

From Informal Safety Practice to Auditable Risk Governance: Diving and Snorkeling Operator Liability at Iboih Beach, Indonesia

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Abstract

This article examines the legal responsibility of diving and snorkelling operators for tourist safety at Iboih Beach, Sabang, and develops a regulatory analysis through Indonesian tourism law, consumer protection law, recreational-diving standards, and *maqāṣid al-sharīʿah*. Using a qualitative socio-legal case-study design, the research combines interviews and field observation with doctrinal analysis. The empirical evidence indicates that operators and guides provide pre-activity safety explanations, equipment, supervision and incident response. It also reveals a significant governance weakness: the safety standard operating procedures used by operators are largely communicated orally and are not consistently formalised as written, auditable protocols. The field study records foreseeable risks including drowning, muscle cramps, equipment failure and the depletion of breathing gas, and describes an incident in which a cylinder was insufficiently checked

before use. The article argues that operator responsibility should not be reduced to post-incident assistance. It includes *ex ante* duties of equipment inspection and maintenance, participant screening, certified supervision, disclosure of material risks, weather and sea-condition assessment, emergency preparedness, complaint mechanisms and appropriate accident protection. Indonesian consumer law reinforces tourists' rights to safety, accurate information and compensation, while tourism regulation provides sector-specific safety and business standards for recreational diving. From a *maqāṣid* perspective, these obligations are most directly connected to *ḥifẓ al-nafs* (protection of life) and *ḥifẓ al-māl* (protection of property), with environmental stewardship supporting the wider public interest. The article concludes that Iboih operators should convert informal safety practice into written, verifiable and regularly reviewed risk-management systems. Such formalisation would strengthen legal accountability, consumer protection and the ethical objectives of Islamic law without treating *maqāṣid* as a substitute for positive law.

KEYWORDS: marine tourism; operator liability; diving safety; consumer protection; risk governance; *maqāṣid al-sharīʿah*; Iboih Beach

Introduction

Marine adventure tourism creates an unusually close relationship between commercial service provision and physical safety. Unlike ordinary tourism services, recreational diving and snorkelling expose participants to environmental hazards, equipment dependence and risks that can escalate rapidly if supervision fails. The legal responsibility of a marine-tourism operator therefore extends beyond selling access to an experience: it includes the organisation of a reasonably safe system of activity.¹

Iboih Beach and the waters surrounding Rubiah Island in Sabang are important marine-tourism destinations in Aceh. The source study describes growing demand for diving and snorkelling services, equipment rental, boats

¹Cok Istri Dian Laksmi Dewi, 'Tanggung Jawab Pengusaha Pariwisata terhadap Kegiatan Wisata Berisiko Tinggi', *Jurnal Yustitia* 12, no 2 (2018): 76–87, <https://doi.org/10.62279/yustitia.v12i2.166>.

and trained guides.² Its field evidence also identifies concrete risks: drowning, muscle cramps, inadequate breathing-gas supply, equipment malfunction and human error. An observation reported in the study describes a case in which a cylinder was insufficiently checked before use, creating a potentially serious threat to the participant.³

The original manuscript rightly places safety within the framework of operator responsibility and *maqāṣid al-sharīʿah*. For an international legal audience, however, the argument requires a clearer hierarchy of norms. *Maqāṣid* provides an ethical and normative account of why life, property and welfare should be protected; the binding duties of tourism businesses arise from positive law, sectoral safety standards, consumer protection and the terms of the service relationship.

This distinction is particularly important because the field evidence reveals an institutional gap rather than a complete absence of safety practice. Guides reportedly provide briefings, monitor tourists during activities and intervene when difficulties arise. At the same time, the source study concludes that operators' safety SOPs are largely oral and are not formally documented.⁴ That gap between practice and documentation weakens auditability, consistency, training, proof of compliance and post-incident accountability.

The article therefore asks three questions: first, what safety and risk-management practices are actually used by diving and snorkelling operators at Iboih; second, how should operator responsibility be understood under Indonesian tourism and consumer law; and third, how can *maqāṣid al-sharīʿah* contribute to the normative evaluation of risk governance without displacing the positive-law framework? The article's principal contribution is

²Annisa Rizkina and Muhammad Maulana, source manuscript, 'Responsibilitas Pengusaha Diving dan Snorkeling terhadap Risiko Wisatawan di Pantai Iboih Sabang: Kajian Teori Maqashid Syariah', JURISTA 8, no 1 (2024).

³Source manuscript, field observation concerning depletion of breathing gas attributed to an inadequate pre-use cylinder check.

⁴Source manuscript, findings section on operator SOPs, reporting that the SOPs were communicated orally and were not formally documented.

to reconceptualise safety responsibility as a system of ex ante risk governance rather than a narrow duty to respond after an accident.

Research Method

The research adopts a qualitative socio-legal case-study design. The empirical component is based on field observation, interviews and documentation concerning diving and snorkelling activity at Iboih Beach. The source manuscript specifically identifies interviews with Cut Nadia, a tourist, on 10 June 2023 and Rahmat Safitra, a snorkelling operator, on 14 June 2023.⁵

The doctrinal component evaluates the field practices against Indonesian tourism law, consumer protection law and regulatory standards for recreational diving. It also uses *maqāṣid al-sharīʿah* as a normative analytical framework, focusing especially on *ḥifẓ al-nafs* and *ḥifẓ al-māl*. This design allows the article to distinguish three questions that are often conflated: legal compliance, factual safety practice and Islamic ethical justification.

The study is limited by its small number of identified interviewees and by the absence of a systematic audit of operator licences, instructor certificates, maintenance records, insurance policies, incident logs or emergency-response documentation. Accordingly, the article does not make a finding that every operator at Iboih complies with, or violates, each regulatory requirement. It evaluates the practices supported by the available evidence.

Legal Framework for Marine-Tourism Safety

Tourism law and risk-based business standards

Indonesia's Tourism Law regulates the rights and obligations of tourists and tourism businesses, standardisation, worker competence and the responsibilities of tourism stakeholders. Law No 10 of 2009 remains the principal framework, as amended most recently by Law No 18 of 2025.⁶For

⁵Interview with Cut Nadia, tourist at Iboih Beach, Sabang, 10 June 2023; interview with Rahmat Safitra, snorkelling operator at Iboih Beach, Sabang, 14 June 2023.

⁶Law of the Republic of Indonesia No 10 of 2009 on Tourism, as amended most recently by Law No 18 of 2025.

marine adventure services, sector-specific regulation is especially significant because safety depends on professional competence, operational systems and equipment standards.

Ministerial Regulation No 7 of 2016 on Guidelines for the Organisation of Recreational Diving remains an important specific instrument. Its operational guidance addresses recreational scuba diving, freediving and snorkelling, defines guide and instructor qualifications, and requires tourism businesses to display intelligible safety information. The guidance includes guarantees concerning certified supervision, equipment condition, maintenance records, breathing-gas quality, cylinder maintenance, accident insurance and complaint contact information.⁷

The risk-based licensing framework is reinforced by Minister of Tourism and Creative Economy Regulation No 4 of 2021, which classifies recreational diving and water-tourism activities within the risk-based business-standard system. Recreational diving is treated as a medium-high-risk tourism business.⁸ This classification is consistent with the need for formalised safety management rather than informal practice alone.

Consumer protection and the duty of safety

Tourists purchasing diving or snorkelling services are consumers of services. Law No 8 of 1999 on Consumer Protection recognises rights to comfort, security and safety; accurate, clear and honest information; the opportunity to complain; and compensation where the service received causes loss or does not conform to what was promised.⁹ The same statute imposes duties of good faith and responsibility on business actors.

⁷Minister of Tourism Regulation No 7 of 2016 on Guidelines for the Organisation of Recreational Diving, annex, including provisions on certified supervision, equipment condition and maintenance, breathing gas, cylinders, accident insurance and complaint contact information.

⁸Minister of Tourism and Creative Economy Regulation No 4 of 2021 on Business Activity Standards in Risk-Based Licensing for the Tourism Sector, which includes recreational diving and water-tourism business standards and classifies recreational diving as medium-high risk.

⁹Law of the Republic of Indonesia No 8 of 1999 on Consumer Protection, especially arts 4, 7 and 19.

For high-risk tourism, informed consent does not eliminate operator responsibility for negligent organisation. A tourist may voluntarily accept ordinary and disclosed risks inherent in diving or snorkelling, but that does not amount to accepting avoidable risks created by defective equipment, inadequate supervision, failure to assess conditions, or non-compliance with applicable safety standards.

Maqāṣid al-sharī‘ah as normative evaluation

The maqāṣid tradition directs legal and ethical reasoning towards the preservation of fundamental human interests. Classical formulations identify protection of religion, life, intellect, lineage and property, while contemporary approaches also emphasise systemic welfare, justice and human development.¹⁰ In the present context, ḥifẓ al-naḥs is the clearest normative foundation for preventing drowning, decompression-related injury, equipment failure and other threats to physical safety.

Ḥifẓ al-māl is also relevant. An accident may generate medical expenditure, loss of property, loss of income and other financial harm. Insurance, transparent pricing, compensation mechanisms and reliable service therefore have a property-protective dimension. Environmental stewardship is also connected to the broader maqāṣid concern with public welfare because marine-tourism businesses depend on the continued integrity of coral and coastal ecosystems.

Empirical Findings at Iboih Beach

Existing safety practice

The field evidence indicates that operators do not personally guide every tourist; guides or other workers commonly perform the direct supervisory role. According to the tourist interview, safety instructions are communicated before diving or snorkelling, and guides continue to ask

¹⁰Satria Effendi, *Ushul Fiqh*, ed Aminuddin Ya’qub (Jakarta: Kencana, 2017), 213–14; Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (Herndon, VA: International Institute of Islamic Thought, 2008).

participants about their condition or difficulties during the activity.¹¹This is a meaningful safety practice because it establishes an initial information and supervision layer.

The operator interview also indicates that businesses supply the equipment required for underwater activity and accept responsibility for responding when problems become apparent.¹²The study further refers to a form of agreement under which operators accept responsibility for specified risks.

Foreseeable risks and equipment-related failure

The study identifies drowning, muscle cramps, depleted breathing gas and equipment malfunction as foreseeable hazards. These are not all attributable to operator negligence; some may result from participant health, environmental conditions or unpredictable events. Legal responsibility therefore requires a causal analysis rather than an assumption that every adverse event creates automatic liability.

The reported cylinder incident is nevertheless significant because it illustrates a preventable operational failure: the source states that breathing gas was depleted because a guide had failed to check the cylinder adequately before the activity.¹³Where such a fact is established, the case is not merely one of inherent recreational risk. It concerns whether reasonable inspection and equipment-control procedures were followed.

The central governance weakness: oral and undocumented SOPs

The strongest empirical finding is that the SOPs applied by diving and snorkelling operators are reportedly communicated orally and are not

¹¹Interview with Cut Nadia, 10 June 2023.

¹²Interview with Rahmat Safitra, 14 June 2023.

¹³Source manuscript, field observation concerning a cylinder whose breathing gas was depleted following an inadequate check by the guide.

formally documented.¹⁴This does not mean that no safety routine exists. It means that the routine is difficult to verify, standardise and audit.

An undocumented SOP creates at least five governance problems. First, guides may receive inconsistent instructions. Second, maintenance intervals and pre-use checks may not be recorded. Third, operators may have difficulty proving compliance after an accident. Fourth, new or temporary staff may rely on informal transmission of practice. Fifth, regulators and consumers cannot readily determine whether an operator's procedures meet the applicable standard.

From Post-Incident Responsibility to Ex Ante Risk Governance

Operator responsibility should be organised around a prevention cycle rather than a purely reactive model. The relevant duties begin before the tourist enters the water and continue through the activity, emergency response and post-incident process.

Risk-governance stage	Minimum operator function	Evidence from Iboih study	Legal / maqāṣid significance
Before activity	Health/skill screening; risk disclosure; weather and sea assessment; equipment checks	Safety briefing and equipment provision are reported; formal records are limited	Consumer information; ḥifẓ al-nafs
Supervision	Qualified guide/instructor; appropriate participant-to-guide control; continuous monitoring	Guides monitor participants and ask about difficulties	Professional competence; prevention of avoidable harm

¹⁴Source manuscript, findings on the safety SOPs used by diving and snorkelling operators at Iboih.

Equipment governance	Maintenance schedule; cylinder and regulator checks; maintenance records	A cylinder-checking failure is reported in the source	Negligence prevention; auditability
Emergency response	Rescue protocol; first aid/oxygen capability; communications; referral route	Operators reportedly respond when visible problems occur	Duty of care; ḥifẓ al-nafs
Financial protection	Accident insurance; complaint and compensation process	Source advocates insurance but does not audit actual policy coverage	Consumer compensation; ḥifẓ al-māl
Environmental control	Briefing and practices preventing damage to coral and marine ecology	Environmental responsibility is discussed normatively	Sustainable public welfare

Table 1. A risk-governance framework derived from the field evidence and applicable legal principles.

Liability, Causation and the Limits of Risk Assumption

Adventure tourism necessarily involves residual risk. A legally sound framework should therefore distinguish inherent risk from operator-created or operator-aggravated risk. Strong currents, sudden medical events and participant error may occur despite reasonable care. By contrast, failure to inspect equipment, use competent supervision, communicate known hazards or follow a required safety procedure may constitute preventable risk.

This distinction also clarifies the role of waivers or responsibility forms. A signed document can record informed acceptance of inherent risks, but it should not be treated as a blanket exclusion of responsibility for negligence or statutory consumer rights. The operator's most defensible position is

therefore not to rely on broad disclaimers, but to be able to demonstrate a functioning safety system.

In practical terms, liability assessment should examine the applicable duty, the specific safety measure expected, whether the operator or guide failed to meet that standard, causation, the tourist's own conduct and the nature of the resulting loss. This approach is more precise than treating all incidents as either entirely the operator's fault or entirely the tourist's risk.

Maqāṣid al-Sharī'ah and the Ethics of Preventive Safety

Ḥifẓ al-naḥs as a preventive duty

The source manuscript correctly places protection of life at the centre of the maqāṣid analysis. The concept should, however, be translated into operational duties. In a high-risk tourism setting, ḥifẓ al-naḥs supports preventive inspection, competent supervision, participant screening, emergency planning and the refusal to proceed when conditions are unsafe.

This interpretation is stronger than invoking maqāṣid only after an accident. The preservation of life is achieved principally by reducing foreseeable harm before it materialises. A documented SOP is therefore not merely administrative paperwork; it is an institutional mechanism through which a life-protective objective can be made repeatable and accountable.

Ḥifẓ al-māl and compensation

Protection of property supports financial mechanisms that prevent the full economic consequences of an accident from falling unfairly on the tourist. Accident insurance, transparent compensation arrangements and complaint procedures are therefore compatible with both consumer protection and ḥifẓ al-māl. However, the field evidence does not establish the actual scope of insurance coverage held by each Iboih operator. This remains an issue for further verification.

Environmental protection and public welfare

Marine-tourism safety cannot be separated completely from environmental governance. Damaged coral, unmanaged waste and unsafe anchoring practices can diminish the ecological basis of the tourism economy itself. The *maqāṣid* framework places these concerns within a broader conception of *maṣlahah*, while positive environmental and tourism rules provide enforceable standards.

Policy and Institutional Recommendations

The most immediate reform is the conversion of oral safety routines into a written SOP aligned with recreational-diving regulation. The SOP should identify responsibility for equipment inspection, maintenance records, weather and current assessment, participant screening, briefing content, guide qualifications, maximum group size, emergency communications, incident reporting, first aid and referral procedures.

Second, each operator should maintain documentary evidence of implementation: equipment-maintenance logs, cylinder records, guide and instructor certification, participant declarations, briefing checklists, incident reports and evidence of insurance or equivalent financial protection. Documentation should remain proportionate to the scale of the business, but the absence of any record is difficult to reconcile with a medium-high-risk activity.

Third, local tourism authorities should conduct periodic supervision that is educative as well as regulatory. Standardised templates could reduce compliance costs for small operators. A shared emergency protocol involving operators, local medical services and search-and-rescue authorities would also address risks that exceed the capacity of a single business.

Fourth, safety information should be intelligible to domestic and foreign tourists. Material risks, guide qualifications, emergency contacts, complaint procedures and insurance information should be available before payment or participation, not only after the tourist arrives at the dive site.

Conclusion

The Iboih case demonstrates that marine-tourism responsibility is best understood as a system of preventive risk governance. Operators and guides reportedly provide equipment, safety explanations, supervision and incident response. These practices are important, but their legal and institutional value is weakened when the safety system remains largely oral and undocumented.

Indonesian tourism and consumer law provide the binding legal framework for operator responsibility. Recreational-diving regulation reinforces the need for certified supervision, safe and maintained equipment, accessible information, accident protection and complaint mechanisms. The classification of recreational diving as a medium-high-risk tourism business further supports formalised safety management.

Maqāṣid al-sharī'ah contributes a complementary normative rationale. Ḥifẓ al-nafs requires proactive protection of life, while ḥifẓ al-māl supports mechanisms that reduce financial harm and provide compensation. These objectives are strongest when translated into auditable operational practice rather than invoked only as abstract values.

The principal recommendation is therefore clear: Iboih operators should convert informal routines into written, regularly reviewed and evidentially traceable safety systems. This would strengthen consumer protection, reduce avoidable risk, improve proof of compliance and align marine-tourism governance with both positive law and the ethical objectives of Islamic law.

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