

Spatial Justice Within Ocean Grabbing Practices in Sea Fence Case: A Normative Review of Coastal Area Utilization

Syariefah Maolani¹, Maret Priyanta², Imamulhadi³

^{1,2,3}Faculty of Law, Universitas Padjadjaran, Indonesia

* Correspondence e-mail: syariefah22001@unpad.ac.id

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Abstract

The urgency of spatial justice in legal research lies in its ability to serve as an instrument for examining whether legal norms in Indonesia reflect the right to equitable space or legitimize spatial exclusion, such as the phenomenon of ocean grabbing. This research focuses on the case of the Sea Fence in Tangerang, a manifestation of this ocean grabbing. This research uses a normative juridical methodology to analyze the structural legal framework that enables spatial injustice. The findings reveal that the identified core problem is a fundamental normative conflict between the private legal regime in Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) and the public legal regime in the Law on Management of Coastal Areas and Small Islands (UU PWP3K). This conflict is further compounded by implementing regulations that provide loopholes for the privatization of coastal land. This study concludes that the observed ocean grabbing is not merely a procedural error, but rather a structural flaw in the legal system. Therefore, this paper recommends fundamental regulatory harmonization by prioritizing the PWP3K Law as the positive law with jurisdiction over coastal areas, in order to realize spatial justice and prevent future ocean grabbing.

Keywords: Spatial Justice, Ocean Grabbing, Sea Fence, UUPA, UU PWP3K.

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1. Introduction

The United Nations Convention on the Law of the Sea is an international instrument governing the sea. This regulation gave rise to the doctrine that marine resources are the common heritage of mankind.¹ In other words, there is a view that the sea is common property.² This view has the consequence of positioning the sea as a shared resource, where access to the sea should be open and accessible to surrounding communities to meet their needs. However, in practice, this view is often ignored. The global phenomenon of ocean grabbing is one such threat. Ocean grabbing lacks a definitive definition, but there are three

¹ Maret Priyanta, and Yulinda Adharani. "Synchronization of the policies on spatial planning for coastal area in Indonesia with the sustainable development." *AACL Bioflux* 14, no. 4 (2021): 2149-2162.

² Resdianto Willem. "Pemanfaatan Ruang Pesisir Dan Laut Yang Berkeadilan." *Bina Hukum Lingkungan* 2, no. 2 (2018): 154-166.

criteria that indicate this phenomenon: (1) dispossession or appropriation of use; (2) control or access to ocean space or resources from prior resource users; and (3) rights holders or inhabitants.³

Ocean grabbing can occur in various ways, one of which is through improper governance. As a result, ocean grabbing can undermine public security and livelihoods, and will have detrimental impacts on socio-ecological well-being.⁴ From a constitutional perspective, Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) affirms that natural resources, including land, water, and the natural resources contained therein, shall be controlled by the state and used for the greatest possible prosperity of the Indonesian people. In the context of ocean grabbing, natural resources that should be managed for the prosperity of the people are often controlled by certain groups through the practice of privatizing coastal areas.⁵

The gap between the constitutional mandate (*das sollen*) and actual conditions on the ground (*das sein*) is clearly evident in the case of the Sea Fence in Tangerang Regency, Banten Province. The sea fence, which stretches approximately 30 kilometers through 16 villages in six sub-districts, was built without a valid Marine Spatial Utilization Activity Conformity Permit (KKPRL).⁶ Although initially claimed to be an abrasion prevention measure, in practice the Sea Fence is actually intended for private reclamation activities⁷. As a result, fishermen's access to the sea is blocked and the socio-ecological function of the coastal area is disrupted. This phenomenon illustrates a fundamental problem in coastal area governance, namely the practice of unilateral control of marine space.

Furthermore, the practice of constructing Sea Fences also demonstrates a pattern of spatial control from land to sea. The responsible party first controls the land area through the ownership of Freehold Certificates (SHM) and Building Use

³ Nathan James Bennett, Hugh Govan, and Terre Satterfield. "Ocean grabbing." *Marine Policy* 57 (2015): 61-68.

⁴ Anggalih Bayu Muh Kamim. "Ocean Grabbing di Indonesia dan Malaysia: Catatan Krisis Sosio-Ekologis Dampak Proyek Reklamasi". *Aspirasi: Jurnal Masalah-masalah Sosial* 11 no 1 (2020): 105-120.

⁵ Jeanne Darc Noviayanti Damanik, and Wirazilmustaan Wirazilmustaan. "'Ocean Grabbing!': Deprivation of Fishermen's Rights or Management of Coastal and Marine Resources." *Society* 9, no. 1 (2021): 289-301.

⁶ Bono Budi Priambodo. "Analisis Yuridis-Normatif Mengenai Duduk Perkara Serta Kerangka Hukum dan Kebijakan Terkait "Pagar Laut Misterius" di Pantai Utara Tangerang." *UNES Law Review* 7, no. 3 (2025): 1221-1233.

⁷ Hariyantana Aygy Yolanda, Aries Sudiarso, and IB Putra Jhandana. "Implications of Illegal Sea Fence Construction on Maritime Security, Environment, And Welfare Of Coastal Communities." *ARRUS Journal of Social Sciences and Humanities* 5, no. 1 (2025): 810-819.

Rights Certificates (SHGB), then extends this control to areas that are still marine. In principle, the agrarian legal regime in Indonesia, as stipulated in Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), only grants rights to land located on land, not at sea.⁸ The existence of land certificates over the sea is a legal anomaly that demonstrates the lack of integration between the agrarian legal regime and the spatial planning legal regime in Indonesia.

In addition to violating spatial planning and agrarian law, this practice also fundamentally ignores the principles of environmental law. The resulting parceling has disrupted the balance of the marine ecosystem. For example, there is damage to marine biota habitats, including coral reefs, seagrass beds, and mangrove ecosystems.⁹ This damage also disrupts the migration patterns of fish and other marine life.¹⁰ Normatively, environmental approval instruments are required under Article 22 paragraph (1) and Article 24 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH). Failure to fulfill this normative mandate demonstrates a disregard for the ecology.

Several previous studies have examined the Sea Fence phenomenon from various perspectives. One study highlighted that the practice of building a Sea Fence on the North Coast of Tangerang is actually a form of reclamation without the approval of the Ministry of Marine Affairs and Fisheries (KKPRL), thus contradicting spatial planning law.¹¹ From a social perspective, previous research also shows that the presence of the Sea Fence has implications for ecosystem damage and reduced access for fishermen to the sea.¹² Meanwhile, several other analyses emphasize that conflict between the government and the community

⁸ Hidayat, Syahril, Melly Rifa'atul Lailiyah, & Rizki Nurdiansyah. "Analisis Keabsahan Sertifikat Hak Guna Bangunan yang Terbit diatas Laut". *Amandemen: Jurnal Ilmu Pertahanan, Politik Dan Hukum Indonesia* 2 no. 1 (2025): 208–217.

⁹ Hariyantana Aygy Yolanda, Aries Sudiarso, and IB Putra Jhandana. "Implications of Illegal Sea Fence Construction on Maritime Security, Environment, And Welfare Of Coastal Communities." *ARRUS Journal of Social Sciences and Humanities* 5, no. 1 (2025): 810-819.

¹⁰ Siti Nur Cahyati, Salsa Billa, Rabi'ah Fajriah, & Syifa Noer Rohmah. "Analisis Dampak dan Pemenuhan Hak Korban dalam Kasus Pagar Laut Ditinjau Berdasarkan Perspektif Greenvictimology." *Presidensial: Jurnal Hukum, Administrasi Negara, Dan Kebijakan Publik* 2 no. 2 (2025): 154–169.

¹¹ Bono Budi Priambodo. "Analisis Yuridis-Normatif Mengenai Duduk Perkara Serta Kerangka Hukum dan Kebijakan Terkait "Pagar Laut Misterius" di Pantai Utara Tangerang." *UNES Law Review* 7, no. 3 (2025): 1221-1233.

¹² Siti Nur Cahyati, Salsa Billa, Rabi'ah Fajriah, & Syifa Noer Rohmah. "Analisis Dampak dan Pemenuhan Hak Korban dalam Kasus Pagar Laut Ditinjau Berdasarkan Perspektif Greenvictimology." *Presidensial: Jurnal Hukum, Administrasi Negara, Dan Kebijakan Publik* 2 no. 2 (2025): 154–169.

arises from low levels of public participation and communication gaps.¹³ Furthermore, research on the restoration or reparation of rights for affected communities has also been conducted in the same context.¹⁴

Previous studies have not comprehensively examined the root causes of the Sea Fence case in Tangerang, specifically highlighting the conflicting norms within the spatial planning legal regime. This research will be conducted using spatial justice theory as a legal analysis tool to determine whether Indonesian positive law has accommodated such justice. The urgency of this research is to find solutions to the existing root causes, so that it can serve as a preventative measure to prevent similar incidents from recurring. Therefore, this study aims to analyze how the principle of spatial justice within Indonesia's positive legal framework relates to control of coastal areas, as well as examine the conflicting norms within legislation that have the potential to legitimize the practice of ocean grabbing and give rise to spatial injustice.

2. Research Method

The research was conducted using a juridical-normative analysis method. This research method was chosen because it allows for a comprehensive analysis of various legal aspects, including relevant laws and regulations, legal principles, and doctrines.¹⁵

This study employed three legal approaches. First, the statute approach, focusing on the UUPWP3K (Law on the Establishment of the Indonesian Taxpayer Agreement) and the UUPA (Badan Agrarian Law). Second, the case approach, using a comprehensive study of the Sea Fence case in Tangerang Regency, Banten. Third, the conceptual approach, examining the concept of spatial justice to analyze the practice of ocean grabbing.

The primary legal materials used included laws and regulations related to coastal area management and spatial planning. Secondary legal materials consisted of scientific articles, studies, and journalistic publications relevant to the research

¹³ Amaliyah Amaliyah. "Sosiologi Pendidikan: Analisis Konflik Pembangunan Pagar Laut Tangerang Selatan." *AKADEMIK: Jurnal Mahasiswa Humanis* 5, no. 2 (2025): 730-745.

¹⁴ Rayyan Alkhair & Dani Muhtada. "Systemic Approach Repatriation of Communities Rights Affected by Marine Fencing in Tangerang." *Hang Tuah Law Journal* 9, no 2 (2025): 433-458.

¹⁵ Susanti, Dyah Ochterina & A'an Efendi. *Penelitian hukum (legal research)*. Jakarta: Sinar Grafika. (2014).

object, the Sea Fence. The data collection technique was conducted through a literature review, tracing these legal sources. It is hoped that this method will clarify the gap between legal norms and the practice of coastal area control.

3. Research Results and Discussion

3.1. Spatial Justice in Indonesia's Positive Legal Framework regarding Coastal Area Utilization

The concept of "Spatial Justice" became popular when Edward W. Soja published his book, "Seeking Spatial Justice," in 2010. In the book, Soja fully explained what spatial justice meant. This concept was developed through his critique of David Harvey's concept of territorial justice and adopted Henri Lefebvre's concept of the Right to the City. Harvey explained that justice should not only focus on the end result, namely distribution. Rather, the justice in question must be achieved through a fair process within the context of an urban system that culminates in class relations.¹⁶ Soja criticized that spatiality in this concept was marginalized and only seen as a result of social processes, not as an equal indicator in shaping society. Unlike Harvey, Lefebvre essentially provided a more central concept to space. The concept of the Right to the City (*Le Droit à la Ville*) that was put forward was essentially a political manifestation in seeking spatial justice. This right includes the right to access space, the right to participate in the production of space, namely to take control over the production of social space in which they live, and the right to segregation.¹⁷

Soja synthesized these two concepts, resulting in the idea of Spatial Justice. While Soja declined to provide a definitive definition, he essentially views spatial justice or injustice as referring to a deliberate and focused emphasis on spatial aspects. Spatial justice essentially ensures that space is utilized optimally for the benefit of society, thus creating a just, orderly, and sustainable life in a region.¹⁸ Thus, there is a shift in focus from simply equitable distribution to an analysis of how space actively produces justice.

According to Soja¹⁹, there are three principles underlying spatial justice: the principle of ontological spatiality, the principle of social production of space, and

¹⁶ David Harvey. "Social justice, postmodernism and the city." *International Journal of Urban & Regional Research* 16, no. 4 (1992).

¹⁷ Edward W Soja. *Seeking spatial justice*. Vol. 16. U of Minnesota Press, 2013.

¹⁸ Wulandaridan, Amalia & Muhammad Zaki Mubarrak. "PENERAPAN PRINSIP KEADILAN RUANG DALAM PENYELENGGARAAN RUMAH SUSUN UMUM DI KOTA YOGYAKARTA." *Jurnal Hukum Lex Generalis* 6, no 9, (2025): 1-19.

¹⁹ Edward W Soja. *Seeking spatial justice*. Vol. 16. U of Minnesota Press, 2013.

the principle of socio-spatial dialectics.²⁰ The principle of ontological spatiality is based on the general view of social science, which views problems solely from the social (person) and historical (time) perspectives, while neglecting spatial (space). Soja reconstructs this principle to create a "triad" of socio-historical-spatial understanding of human existence.

Furthermore, the principle of social production of space from space provides the view that space is not an empty container but is produced or created through social action. This principle aligns with the "right to the production of space" view previously expressed by Lefebvre. Finally, the principle of socio-spatial dialectics explains the dynamic, two-way process that shapes and constitutes society and space. This means that a space can be categorized as just or unjust because it possesses active power.²¹

In Indonesia, the 1945 Constitution of the Republic of Indonesia ideally reflects the spatial justice described by Soja. Article 33 paragraph (3) explicitly states that the land, water, and natural resources contained therein are controlled by the state as an instrument for achieving social justice for all Indonesian people. From this perspective, spatial justice is realized through state control that ensures that the distribution and utilization of natural resources does not only benefit a handful of parties, but is used for the greatest prosperity of the people.

This is reflected in the interpretation of the phrase "controlled by the state," as explained in Constitutional Court (MK) Decisions Number 002/PUU/-I/2003, Number 058-059-060-063/PUU-II/2004, and Number 008/PUU-III/2005. Based on these decisions, the Court emphasized that the state's control mandate must be placed within the framework of popular sovereignty, in line with the doctrine of "of the people, by the people, and for the people." This interpretation carries the legal consequence that the land, water, and natural resources referred to in Article 33 paragraph (3) are public property controlled collectively by all Indonesians. Therefore, the meaning of "controlled by the state" cannot be reduced to or interpreted within the context of private civil law or individual ownership, but rather must be understood as the state's authority to ensure the

²⁰ Shafira Anindia Alif Hexagraha and Setyorini, Savitri Nur. "TINJAUAN TERHADAP KONSEP KEADILAN SPASIAL DAN PARTISIPASI MASYARAKAT DALAM PERENCANAAN DAN PENGENDALIAN PEMANFAATAN RUANG PADA PROGRAM NORMALISASI CILIWUNG DI PROVINSI DKI JAKARTA," *Jurnal Hukum & Pembangunan* 49, no 2 (2019): 9.

²¹ Edward W Soja. *Seeking spatial justice*. Vol. 16. U of Minnesota Press, 2013.

equitable distribution of natural resources to achieve the greatest possible prosperity for the people.²²

To realize the intent of these three interpretations, the state can exercise five functions of authority: policymaking, regulation, administration, management, and finally, supervision.²³ These five functions of authority must ultimately culminate in the original principle: that state control over natural resources must be aimed at realizing the prosperity of the people. Furthermore, Bagir Manan, an expert in Constitutional Law, explicitly stated that this interpretation of "the state's right to control" is the antithesis of the principle of domain, which authorizes the state to carry out ownership actions that contradict the principle of ownership according to customary law.²⁴ Thus, this phrase clearly prohibits the control of natural resources by certain groups, but rather public control by all Indonesians.

From a spatial justice perspective, the regulatory and management authority held by the state actively produces space. With the ideal regulations of the constitution, this ideal space should be created. One manifestation of the production of space in the context of coastal management can be normatively traced to Law Number 27 of 2007 in conjunction with Law Number 1 of 2014 concerning Management of Coastal Areas and Small Islands (UU PWP3K).

Article 1 paragraph (2) of the PWP3K Law explains that coastal areas are transitional areas between terrestrial and marine ecosystems, affected by changes on both land and sea.²⁵ Normatively, coastal area management is carried out through three stages: (1) Planning; (2) Utilization; and (3) Monitoring and control. The planning stage is carried out through the Integrated Coastal Management concept, which is embodied in a phased instrument, ranging from strategic plans to action plans. Meanwhile, the utilization stage is regulated by the utilization instrument, namely the Marine and Coastal Area Management System (KKPRL).

²² Kuntana Magnar, Inna Junaenah, and Giri Ahmad Taufik. "Tafsir MK atas pasal 33 UUD 1945: Studi atas putusan MK mengenai judicial review terhadap UU No. 7/2004, UU No. 22/2001, Dan UU No. 20/2002." *Jurnal Konstitusi* 7, no. 1 (2010): 111-180.

²³ Sari, Nina Amelia Novita, Ezra Tambunan, Patricia Inge Felany, and Xavier Nugraha. "Implikasi Penafsiran Hak Menguasai Negara Oleh Mahkamah Konstitusi Terhadap Politik Hukum Agraria Pada Pulau-Pulau Kecil Di Indonesia." *Law Review* (2019): 170-202.

²⁴ Sembiring, Julius. "Hak Menguasai Negara Atas Sumber Daya Agraria." *BHUMI: Jurnal Agraria Dan Pertanahan* 2, no 2, (2018): 119-132.

²⁵ Tabita Titah Dewanti, Faris Harsen, Nurliana Cipta Apsari, Santoso Tri Raharjo, Sahadi Humaedi, Budi Muhammad Taftazani, dan Meilanny Budiarti Santoso. 2023. "Jaga Pesisir Kita: Pengelolaan Potensi Lingkungan Pesisir Melalui Pemberdayaan Masyarakat di Pangempang, Kecamatan Muara Badak." *Jurnal Penelitian dan Pengabdian Kepada Masyarakat (JPPM)* 4, no. 1 (April 2023): 43-52.

Finally, the monitoring and control stages are carried out periodically by authorized officials.

As a transitional area between land and sea, coastal areas are subject to the dualism of land and maritime legal regimes. However, when interpreted theologically from the direction of its regulations, the PWP3K Law is predominantly subject to the maritime regime in the context of spatial planning and ecosystem conservation. This is supported by reference to Article 60, which recognizes the right of access for coastal communities to the sea. This recognition of access aligns with the principle of international law that views the sea as common property or the common heritage of mankind.

This principle was then reaffirmed in Constitutional Court Decision Number 3/PUU VIII/2010 concerning the material review of the PWP3K Law. In the decision, the Constitutional Court Judges stated that the sea is common property, making it communal. Consequently, marine resources cannot be privately controlled by individuals or corporations, but are recognized as collective property managed by the community. This principle of common property and the guarantee of open access is what normatively places the PWP3K Law in line with the mandate of spatial justice in Article 33 of the 1945 Constitution, which fundamentally affirms the state's support for the people's collective rights to their living space.

Coastal area utilization is primarily prioritized for conservation, education and training, research and development, mariculture, tourism, fisheries and marine businesses and the fisheries industry, organic farming, and animal husbandry.²⁶ Other uses can also take the form of reclamation, as stipulated in Article 34 of the PWP3K Law. Reclamation itself is an activity undertaken by individuals to increase the benefits of land resources from an environmental and socio-economic perspective by means of confinement, land drying, or drainage.²⁷ Broadly speaking, there are two main stages: reclamation implementation and granting of land rights.

The stages of reclamation implementation are regulated in detail through Presidential Regulation Number 122 of 2012 concerning Reclamation in Coastal Areas and Small Islands (Perpres 122/2012). Several procedures must be

²⁶ Nurul Fajri Chikmawati. "Pengelolaan Wilayah Pesisir dan Pulau-Pulau Kecil di Indonesia (Dalam Perspektif Perlindungan Hukum bagi Hak-hak Ekonomi Masyarakat Tradisional)." *ADIL: Jurnal Hukum* 4, no. 2 (Desember 2013): 396–417.

²⁷ Ahmad Zaini. "Amdal Regulations In Indonesia Concerning Environmental Management and Preservation Law No. 32 of 2009." *Journal of Law, Politic and Humanities* 4, no. 6 (2024): 2174-2180.

followed to carry out reclamation: First, the planning stage. The planning stage is regulated in Chapter II, specifically Articles 3 through 14. Planning is carried out by determining locations in accordance with the Coastal Area and Small Islands Zoning Plan (RZWP3K) for the Province, Regency/City, and the National Spatial Plan (RTRW). In addition, a master plan, feasibility study, and detailed design are also required.

Second, the licensing stage. The licensing stage involves obtaining a location permit and implementing reclamation. However, pursuant to Article 16 of the PWP3K Law, location permits have now been replaced by obtaining a Marine Protected Area (KKPRL) from the Central Government. Furthermore, in granting a KKPRL, the Central Government is required to consider the sustainability of coastal ecosystems, communities, traditional fishermen, national interests, and the right of innocent passage for foreign vessels.

Third, the implementation stage. Presidential Regulation 12/122, Articles 23 to 30, detail the technical aspects of reclamation implementation. Simply put, reclamation can be carried out by filling, drying, or drainage in accordance with the approved detailed plan. Furthermore, during reclamation, the parties are obliged to safeguard and pay attention to the lives and livelihoods of the community. One of these measures is providing access to the coast. Furthermore, protecting the livelihoods of fishermen, providing compensation and empowering communities affected by reclamation, and relocating settlements are all mandatory considerations during the implementation stage.

Fourth, the monitoring and evaluation stage. This stage is carried out to ensure that the reclamation is in accordance with the plan, does not pollute or damage the environment, and has no social impacts, or in other words, the sustainability of community life. If these four stages have been completed, the reclamation has been carried out according to procedure.

Next, the stage of granting Land Rights. Referring to Article 4 of the Basic Agrarian Law, it can be interpreted that Land Rights are the granting of authority to use land, either individually or jointly with other individuals or legal entities. Furthermore, land rights come in various types with distinct characteristics, such as ownership rights, building use rights (HGB), cultivation rights (HGU), use rights, lease rights, and several others.

In the context of reclaimed land, Article 12 of Government Regulation Number 16 of 2004 concerning Land Use (PP 16/2004) explicitly states that reclaimed land

is state land.²⁸ As emphasized in Article 1, number 3 of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration (PP 18/2021), state land is land directly controlled by the state, which is not customary land, waqf land, or state/regional property. In other words, state land is land controlled directly by the state and has not been assigned any land rights.

In its development, Article 2 of PP 18/2021 explains that the state can grant state land to legal entities or individuals based on Management Rights (HPL). Furthermore, it is also possible to grant Land Rights over HPL in the form of HGU, HGB, and Right of Use (Hak Pakai) as long as they meet the requirements stipulated in Articles 12, 35, and 49 (Devita, 2021).

In the context of spatial justice, this stage of granting Land Rights serves as the starting point for analysis, as it marks a shift from a public regime under the PWP3K Law to a private regime under the UUPA and its derivative regulations. Legally, although Article 12 of Government Regulation 16/2004 affirms the status of reclaimed land under state control, Government Regulation 18/2021 opens the door to granting private rights over HPL in the form of HGU, HGB, and Right of Use (Hak Pakai) over HPL.

The granting of private rights over land that should be controlled by the state fundamentally contradicts the jurisprudence of the Constitutional Court, specifically Decision No. 3/PUU-VIII/2010. This decision declared that the granting of property rights (private rights) in coastal utilization is unconstitutional because it violates Article 33 paragraph (3) of the 1945 Constitution (Zahra & Hanifah, 2025). The Constitutional Court's decision explicitly annulled and eliminated the Coastal Waters Concession Rights (HP-3) model contained in the PWP3K Law. Therefore, the introduction of a scheme in Government Regulation 18/2021 that permits Land Rights over coastal HPL can be interpreted as reviving material that had been essentially declared unconstitutional.

Viewed through the lens of spatial justice theory, this regulatory dynamic reflects the challenges in fulfilling the principle of the right to the production of space. The presence of norms in Government Regulation 18/2021 can be interpreted as an instrument facilitating the shift in spatial function from what should be public to privately managed space. In other words, the presence of this norm has

²⁸ Yosua Simon Suganda. "Status Kepemilikan Hak atas Tanah Hasil Reklamasi oleh Subjek Hukum Asing." *Yustitia: Jurnal Hukum* 9, no. 1 (2023): 24–38.

become a mechanism that produces spatial injustice. Furthermore, the existence of PP 18/2021 has triggered a conflict between the norm and higher-level legislation, namely the PWP3K Law and the 1945 Constitution. Therefore, the implementing framework is concluded to be incapable of creating spatial justice because it cannot guarantee that spatial production prioritizes community rights over exclusive interests.

3.2. Spatial Injustice in the Ocean Grabbing Phenomenon in Indonesia

A normative analysis of spatial justice highlights how Indonesia's legal framework actively produces spatial injustice. The phenomenon of ocean grabbing is a manifestation of this injustice. The term was developed in 2015. Its initial development was based on literature on land grabbing, which refers to the acquisition of land by corporations or governments.²⁹ The word "grabbing" in the phrase refers to two things: resources and marine space. Ocean grabbing itself takes several forms, such as spatial closure, changes in ownership regimes and transfer of rights, and resource expropriation and ecological degradation.³⁰

Of these various forms, at least three main criteria must be met to determine whether a phenomenon qualifies as ocean grabbing.³¹ First, it occurs through inadequate governance. Second, it is carried out through actions that undermine human security and livelihoods. Third, it produces negative socio-ecological effects that reduce the social and ecological well-being of the community.

Contextually, the Pagar Laut case in Tangerang is a concrete example of how ocean grabbing occurs not solely through physical violence, but also through normative loopholes. Analysis of this case demonstrates that it meets Bennett's³² criteria as follows:

3.2.1. The Sea Fence Case Occurred Due to Inadequate Governance

The first criterion of ocean grabbing can be identified through the dynamics of coastal area governance, which demonstrates limitations in administrative and regulatory synchronization. In the case of the Sea Fence in Tangerang,

²⁹ Jeanne Darc Noviayanti Damanik, and Wirazilmustaan Wirazilmustaan. "'Ocean Grabbing!': Deprivation of Fishermen's Rights or Management of Coastal and Marine Resources." *Society* 9, no. 1 (2021): 289-301.

³⁰ Fikerman Saragih, Risdawati Ahmad, Imam Mas'ud, Erwin Suryana, dan M. Abdul Azis. *Ocean Grabbing – Tata Ruang: Integrasi Tata Ruang Darat dan Laut untuk Siapa?* Bogor: Jaringan Kerja Pemetaan Partisipatif (JKPP), 2023.

³¹ Nathan James Bennett, Hugh Govan, and Terre Satterfield. "Ocean grabbing." *Marine Policy* 57 (2015): 61-68.

³² Nathan James Bennett, Hugh Govan, and Terre Satterfield. "Ocean grabbing." *Marine Policy* 57 (2015): 61-68.

three main errors were identified: the absence of a Marine and Coastal Area Management (KKPRL) instrument, the issuance of SHGB and SHM in an area that was already marine, and the failure to involve the community in the development process.³³ These factual findings essentially represent a deeper systemic problem: normative conflict.

This normative conflict is rooted in the dual jurisdiction between the agrarian legal regime and the overlapping coastal area management regime. On the one hand, the PWP3K Law specifically mandates the utilization of coastal and marine areas through a public instrument, the KKPRL, under the authority of the Ministry of Maritime Affairs and Fisheries (KKP). On the other hand, the UUPA regulates the scope of "land, water, and airspace" through the mechanism of granting private Land Rights, such as Ownership Rights and HGB (Hak Milik) within the jurisdiction of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN). When the logic of private ownership within an agrarian framework is implemented in coastal areas, which are philosophically public, a conflict of norms arises, leading to ocean grabbing.

The issuance of SHGB and SHM in Tangerang waters reflects this disharmony in regulations. Actions substantively prohibited by the PWP3K Law are instead afforded opportunities through land administration. This situation is exacerbated by the issuance of Government Regulation 18/2021, which grants Land Rights above the HPL (Hip-Hop Land Permit) for reclaimed land. A closer examination reveals a difference in the philosophical basis between private ownership in agrarian law and the public philosophy in coastal law. Furthermore, the practice in the Sea Fence case can be identified as a pattern of land ownership that has implications for seaward expansion, resembling a reclamation mechanism. Although this phenomenon cannot be categorized as formal reclamation because it does not follow the procedures and technical stages stipulated in Presidential Decree 12/122, it still demonstrates a form of ocean grabbing, where marine space is unilaterally controlled.

Substantially, even if all stages of the reclamation procedure are fulfilled by the relevant legal entities, this action still leaves fundamental normative issues. Therefore, the current governance system can be concluded as inadequate because it continues to provide loopholes for the privatization of

³³ Hariyantana Aygy Yolanda, Aries Sudiarmo, and IB Putra Jhandana. "Implications of Illegal Sea Fence Construction on Maritime Security, Environment, And Welfare Of Coastal Communities." *ARRUS Journal of Social Sciences and Humanities* 5, no. 1 (2025): 810-819.

public space. This is the root cause of ocean grabbing and spatial injustice for coastal communities.

3.2.2. The Sea Fence Case Weakens the Livelihoods and Security of the Surrounding Community

The second criterion for ocean grabbing is the weakening of the security and livelihoods of the surrounding community. This criterion was clearly met in the case of the Sea Fence in Tangerang. As Bennett³⁴ explains, this second criterion is evaluated based on whether the phenomenon weakens or strengthens the community's livelihoods. In the case of the Sea Fence in Tangerang, this is physically evident in the 30.16-kilometer-long sea fence that impedes fishermen's access to their fishing grounds.³⁵ This physical restriction of access directly impacts the fishermen.³⁶

Economically, the Sea Fence disrupts local livelihoods. With restricted space for movement, there is a decrease in catches and an increase in operational costs, especially fuel, as fishermen are forced to use longer routes.³⁷ This legal fact constitutes a serious violation of spatial planning law, violating the Banten Province's 2023-2043 Spatial Plan (RTRW), which stipulates that the area is a capture fisheries area and fish landing base.

Furthermore, there are legal facts that the safety and security of fishermen are directly and personally threatened. Based on existing legal facts, the physical presence of the Sea Fence has the potential to cause injuries to fishermen due to leaking boat walls. This problem is rooted in weak spatial planning implementation and the lack of effective oversight by the relevant authorities. This lack of oversight is not merely passive negligence, but rather a form of neglect. This is confirmed by the legal fact that the competent government failed to respond promptly to the presence of the illegal fence for months. Firm action, including its removal, was only taken after the damage had become massive and widespread.

³⁴ Nathan James Bennett, Hugh Govan, and Terre Satterfield. "Ocean grabbing." *Marine Policy* 57 (2015): 61-68.

³⁵ Siti Nur Cahyati, Salsa Billa, Rabi'ah Fajriah, & Syifa Noer Rohmah. "Analisis Dampak dan Pemenuhan Hak Korban dalam Kasus Pagar Laut Ditinjau Berdasarkan Perspektif Greenvictimology." *Presidensial: Jurnal Hukum, Administrasi Negara, Dan Kebijakan Publik* 2 no. 2 (2025): 154-169.

³⁶ Bono Budi Priambodo. "Analisis Yuridis-Normatif Mengenai Duduk Perkara Serta Kerangka Hukum dan Kebijakan Terkait "Pagar Laut Misterius" di Pantai Utara Tangerang." *UNES Law Review* 7, no. 3 (2025): 1221-1233.

³⁷ Hariyantana Aygy Yolanda, Aries Sudiarmo, and IB Putra Jhandana. "Implications of Illegal Sea Fence Construction on Maritime Security, Environment, And Welfare Of Coastal Communities." *ARRUS Journal of Social Sciences and Humanities* 5, no. 1 (2025): 810-819.

In conclusion, the obstacles to the livelihoods and safety of fishermen demonstrate a discrepancy between spatial planning and the facts on the ground. This situation confirms that legal instruments such as the Spatial Planning (RTRW) require strong oversight to effectively protect the community. This weak oversight in the field ultimately results in the loss of fishermen's access to their living space, fulfilling the second criterion of the ocean grabbing phenomenon.

3.2.3. The Sea Fence Case Causes Negative Socio-Ecological Impacts

The third criterion confirming the Sea Fence project as a form of ocean grabbing is the massive detrimental socio-ecological impacts. Ecologically, the construction of the physical infrastructure in the form of the fence has been proven to trigger degradation of marine ecosystems, particularly coral reefs and seagrass beds. The damage is primarily caused by excessive sedimentation and a decline in water quality around the site. Furthermore, the presence of the Sea Fence structure has altered current patterns that naturally function in the dispersal of fish larvae, thereby disrupting the stability of marine biota populations in the area.

This damage reflects a disregard for the principle of state responsibility and sustainability in environmental protection and management, as stipulated in Article 63 paragraph (1) of the Environmental Management and Management Law.³⁸ This is further exacerbated by the failure to comply with the environmental legal instrument, namely the Environmental Impact Analysis (AMDAL). Referring to Article 22 paragraphs (1) and (2) of the Environmental Management and Management Law, it is stated that every activity with a significant impact on the environment is required to have this document.³⁹ The absence of this document in the Sea Fence project is the primary reason for the massive ecosystem degradation, as explained in the previous paragraph.

Socially, this ecosystem damage creates new vulnerabilities for coastal communities. Fishermen no longer only lose their fishing grounds spatially

³⁸ Cindyana Ratnasari. 2025. "Penegakan Hukum Lingkungan Hidup melalui Instrumen Hukum Administrasi dan Hukum Pidana terhadap Korporasi yang Tidak Melakukan Reklamasi Pasca Tambang (Studi Kasus Reklamasi Tambang Timah di Daerah Bangka Provinsi Bangka Belitung)." *LITRA: Jurnal Hukum Lingkungan, Tata Ruang, dan Agraria* 3, no. 2 (April 2024): artikel 947.

³⁹ Dendi Saputra, Deyan Ajian Putra, Indah Salsabilla Putri, Ema Septaria, and M. Ilham Adepio. "Analisis Yuridis Peristiwa Pagar Laut Ditinjau Dari Hukum Nasional Dan Hukum Laut Internasional." *Jurnal Kajian Hukum dan Pendidikan Kewarganegaraan* | E-ISSN: 3089-7084 1, no. 3 (2025): 185-191.

but also lose resource security. This forces them to adapt by venturing farther out to sea, which directly impacts their financial burden. Fishermen's operational costs have increased to IDR 1.55 billion per month. Total economic losses are estimated to reach IDR 24 billion from August 2024 to January 2025, or approximately IDR 7.7 billion per month.⁴⁰

The fulfillment of these three main criteria indicates that the phenomenon of ocean grabbing in the Sea Fence case is not simply an ordinary administrative violation. It is a concrete manifestation of spatial injustice. The primary cause is structural normative failure. In this context, legal instruments have failed to protect the public interest and instead actively legitimize ocean grabbing. Theoretically, the Sea Fence case illustrates how the production of exclusive and private space can occur in the communal realm through the exploitation of regulatory loopholes. Thus, the Sea Fence case represents a concrete manifestation of spatial injustice, where normative conflicts within legal instruments sacrifice public access for narrower interests.

4. Closing

This research concludes that Indonesia's positive legal framework normatively possesses a strong philosophical foundation for realizing spatial justice through Article 33 of the 1945 Constitution and the PWP3K Law. However, the realization of spatial justice in coastal areas faces significant challenges due to the phenomenon of ocean grabbing, facilitated by structural regulatory gaps. The research findings identify this failure as rooted in three main obstacles: the conflicting fundamental norms between the agrarian legal regime, through the Basic Agrarian Law (UUPA) and the coastal spatial planning legal regime, through the PWP3K Law; the weakening of the RTRW instrument; and the neglect of environmental legal instruments in the development process.

Based on these findings, addressing this systemic problem requires prescriptive measures in the form of fundamental regulatory harmonization. The government and law enforcement officials must consistently position the PWP3K Law as the primary positive legal instrument with jurisdiction over coastal areas. This step will require minimizing normative conflicts and ending the privatization that legitimizes spatial grabbing. Through this solution, the ideal framework of spatial justice can be restored so that the legal system can ensure that coastal

⁴⁰ Wulandaridan, Amalia & Muhammad Zaki Mubarrak. "PENERAPAN PRINSIP KEADILAN RUANG DALAM PENYELENGGARAAN RUMAH SUSUN UMUM DI KOTA YOGYAKARTA." *Jurnal Hukum Lex Generalis* 6, no 9, (2025): 1-19.

areas function as communal resources for the greatest prosperity of the Indonesian people.

REFERENCES

- Alkhair, Rayyan & Dani Muhtada. "Systemic Approach Repatriation of Communities Rights Affected by Marine Fencing in Tangerang." *Hang Tuah Law Journal* 9, no 2 (2025): 433–458.
- Amaliyah, Amaliyah. "Sosiologi Pendidikan: Analisis Konflik Pembangunan Pagar Laut Tangerang Selatan." *AKADEMIK: Jurnal Mahasiswa Humanis* 5, no. 2 (2025): 730-745.
- Bennett, Nathan James, Hugh Govan, and Terre Satterfield. "Ocean grabbing." *Marine Policy* 57 (2015): 61-68.
- Cahyati, Siti Nur, Salsa Billa, Rabi'ah Fajriah, & Syifa Noer Rohmah. "Analisis Dampak dan Pemenuhan Hak Korban dalam Kasus Pagar Laut Ditinjau Berdasarkan Perspektif Greenvictimology." *Presidensial: Jurnal Hukum, Administrasi Negara, Dan Kebijakan Publik* 2, no. 2 (2025): 154–169.
- Chikmawati, Nurul Fajri. 2013. "Pengelolaan Wilayah Pesisir dan Pulau-Pulau Kecil di Indonesia (Dalam Perspektif Perlindungan Hukum bagi Hak-hak Ekonomi Masyarakat Tradisional)." *ADIL: Jurnal Hukum* 4, no. 2 (Desember 2013): 396–417.
- Damanik, Jeanne Darc Noviyanti, and Wirazilmustaan Wirazilmustaan. "'Ocean Grabbing!': Deprivation of Fishermen's Rights or Management of Coastal and Marine Resources." *Society* 9, no. 1 (2021): 289-301.
- Dewanti, Tabita Titah, Faris Harsen, Nurliana Cipta Apsari, Santoso Tri Raharjo, Sahadi Humaedi, Budi Muhammad Taftazani, dan Meilanny Budiarti Santoso. 2023. "Jaga Pesisir Kita: Pengelolaan Potensi Lingkungan Pesisir Melalui Pemberdayaan Masyarakat di Pangempang, Kecamatan Muara Badak." *Jurnal Penelitian dan Pengabdian Kepada Masyarakat (JPPM)* 4, no. 1 (2023): 43–52.
- Harvey, David. "Social justice, postmodernism and the city." *International Journal of Urban & Regional Research* 16, no. 4 (1992).
- Hexagraha, Shafira Anindia Alif and Setyorini, Savitri Nur. "TINJAUAN TERHADAP KONSEP KEADILAN SPASIAL DAN PARTISIPASI MASYARAKAT DALAM PERENCANAAN DAN PENGENDALIAN PEMANFAATAN RUANG PADA PROGRAM NORMALISASI CILIWUNG DI PROVINSI DKI JAKARTA," *Jurnal Hukum & Pembangunan* 49, no 2 (2019): 9.
- Hidayat, Syahril, Melly Rifa'atul Lailiyah, & Rizki Nurdiansyah. "Analisis Keabsahan Sertifikat Hak Guna Bangunan yang Terbit diatas Laut". *Amandemen: Jurnal Ilmu Pertahanan, Politik Dan Hukum Indonesia* 2 no. 1 (2025): 208–217.
- Magnar, Kuntana, Inna Junaenah, and Giri Ahmad Taufik. "Tafsir MK atas pasal 33 UUD 1945: Studi atas putusan MK mengenai judicial review terhadap UU No. 7/2004, UU No. 22/2001, Dan UU No. 20/2002." *Jurnal Konstitusi* 7, no. 1 (2010): 111-180.
- Muh Kamim, *Anggalih Bayu*. "Ocean Grabbing di Indonesia dan Malaysia: Catatan Krisis Sosio-Ekologis Dampak Proyek Reklamasi". *Aspirasi: Jurnal Masalah-masalah Sosial* 11 no 1 (2020): 105–120.
- Priambodo, Bono Budi. "Analisis Yuridis-Normatif Mengenai Duduk Perkara Serta Kerangka Hukum dan Kebijakan Terkait "Pagar Laut Misterius" di Pantai Utara Tangerang." *UNES Law Review* 7, no. 3 (2025): 1221-1233.
- Priyanta, Maret, and Yulinda Adharani. "Synchronization of the policies on spatial planning for coastal area in Indonesia with the sustainable development." (2021): 2149-2162.
- Ratnasari, Cindyana. 2025. "Penegakan Hukum Lingkungan Hidup melalui Instrumen Hukum Administrasi dan Hukum Pidana terhadap Korporasi yang Tidak Melakukan Reklamasi Pasca Tambang (Studi Kasus Reklamasi Tambang Timah di Daerah Bangka Provinsi Bangka Belitung)." *LITRA: Jurnal Hukum Lingkungan, Tata Ruang, dan Agraria* 3, no. 2 (April 2024): artikel 947.
- Saputra, Dendi, Deyan Ajian Putra, Indah Salsabilla Putri, Ema Septaria, and M. Ilham Adepio. "Analisis Yuridis Peristiwa Pagar Laut Ditinjau Dari Hukum Nasional Dan Hukum Laut Internasional." *Jurnal Kajian Hukum dan Pendidikan Kewarganegaraan/ E-ISSN: 3089-7084* 1, no. 3 (2025): 185-191
- Sari, Nina Amelia Novita, Ezra Tambunan, Patricia Inge Felany, and Xavier Nugraha. "Implikasi Penafsiran Hak Menguasai Negara Oleh Mahkamah Konstitusi Terhadap Politik Hukum Agraria Pada Pulau-Pulau Kecil Di Indonesia." *Law Review* (2019): 170-202.
- Sembiring, Julius. "Hak Menguasai Negara Atas Sumber Daya Agraria." *BHUMI: Jurnal Agraria Dan Pertanahan* 2, no 2, (2018): 119–132.

Suganda, Yosua Simon. 2023. "Status Kepemilikan Hak atas Tanah Hasil Reklamasi oleh Subjek Hukum Asing." *Yustitia: Jurnal Hukum* 9, no. 1 (April 2023): 24–38.

Willem, Resdianto. "Pemanfaatan Ruang Pesisir Dan Laut Yang Berkeadilan." *Bina Hukum Lingkungan* 2, no. 2 (2018): 154-166.

Wulandaridan, Amalia & Muhammad Zaki Mubarrak. "PENERAPAN PRINSIP KEADILAN RUANG DALAM PENYELENGGARAAN RUMAH SUSUN UMUM DI KOTA YOGYAKARTA." *Jurnal Hukum Lex Generalis* 6, no 9, (2025): 1-19.

Yolanda, Hariyantana Agy, Aries Sudiarmo, and IB Putra Jhandana. "Implications of Illegal Sea Fence Construction on Maritime Security, Environment, And Welfare Of Coastal Communities." *ARRUS Journal of Social Sciences and Humanities* 5, no. 1 (2025): 810-819.

Zaini, Ahmad. "Amdal Regulations In Indonesia Concerning Environmental Management and Preservation Law No. 32 of 2009." *Journal of Law, Politic and Humanities* 4, no. 6 (2024): 2174-2180.

BOOK

Susanti, Dyah Ochterina & A'an Efendi. *Penelitian hukum (legal research)*. Jakarta: Sinar Grafika. (2014).

Soja, Edward W. *Seeking spatial justice*. Vol. 16. U of Minnesota Press, 2013.

Saragih, Fikerman, Risdawati Ahmad, Imam Mas'ud, Erwin Suryana, dan M. Abdul Azis. *Ocean Grabbing – Tata Ruang: Integrasi Tata Ruang Darat dan Laut untuk Siapa?* Bogor: Jaringan Kerja Pemetaan Partisipatif (JKPP), 2024.

Regulations

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945

United Nations Convention on the Law of the Sea

Undang-Undang Nomor 27 Tahun 2007 *juncto* Undang-Undang Nomor 1 Tahun 2014 tentang Pengelolaan Wilayah Pesisir dan Pulau-Pulau Kecil

Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria

Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup

Peraturan Pemerintah Nomor 18 Tahun 2021 tentang Hak Pengelolaan, Hak Atas Tanah, Satuan Rumah Susun, Dan Pendaftaran Tanah

Peraturan Pemerintah Nomor 16 Tahun 2004 Nomor 16 Tahun 2004 tentang Penatagunaan Tanah

Peraturan Presiden Nomor 122 Tahun 2012 tentang Reklamasi di Wilayah Pesisir dan Pulau-pulau Kecil