



STRONG SUSTAINABILITY AND OCEAN JUSTICE: FOSTERING COASTAL COMMUNITY WELL-BEING IN INDONESIA

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Abstract

Poverty and environmental issues are interconnected and entangled in complex human-environment relationships. Poor people often degrade the environment to meet present needs at the expense of their future benefits. Conversely, environmental degradation exacerbates poverty by deteriorating livelihoods, income, and health. This nexus is prevalent in coastal communities' interactions with coastal and ocean ecosystems. The severe environmental degradation of coastal habitats and oceans endangers coastal communities whose livelihoods depend on marine ecosystem services. Millions of people depend directly on marine resources as their main source of food and income. Indonesia has the second-largest coastline in the world, stretching approximately 81,000 kilometres. Unfortunately, the threat to the sustainability of marine biodiversity is getting more complex. Strengthening the capacity of coastal communities as key actors in managing and protecting coastal sustainability can ensure their well-being. This article identifies and proposes a robust regulatory framework for ocean justice in Indonesia's coastal regions. A conceptual approach is employed to achieve this goal, with a review of pertinent legal literature and documents. In addition, the critical legal studies method will be utilised to identify potential areas for improvement. It can be argued that Indonesia has yet to achieve the robust sustainability level currently being sought. The concept of strong sustainability is grounded in two fundamental moral principles: environmental ethics and distributive justice. The legal apparatus governing ocean management must be modified to address evolving governance challenges. Although robust sustainability is not the sole determining factor of community well-being, the institutionalisation of ocean justice has the potential to facilitate the actualisation of community well-being in Indonesia's coastal regions.

Keywords: Coastal Community; Justice; Sustainability.

Abstrak

Kemiskinan dan masalah lingkungan hidup saling terkait dan terjerat dalam hubungan manusia dan lingkungan hidup yang kompleks. Masyarakat miskin sering kali merusak lingkungan untuk memenuhi kebutuhan saat ini dengan mengorbankan manfaatnya di masa depan. Sebaliknya, kerusakan lingkungan memperburuk kemiskinan dengan memperburuk mata pencaharian, pendapatan, dan kesehatan. Hubungan antara kemiskinan dan lingkungan ini lazim terjadi dalam interaksi masyarakat pesisir dengan ekosistem pesisir dan laut. Kerusakan lingkungan yang parah pada habitat pesisir dan lautan membahayakan masyarakat pesisir yang mata pencahariannya bergantung pada jasa ekosistem laut. Ada jutaan orang yang bergantung langsung pada sumber daya laut sebagai sumber makanan dan pendapatan utama mereka. Faktanya, Indonesia memiliki garis pantai terbesar kedua di dunia dengan panjang sekitar 81.000 kilometer. Sayangnya, ancaman terhadap keberlanjutan keanekaragaman hayati

laut tidak kunjung usai, bahkan cenderung semakin beragam. Sementara itu, pengalaman dengan kawasan konservasi laut menunjukkan bahwa kebijakan top-down yang didorong oleh target konservasi global tidak memberikan manfaat bagi masyarakat pesisir. Pada akhirnya, penguatan kapasitas masyarakat pesisir sebagai aktor kunci dalam mengelola dan melindungi keberlanjutan pesisir dapat memastikan kesejahteraan mereka. Oleh karena itu, artikel ini bertujuan untuk menemukan dan merekomendasikan konsep pengaturan strong sustainability untuk keadilan laut di wilayah pesisir Indonesia. Penulisan artikel ini menggunakan pendekatan konseptual dengan mengkaji berbagai literatur-literatur hukum dan dokumen hukum. Kajian juga akan menggunakan metode *critical-legal studies* dalam upaya untuk menemukan bahan-bahan yang bisa dievaluasi untuk perbaikan. Sehingga, dapat disebutkan bahwa saat ini Indonesia belum memenuhi konsep strong sustainability tersebut. Konsep strong sustainability didasarkan pada dua prinsip moral yang mendasar: etika lingkungan dan keadilan distributif. Untuk menjawab tantangan tata kelola yang terus berkembang, perangkat hukum yang mengatur tata kelola laut harus dimodifikasi. Meskipun, strong sustainability bukan satu-satunya penentu tingkat kesejahteraan masyarakat. Namun, pelebagaan ocean justice dapat menjadi penentu terwujudnya kesejahteraan masyarakat di kawasan pesisir Indonesia.

Kata kunci: Keadilan; Keberlanjutan; Masyarakat Pesisir.

Introduction

The objective of this article is twofold: firstly, to investigate the concept of sustainability as it is currently practised in marine aspects; secondly, to discuss the potential for the realisation of ocean justice in Indonesia's coastal areas. Furthermore, this article will examine the difficulties encountered when attempting to implement the principles of ocean justice and strong sustainability and how these can be linked to the enhancement of the well-being of coastal communities. In light of the potential correlation between poverty and environmental degradation in the context of local communities and coastal ecosystems, it is imperative to underscore the significance of equity and ocean sustainability.¹

In the 1950s, the growth in both the human and urban populations was exponential, a process which experts refer to as "The Great Acceleration".² Such developments were influenced by an exponential growth in global Gross Domestic Product (GDP), which reached previously unimagined proportions.³ An inevitable consequence of the expansion in human activities is an increased demand for supporting resources, including water, motorised vehicles, protein sources, and communication tools. Additionally, globalisation has been identified as a significant factor in the increase of investment in several countries, particularly developing countries and

1 United Nations, "Take Action for the Sustainable Development Goals," 2015, <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>.

2 Steven Cork et al., "Exploring Alternative Futures in the Anthropocene," *Annual Review of Environment and Resources* 48, no. 1 (November 13, 2023): 25–54, <https://doi.org/10.1146/annurev-environ-112321-095011>.

3 Christopher R. Pyke, "Steffen, W., et al. 2004. Global Change and the Earth System: A Planet under Pressure. Springer-Verlag, New York, New York, USA," *Ecology and Society* 9, no. 2 (2004): art2, <https://doi.org/10.5751/ES-00644-090202>.

the development of coastal regions for industrial and tourism-based activities.⁴ Consequently, humans' role is paramount in influencing global change. In light of these findings, Earth System Science researchers have concluded that a transition has occurred, marking the shift from the Holocene to the Anthropocene.⁵ “*It seems to us more than appropriate to emphasize the central role of mankind in geology and ecology by proposing to use the term “anthropocene” for the current geological epoch*”.⁶

However, the sustainability of the planet is contingent upon the maintenance of a symbiotic relationship between humans and the natural world.⁷ In consequence, recent decades have manifested an intensified global emphasis on environmental protection and the conservation of marine resources for sustainable development.⁸ A significant focus has been the development of global governance of the marine environment due to the ongoing and prospective challenges posed by activities including shipping, tourism, illegal and unregulated fishing, ocean acidification, the exploitation of deep seabed resources, black carbon emissions and transboundary pollution from land-based activities.⁹

The intensification of human activities across a range of maritime zones is precipitating a series of challenges pertaining to global marine environmental governance.¹⁰ These include the degradation of coastal wetlands, mangroves, coral reefs, seagrass beds, tidal marshes and tidal flats, the decline of marine biodiversity, climate change and the pervasive contamination of the marine environment.¹¹ As the largest archipelago in the world, Indonesia boasts the second longest coastline, extending for approximately 81,000 kilometres.¹² This extensive coastline encompasses a marine area of 3,257,357 km², making Indonesia one of the countries with the

4 Daniel B. Kramer, *et al.*, “Coastal Livelihood Transitions under Globalization with Implications for Trans-Ecosystem Interactions,” ed. Judi Hewitt, *PLOS ONE* 12, no. 10 (October 27, 2017): e0186683, <https://doi.org/10.1371/journal.pone.0186683.k>

5 Paul J. Crutzen and Eugene F. Stoermer, “The ‘Anthropocene’ (2000),” in *Paul J. Crutzen and the Anthropocene: A New Epoch in Earth’s History*, ed. Susanne Benner *et al.*, vol. 1, *The Anthropocene: Politik—Economics—Society—Science* (Cham: Springer International Publishing, 2021), 19–21, https://doi.org/10.1007/978-3-030-82202-6_2.

6 Crutzen and Stoermer.

7 Sabrina Hasan, “Considering the Concept of the Ecological Civilization for Conservation and Sustainable Use of Marine Biodiversity under the Umbrella of the Biodiversity Beyond National Jurisdiction Instrument,” *Environmental Law Review* 23, no. 3 (September 2021): 248–62, <https://doi.org/10.1177/14614529211032035>.

8 Vladimir Ryabinin, *et al.*, “The UN Decade of Ocean Science for Sustainable Development,” *Frontiers in Marine Science* 6 (July 31, 2019): 470, <https://doi.org/10.3389/fmars.2019.00470>.

9 Hasan, “Considering the Concept of the Ecological Civilization for Conservation and Sustainable Use of Marine Biodiversity under the Umbrella of the Biodiversity Beyond National Jurisdiction Instrument.”

10 Pyke, Steffen, W., *et al.* “Global Change and the Earth System.”, (2004).

11 Daniel A. Friess, *et al.*, “Blue Carbon Science, Management and Policy across a Tropical Urban Landscape,” *Landscape and Urban Planning* 230 (February 2023): 104610, <https://doi.org/10.1016/j.landurbplan.2022.104610>.

12 Zaenal Arifin and Adhi Putra Satria, “Analisis Kritis Pengelolaan Perairan Pesisir dan Pulau-Pulau Kecil di Indonesia (Studi Pengaturan Pengelolaan Perairan Pesisir Dan Pulau-Pulau Kecil Pasca Lahirnya Undang-Undang No 1 Tahun 2014 dan Undang-Undang No 23 Tahun 2014),” *Ganec Swara* 14, no. 1 (March 6, 2020): 521, <https://doi.org/10.35327/gara.v14i1.129>.

widest marine border in the world.¹³ Indonesia's geographical circumstances, with a plethora of natural resource prospects, can facilitate the delivery of a multitude of potential benefits for environmental, social and economic sustainability.¹⁴

Given that its coastal natural resources can benefit social, economic and environmental ends, Indonesia has demonstrated a clear commitment to the sustainability of marine ecosystems. This commitment is evidenced by Indonesia's signature on December 10, 1982, and Indonesia's ratification of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) on February 3, 1986, through Law No. 17 of 1985,¹⁵ which serves as a foundation for the management and utilisation of marine resources according to the provisions set forth in Part XII of the UNCLOS on the "Protection and Preservation of the Marine Environment" which obligates states to take all necessary measures to prevent, reduce, and control pollution of the marine environment from any source. Furthermore, the protection of the marine environment and its ecosystem is set out in Law (UU) Number 27 of 2007, as amended by Law (UU) Number 1 of 2014 concerning the Management and Development of Coastal Areas and Small Islands, and also Presidential Regulation Number 121 of 2012 concerning the Rehabilitation of Coastal Areas and Small Islands. This includes Law Number 11 of 2020, which concerns the implementation of job creation initiatives within the marine and fisheries sector.

However, the Ocean Health Index indicates that Indonesia was ranked 152nd out of 222 countries in terms of ocean health in 2023.¹⁶ Meanwhile, Indonesia has attained a score of 69 out of 100, which is below the global average of 73, indicating a decline in ocean health in Indonesia when compared to data from 2019.¹⁷ Furthermore, several fisheries commodities in multiple State Fisheries Management Areas of the Republic of Indonesia are over-exploited.¹⁸ This issue has led to inadequate management of specific fisheries commodities and species, which may cause extinction due to over-fishing. This is corroborated by the observed decline in the health of coral reefs, seagrasses and mangroves, which also face significant environmental threats.¹⁹

The vulnerability of coastal ecosystems to human activities, including the labour impacts

13 Arifin and Satria.

14 Arifin and Satria.

15 "1982 United Nations Convention on the Law of the Sea" (United Nations, October 12, 1982), United Nations Treaty Collection, https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=_en#15.

16 Ocean Health Index, "Indonesia," <https://oceanhealthindex.org/regions/indonesia/>.

17 Ocean Health Index.

18 Agil Oktaryal, "Kertas Advokasi Kebijakan Atas UU No.1 Tahun 2020 Tentang Cipta Kerja Bidang Kelautan Dan Perikanan," Policy Brief (Jakarta, Indonesia: PSHK (Pusat Studi Hukum dan Kebijakan Indonesia), 2020), <https://pshk.or.id/dokumen/7705>.

19 Indonesia Ocean Justice Initiative, "Ekosistem Karbon Biru sebagai Critical Natural Capital: Penguatan Blue Carbon Ecosystem Governance di Indonesia" (Jakarta, Indonesia: IOJI, 2023), <https://oceanjusticeinitiative.org/wp-content/uploads/2023/09/STUDI-BCEG-small-res.pdf>.

of climate change, necessitates the implementation of robust state-level protection measures.²⁰ Consequently, the objective of contemporary water policies must be to achieve a harmonious balance between the economic, social and environmental interests at stake.²¹ Nevertheless, policy and practice frequently underestimate the ecological dimension due to the prioritisation of economic goals and social needs.²² Sustainability, however, necessitates a balanced approach that considers the interdependence of three key domains: the environment, the economy, and society.²³ Conversely, an examination of a country's legislation or constitution may indicate whether the country in question adheres to the concept of strong sustainability.²⁴ Therefore, conducting a more detailed examination of the concept of strong sustainability in coastal ecosystems in Indonesia and its relationship with ocean justice is important. This aspect has not been explored by previous research, as Neumann *et al.* examined the relationship between fulfilling SDG 14 targets and the concept of strong sustainability.²⁵ Meanwhile, the Indonesian Ocean Justice Initiative (IOJI) examines the potential for strengthening blue carbon ecosystem governance according to the principles of strong sustainability.²⁶

This paper has been written using a normative research method with a conceptual approach related to the sustainability of coastal ecosystems, justice and sustainability. The data required for this paper were collected through a comprehensive literature search of books, journal articles, research reports, and even relevant legislation and regulations pertaining to the protection of coastal ecosystems. Various literature studies were conducted, employing both conventional methods and online sources. Furthermore, the analysis was conducted with an interdisciplinary approach, encompassing ecological, social and economic perspectives.

Discussion

A. Strong Sustainability and Ocean Justice: A Conceptual Framework

Sustainable development has emerged as a prominent buzzword in the context of globalisation,

20 Mark D. Spalding et al., "The Role of Ecosystems in Coastal Protection: Adapting to Climate Change and Coastal Hazards," *Ocean & Coastal Management* 90 (March 2014): 50–57, <https://doi.org/10.1016/j.ocecoaman.2013.09.007>.

21 Spalding et al.

22 Peter J. Auster et al., "Developing an Ocean Ethic: Science, Utility, Aesthetics, Self-Interest, and Different Ways of Knowing," *Conservation Biology* 23, no. 1 (February 2009): 233–35, <https://doi.org/10.1111/j.1523-1739.2008.01057.x>.

23 Philippa Louey, "The Blue Economy's Retreat from Equity: A Decade under Global Negotiation," *Frontiers in Political Science* 4 (September 21, 2022): 999571, <https://doi.org/10.3389/fpos.2022.999571>.

24 Indonesia Ocean Justice Initiative, "Ekosistem Karbon Biru sebagai Critical Natural Capital: Penguatan Blue Carbon Ecosystem Governance di Indonesia."

25 Barbara Neumann, Konrad Ott, and Richard Kenchington, "Strong Sustainability in Coastal Areas: A Conceptual Interpretation of SDG 14," *Sustainability Science* 12, no. 6 (November 2017): 1019–35, <https://doi.org/10.1007/s11625-017-0472-y>.

26 Indonesia Ocean Justice Initiative, "Ekosistem Karbon Biru sebagai Critical Natural Capital: Penguatan Blue Carbon Ecosystem Governance di Indonesia."

offering a potential response to a range of pressing humanitarian challenges, including poverty, food insecurity, and climate change.²⁷ Furthermore, the concept of sustainable development has informed and shaped our understanding and conceptualisation of sustainability. The complex notion of sustainability can be understood as the result of numerous interrelated factors, including historical developments, social and political movements, and scientific research.²⁸

Two international forums have played a pioneering role in the conceptualisation of sustainability and sustainable development. The United Nations World Commission on Environment and Development (WCED) published a report entitled “Our Common Future”. The report, also known as the Brundtland Report, sets out a global agenda for change.²⁹ The aforementioned report was produced in 1987 and introduced the definition of sustainable development that is currently accepted: “Progress that meets the needs of the present without compromising the ability of future generations to meet their own needs.”³⁰ The conceptual definitions presented in the Brundtland Report established the framework for subsequent discourse. The report encompasses two principal concepts: the notion of “needs”, particularly the indispensable needs of the global poor, which must be prioritised, and the concept of constraints imposed by technological and social organisational factors.³¹

Furthermore, subsequent amendments were incorporated into the definition of the overarching objective of sustainability, namely, to reside within the confines of our ecological limits, to attain social justice and to stimulate economic and social advancement.³² The three problems are inextricably linked; that is to say, no solution to one problem can be achieved without simultaneously addressing the remaining two.³³ This was addressed by delegates from 178 countries, non-governmental organisations (NGOs), and other interested parties, representing a total of approximately 30,000 individuals, including members of the media, the United Nations Conference on Environment and Development (UNCED) in 1992, also known as the “Earth Summit” or “Rio Conference”.³⁴ At this conference, sustainable development and neoliberal

27 Nasrin R. Khalili, “Theory and Concept of Sustainability and Sustainable Development,” in *Practical Sustainability*, by Nasrin R. Khalili (New York: Palgrave Macmillan US, 2011), 1–22, https://doi.org/10.1057/9780230116368_1.

28 Khalili.

29 WCED, “Our Common Future” (United Nation, 1987), <https://www.are.admin.ch/are/en/home/media/publications/sustainable-development/brundtland-report.html>.

30 WCED, “Our Common Future.”

31 Desta Mebratu, “Sustainability and Sustainable Development,” *Environmental Impact Assessment Review* 18, no. 6 (November 1998): 493–520, [https://doi.org/10.1016/S0195-9255\(98\)00019-5](https://doi.org/10.1016/S0195-9255(98)00019-5).

32 Clemens Mader, Geoffrey Scott, and Dzulkifli Abdul Razak, “Effective Change Management, Governance and Policy for Sustainability Transformation in Higher Education,” ed. Clemens Mader, Geoffrey Scott And Dzulkifli, *Sustainability Accounting, Management and Policy Journal* 4, no. 3 (November 18, 2013): 264–84, <https://doi.org/10.1108/SAMPJ-09-2013-0037>.

33 Susana Diaz-Iglesias, Alicia Blanco-Gonzalez, and Carmen Orden-Cruz, “Theoretical Framework For Sustainability, Corporate Social Responsibility And Change Management,” *Journal of Sustainability Science and Management* 16, no. 6 (August 31, 2021): 315–32, <https://doi.org/10.46754/jssm.2021.08.025>.

34 Michael Keating and Centre of Our Common Future, eds., *The Earth Summit's Agenda for Change: A Plain*

ideology were articulated together, defended by dynamic economic development and access to markets. This essentially linked the idea of “free trade” with environmental protection.³⁵

Nevertheless, following the Rio Conference, which played an instrumental role in establishing a global discourse and communication framework for “sustainable development”, the term “sustainability” is frequently employed in a manner that suggests it is a concept devoid of any particular significance.³⁶ Some experts view the renowned definition set forth in the Brundtland report as an unsatisfactory compromise between the imperative of nature conservation and the aspiration for economic growth.³⁷ The expansive conceptualisation of sustainability enables the engagement of a diverse array of stakeholders in its realisation. Yet, this latitude in interpretation also renders the concept susceptible to exploitation by influential parties seeking to advance their business interests within the prevailing trend.³⁸ Accordingly, it is necessary to establish a definitive definition of the term “sustainability” to provide a foundation for action.

In essence, there are three principal theoretical approaches to understanding the concept of sustainability ethics. The first is a humanitarian approach, which is based on the notion of meeting basic needs or capabilities. The second is an economic approach, which is based on the concept of welfare. The third is a strong sustainability approach based on the conservation of natural resources.³⁹ Conversely, other scholars⁴⁰ posit that the sustainability category can be conceptualised in other terms, namely that there is a distinction between weak⁴¹, strong⁴² and intermediate sustainability⁴³. The divergence of opinion between these concepts can be attributed to differing assumptions regarding the substitutability of natural and man-made capital and the question of whether future generations should be compensated for losses incurred.

Weak sustainability can be defined as a human-centred market economy in which all natural resources, regardless of their inherent fragility, can be substituted with alternative forms

Language Version of Agenda 21 and the Other Rio Agreements, 1. ed (Conference on Environment and Development, Geneva: Centre for Our Common Future, 1993).

35 Lynley Tulloch, “On Science, Ecology and Environmentalism,” *Policy Futures in Education* 11, no. 1 (March 2013): 100–114, <https://doi.org/10.2304/pfie.2013.11.1.100>.

36 Keating and Centre of Our Common Future, *The Earth Summit's Agenda for Change*.

37 Mebratu, “Sustainability and Sustainable Development.”

38 Ralf Döring and Barbara Muraca, “Sustainability Science - the Greifswalder Theory of Strong Sustainability and Its Relevance for Policy Advice in Germany and the EU,” in *Advancing Sustainability in a Time of Crises* (ISEE 2010, Bremen, Germany: IIFET, 2010), https://www.openagrar.de/receive/timport_mods_00047587.

39 Neumann, Ott, and Kenchington, “Strong Sustainability in Coastal Areas.”

40 Döring and Muraca, “Sustainability Science - the Greifswalder Theory of Strong Sustainability and Its Relevance for Policy Advice in Germany and the EU.”

41 Geir B. Asheim, *Justifying, Characterizing and Indicating Sustainability* (Dordrecht: Springer Netherlands, 2007), <https://doi.org/10.1007/978-1-4020-6200-1>.

42 Konrad Ott, “Institutionalizing Strong Sustainability: A Rawlsian Perspective,” *Sustainability* 6, no. 2 (February 21, 2014): 894–912, <https://doi.org/10.3390/su6020894>.

43 Amartya Sen, “Human Rights and Capabilities,” *Journal of Human Development* 6, no. 2 (July 2005): 151–66, <https://doi.org/10.1080/14649880500120491>.

of capital.⁴⁴ In this context, the conservation of nature can be considered an inefficient use of resources if the conversion of natural systems can result in a greater overall increase in welfare.⁴⁵ In principle, any single asset in a portfolio can be replaced by another asset if the latter provides higher welfare. Therefore, the portfolio manager is entitled to replace the stock of natural capital with man-made capital.⁴⁶ In the context of this paper, this may take the form of converting natural coastal areas into tourist destinations, aquaculture facilities, harbours, mining areas, and various other human-made structures.

Moreover, intermediate sustainability is predicated on the constraints of human necessities, with the objective of transcending urgent humanitarian crises such as absolute poverty.⁴⁷ The concept of sustainability encompasses the notion of basic human needs in the context of intergenerational equity.⁴⁸ It requires that the fulfilment of present needs be achieved in a manner that does not compromise or undermine the future fulfilment of needs.⁴⁹ This definition, based on the concept of basic human needs, was adopted by the WCED as a means of establishing a common moral denominator in relation to the basic needs of the poor.⁵⁰ The WCED (the United Nations-Commission) does not assume that absolute ecological limits exist; rather, it posits that such limits are contingent upon the social and technological capacity to utilise nature.⁵¹ The concept of sustainability is further supported by Sen and Nussbaum through the theory of human capabilities.

From Sen's standpoint, the objective is not the utilisation of resources but rather the realisation of human capabilities.⁵² In accordance with Nussbaum's perspective, every individual is entitled to a life of dignity.⁵³ This dignity can be pursued by utilising existing means, such as natural resources. However, attaining a life of dignity is not a quantifiable objective, thereby rendering the utilisation of natural resources to achieve this state of being also difficult to determine. Accordingly, the human capabilities approach, as espoused by Ott, is predicated on an intrinsic logic that prioritises the alleviation of poverty and the enhancement of human

44 Anamika Barua and Bandana Khataniar, "Strong or Weak Sustainability: A Case Study of Emerging Asia," *Asia-Pacific Development Journal* 22, no. 1 (April 27, 2016): 1–31, <https://doi.org/10.18356/9b582978-en>.

45 Neumann, Ott, and Kenchington, "Strong Sustainability in Coastal Areas."

46 Michael Getzner, "Weak and Strong Sustainability Indicators and Regional Environmental Resources," *Environmental Management and Health* 10, no. 3 (August 1, 1999): 170–77, <https://doi.org/10.1108/09566169910275022>.

47 Sen, "Human Rights and Capabilities."

48 Neumann, Ott, and Kenchington, "Strong Sustainability in Coastal Areas."

49 Neumann, Ott, and Kenchington.

50 WCED, "Our Common Future."

51 WCED.

52 Sen, "Human Rights and Capabilities."

53 Martha Nussbaum, "Capabilities Ss Fundamental Entitlements: Sen and Social Justice," *Feminist Economics* 9, no. 2–3 (January 2003): 33–59, <https://doi.org/10.1080/1354570022000077926>.

dignity.⁵⁴ Accordingly, the sustainability of natural resources is not a primary concern within this conceptualisation of sustainability.

The concept of strong sustainability rests on the premise that natural capital must be safeguarded at multiple levels—global, regional, and national—to ensure the well-being of future generations. The assumption is that the range of substitution between natural and man-made capital is limited. A reduction in natural capital will have an adverse effect on the future life opportunities of subsequent generations.⁵⁵ In the context of strong sustainability, it is evident that natural resources cannot be viewed in isolation as a mere source of resources. The notion of strong sustainability postulates that the monetary value of natural resources represents only a fraction of the ecosystem’s total value. It emphasises the importance of maintaining not only direct, useful components of ecosystems but also indirect, useful components that contribute to ecosystems’ resilience and communities’ well-being.⁵⁶ The assertion by Thomas Jefferson that the Earth is a common property of the living is an iteration of the continental tradition of *usufruct*, which is German for “*nießbrauch*”.⁵⁷ *Usufruct* imposes limitations upon legal ownership, as the “substance” of a particular good—such as a castle, vineyard, arable land, or forest—must be preserved over time.⁵⁸

In more recent times, the concept of strong sustainability has been defined according to the principles of *usufruct* theory. This concept is predicated on a pre-analytical vision that humans must learn to live within the constraints of an abundant yet finite planet, or alternatively, a natural resource-based approach. From an ethical standpoint, the concept is underpinned by two moral foundations: (1) environmental ethics and (2) inter- and intra-generational distributive justice theory.⁵⁹ Strong sustainability is a concept that is based on a set of defined rules. It is imperative to modify the legal apparatus governing ocean governance to address the evolving governance challenges more effectively.⁶⁰ Furthermore, it guarantees the fair distribution of access to and the benefits derived from marine ecosystem services, including the empowerment of those who have been marginalised.

The fundamental concept of sustainability encompasses issues of intra- and inter-generational distributive justice and obligations towards both current and future generations

54 Ott, “Institutionalizing Strong Sustainability.”

55 Döring and Muraca, “Sustainability Science - the Greifswalder Theory of Strong Sustainability and Its Relevance for Policy Advice in Germany and the EU.”

56 Indonesia Ocean Justice Initiative, “Ekosistem Karbon Biru sebagai Critical Natural Capital: Penguatan Blue Carbon Ecosystem Governance di Indonesia.”

57 Neumann, Ott, and Kenchington, “Strong Sustainability in Coastal Areas.”

58 Ott, “Institutionalizing Strong Sustainability.”

59 Neumann, Ott, and Kenchington, “Strong Sustainability in Coastal Areas.”

60 Bianca Haas et al., “The Future of Ocean Governance,” *Reviews in Fish Biology and Fisheries* 32, no. 1 (March 2022): 253–70, <https://doi.org/10.1007/s11160-020-09631-x>.

regarding various forms of capital, with a particular emphasis on natural resources.⁶¹ The distributive justice component pertains to the distribution of the costs and benefits associated with human activities and policy initiatives and their impact on society and other species in the natural environment.⁶² It encompasses the question of who bears the burden of costs and who benefits from resources and the underlying values and principles guiding these allocations.⁶³ Accordingly, a strong concept of sustainability is rule-based and, as such, can and should be institutionalised and regulated in a just society. The Constant Natural Capital Rules (CNCR)—the fundamental tenets of strong sustainability—provide the basis for an equitable legacy package and should be determined on a comprehensive system of rules (management rules).⁶⁴ The establishment of rule-based governance schemes that define the CNCRs represents the core meaning of institutionalising strong sustainability.

A strong concept of sustainability must be applied across a range of fields through the implementation of dedicated legislation, strategic agendas, targeted programmes and the establishment of appropriate organisations to effectively address justice issues.⁶⁵ In the context of ocean and coastal sustainability, the concept of justice has been developed as an extension of environmental justice.⁶⁶ The concept of ocean justice is a relatively new intellectual pursuit that seeks to establish connections between the broad interdisciplinary study of oceans and environmental justice scholars and activists.⁶⁷ The view that justice perspectives and, in particular, interdisciplinary and transdisciplinary justice research assist in the revelation, identification and redress of the manifold and frequently multi-level injustices and inequalities in interlinked social and ecological systems is pervasive and of great consequence for the nascent critical science of ocean sustainability.⁶⁸

Ocean justice is a concept derived from environmental justice. It places a specific focus on communities that rely on the ocean for economic, cultural, spiritual and recreational purposes, as well as for food security. In *the White House Ocean Justice Strategy*, the federal government

61 Döring and Muraca, “Sustainability Science - the Greifswalder Theory of Strong Sustainability and Its Relevance for Policy Advice in Germany and the EU.”

62 Anna Lena Bercht, Jonas Hein, and Silja Klepp, “Introduction to the Special Issue ‘Climate and Marine Justice – Debates and Critical Perspectives,’” *Geographica Helvetica* 76, no. 3 (July 13, 2021): 305–14, <https://doi.org/10.5194/gh-76-305-2021>.

63 Johannes Langemeyer and James J.T. Connolly, “Weaving Notions of Justice into Urban Ecosystem Services Research and Practice,” *Environmental Science & Policy* 109 (July 2020): 1–14, <https://doi.org/10.1016/j.envsci.2020.03.021>.

64 Ott, “Institutionalizing Strong Sustainability.”

65 Neumann, Ott, and Kenchington, “Strong Sustainability in Coastal Areas.”

66 Adrian Martin et al., “Environmental Justice and Transformations to Sustainability,” *Environment: Science and Policy for Sustainable Development* 62, no. 6 (November 1, 2020): 19–30, <https://doi.org/10.1080/00139157.2020.1820294>.

67 Bercht, Hein, and Klepp, “Introduction to the Special Issue ‘Climate and Marine Justice – Debates and Critical Perspectives.’”

68 Chris Armstrong, “Ocean Justice: SDG 14 and Beyond,” *Journal of Global Ethics* 16, no. 2 (May 3, 2020): 239–55, <https://doi.org/10.1080/17449626.2020.1779113>.

defines ocean justice as “the fair treatment and meaningful involvement of all people, regardless of income, race, colour, national origin, tribal affiliation, or disability, in federal agency decision-making and other federal activities related to the ocean.”⁶⁹ This development marks a power shift, facilitating the voice, full participation, and leadership of Indigenous Peoples and historically excluded coastal communities in decision-making processes pertaining to the ocean. It ensures meaningful and equitable engagement and provides equal access to healthy and prosperous coastlines and oceans, offering a foundation for a more just and equitable future.

The field of ocean justice studies is developing a more critical approach to undemocratic and arbitrary justice systems, particularly in regard to the overexploitation of marine resources, habitat degradation, and other activities that negatively impact the intrinsic relationship between people and the ocean.⁷⁰ The ocean plays an indispensable role in supporting life on our planet, providing essential resources such as freshwater and oxygen and regulating the Earth’s climate.⁷¹ Coastal communities, indigenous peoples and small-scale fishers rely on the ocean as a source of nourishment, health, cultural identity and well-being.⁷² Accordingly, an understanding of the human aspects of change in the marine environment is vital for the formulation of equitable and evidence-based policy in a number of marine-related fields, including fisheries, marine conservation, mining, ports and tourism.⁷³

To achieve ocean justice and promote fair and equitable pathways to ocean sustainability, greater attention and resources must be dedicated to this issue. It is imperative that communities that are likely to be most adversely affected by climate change-related issues in coastal and marine areas are included in the decision-making process to ensure equity.⁷⁴ Furthermore, local or indigenous knowledge is paramount to the adaptation agenda for sustainability.

B. Institutionalising Ocean Justice for Coastal Communities in Indonesia

A new phenomenon is emerging: poverty and environmental problems are intertwined in a complex network of human-environment relations.⁷⁵ Frequently, impoverished individuals

69 The Ocean Policy Committee, “Ocean Justice Strategy” (Washington, D.C.: The White House, December 2023), <https://www.whitehouse.gov/wp-content/uploads/2023/12/Ocean-Justice-Strategy.pdf?cb=1701982354#:~:text=It%20focuses%20on%20addressing%20environmental,recreational%20purposes%2C%20and%20food%20security>.

70 Bercht, Hein, and Klepp, “Introduction to the Special Issue ‘Climate and Marine Justice – Debates and Critical Perspectives.’”

71 David M. Bailey and Charlotte R. Hopkins, “Sustainable Use of Ocean Resources,” *Marine Policy* 154 (August 2023): 105672, <https://doi.org/10.1016/j.marpol.2023.105672>.

72 Nathan J. Bennett et al., “Environmental (in)Justice in the Anthropocene Ocean,” *Marine Policy* 147 (January 2023): 105383, <https://doi.org/10.1016/j.marpol.2022.105383>.

73 Bennett, *et al.*

74 Bennett, *et al.*

75 Abul Hasanat and Md Saiful Karim, “Ocean Governance and Marine Environmental Conservation,” in *International Marine Environmental Law and Policy*, ed. Daud Hassan and Md Saiful Karim, 1st ed. (Abingdon, Oxon [UK]; New York, NY: Routledge, 2018.: Routledge, 2018), 16–42, <https://doi.org/10.1080/17513758.2018.1511111>.

and communities have no alternative but to degrade the environment to meet their immediate needs, with the consequence that future benefits are jeopardised.⁷⁶ Conversely, environmental degradation can intensify poverty by reducing the resources available for livelihoods, incomes and health.⁷⁷ Indeed, this relationship between poverty and the environment is particularly evident in the interactions between local communities and coastal and marine ecosystems.⁷⁸

In the Indonesian context, it is estimated that approximately 3.7 million Indonesians are engaged in fisheries, with 90% of these individuals operating at the small-scale level or directly dependent on the small-scale fisheries sector for their livelihoods.⁷⁹ This sector exerts a profound influence not only on the fisheries industry but also on the sociological landscape, serving as the foundation for coastal communities and islands. From an economic perspective, the typical small-scale fisher is a member of a marginalised community, facing constraints in accessing global markets and credit. Some sell their catch locally, which introduces volatility to their overall income. This represents a significant underestimation of the potential economic value of Indonesia's fisheries export market, which collectively yielded IDR 73 trillion from the sale of 1.26 million tonnes of fish.⁸⁰

The Indonesian government has taken measures to empower and enhance the welfare of coastal communities and fishermen. These measures include the enactment of Law Number 1 of 2014 concerning Amendments to Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands and the enactment of Law Number 7 of 2016 concerning the Protection and Empowerment of Fishermen, Fish Cultivators, and Salt Farmers (Fishermen Protection Law). Nevertheless, the two aforementioned legislative instruments were superseded by Law Number 6 of 2023 concerning Job Creation. The government posits that the enactment of this legislation will facilitate sustainable development and address the numerous challenges currently facing the marine and fisheries sector. Nevertheless, there are concerns that the acceleration of investment, as implied by the Job Creation Law, may fail to adequately address certain aspects of ecosystem protection and the interests of marginalised communities in the marine and fisheries sector.⁸¹

org/10.4324/9781315624921-2.

76 Hasanat and Karim.

77 Getahun Kassa, Biruktait Teferi, and Nardos Deleegn, "The Poverty - Environment Nexus in Developing Countries: Evidence from Ethiopia: A Systematic Review," *Asian Journal of Agricultural Extension, Economics & Sociology* 24, no. 3 (April 27, 2018): 1–13, <https://doi.org/10.9734/AJAEES/2018/39310>.

78 United Nations Environment Programme, *From Pollution to Solution: A Global Assessment of Marine Litter and Plastic Pollution* (Nairobi: UNEP [u.a.], 2021), <https://wedocs.unep.org/bitstream/handle/20.500.11822/36963/POLSOL.pdf>.

79 Indonesia Ocean Justice Initiative, "Ekosistem Karbon Biru sebagai Critical Natural Capital: Penguatan Blue Carbon Ecosystem Governance di Indonesia."

80 Indonesia Ocean Justice Initiative.

81 Walhi, "Memperkuat Tata Kelola Laut Dan Perikanan Indonesia Untuk Keberlanjutan," Walhi, March 4, 2020, <https://www.walhi.or.id/memperkuat-tata-kelola-laut-dan-perikanan-indonesia-untuk-keberlanjutan>.

Indeed, a number of community groups have expressed concern that the direction of Indonesia's marine and fisheries governance policies, as formulated and pursued by the Joko Widodo (Jokowi) Administration during the 2019-2024 period, has the potential to cause a series of adverse impacts, including the degradation of marine ecosystems and the exacerbation of social injustice.⁸² Several coastal areas are anticipated to be included in the National Strategic Projects (PSN). In 2014, a new list of PSNs was approved by President Jokowi. PSNs pertaining to the sustainability of coastal areas include the development of the Pantai Indah Kapuk Tropical Concept, the Wiraraja Industrial Estate Galang Island, the North Hub Development Project Offshore East Kalimantan, and the Surabaya Waterfront Coastal Area.⁸³

Furthermore, the Indonesian government has set a target to establish 32.5 million hectares of marine protected areas (MPAs), representing 10% of Indonesia's marine area, by 2030, in addition to pursuing sustainable development oriented towards increasing investment in coastal areas. This commitment is aligned with the global Sustainable Development Goals (SDGs) and the Convention on Biological Diversity (CBD).⁸⁴ Indonesia signed on June 05, 1992, and ratified the 1992 CBD through Law Number 5 of 1994 on August 23, 1994.⁸⁵ Nevertheless, the development of conservation areas has thus far concentrated on maintaining biodiversity, including ecosystems and endangered species.⁸⁶

Upon analysis of the two aforementioned conditions, it can be concluded that the notion of sustainability as it pertains to Indonesia has not yet reached the level of strong sustainability. From one perspective, the operations of the PSN in coastal areas can be considered an example of weak sustainability. This approach is oriented towards economic progress, with an emphasis on increasing investment. This is consistent with the objectives set out in the Job Creation Law. Conversely, there is a commitment to fulfil international treaty obligations and meet the target of 10% of Indonesia's territorial waters being included in marine conservation areas. This commitment is undertaken based on ensuring the safety of limits for the continuation of human life with dignity. Therefore, the Indonesian government's actions can be considered to align with the concept of intermediate sustainability. Nevertheless, in addition to the sustainability concept applied to Indonesia's marine coastal areas, it is essential to strive for ocean justice.

82 Oktaryal, "Kertas Advokasi Kebijakan Atas UU No.1 Tahun 2020 Tentang Cipta Kerja Bidang Kelautan Dan Perikanan."

83 Tempo, "Inilah Daftar 14 Proyek Strategis Nasional (PSN) Baru yang Disetujui Presiden Jokowi pada 2024," News, Tempo.co, March 19, 2024, <https://nasional.tempo.co/read/1846827/inilah-daftar-14-proyek-strategis-nasional-psn-baru-yang-disetujui-presiden-jokowi-pada-2024>.

84 Andi Rusandi, *et al.*, "Pengembangan Kawasan Konservasi Untuk Mendukung Pengelolaan Perikanan Yang Berkelanjutan Di Indonesia," *Marine Fisheries : Journal of Marine Fisheries Technology and Management* 12, no. 2 (November 1, 2021): 137–47, <https://doi.org/10.29244/jmf.v12i2.37047>.

85 CBD Secretariat, "List of Parties," Convention on Biological Diversity, n.d., <https://www.cbd.int/information/parties.shtml>.

86 Rusandi, *et. al.*, "Pengembangan Kawasan Konservasi Untuk Mendukung Pengelolaan Perikanan Yang Berkelanjutan Di Indonesia."

The combined effects of climate change and the unprecedented degradation of biodiversity – the result of human activity – present a growing threat to ecosystems and wildlife, human health and livelihoods, and general well-being on a global scale. The effects of climate change are becoming increasingly evident in Indonesia, where the nation’s highly valuable marine ecosystems, fisheries (commercial, recreational, and subsistence), protected resources, and aquaculture are all facing challenges as a consequence of rapidly warming oceans and changes in ocean chemistry.⁸⁷ These shifts in temperature and chemistry are driving significant changes in the distribution and abundance of marine life, which is, in turn, affecting fisheries management, fisheries, aquaculture opportunities, and coastal and fishing communities throughout the country.

Accordingly, the focus of coastal sustainability must be on the principle of marine justice. This approach emphasises the sustainability of marine natural resources and coastal communities and is based on the premise that successful coastal marine conservation will only be achieved if local communities are engaged as partners rather than isolated. To inform future practice, there is a need for a deeper understanding of what drives positive conservation behaviour and what hinders it. The continued importance of community participation should also be recognised.⁸⁸

In the preamble of the CBD, there is a consensus regarding the role that traditional knowledge plays in the conservation and sustainable utilisation of biodiversity and the necessity to guarantee an equitable distribution of benefits derived from the utilisation of traditional knowledge.⁸⁹ It can be reasonably assumed that the recognition and respect accorded to the management of natural resources will result in a more favourable outcome for biodiversity, carbon storage, and livelihoods while also ensuring sustainability over the long term.⁹⁰ Furthermore, the dearth of indigenous peoples’ involvement in international conservation standards and guidelines, coupled with the lack of effective implementation of such standards and guidelines, has been identified as a significant challenge. Moreover, the involvement of communities in environmental governance is also acknowledged in the realm of human rights law. This is exemplified by the United Nations Declaration on the Rights of Indigenous Peoples (UND), which also recognises that the respect for the knowledge, culture and practices of indigenous peoples contributes to sustainable development, justice, and the implementation of effective environmental management.⁹¹

87 Bennett et al., “Environmental (in)Justice in the Anthropocene Ocean.”

88 Sebastian C.A. Ferse, *et al.*, “Allies, Not Aliens: Increasing the Role of Local Communities in Marine Protected Area Implementation,” *Environmental Conservation* 37, no. 1 (March 2010): 23–34, <https://doi.org/10.1017/S0376892910000172>.

89 United Nations, “Convention on Biological Diversity” (CBD Secretariat, 1992), CBD Secretariat, <https://www.cbd.int/convention/text>.

90 Marjo Vierros, “Communities and Blue Carbon: The Role of Traditional Management Systems in Providing Benefits for Carbon Storage, Biodiversity Conservation and Livelihoods,” *Climatic Change* 140, no. 1 (January 2017): 89–100, <https://doi.org/10.1007/s10584-013-0920-3>.

91 Jenny Griffiths, “Shaping a Sustainable Future,” *Journal of the Royal Society for the Promotion of Health*

This demonstrates that the domains of marine governance and maritime justice result in a process of legal convergence. The interconnection between climate change governance, marine governance and human rights cannot be disregarded when considering the perspectives of local communities. It is essential to comprehend, acknowledge and incorporate these interrelationships into a unified legal framework.⁹² Nevertheless, the potential for cross-compliance that would integrate the specificities of international biodiversity law and international human rights justice remains to be evaluated in a critical manner.⁹³

At present, the conceptualisation of sustainability in Indonesia is driven by two key factors: investment or economic considerations and international treaty obligations. This implies that these two factors constitute part of the legacy or demands of globalisation. International agreements significantly influence the governance and utilisation of marine resources⁹⁴. Consequently, the governance structure established by international agreements is inherently global in scope. Global governance can be defined as an international mechanism comprising rules, norms, and institutions. Global governance is contingent upon the pivotal role played by international mechanisms and organisations.⁹⁵ Notably, Indonesia has many coastal and local fishing communities, many of which possess extensive traditional knowledge about coastal and marine ecosystems. The knowledge held by coastal communities and local communities is invaluable in identifying potential locations for conservation activities and for determining how these areas can be used productively. Furthermore, it is of paramount importance to gain an understanding of the ecological relationships that exist within and between habitats, as this knowledge is fundamental to effective management.⁹⁶

Despite the encouragement of international law for the involvement of indigenous peoples and traditional knowledge in marine environmental management, even national law, as evidenced by the Law concerning Management of Coastal Areas and Small Islands (PWP3K) and the Law concerning the Protection of Fishermen, requires the involvement of communities in the management and utilisation of resources, including marine natural power. Nonetheless, the opportunity for participation afforded by this legislation is yet to be fully actualised, remaining formalistic in its implementation.⁹⁷ Additionally, small fishermen and coastal communities have

127, no. 5 (September 2007): 209–10, <https://doi.org/10.1177/1466424007081738>.

92 Ashish Kothari, Philip Camill, and Jessica Brown, “Conservation as If People Also Mattered: Policy and Practice of Community-Based Conservation,” *Conservation and Society* 11, no. 1 (2013): 1, <https://doi.org/10.4103/0972-4923.110937>.

93 Elisa Morgera, “The Need for an International Legal Concept of Fair and Equitable Benefit Sharing,” *European Journal of International Law* 27, no. 2 (May 2016): 353–83, <https://doi.org/10.1093/ejil/chw014>.

94 Vierros, “Communities and Blue Carbon.”

95 Yitong Chen and Huirong Liu, “Critical Perspectives on the New Situation of Global Ocean Governance,” *Sustainability* 15, no. 14 (July 12, 2023): 10921, <https://doi.org/10.3390/su151410921>.

96 Vierros, “Communities and Blue Carbon.”

97 Indonesia Ocean Justice Initiative, “Ekosistem Karbon Biru sebagai Critical Natural Capital: Penguatan Blue

not yet benefited from optimal and sustainable education, training, and counselling on coastal areas and small islands (WP3K).⁹⁸ Consequently, the prospective trajectory of ocean justice and avenues for community advancement in coastal areas will be shaped by the meaningful involvement of coastal communities and fishermen in marine and coastal governance, both empirically and normatively.

Conclusion

Coastal areas are attractive environments for human habitation and economic activity. However, this also results in an increasingly large human footprint on coastal ecosystems. It is anticipated that the oceans and coasts will generate new economic opportunities and substantial growth in the marine and maritime sectors in Indonesia. However, the growth of the global population, coupled with urbanisation trends and an increase in demand and competition for resources, transportation and energy, is exerting mounting pressure on coastal zones, their ecosystems and the capacity to produce sustainable resources. Consequently, a variety of sustainability concepts are promoted to gain insight into the notion of sustainability ethics as it is applied in different countries.

With respect to the Indonesian context, the sustainability orientation is based on economic interests and safe limits for humans. Consequently, the concept of sustainability in Indonesia has not yet attained a robust level. However, this concept does not constitute a fixed price for the welfare of coastal communities in Indonesia. Nevertheless, the well-being of coastal communities can be achieved through the institutionalisation of ocean justice at both a normative and an empirical level.

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ANALISIS YURISPRUDENSI PERKARA PERKAWINAN

Fitri Ayu

PERKAWINAN DAN PERUBAHAN STATUS PERKAWINAN

Fitri Ayu

PERUBAHAN STATUS PERKAWINAN DAN PERUBAHAN STATUS PERKAWINAN

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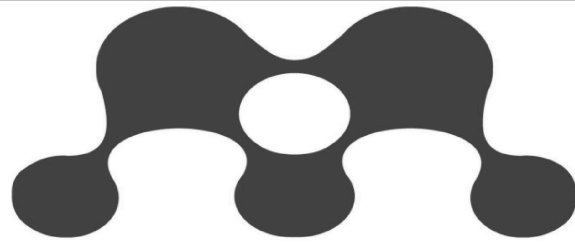
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Vol. 17 No. 3 (2024)

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A Model of State-Owned Asset Management Based on Pancasila Values: Achieving the Highest and Best Use

imam Koeswahyono

465-489

 PDF

Measuring Options for Customary Land Registration From the Perspective of East Nusa Tenggara Findings

Muchammad Chanif Chamdani

490-513

 PDF

Setting the Readiness of Law to Implement Central Bank Digital Currency in Indonesia

Rumi Suwardiyati, Azlin Alisa Ahmad, Reka Dewantara, Dwi Benny Satria, Ranitya Ganindha

514-544

 PDF

Disparity in Jurisprudence on Breaking a Marriage Promise

Jeremia Alexander Wewo

545-565

 PDF

Strong Sustainability and Ocean Justice: Fostering Coastal Community Well-Being in Indonesia

Muhammad Insan Tarigan, Tonny Ferdinanto

566-587

 PDF

The Responsibility of Transboundary Haze Pollution: The Case of Wildfire in Canada

Yordan Gunawan, Dhayu Ajeng Hafhari, Pentanita Uswatun Khasanah, Mohammad Hazyar Arumbintang

588-612

 PDF

Appraisal Team: Responsibility and Principle of Fairness in Determining the Value of the Auction Object Limit

Shohib Muslim, Setiawan Noerdajasakti, Dewi Setyowati, Ahmad Siboy
613-638



Hospital Liability for Negligence of Medical Personnel Found in Hospitals Following the Issuance of the Constitutional Court Decision Number 82/PUU-XIII/2015

Moh. Lu'ay Khoironi, Febrianti Putri Ainun Nazidah
639-666



Legal Aspects of Telemedicine and Prevention of Malpractice Risks

Fatihana Nasution, Aji Lukman Ibrahim
667-693



Paradigm of Recodification of Corruption in Criminal Code Against its Designation as Extraordinary Crime

Muhamad Ghifari Fardhana Bahar, Sedy Pratama Firdaus, Hanny Hilmi Fairuza
694-713



Reviewing Victimological Aspects and the Effectiveness of Legal Protection in Cases of Commercial Sexual Exploitation of Children

Rosa Auliya Rosyada, Muhammad Arief Dwi Ramadhan, Sumali
714-731



Preventing Personal Data Misuse: Legal Protection in Online Loans

Rahayu Hartini, Yashinta Chindy Pramesti, Hasani Moh.Ali
732-755



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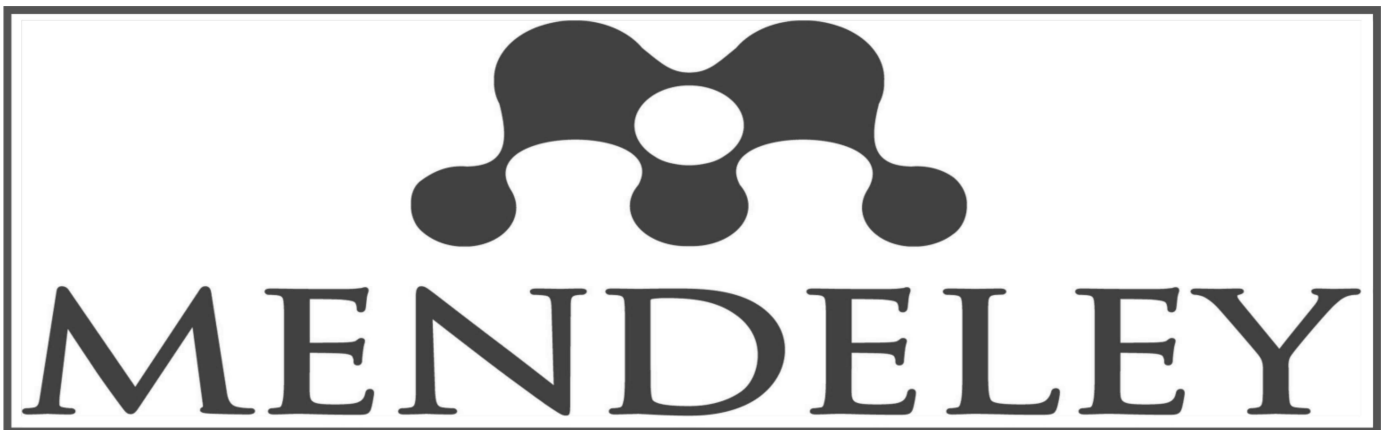
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Legal Certainty of Land Rights Affected By Natural Disasters

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2024 DOI: [10.21776/ub.arenahukum.2024.01701.7](#) Accred : [Sinta 2](#)

Tajdid Ushul Fiqhâ[s Husein Muhammad And Reformulation Of Womenâ[s Jurisprudence

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2024 DOI: [10.21776/ub.arenahukum.2024.01701.1](#) Accred : [Sinta 2](#)

P2P Lending Default Settlement in Indonesia and United States

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2024 DOI: [10.21776/ub.arenahukum2024.01702.5](#) Accred : [Sinta 2](#)

Legal Implications of Consumer Personal Data Misuse by OJK Licensed Fintech Lending Operators

[Arena Hukum](#) [Arena Hukum Vol. 17 No. 1 \(2024\) 43-63](#)

2024 DOI: [10.21776/ub.arenahukum.2024.01701.3](#) Accred : [Sinta 2](#)

The KPK'S Investigation Termination Warrant (SP3) Authority: Endeavours To Prevent Abuse Of Power

Arena Hukum  Arena Hukum Vol. 17 No. 1 (2024) 155-170

 2024  DOI: [10.21776/ub.arenahukum.2024.01701.9](https://doi.org/10.21776/ub.arenahukum.2024.01701.9)  Accred : Sinta 2

Cirebon Regional Government Policy To Protect Child Victims Of Sexual Violence

Arena Hukum  Arena Hukum Vol. 17 No. 1 (2024) 95-111

 2024  DOI: [10.21776/ub.arenahukum.2024.01701.6](https://doi.org/10.21776/ub.arenahukum.2024.01701.6)  Accred : Sinta 2

Application of Procedural Justice vis a vis Substantive Justice in Law Enforcement

Arena Hukum  Arena Hukum Vol. 17 No. 2 (2024) 270-289

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The Sale of Prescription Medicines Through E-Commerce Platform Without Prescription: Between Urgency And Compliance

Arena Hukum  Arena Hukum Vol. 17 No. 1 (2024) 19-42

 2024  DOI: [10.21776/ub.arenahukum.2024.01701.2](https://doi.org/10.21776/ub.arenahukum.2024.01701.2)  Accred : Sinta 2

Liability of Grab Shops to Consumers in Online Buying and Selling

Arena Hukum  Arena Hukum Vol. 17 No. 2 (2024) 330-345

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