

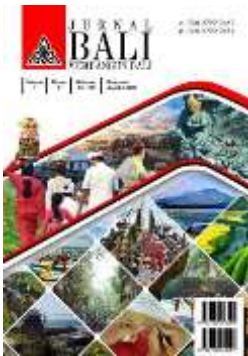


Coastal Area Conservation Based on Responsible Management Principles: an Indonesia-Malaysia Legal Study

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Abstract

Purpose: This study reviews regulations in Indonesia (for example, Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands) as well as policies and regulations in Malaysia that are more integrated into spatial and environmental planning.

Research methods: The study uses a normative, empirical, and comparative juridical approach with data collection methods through literature studies, interviews, and documentation, and is analyzed qualitatively and comparatively to assess the effectiveness of coastal conservation in Indonesia and Malaysia based on the principles of responsible management.

Results and discussion: The finding that Indonesia has fairly comprehensive regulations but less than optimal implementation suggests that legal reform should not always add new regulations, but rather strengthen the effectiveness of existing regulations. Harmonization of cross-sectoral regulations (environment, spatial planning, fisheries) is crucial. Strengthening derivative legal instruments (PP, Perda, technical guidelines) is necessary to ensure that conservation principles are truly implemented.

Implication: Implications for environmental law enforcement, given the differences in law enforcement effectiveness between Indonesia and Malaysia, Indonesia needs to strengthen coordination between institutions (central and regional).

Keywords: Indonesia, coastal areas, management, Malaysia, state responsibility

Abstrak

Tujuan: Studi ini mengkaji peraturan di Indonesia (seperti Undang-Undang Nomor 27 Tahun 2007 tentang Pengelolaan Wilayah Pesisir dan Pulau-Pulau Kecil) serta kebijakan dan peraturan di Malaysia yang lebih terintegrasi dalam perencanaan tata ruang dan lingkungan.

Metode penelitian: Studi ini menggunakan pendekatan yuridis normatif, empiris, dan komparatif dengan metode pengumpulan data melalui studi pustaka, wawancara, dan dokumentasi; data dianalisis secara kualitatif dan komparatif untuk menilai efektivitas konservasi pesisir di Indonesia dan Malaysia berdasarkan prinsip-prinsip pengelolaan yang bertanggung jawab.

Hasil dan pembahasan: Temuan bahwa Indonesia memiliki peraturan yang cukup komprehensif namun implementasinya kurang optimal menunjukkan bahwa reformasi hukum tidak harus selalu menambah peraturan baru, melainkan memperkuat efektivitas peraturan yang sudah ada. Harmonisasi peraturan lintas sektor (lingkungan, tata ruang, perikanan) sangatlah krusial. Penguatan instrumen hukum



turunan (PP, Perda, pedoman teknis) diperlukan untuk memastikan prinsip-prinsip konservasi benar-benar diterapkan.

Implikasi: Terkait implikasi bagi penegakan hukum lingkungan, mengingat adanya perbedaan efektivitas penegakan hukum antara Indonesia dan Malaysia, Indonesia perlu memperkuat koordinasi antarlembaga (pusat dan daerah).

Kata kunci: Indonesia, wilayah pesisir, pengelolaan, Malaysia, tanggung jawab negara

INTRODUCTION

Indonesia legally regulates the management of coastal areas through Law No. 27 of 2007 concerning the Management of Coastal Areas and Small Islands and its amendments through the Job Creation Law (Zamroni & Kafrawi, 2021: 235). Meanwhile, Malaysia is carrying out land reclamation to expand its land area due to its limited territory (Firdaus & Mutmainah, 2020: 739). A study of coastal conservation laws between Indonesia and Malaysia shows the potential for conflict due to Malaysia's coastal reclamation which could reduce Indonesia's territory and damage the marine environment (Nabillah, 2024: 179). Although the two countries have agreed on territorial sea boundaries in the Malaysia Strait.

Differences in coastal and small island management policies and their impacts between Indonesia and Malaysia. Indonesia has extensive coastal areas and focuses on sustainable management for the well-being of its people and the preservation of its ecosystems (Nikijuluw, 2017: 15). Existing regulations govern coastal conservation, but can be changed for reasons of national strategic projects, such as through the Job Creation Act (Suhaimi & Brata, 2022: 163). Law Number 11 of 2020 concerning Job Creation, has not accommodated the protection of coastal community rights (Amir & Watumlawar, 2022: 71). has not accommodated the protection of coastal community rights. Meanwhile, Malaysia has been carrying out extensive coastal reclamation since 1962 to increase its land area due to limited land area and economic considerations (Wicaksono, 2016: 867). The impacts of reclamation on Indonesia include reduced water areas and the potential for overlapping maritime boundary claims.

The principle of responsibility in Provinsi Bali coastal conservation is accommodated through a participatory and partnership approach, in which central and regional governments, communities, and other stakeholders share roles and responsibilities according to their respective authorities (Kurnia, 2015: 77). Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands: Affirming efforts to protect, preserve and utilize coastal areas and small islands for the sustainability of resources and Law Number 32 of 2024: Regulates the funding provisions shared between central and regional governments for conservation activities.

The principle of responsibility in coastal conservation in Malaysia is a shared responsibility of the community and the government through various integrated initiatives and strategies, such as the Marine Conservation Action Plan and the Malaysia Green Plan, which focus on sustainable coastal land management, biodiversity conservation, and coordination among stakeholders to mitigate the impacts of development. The Malaysia government manages coastal land through Integrated Coastal Management (IUCM), which ensures coordination among all stakeholders in coastal land use planning (Sudiarta, Situmeang & Suryani, 2024: 41). Malaysia invests heavily in protecting its coastline from sea-level rise through barrier construction and land reclamation. The Malaysia government uses reserves and bonds to fund conservation projects and establishes conservation policies and guidelines through agencies such as the Urban Redevelopment Authority (URA) (Mochtar, 2025: 73). Initiatives such as the Malaysia Green Plan 2030 demonstrate the Malaysia government's commitment to achieving conservation and sustainable development goals (Utami *et al.*, 2024: 7).

Based on existing agreements and legal cooperation, Indonesia and Malaysia have agreed and signed an agreement to establish territorial sea boundaries in the western and other parts of the Malaysia Strait, affirming legal certainty in the region. However, going forward, more concrete regulations are needed through additional agreements or protocols specifically addressing the issue of sea reclamation to mitigate losses and protect the marine environment.

Based on the background description, it is understandable that the conservation of coastal areas and small islands in Indonesia and Malaysia is faced with the main issue of coastal reclamation by Malaysia, which could result in a reduction in Indonesian territory, and the use of new starting points from reclaimed land could shift maritime boundaries. If left unchecked, reclamation activities could cause damage to the marine ecosystems around the border between the two countries. This requires more detailed regulations because Indonesian law and international legal principles such as UNCLOS 1982 do not yet provide sufficiently detailed guidelines to regulate marine reclamation responsibly (Persada, 2024: 49).

RESEARCH METHODS

Research methods are procedures, steps, or systematic ways used to collect and analyze data to answer research questions and achieve research objectives scientifically (Kusumawati, 2024: 137). This research uses a normative juridical approach (Adnyani *et al.*, 2024: 385). This juridical research focuses on understanding the application of legal norms or legal principles in positive law, specifically regarding "The Principle of Responsibility in the implementation of coastal area and small island management

related to bilateral relations between two countries, namely Indonesia and Malaysia, based on the principle of state responsibility".

The type of legal research used to address this problem is doctrinal research. Doctrinal research is the study of law and legal concepts (Qamar & Rezah, 2020: 27). Based on this type of research, this research provides information and explanations regarding the legal issues discussed through an analysis of laws and regulations related to the topic discussed, namely the perspective of state administrative law on the approval of coastal areas and small islands management in the principle of accountability.

RESULTS AND DISCUSSION

Comparison and Agreement on Coastal Area and Small Island Management in Provinsi Bali with Malaysia

Coastal area conservation in state administrative law is an effort to protect and preserve coastal ecosystems carried out through the regulation of government authority, both central and regional, in planning, implementation and supervision (Basri, 2020: 7). The state's position is authoritative and it is obliged to guarantee the sustainability of the ecosystem and the welfare of coastal communities (Rina, 2022: 93), with reference to national and international law, and upholding the rights of indigenous peoples.

Indonesia's positive legal regulation regarding coastal resource management, the Job Creation Law, regulates the simplification of licensing that could impact investment in coastal areas (Sudiarta, Situmeang & Suryani, 2024: 43); The Environmental Law provides the basis for protecting coastal ecosystems from damage and regulates sanctions for pollution; while the Regional Government Law authorizes local governments to manage coastal areas and small islands, including establishing coastal spatial plans.

Malaysia's coastal management focuses on land reclamation for territorial expansion due to its limited land area, as well as efforts to protect against sea level rise through the construction of embankments and flood-resistant infrastructure (Sudiarta, Situmeang & Suryani, 2024: 47). The country also implements an integrated marine management approach involving public, private and community (3P) partnerships to support sustainable development and holistic marine environmental management.

The management of coastal areas and small islands in Indonesia and Malaysia is based on an agreement through the Territorial Sea Boundary Delimitation Agreement which has been agreed and ratified (Modeong, 2020: 15). However, in practice, the management of the territory is very different, especially since Indonesia has a vast archipelago with abundant natural resources and complex management challenges,

while Malaysia, which has a narrow land area, focuses on expanding its territory through coastal reclamation for economic and business interests.

Indonesia manages coastal areas and small islands in accordance with Law No. 27 of 2007 concerning the Management of Coastal Areas and Small Islands (WP3K) (Wirentangun. 2017: 19), with the goal of conservation and sustainable development through harmonization of central and regional governments, while Malaysia, due to limited territory, focuses on coastal reclamation for land expansion and economic development. The main difference lies in Indonesia's focus on managed natural resource management and institutional synergy, in contrast to Malaysia's priority on physical territorial expansion through reclamation.

Issues and challenges related to reclamation and Malaysia's territorial boundaries, such as coastal reclamation activities by Malaysia, are feared to disrupt the maritime boundary agreement between Indonesia and Malaysia (Nabillah, 2024: 179), because its territorial waters are rapidly expanding into Indonesian waters. This indicates potential conflict or problems in managing maritime boundaries between the two countries, despite an agreement establishing maritime boundaries in the western part of the Malaysia Strait.

Bilateral coordination and agreements: Diplomatic relations between Indonesia and Malaysia require cooperation to address shared challenges. Determining territorial sea boundaries provides legal certainty regarding national sovereignty (Pratomo & Kwik, 2020: 103943), However, practices such as reclamation by Malaysia can create tensions that require a fair legal approach and a commitment to maintaining the stability of bilateral relations.

The coastal management cooperation agreement between Provinsi Bali and Malaysia focuses on establishing and affirming territorial maritime boundaries (Alunaza, Pertiwi & Sudagung, 2018: 133), particularly in the eastern part of the Malaysia Strait, through a legally binding agreement. This agreement will provide legal certainty for national development, strengthen Indonesia's territorial integrity, and address potential maritime boundary shifts resulting from Malaysia's coastal reclamation, which could benefit Malaysia but harm Indonesia in territorial and environmental terms.

Details of the cooperation arrangements, such as (Copelovitch & Putnam, 2014: 493) (1) maritime boundary determination: both countries agree to establish de facto territorial sea boundaries. This agreement establishes the coordinates of maritime boundary points based on international law; (2) peaceful dispute resolution: Indonesia rejects Malaysia's coastal reclamation as the baseline for maritime boundary determination, and dispute resolution is carried out through negotiation and peaceful means; (3) meeting mechanisms: there are regular meetings (for example, RAN meetings) and periodic reviews of steps to resolve maritime boundary issues; and (4)

environmental protection and development: this arrangement also considers economic aspects, water security, and environmental protection, as well as a commitment to maintaining border stability.

Impact of cooperation, (1) Benefits for Indonesia, including (a) legal certainty and development: The maritime boundary agreement provides legal certainty for Indonesia to implement the national development agenda and advance welfare in border areas; and (b) strengthening territorial integrity (Jayawibawa, 2024: 11): The ratification of this agreement simultaneously confirms the territorial integrity of the Unitary State of the Republic of Indonesia as an archipelagic state in accordance with the mandate of the 1945 Constitution. 2) Benefits for Malaysia, such as increasing territorial area: Malaysia's extensive and successful coastal reclamation, as well as the new starting points used, can increase Malaysia's territorial area and sovereignty.

Disadvantages and challenges for Indonesia, such as (1) reduced territorial area: Continuous coastal reclamation can shift the boundaries of Indonesia's maritime territory to the south, thereby reducing Indonesia's waters and territorial sovereignty; and (2) environmental and economic impacts: the negative impacts of reclamation also include environmental and economic aspects due to the use of sea sand from Indonesia in reclamation.

Issuance of the Coastal Area and Small Islands Management Agreement Based on the Principle of State Responsibility Indonesia vs. Malaysia

The issuance of the coastal area and small islands management agreement (WP3K) in Indonesia and Malaysia is based on the principle of different state responsibilities, where Indonesia applies the principle of sovereign responsibility over its territory (Subagiyo, Wijayanti & Zakiah, 2017: 193), Meanwhile, Malaysia, which has limited land and water areas, applies an approach that emphasizes resource management and coastal sustainability, especially in the international context and in cooperation with neighboring countries.

The issuance of Coastal Area and Small Islands Management Permits (WP3K) in Indonesia has authority divided between the Central Government and Regional Governments (Provinces and Regencies/Cities), in accordance with the limits of authority regulated by Law (Suparto & Admiral, 2023: 1011). Based on Law Number 1 of 2014, the Provincial Government is authorized to manage coastal areas and small islands from 0 to 12 nautical miles, while the Regency/City Government is also authorized to issue permits in its territory in accordance with the law, with further provisions regulated in Ministerial Regulations.

The Malaysia government, through agencies such as the Urban Redevelopment Authority (URA) and the National Environment Agency (NEA), is generally responsible for issuing approvals for coastal management, with a primary focus on land use planning and environmental protection.

The legal consequences of issuing Coastal Area and Small Islands Management Permits (WP3K) in Indonesia are measured by compliance with the principles of state responsibility and environmental law while in Malaysia there is not much information available, but there is potential for problems due to conflicts of interest and environmental damage, as well as weak coordination.

No.	State
Indonesia	
1	Compliance with the Principle of State Responsibility The issuance of permits must be in line with the principle that the state is responsible for protecting natural resources and the environment, as well as ensuring the welfare of coastal communities.
2	Environmental Impact If a management permit causes environmental damage, such as the impact of coastal reclamation or sand mining, the state may be legally responsible for repairing the damage.
3	Overlapping Regulations and Coordination The main challenges in managing WP3K are overlapping regulations and weak coordination between government agencies, which can lead to legal conflicts and ineffective law enforcement.
4	Weak Public Participation Lack of public participation in the permit issuance process can lead to legal problems because it ignores the rights of affected local communities.
5	Dominance of Economic Interests Dominant short-term economic interests in issuing permits can override sustainability principles, potentially leading to disputes and lawsuits.
Malaysia	
1	Information Limitation Information on the practices and legal consequences of issuing WP3K management permits in Malaysia is very limited, making it difficult to provide an in-depth analysis.
2	Potential Conflict and Impact In general, the issuance of permits for the management of coastal areas and small islands, both in Indonesia and in Malaysia, can give rise to legal issues related to environmental impacts, conflicts of interest, and compliance with international and national legal standards.

Source: results of a comparison of the legal consequences of issuing coastal management permits in Indonesia and Malaysia.

Alternative coastal management solutions in Indonesia and Malaysia focus on improving inter-agency coordination, emphasizing public participation, and implementing

advanced monitoring technologies, as well as reviewing existing regulations to accommodate the uniqueness and local context of each region.

The issuance of the Coastal and Small Islands Management Agreement in Indonesia and Malaysia requires alternative solutions, given the importance of a robust and coordinated approach to addressing challenges such as climate change, illegal mining, and the need for sustainable development (Techera, 2023: 106579). Furthermore, both countries need to improve efficiency and equity in coastal and small islands resource management through the application of the principle of state responsibility, which obliges states to provide environmental protection and restoration while ensuring community participation.

The future strategy for Indonesia and Malaysia to issue an agreement on the management of coastal areas and small islands based on the principles of sustainable state responsibility and avoiding conflict includes the development of a joint legal and regulatory framework (Adrian, 2024: 527), increasing the capacity for inter-agency and cross-sector coordination, open dialogue and information exchange, and the application of sustainability principles and public participation in every decision-making process.

The conflict over coastal areas and small islands management between Indonesia and Malaysia provides lessons on the importance of recognizing and upholding the principle of state responsibility, the need for robust negotiations and dialogue between countries, and the importance of substantive cooperation in transboundary natural resource management to prevent future disputes. Furthermore, this conflict highlights the importance of maintaining state integrity and sovereignty within the context of international law, as well as the urgency of establishing effective dispute resolution mechanisms and enhancing national capacity in international negotiations.

CONCLUSION

The above discussion leads to the following conclusions: First, a comparison of coastal area management in Indonesia and Malaysia, although not directly compared in the available text, generally indicates that Indonesia has a more focused approach on sustainable natural resource management and community participation, through laws such as Law 27/2007, while Malaysia places greater emphasis on inter-ministerial coordination and integrated regulations to manage the resources and economic potential of its coastal areas and small islands. The similarities lie in the desire to preserve, maintain, and sustainably utilize ecosystems.

Second, a comparison of the application of the principle of state responsibility in the issuance of agreements on the management of coastal areas and small islands (KKP3K) between Indonesia and Malaysia concludes that Indonesia tends to prioritize a

decentralized and public participation approach with overlapping regulatory and coordination challenges, while Malaysia demonstrates a more centralized and strategic approach, with a focus on integrated planning and sustainable development supported by strong regulations. The conflict between Indonesia and Malaysia regarding Malaysia's coastal reclamation and the issue of state responsibility has been resolved through the delimitation of the territorial seas of both countries in the East Strait of Malaysia. The resolution of this conflict is also supported by other agreements regarding the management of coastal areas and small islands, as well as the applicable extradition treaty.

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