinct. With the ban, local fishermen have the opportunity to cultivate lobster seeds so that the selling price becomes higher and the welfare of local fishermen can be improved.

If seen based on the *masalah murlah* review, then export is prohibited lobster seeds based on Article 18 of KP Ministerial Regulation No. 7 of 2024 is a policy that is very in line with the study of *masalah murlah*, because the government's background in issuing this prohibition is in line with the *fiqh* principle "rejecting something that causes damage takes precedence over something that brings benefits", where the benefit is What is meant is the extinction of lobsters if they are exported and the benefit is increasing state income.

## REFERENCES

- (Panulirus spp), Crab (Scylla spp), and Swimming Crab (Portunus spp), Section Considering number (1) Regulation of the Minister of Maritime Affairs and Fisheries No. 12 of 2020..., "written regulations containing generally binding legal norms and formed or determined by state institutions or authorized officials through procedures set out in statutory regulations"
- A. Hamid S. Attamimi, "The Role of the Decree of the President of the Republic of Indonesia in the Implementation of State Government: An Analytical Study of the Presidential Decree that Functions as a Regulation in the Period of Pelita I – Pelita VI", Dissertation, Postgraduate Faculty of UI, Jakarta, 1990, p. 352
- Agus Hidayatullah et all, Al-Qur'an Tajwid Code, Transliteration Per Word, Translation Per Word, (Bekasi: Cipta Bagus Segara, 2013), p. 141
- Ahmad Sabiq bin Abdul Lathif Abu Yusuf, Practical Principles for Understanding Islamic Fiqh (Qowaid Fiqhiyyah), (Gresik: Pustaka alFurqon, 2013), p. 101- 103.
- Bilal Dewansyah, "The Position of Ministerial Regulations in the Hierarchy of Legislation", Article: <https://www.hukumonline.com/>, accessed January 17, 2022
- Definition of statutory regulations according to Article 1 number 2 of the Law Law Number 15 of 2019 is <https://kkp.go.id/kategori/2-Artikel/216>, Accessed January 152022
- Jimly Asshiddiqie and M. Ali Safa'at, Hans Kelsen's Theory of Law, (Jakarta: Konpress, 2006), p. 157 Bagir Manan and Kuntana Magnar, Some Problems of Constitutional Law, (Bandung: Alumni, 1997), p. 169 Muhammad Musthafa Shalabi, al-Madkhal fi al-ta'rif bi-al-fiqh al-Islami wa- qawa'id al- mulkiyah wa- al-'uqud fih, (Bayrūt: Dar al-Nahdat al- 'Arbiyah, 1985).
- Muhammad Zaini "Lobster Seed Exports Banned Again, Here's the Explanation", Article: <https://money.kompas.com/>, accessed January 17, 2022.
- Regulation of the Minister of Marine Affairs and Fisheries No. 16 of 2022 Concerning Amendments to the Regulation of the Minister of Marine Affairs and Fisheries No. 17 of 2021 Concerning the Management of Lobsters (Panulirus spp.), Crabs (Scylla spp.), and Swimming Crabs (Portunus spp.) in the Territory of the Republic of Indonesia
- Regulation of the Minister of Maritime Affairs and Fisheries No. 17 of 2021 concerning the management of lobsters, crabs, and swimming crabs in Indonesia.
- Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 1 of 2015 concerning the Catch of Lobsters (Panulirus spp), Crabs (Scylla spp), and Swimming Crabs (Portunus pelagicus spp).

Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 12 of 2020 Concerning Lobster Management

Sakti Wahyu Trenggono, “Minister of Marine Affairs and Fisheries Prohibits Export of Lobster Seeds”, Article: <https://sumutpos.jawapos.com/>, accessed on January 17, 2022.

Law No. 15 of 2019 concerning Amendments to Law No. 12 of 2011 concerning the Formation of Legislation.

Law Number 12 of 2011 concerning the Formation of Legislation.