

A Juridical Analysis of Coastal Reclamation in the Philippines and the Sea Dike Development Project in Indonesia

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Abstract

This study provides a comparative legal analysis of coastal development in the Philippines and Indonesia, focusing on the Manila Bay reclamation and the sea wall construction in Tangerang. It examines regulatory frameworks, socio-environmental impacts, and the integration of sustainability principles through qualitative methods, including legal document analysis, case study review, and public response assessment. Findings show that while both countries have general provisions on coastal development, weaknesses persist in enforcement and procedural consistency. The Manila Bay project, though supported by a detailed framework, continues to cause ecological degradation and displacement of fishing communities. Conversely, the Tangerang sea wall lacks a dedicated legal framework, resulting in legal uncertainty and unregulated risks. Both cases reveal limited public participation and sustainability measures. The study highlights the need for stronger, enforceable standards and enhanced community involvement to achieve environmental protection, social justice, and balanced coastal governance in Southeast Asia.

Keywords: Coastal reclamation, Legal framework, Manila Bay, Sea wall, Sustainability, Southeast Asia

Abstrak

Penelitian ini menyajikan analisis hukum komparatif terhadap pembangunan pesisir di Filipina dan Indonesia, dengan fokus pada reklamasi Teluk Manila dan pembangunan tanggul laut di Tangerang. Kajian ini menelaah kerangka regulasi, dampak sosial-lingkungan, serta penerapan prinsip keberlanjutan melalui metode kualitatif, mencakup analisis dokumen hukum, telaah studi kasus, dan penilaian respons publik. Hasil penelitian menunjukkan bahwa meskipun kedua negara memiliki ketentuan umum tentang pembangunan pesisir, kelemahan tetap muncul dalam aspek penegakan dan konsistensi prosedural. Proyek Teluk Manila, meski didukung kerangka hukum yang lebih rinci, menimbulkan degradasi ekologi dan pengusuran komunitas nelayan. Sebaliknya, proyek tanggul laut Tangerang belum memiliki kerangka hukum khusus, sehingga menimbulkan ketidakpastian hukum dan risiko lingkungan yang tidak terkendali. Kedua kasus mengungkap minimnya partisipasi publik dan langkah keberlanjutan. Penelitian ini menekankan perlunya standar hukum yang kuat dan partisipasi masyarakat demi perlindungan lingkungan, keadilan sosial, dan tata kelola pesisir yang seimbang di Asia Tenggara.

Kata kunci: Reklamasi pesisir, Kerangka hukum, Teluk Manila, Tanggul laut, Keberlanjutan, Asia Tenggara

A. Introduction

Coastal zones have long attracted humans due to their abundant subsistence resources, strategic access to marine trade and transport, recreational and cultural significance, and unique position between land and sea where development and utilization have surged in recent decades leading to significant socio-economic and environmental changes that are projected to persist while coastal areas exhibit distinctive population and development patterns partly driven by global growth and urbanization trends (Neumann et al., 2015)

Coastal reclamation has become one of the most controversial and complex development strategies in the maritime region of Southeast Asia, particularly in archipelagic countries such as the Philippines and Indonesia. In some cases, coastal reclamation projects are carried out without comprehensive spatial risk assessments and even though fuzzy set theory has been used to address spatial uncertainty, inherent uncertainty still limits definitive conclusions regarding the safety of reclamation activities for coastal communities (Jadidi et al., 2014)

Coastal reclamation in areas such as Teluk Ambon and Teluk Dalam has reportedly led to mangrove loss, sedimentation, and tidal flooding in low-lying zones, while limited government oversight, weak regulatory enforcement, and the absence of effective sanctions continue to undermine sustainable coastal management (Sedubun 2023). Another ecology feminist-based study by Kristina Magdalena in Kalibaru, North Jakarta, revealed that sea wall reclamation has negative impacts on female clam shellers by causing economic losses due to reduced income sources, ecological disruptions affecting marine habitats, and socio-cultural changes limiting women's access and roles, impacts that are often overlooked in reclamation discussions, especially concerning women in the coastal post-production sector. (Pakpahan, 2023)

In Baybay City - Leyte, Philippines coastal reclamation has been carried out as part of urban expansion and development efforts, yet this intervention has led to significant environmental and socio-economic consequences, including the degradation of coastal ecosystems, the loss of access to essential ecosystem services, and the disruption of traditional livelihoods such as small-scale fishing and shoreline gathering activities, while the project has also raised concerns over community displacement and insufficient consultation processes, reflecting broader structural challenges in achieving inclusive, equitable, and sustainable coastal governance. (Fernandez, 2019)

Despite numerous studies consistently reporting the negative impacts of reclamation on coastal ecosystems, from (Lestari Windriyanto et al., 2025) the sustainability of local livelihoods spotted by (Eko Turisno & Gusti Ayu Gangga Santi Dewi, 2021), and increased disaster risks (Palilingan et al., 2024), reclamation practices continue to be carried out extensively, driven by development agendas and economic growth interests (Mohd Nadzir et al., 2020). Supported by rapid urbanization, rising infrastructure demands, and efforts to attract regional investment, governments in various countries have increasingly implemented coastal reclamation projects and

constructed artificial seawalls to expand land availability and protect vulnerable coastal zones. In this context, both Land Use Planning and Marine Spatial Planning (MSP) are essential and complementary instruments. Although often viewed as separate tools, within the framework of Integrated Coastal Zone Management (ICZM), these planning approaches are fundamentally interdependent and must be closely integrated to ensure effective and sustainable coastal governance. (Susanto et al., 2019)

For example, the ICZM Protocol in the Mediterranean Sea explicitly identifies coastal zone spatial planning as a key mechanism for achieving ICZM objectives. One of the primary goals of the ICZM process is to “facilitate, through the rational planning of all activities, the sustainable development of coastal zones by ensuring that both environment and landscapes are given special consideration, maintaining a harmonious balance with economic, social, and cultural development” (Article 5). This holistic approach underscores the importance of a coordinated and inclusive planning strategy that balances ecological preservation with socio-economic advancement in coastal environments. (Modugno et al., 2021)

The reclamation projects in the Philippines have attracted both national and international attention due to its scale, environmental impact, and social consequences. Involving multiple cities and provinces, this reclamation is justified on economic and urban development grounds but faces opposition from environmental advocates, traditional fishermen, civil society groups, and academic institutions. Concerns over biodiversity loss, violations of environmental laws, and marginalization of traditional fishing communities raise significant questions about the adequacy of existing legal and regulatory frameworks. (Fernandez, 2019)

A similar situation occurs in Indonesia, according to (Ministry of PUPR 2022) where the construction of seawalls – often implemented as responses to rising sea levels, coastal erosion, and storm surges – has sparked debates over their long-term effectiveness and ecological impact. Projects such as the Jakarta Giant Sea Wall (NCICD) (PUPR, 2022) and localized seawall developments along the northern coasts of Java and Sumatra highlight weaknesses in Indonesia’s coastal governance. The implementation of these structures frequently intersects with customary marine territories, generating conflicts between developers and local communities. While intended to support sustainability and disaster mitigation, these interventions ironically contribute to environmental degradation and legal ambiguities.

The concept of sustainability, as defined in the Brundtland Report (1987), emphasizes meeting present needs without compromising the ability of future generations to meet theirs. This principle is highly relevant in the context of coastal reclamation, where long-term ecological integrity and socio-economic justice must be balanced with short-term development goals. Both in the Philippines and Indonesia, legal frameworks governing coastal reclamation struggle to fully internalize the sustainability paradigm. Laws may exist, but their enforcement, coordination, and integration with sustainability objectives remain weak or inconsistent.

This study aims to conduct a comparative legal analysis between the Manila Bay reclamation project in the Philippines and seawall construction initiatives in Indonesia. By examining legal texts, regulatory institutions, stakeholder roles, and sustainability assessments, this paper seeks to uncover structural and legal deficiencies hindering truly sustainable reclamation practices in both countries. Comparing these two cases provides insights into how legal systems accommodate—or fail to accommodate—sustainable coastal management amidst ecological crises and economic pressures.

A primary motivation of this study is to identify the gap between legal ideals and legal realities in both jurisdictions. For instance, both countries have environmental protection laws that require Environmental Impact Assessments (EIA), coastal zoning regulations, and community participation mandates. However, in practice, many reclamation and seawall projects evade or only symbolically comply with these regulations. The normalization of regulatory violations—through political lobbying, weak institutional oversight, or corruption—raises concerns about the rule of law and genuine commitment to sustainability.

In the Philippines, the Manila Bay reclamation exemplifies this dissonance. Although the (Supreme Court of the Philippines issued a mandamus order for the cleanup and rehabilitation of the bay (Ilas, 2008) , reclamation projects continue under the guise of development. Projects are approved without proper cumulative impact assessments or comprehensive stakeholder consultations. Legal mechanisms such as Environmental Compliance Certificates (ECC) and Strategic Environmental Assessments (SEA) are applied inconsistently or politically manipulated. Moreover, traditional fishing communities around the bay are frequently marginalized in legal processes, reinforcing structural inequalities.

Indonesia presents a parallel legal landscape with distinctive characteristics. Despite the existence of Law No. 27 of 2007 concerning Coastal Management and Small Islands and its amendments—aiming to integrate environmental and social considerations—implementation remains weak. Seawall construction is often top down, with minimal public engagement and environmental transparency. Decentralization and overlapping jurisdictions among central, provincial, and local governments exacerbate legal fragmentation. Additionally, corporate interests in infrastructure and land development pose challenges to equitable governance.

Framing reclamation and seawalls as sustainability tools adds legal complexity. On one hand, government narratives justify these projects as climate adaptation strategies—protecting coastlines from sea-level rise, preventing floods, and securing economic zones. On the other hand, sustainability rhetoric is often exploited to legitimize large-scale projects that further ecological harm. In this context, the absence of strong and binding legal frameworks to assess true sustainability becomes evident. The gap between nominal sustainability and actual outcomes demands thorough legal scrutiny.

Another crucial aspect of this study is the international dimension of sustainability in reclamation law. Both the Philippines and Indonesia are signatories to international

agreements such as the United Nations Convention on the Law of the Sea (UNCLOS), the Convention on Biological Diversity (CBD), and the Paris Agreement. These treaties provide normative frameworks for marine protection, climate adaptation, and sustainable development. However, domestic translation of these norms into effective reclamation law mechanisms remains imperfect or selectively enforced. This mismatch illustrates the limitations of international law without strong domestic harmonization and enforcement.

By comparing these two case studies, this research will analyze not only positive legal texts but also institutional practices, judicial interpretations, and community experiences shaping reclamation realities. The central hypothesis is that both countries face gaps between sustainability goals and law implementation. Legal instruments often lack procedural integrity, cross-sectoral coordination, or meaningful enforcement. This legal chaos contributes to unsustainable reclamation practices marked by recurring ecological damage and social injustice.

Furthermore, this study will explore alternative legal frameworks and best practices from other jurisdictions that have successfully implemented more integrated and community-oriented coastal management. By situating the Philippines and Indonesia within a broader comparative legal perspective, this paper aims to provide constructive recommendations for reform. Emphasis will be placed on strengthening community participation, establishing independent environmental evaluation bodies, applying binding sustainability benchmarks, and recognizing local wisdom-based marine management systems.

Therefore, based on the contextual analysis of coastal reclamation and seawall construction in the Philippines and Indonesia, this study considers it essential to systematically investigate the legal dimensions surrounding these practices. The researcher has collected various relevant legal materials, including national legislation, jurisprudence, public policies, and applicable international instruments in both countries. In addition, technical documents, environmental reports, and prior research from academics and civil society organizations are reviewed to understand the complexity of reclamation practices within legal and sustainability frameworks. Empirical data from decision-making processes, the roles of legal actors, and forms of community participation also serve as evaluation material regarding the effectiveness of existing legal systems.

The discussion will systematically organized into three main sub-sections: (1) the legal framework and regulations governing reclamation; (2) implementation and impacts of reclamation projects; and (3) comparative analysis of sustainability and protection of coastal community rights protection.

B. Literature Review

Sustainability Principles

Most observers recognize that sustainability requires new laws and modifications to existing laws. It is less often recognized that sustainability can be achieved by simply applying existing laws to new problems, or by making incremental changes in those laws; nonetheless, sustainability does not now have an adequate or supportive legal foundation, in spite of the many environmental and natural resources laws that exist. If we are to make significant progress toward a sustainable society, much less achieve sustainability, we will need to develop and implement laws and legal institutions that do not now exist, or that exist in a much different form. Since their clients in government, business, and nongovernmental organizations increasingly demand legal work that addresses sustainable development issues, lawyers have now begun to respond to that demand. (Dernbach & Mintz, 2011)

Sustainability law serves as a vital and essential normative framework for guiding development activities—particularly coastal reclamation—toward outcomes that integrate environmental preservation, social justice, and biodiversity protection. Rather than focusing solely on economic growth, this legal framework promotes a balanced approach that accounts for long-term ecological resilience and the rights of vulnerable coastal communities. Anchored in key international instruments such as the 1992 Rio Declaration and the United Nations 2030 Agenda for Sustainable Development, sustainability law establishes binding obligations for states to ensure that reclamation and other development initiatives adhere to sustainable development principles. In the Asia-Pacific region, mechanisms such as the ASEAN Parliamentarians for Human Rights (APHR) launched a critical inquiry in Manila on October 26, 2024 focusing on the devastating effects of reclamation projects and environmental challenges on Philippine communities and marine resources. (APHR) translate these global commitments into regional advocacy and oversight, reinforcing national legal regimes and safeguarding populations affected by environmentally disruptive activities.

The APHR functions primarily as a regional watchdog and advocate rather than a judicial authority. While it lacks binding adjudicatory power akin to international courts, APHR's legal standing derives from its capacity to mobilize human rights discourse, support strategic litigation, and engage with regional and international forums to hold states and private actors accountable. This role is critical in contexts where formal enforcement mechanisms are weak or inaccessible, enabling APHR to serve as a normative actor that reinforces compliance with sustainability laws and safeguards the human rights of coastal communities impacted by reclamation projects.

APHR's intervention, however, exhibits notable disparities in reach and effectiveness between countries, shaped by distinct legal, political, and institutional environments. In the Philippines, APHR's engagement is facilitated by a comparatively robust legal infrastructure supporting environmental governance, public participation, and judicial review. The Philippine legal system's openness to public interest litigation⁶ and its well-established environmental impact assessment regime create opportunities

for APHR to amplify community grievances and influence decision-making processes concerning reclamation. This dynamic aligns with the principles of sustainability law by embedding participatory governance and legal accountability into reclamation oversight.

Conversely, APHR's influence in Indonesia remains constrained by sovereign prerogatives and decentralized governance structures that limit external scrutiny and complicate enforcement. Indonesia's political sensitivities around foreign intervention and its complex administrative landscape restrict APHR's ability to operate with the same legal effectiveness as in the Philippines. Additionally, limited legal remedies accessible to communities affected by reclamation impede APHR's facilitation of justice, resulting in a regulatory gap between formal legal standards and practical enforcement. This gap undermines the effectiveness of sustainability law, as the nominal existence of environmental safeguards is not matched by rigorous accountability or protection of rights at the local level.

This divergence in APHR's operational scope underscores the complexities inherent in multilevel governance frameworks tasked with regulating coastal reclamation. The principle of legal harmonization demands coherent integration of international sustainability norms into national and subnational regulatory frameworks. APHR's role as a regional actor must therefore be understood as complementary to domestic legal systems, requiring collaborative engagement with national institutions and civil society actors to enhance enforcement and participatory governance. Only through such synergy can the normative ideals of sustainability law translate into effective legal protection and practical improvements for coastal populations.

Moreover, the legal challenges posed by reclamation governance reveal tensions between sustainability obligations and prevailing economic and political imperatives favoring accelerated development. In this context, APHR's advocacy constitutes a vital counterbalance by foregrounding the rights and interests of marginalized coastal communities and stressing the long-term environmental and social costs associated with unsustainable reclamation practices. The Commission's normative authority thus functions as a mechanism to recalibrate governance priorities towards inclusive and ecologically responsible development, consistent with global legal standards.

The limited jurisdictional powers of APHR highlight the broader need for enhanced regional cooperation frameworks that reconcile state sovereignty with collective responsibility for environmental justice in coastal zones. Indonesia's relative reluctance to embrace such oversight reflects political and institutional barriers that constrain the realization of multilevel governance models capable of fully implementing sustainability law. Conversely, the Philippine context demonstrates the potential for regional human rights bodies to effectively intervene within receptive legal and institutional environments, thereby advancing the protection of coastal communities through enforceable legal remedies and participatory governance.

These observations affirm that the successful implementation of sustainability law in coastal reclamation depends not only on the existence of normative frameworks but

also on the capacity and willingness of regional bodies like APHR to engage constructively with national legal orders. The effectiveness of such engagement hinges on strengthening institutional linkages, promoting legal empowerment, and fostering political commitment to integrate human rights and environmental protection across governance levels. Addressing these dimensions is imperative to closing enforcement gaps and ensuring that sustainability principles are operationalized in a manner that respects both local realities and international legal obligations.

(Alamri et al., 2024) stated that concrete example of normative disharmony between provincial and national legal frameworks in Indonesia also can be observed in Gorontalo Provincial Regulation No. 9 of 2017 on the Strategic Spatial Planning of the Lake Limboto Area. This regulation prescribes criminal sanctions related to spatial planning violations, limited to a maximum of six months' imprisonment or a fine of up to fifty million rupiahs (approximately USD 3,333), which aligns with Article 15(2) of Law No. 12 of 2011 on the Formation of Laws and Regulations, and is reaffirmed in Minister of Home Affairs Regulation No. 120 of 2018. However, this provincial sanction stands in sharp contrast to the much heavier penalties outlined in Law No. 26 of 2007 on Spatial Planning, which includes imprisonment of up to three years and fines of five hundred million rupiahs (around USD 33,333), and even fifteen years' imprisonment with fines up to five billion rupiahs (approximately USD 333,333) in cases involving severe violations that cause damage to property or loss of life.

This legal disparity concerning criminal sanctions for spatial planning violations not only creates inconsistency in law enforcement and regulatory authority but also reflects a structural weakness in Indonesia's multilevel legal system. While provincial governments are permitted to issue regulations, their limited punitive power significantly constrains the effectiveness of spatial planning law enforcement, especially in environmentally sensitive or high-stakes areas such as reclaimed coastal zones. This disconnect between the severity of environmental harm and the relatively mild provincial sanctions contributes to legal uncertainty and undermines the deterrent effect of spatial planning regulations. Such inconsistencies also mirror regulatory tensions in other jurisdictions like the Philippines, where coastal reclamation and marine zoning are often caught between centralized policy objectives and fragmented local enforcement mechanisms.

Meanwhile, the conceptual approach is used to dissect and critically examine the concept of "sustainability" in the context of coastal reclamation. This study reviews how the concept is interpreted in environmental law theory, sustainable development principles, and international documents such as the Sustainable Development Goals (SDGs), UNCLOS, and the Convention on Biological Diversity (CBD). The sustainability concept is then used as a framework to assess the consistency between national regulations and reclamation practices on the ground. This approach helps highlight potential contradictions and areas where legal reforms may be necessary to better align practice with sustainable development goals.

The data used in this study consist of secondary data, including: national legislation from the Philippines and Indonesia; regional regulations; reclamation planning documents; Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) reports; as well as international agreements ratified by both countries. In addition, scholarly sources such as books, academic journals, previous research findings, and reports from international and local environmental organizations are used to enrich normative and contextual analysis. These diverse sources provide a comprehensive view of the legal and environmental landscape surrounding reclamation and coastal protection efforts.

Data analysis techniques are conducted through qualitative analysis by interpreting relevant legal provisions and linking them to field practices. This study also employs legal hermeneutics, interpreting legal norms within their social, cultural, and ecological contexts to uncover the meaning and purpose of reclamation regulations. The analysis is carried out systematically to identify legal gaps, overlapping authorities, and implementation weaknesses in supporting sustainability objectives. Such detailed examination is crucial for understanding the real-world challenges faced in enforcing coastal management laws.

To ensure objectivity and validity, the researcher applies the principle of source triangulation by comparing various legal documents and independent reports from different parties, including affected communities. Thus, this study relies not only on theory and norms but also considers empirical realities closely related to social justice and environmental sustainability. This comprehensive methodological approach aims to provide balanced and well-substantiated conclusions that can inform policy and legal reforms in both countries.

C. Results and Discussion

This study uncovers several significant findings in the comparative analysis between the Manila Bay reclamation project in the Philippines and the seawall construction initiatives in Indonesia, particularly within the context of sustainability and legal governance. The discussion is systematically organized into three main sub sections: (1) the legal framework and regulations governing reclamation; (2) implementation and impacts of reclamation projects; and (3) comparative analysis of sustainability and protection of coastal community rights.

C.1. Legal Framework and Reclamation Regulations

In the Philippines, coastal reclamation practices are regulated through a combination of national legislation and local policies. Key legal instruments such as Presidential Decree No. 1586, which established the Environmental Impact Statement System, and Republic Act No. 7160, known as the Local Government Code, provide the foundational regulatory framework for reclamation projects. Additionally, specialized institutions like the Philippine Reclamation Authority (PRA) hold authority to issue permits and enforce technical regulations governing reclamation activities. As a

government-owned corporation, the Philippine Reclamation Authority (PRA) benefits from an exemption on real estate tax for all properties held under its name. Empowered by presidential delegation, PRA holds exclusive authority to approve reclamation projects nationwide. This mandate is succinctly captured in its corporate mission: “increasing our nation’s resources and accelerating its development for the benefit of future generations by creating new frontiers of land reclaimed from the sea. (Adhuri, 2025)

In executing its regulatory functions, PRA coordinates closely with the Department of Environment and Natural Resources (DENR), which issues the crucial Area Clearance to assess site suitability for reclamation. The legal framework governing these activities is anchored in the Philippine Constitution, complemented by the Local Government Code, Fisheries Code, Environmental Impact Statement System, and related executive regulations. Collectively, these statutes establish procedural safeguards encompassing location approval, stakeholder consultations, environmental impact assessments, and continuous monitoring throughout project implementation. Crucially, they are designed to prevent spatial conflicts with protected areas and to ensure the acquisition of free, prior, and informed consent (FPIC) from indigenous communities situated near proposed reclamation sites. Nevertheless, reports from PRA indicate persistent regulatory challenges that complicate the effective management of reclamation initiatives.

The Manila Bay reclamation project has drawn significant attention due to its scale, complexity, and the potential environmental and socio-economic impacts it poses on fishing communities and marine ecosystems.

The phenomenon of coastal fencing in several regions of Indonesia, such as Tangerang, poses a significant threat to the sustainability of marine resources and disrupts the livelihoods of traditional fishermen. These coastal barriers have been found to lack the required Spatial Utilization Activity Conformity Approval (PKKPRL) from the Ministry of Marine Affairs and Fisheries (MMAF), adversely affecting 502 catfish farmers and 3,888 fishermen based on recent studies. These works primarily address agrarian law, maritime security, social justice, and economic resilience aspects. Building on these, the present study further examines the legal violations associated with coastal fencing incidents, particularly through the lens of the 1982 United Nations Convention on the Law of the Sea (UNCLOS). (Saputra et al., 2025)

This incident may indicate the emergence of informal or extra-legal spatial demarcation mechanisms, whereby individuals or institutions—whether private or public—assert de facto control over marine and coastal spaces, outside the boundaries of legally prescribed processes. Such developments signal a potential erosion of the rule of law in spatial planning and threaten to undermine both community rights and environmental protections.

The transformation of Indonesia’s maritime regulatory system following the enactment of Law No. 11 of 2020 on Job Creation (commonly known as the Omnibus

Law) marks a pivotal shift within the national legal framework, particularly concerning marine spatial planning, coastal governance, and the sustainable use of marine resources.(BPHN and KEMENKUMHAM RI 2021) Historically, Indonesia's maritime law was characterized by a fragmented, sector-based model in which distinct legal regimes operated independently – such as Law No. 27 of 2007 in conjunction with Law No. 1 of 2014 on Coastal and Small Island Management, and Law No. 32 of 2014 on Marine Affairs. However, the enactment of the Omnibus Law has resulted in an overarching regulatory integration that centralizes marine spatial planning within a unified licensing and spatial governance regime.

From the perspective of national legal design, the integration of marine areas into terrestrial spatial planning reflects a paradigmatic shift from sectoral management toward territorial comprehensiveness. Amendments to Law No. 26 of 2007 on Spatial Planning – introduced through the Omnibus Law – mandate the formulation of a single provincial and municipal spatial plan that jointly encompasses both land and sea. This raises a fundamental legal question regarding the normative status of previously enacted marine zoning instruments, such as the Regional Marine Spatial Plan (RZWP3K) and the Strategic National Area Zoning Plan (RZ KSN), which were previously formulated as stand alone legal documents. The Omnibus Law provides no clear transitional mechanism for converting these marine-specific plans into the unified spatial planning architecture now required under the revised legal regime, resulting in legal uncertainty and interpretative fragmentation.

Moreover, the shift from a sector-based licensing system to a risk-based approach – as formalized in Government Regulation No. 5 of 2021 – has significantly altered the architecture of administrative law in the maritime sector. The new approach blurs the lines of authority between technical ministries, such as the Ministry of Marine Affairs and Fisheries, and the integrated licensing regime administered via the Online Single Submission (OSS) system. From a national legal standpoint, this necessitates a redefinition of legal norms governing authorizations and monitoring responsibilities, as licensing is now conducted electronically and categorized by risk levels rather than location or resource type.

The enforcement regime has also undergone substantial normative changes. Previously, criminal sanctions were a primary tool for addressing violations in maritime and fisheries law. However, the post-Omnibus regime – particularly as implemented through Government Regulation No. 21 of 2021 – emphasizes administrative penalties as the core enforcement mechanism. This reflects a normative shift toward the principle of *ultimum remedium*, whereby criminal sanctions are invoked only as a last resort when administrative measures fail or egregious violations occur. While theoretically aligned with modern environmental law principles, the practical implementation of this approach is hampered by the limited institutional capacity and uneven legal infrastructure required for consistent and effective administrative enforcement.

Structural inconsistencies among government regulations also present a serious challenge within the national legal framework. For instance, Article 14A of the amended Spatial Planning Law mandates the inclusion of Strategic Environmental Assessments (KLHS) in all spatial planning processes. However, this requirement is not harmonized with the procedures set forth in Government Regulation No. 46 of 2016, which governs the implementation of KLHS. Inconsistencies such as conflicting validation timelines – 10 days under PP 21/2021 versus 20 days under PP 46/2016 – create operational confusion and legal ambiguity in conducting environmental due diligence. These inconsistencies illustrate a lack of normative coherence within Indonesia's regulatory hierarchy and underscore the need for regulatory streamlining.

Institutional coordination remains a persistent bottleneck in the implementation of the reformed legal framework. Under the previous legal regime, the Ministry of Marine Affairs and Fisheries had sole authority over marine zoning. Post-reform, this authority must be reconciled with the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, which now leads the unified spatial planning process. Differences in bureaucratic culture, legal mandates, and administrative norms between these ministries have exacerbated coordination challenges, indicating that legal harmonization at the institutional level is essential but currently lacking in statutory clarity.

Technical challenges, particularly in the use of base maps for spatial planning, also affect legal certainty. Although the Geospatial Information Agency's (BIG) topographic maps are designated as the standard reference, Government Regulation No. 21 of 2021 allows the use of alternative maps upon recommendation from BIG. This legal flexibility opens the door to interpretive discrepancies and potential spatial conflicts. A more prescriptive legal framework concerning geospatial standards is required to maintain consistency and prevent spatial disputes.

To address these multidimensional legal gaps, the national legal framework requires both regulatory and non-regulatory reforms. While foundational statutes – such as Law No. 32/2014, Law No. 27/2007, and Law No. 26/2007 – remain substantively relevant, their implementing regulations (e.g., Government Regulations No. 8/2013, No. 15/2010, and No. 32/2019) need to be repealed or substantially revised. Government Regulation No. 21/2021, which serves as the central legal instrument for integrated spatial planning, requires amendments to clarify the integration of marine zoning into regional spatial plans, reinforce the role of Strategic National Area Plans (RZ KSN), and ensure synchronization with environmental assessment procedures.

Beyond legal reforms, non-regulatory initiatives – such as the formulation of a unified Standard Operating Procedure (SOP) for spatial data collection and shoreline delineation – are also essential. Furthermore, the development of institutional capacity, particularly among administrative enforcement agencies, is critical for realizing the goals of a modernized legal framework.

In sum, Indonesia's post-Omnibus national legal framework stands at a crossroads between regulatory modernization and normative complexity. Without a coherent and

integrated approach to harmonizing laws, institutions, and implementation mechanisms, the intended benefits of reform risk being undermined. A comprehensive and systemic overhaul—combining legal clarity, regulatory consistency, and institutional strengthening—is thus imperative to ensure that this legal transformation yields a marine governance system that is legally sound, environmentally sustainable, and socially equitable.

To address these challenges, Indonesia must adopt a transformative management paradigm that prioritizes coastal communities and small-scale fishers as primary stewards of marine resources. Such an approach should emphasize social justice and ecological sustainability, in alignment with Article 33 of the 1945 Constitution, which mandates the management of natural resources for the collective welfare and long-term sustainability of coastal ecosystems.

Overall, both countries emphasize the importance of Environmental Impact Assessments (AMDAL in Indonesia and EIA in the Philippines), public participation, and inter-agency coordination as procedural prerequisites for reclamation projects. Nevertheless, in practice, the implementation of these principles often suffers from inconsistency, largely influenced by economic pressures and political interests that prioritize development over environmental and social safeguards. (Agustian & Apriani, 2021)

C2. Implementation and Impacts of Reclamation on the Ground

The Manila Bay reclamation project was initiated with the goals of stimulating economic growth and enhancing urban aesthetics. However, it has sparked major controversies due to its adverse impacts on local fisherfolk communities and marine biodiversity. Many fishing communities have been displaced without adequate compensation, resulting in significant social and economic dislocation. Environmental organizations have reported substantial degradation of mangrove habitats and a marked decline in biodiversity. Despite obtaining formal governmental permits, the project's social legitimacy remains heavily contested by civil society groups and scholars, highlighting a disconnect between formal legality and social acceptance.

In contrast, seawall constructions in various Indonesian coastal regions—such as the construction of the so-called "Sea Fence" in Tangerang exemplifies broader structural challenges in coastal governance, legal enforcement, and environmental justice. While the issue only gained national attention in early 2025, official documentation reveals that authorities had already been aware of the unauthorized structure as early as August 2024. A report submitted to the Provincial Marine and Fisheries Office prompted field inspections, which confirmed that the fence extended over seven kilometers. Subsequent coordination between the provincial office and the Ministry of Marine Affairs and Fisheries exposed the absence of essential permits, including the Coastal and Small Islands Zoning Utilisation Permit (KKPRL), and highlighted that the project occupied designated capture fisheries and energy zones, thus violating existing spatial regulations.

The legitimacy of the project's stated environmental justification—namely, to

mitigate coastal erosion—was called into question by academic studies. Beyond administrative irregularities, allegations of legal manipulation and land speculation emerged. The Agrarian Reform Consortium (KPA) highlighted how SHGB plots were fragmented into smaller units to bypass central oversight by exploiting procedural gaps at the district level. This tactic raises serious concerns, as prevailing regulations prohibit the issuance of SHGB titles over marine territory. Additionally, changes to local spatial planning may have enabled the issuance of Location Permits (PKKPR), suggesting potential abuse of regulatory authority.

The implications of the sea fence extend well beyond questions of legality. Environmentally, the structure has been criticized for altering natural water currents and contributing to sedimentation, which disrupts marine habitats and biodiversity. Socially, traditional fishers have reported that the barriers obstruct access to fishing grounds vital for their subsistence, effectively displacing them from their customary coastal zones. The absence of inclusive decision-making processes has fueled a sense of exclusion and disempowerment among local communities.

This lack of transparency and public participation has also given rise to suspicions of corruption, including the possible involvement of land cartels. The perception that the project disproportionately benefits private interests at the expense of public and ecological welfare has escalated the issue to a national level. Statements from high ranking officials underscore the seriousness of the case, framing it as symptomatic of deeper institutional weaknesses.

In essence, the sea fence controversy underscores the conflict between investment-driven development models and the principles of environmental sustainability and community rights. It highlights the urgent need for comprehensive reforms in permitting systems, land governance, and legal accountability mechanisms— especially those that ensure meaningful participation by affected communities in decisions impacting their living spaces.

C3. Comparative Analysis of Sustainability and Coastal Community Rights

When analyzed through the lens of sustainability principles, both the Manila Bay reclamation and Indonesia's seawall projects exhibit significant shortcomings in ecological and social dimensions. Ecologically, these projects fail to adequately consider the long-term carrying capacity of coastal environments, focusing predominantly on short-term economic or protective outcomes. The widespread use of concrete structures, sand infill, and conversion of natural coastal zones disrupts ecological functions, leading to considerable environmental degradation.

Socially, reclamation projects tend to marginalize coastal communities, particularly traditional fisherfolk, by encroaching on their livelihoods and cultural spaces. In Manila Bay, over 20,000 fisher families have been directly affected by forced evictions and loss of sea access. Similarly, in Indonesia, coastal communities have been excluded from participatory decision-making in seawall development, despite their legal

rights to natural resource governance and good governance principles advocating for inclusive management. (De Vries & Pinuji, 2025)

From a legal standpoint, the Philippines has advanced further in applying environmental justice principles, exemplified by jurisprudence such as the landmark case *Oposa v. Factoran*, which recognized intergenerational rights to a healthy environment. (Jourdan 2010) Indonesia has also incorporated similar principles within its Environmental Protection and Management Law (UU PPLH), but enforcement remains weak, and legal protection for coastal communities is often inadequate in practice.

Deficiencies in law enforcement in both countries reflect power imbalances between the state, investors, and local communities. Governments tend to prioritize economic development agendas driven by private or foreign capital, often at the expense of marginalized groups, including local communities. This is particularly concerning in light of international human rights standards such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which affirms the right of local communities to self-determination and to freely decide on matters concerning their lands, resources, and development. In many cases, development projects proceed without obtaining their free, prior, and informed consent, thereby violating these principles. Legal access for affected communities is further hindered by high litigation costs, procedural complexities, and limited access to legal aid, reducing the effectiveness of judicial recourse. (Marzuki et al., 2024)

Despite these challenges, there are promising opportunities for improvement. In the Philippines, active civil society involvement and media scrutiny have increased public oversight over reclamation projects, pushing for more transparent and accountable governance. In Indonesia, grassroots initiatives such as community-based ecological reclamation and mangrove green belts demonstrate more inclusive and sustainable approaches to coastal protection, integrating environmental restoration with local community empowerment. The findings confirm that the development in Indonesia emphasises the short term goal, by focusing on the economic and social aspects but ignores the environment aspect.

D.Conclusions

The findings from this study underscore that neither the Philippines nor Indonesia has fully realized legally sustainable reclamation practices that equally balance ecological, social, and legal dimensions. There is an urgent need especially for Indonesia, to strengthen regulations grounded in sustainability principles, clarify institutional mandates, and expand participatory spaces for community involvement. (Yani & Montratama, 2015)

This research presents three key reflections. First, coastal reclamation is inherently linked to human rights and environmental justice, requiring legal frameworks to protect vulnerable communities. Second, seawall development should follow precautionary principles and scientific evidence rather than be driven solely by economic interests.

Third, aligning national regulations with international principles on sustainability and indigenous rights is essential for coherent governance. Policy implications include reformulating reclamation strategies based on sustainability and justice, strengthening legal protections for coastal communities, tightening Environmental Impact Assessment (EIA) standards, and promoting transparency and accountability throughout project cycles. At the ASEAN level, a regional legal framework on coastal reclamation with integrated sustainability criteria is vital to foster cross-border cooperation and shared environmental responsibility.

The failure to integrate the principles of Integrated Coastal Zone Management (ICZM) and Marine Spatial Planning (MSP) into coastal regulatory and governance frameworks only results in endless repetition of environmental degradation, biodiversity loss, and the marginalization of traditional coastal populations, thereby reflecting a persistent institutional shortcoming that undermines the state's constitutional and international obligations to uphold sustainable development, environmental stewardship, and social justice.

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