

Legalising the Unlawful? A Critical Legal Analysis of Reclamation Without Permit under Indonesia's Maritime and Spatial Planning Law

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Abstract: *The authorisation of Management Rights over reclaimed land without obtaining proper permits, as permitted under Government Regulation Number 18 of 2021 (the Land Registration Regulation), has engendered conflicts with Indonesia's higher statutory laws, specifically Law Number 32 of 2009, Law Number 27 of 2007, and Law Number 17 of 2008. This inconsistency within the regulatory framework undermines the precautionary principle, jeopardises legal certainty, and tacitly condones illegal reclamation activities, thereby contravening the doctrine of ex injuria jus non oritur. This research employs a normative and conceptual legal methodology, analysing the development and coherence of statutory norms through doctrinal interpretation. The purpose of this study is to critically evaluate the legality of granting land rights over unauthorised reclamation under Indonesian law and to examine the regulatory discord arising from conflicting legal norms. The findings suggest that the Land Registration Regulation deviates from the hierarchical structure of legislation, thereby creating legal loopholes that compromise environmental governance and procedural justice. The study concludes that Indonesia must reform its regulatory framework to harmonise environmental, spatial, and land laws, thereby strengthening the rule of law, preventing normative fragmentation, and promoting sustainable coastal management.*

Keywords: *Land Reclamation, Environmental Law, Precautionary Principle, Ex Injuria Jus Non Oritur*

Abstrak: Pemberian Hak Pengelolaan atas tanah hasil reklamasi tanpa izin, sebagaimana dalam ketentuan Peraturan Pemerintah Nomor 18 Tahun 2021 tentang Pendaftaran Tanah, telah menimbulkan pertentangan dengan peraturan perundang-undangan yang lebih tinggi di Indonesia, khususnya Undang-Undang Nomor 32 Tahun 2009, Undang-Undang Nomor 27 Tahun 2007, dan Undang-Undang Nomor 17 Tahun 2008. Ketidakkonsistensian dalam kerangka regulasi tersebut melemahkan prinsip *precautionary*, membahayakan kepastian hukum, dan secara diam-diam membenarkan kegiatan reklamasi ilegal, sehingga bertentangan dengan doktrin *ex injuria jus non oritur*, yaitu bahwa hak tidak dapat timbul dari suatu perbuatan melawan hukum. Penelitian ini menggunakan metode penelitian hukum normatif dan konseptual dengan menganalisis perkembangan serta koherensi norma-norma peraturan perundang-undangan melalui penafsiran doktrinal. Tujuan penelitian ini adalah untuk mengevaluasi secara kritis legalitas pemberian hak atas tanah terhadap reklamasi yang tidak berizin menurut hukum Indonesia serta mengkaji ketidakharmonisan regulasi yang timbul akibat pertentangan norma hukum. Temuan dalam penelitian menunjukkan bahwa Peraturan Pendaftaran Tanah menyimpang dari struktur hierarki peraturan perundang-undangan sehingga menciptakan celah hukum yang melemahkan tata kelola lingkungan hidup dan keadilan prosedural. Penelitian ini menyimpulkan bahwa Indonesia perlu mereformasi kerangka regulasinya guna mengharmonisasikan hukum lingkungan, tata ruang, dan pertanahan sehingga dapat memperkuat negara hukum, mencegah fragmentasi norma, dan mendorong pengelolaan wilayah pesisir yang berkelanjutan.

Kata Kunci: Tanah Reklamasi, Hukum Lingkungan, Prinsip *Precautionary*, *Ex Injuria Jus Non Oritur*

INTRODUCTION

Land reclamation, whether undertaken for public purposes (Ayu et al., 2019) or driven by commercial interests (Husin, 2017), constitutes a method of acquiring new land. Within Indonesia's national development policy, reclamation has often been utilised as a strategic instrument to support the expansion of ports, maritime industrial zones, and coastal economic infrastructure. The issuance of reclamation permits is governed by Law Number 27 of 2007 concerning Coastal Zone and Small Islands Management and Law Number 17 of 2008 concerning Shipping (both regulations are hereafter referred to as the Reclamation Law). The Reclamation Law mandates that a reclamation permit must be obtained before any reclamation work begins. To qualify for such a permit, an entity must first hold an environmental permit. This requirement is reinforced by Law Number 32 of 2009 concerning Environmental Protection and Management (Environmental Law), which states that activities likely to cause significant environmental impacts must be preceded by an Environmental Impact Assessment (EIA) (Nursya, 2023). The aim of these provisions is not only to ensure administrative compliance but also to confirm that reclamation activities follow the principles of precaution, legal accountability, and environmental stewardship (Cahyani & Anditya, 2024). Undertaking reclamation without a permit is considered illegal and is subject to both administrative and criminal sanctions.

However, discrepancies emerge when the provisions of the Environmental Law and the Reclamation Law are compared with those of Government Regulation Number 18 of 2021 on Management Rights, Land Tenure, and Land Registration (hereinafter referred to as the Land Registration Regulation). The Land Registration Regulation permits the issuance of Management Rights or Land Rights over reclaimed land, even without a reclamation permit, provided that technical research and spatial conformity assessments are conducted. This clause creates a legal anomaly that directly conflicts with the principle of due process of law and the hierarchical structure of the legislative system. This inconsistency leads to a legal anomaly, representing a normative contradiction between the requirements mandated by statutory law and the exceptions permitted under a government regulation. The result is legal uncertainty and a weakening of the principles of environmental precaution and compliance within the context of coastal area reclamation.

This provision generates fundamental legal ambiguity. On one hand, the State mandates the acquisition of reclamation permits and imposes sanctions for violations. On the other hand, it simultaneously creates a legal pathway through which Management Rights may be granted over reclaimed land developed without such permits. This contradiction exemplifies a legal antinomy, namely a clash between two legal norms that coexist within the same jurisdiction and timeframe. The problem has attracted some academic attention. Muhammad Bagus Adi Wicaksono and Wiwit Rahmawati (2024) have criticised Indonesia's post-mining reclamation regulation for its weak adherence to the principle of ecological justice, noting the existence of overlapping regulations and the absence of guarantees for environmental restoration post-industry. However, their research remains confined to the mining sector and does not address reclamation in coastal areas or the granting of Management Rights over illegally reclaimed land.

Walter Timo de Vries and Sukmo Pinuji (2025) have examined the impact of reclamation on maritime boundary delimitation and coastal state rights within the context of international law (UNCLOS), including the transnational shift of coastal control. Yet, their analysis does not delve into the internalisation of national environmental norms or the legal conflict within Indonesia's

regulatory framework. Meanwhile, L. Yustitiningtyas et al. (2025) have explored the implementation of environmental justice, legal compliance, and community involvement in post-mining restoration.

However, their study remains general in scope and does not assess the clause enabling the granting of Management Rights without permits, as stipulated in the Land Registration Regulation. Consequently, no scholarly work has yet provided a comprehensive legal analysis of the normative and hierarchical anomalies introduced by the Land Registration Regulation, notably the exceptions allowing for the issuance of Management Rights over reclaimed land without reclamation and environmental permits. Such analysis is crucial to assess the implications for coastal sustainability and national port governance. This research seeks to fill that gap and expand the discourse on reclamation law in Indonesia.

Given this complexity, the current study aims to critically evaluate the legal basis for granting Management Rights over reclaimed land developed without permits, within the broader context of the conflict between the Environmental and Reclamation Law and the Land Registration Regulation. The focus is not only on the formal aspects of regulation but also on the substantive legal principles involved, particularly legal certainty, environmental protection, and spatial accountability in Coastal Areas. This study intends to provide both theoretical and practical insights for future reclamation policy. It is also hoped that the findings will inform judicial review processes concerning vertically conflicting regulations and support the harmonisation of reclamation and coastal management policies in a manner that is fair, sustainable, and legally consistent.

METHODS

This research adopts a normative and conceptual approach, methodologically based on the examination of legal documents as the primary source for analysing the construction of statutory regulations and relevant legal principles. The normative approach is used to evaluate the legal system governing reclamation in Indonesia, with particular focus on the granting of Management Rights over reclaimed land. This analysis emphasises the legal conflict and normative disharmony to assess the coherence and enforceability of provisions enabling such rights in the absence of permits, as stipulated in the Land Registration Regulation. The conceptual approach, meanwhile, is employed to develop a theoretical understanding of environmental law and reclamation governance, particularly in relation to the precautionary principle, the integration principle, ecological sustainability, and legal certainty. This approach also helps construct an analytical framework for examining the legal anomaly that arises from granting land rights without compliance with environmental permitting requirements.

RESULT AND DISCUSSION

The legal foundations governing reclamation in Indonesia are spread across various legislative instruments, such as Law Number 27 of 2007 concerning Coastal Zone and Small Islands Management (the Law 27/2007), which was last amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (the Job Creation Law). Other relevant laws include Law Number 17 of 2008 on Shipping, amended several times most recently by Law Number 66 of 2024 (the Shipping Law); Government Regulation Number 5 of 2010 concerning Navigation (the Gov. Regulation on Navigation); Government Regulation Number 31 of 2021 concerning the Implementation of the Shipping Sector (the Gov. Regulation on Shipping Sector); Presidential Regulation Number 122 of

2012 concerning Reclamation in Coastal Areas and Small Islands (Presidential Regulation 122/2012); Minister of Transportation Regulation Number PM 125 of 2018 concerning Dredging and Reclamation, amended by Minister of Transportation Regulation Number PM 53 of 2021 (the Permenhub on Reclamation); Minister of Marine Affairs and Fisheries Regulation Number 25/PERMEN-KP/2019 of 2019 concerning Permits for Implementation of Reclamation in Coastal Areas and Small Islands (the Permen KP 25/2019); and Minister of Marine Affairs and Fisheries Regulation Number 28 of 2021 concerning the Implementation of Marine Spatial Planning (the Permen KP PKKRL).

The legislation permits reclamation to be carried out as a strategic measure to enhance national maritime competitiveness. However, such reclamation activities must remain firmly within a legal and administrative framework that complies with environmental and spatial planning regulations. Accordingly, the integration between the Environmental Law and the Reclamation Law constitutes a tangible manifestation of the principle of legal integration across sectors, which lies at the heart of sustainable development policy (Arifin et al., 2024).

From a global perspective, reclamation practices ought to adhere to the fundamental principles of international environmental law. Two particularly pertinent principles are the precautionary principle and the integration principle (Hasan, 2024). The precautionary principle holds that scientific uncertainty regarding environmental impacts must not be used as a justification for postponing preventive action, especially in large-scale projects such as land reclamation, which have the potential to cause significant ecological harm (Hansson, 2020). Conversely, the integration principle mandates that environmental considerations must be incorporated at all stages of the development decision-making process, including planning, implementation, and post-reclamation evaluation (Karageorgou, 2023).

Thus, Indonesia's national legal framework has, in normative terms, adopted the principles of international environmental law, explicitly through the provisions of the Environmental Law, and implicitly through administrative restrictions embedded within various sectoral regulations. However, the principal challenge lies in the consistency of implementation and the harmonisation of regulations, which often suffer from disharmony. This issue has become particularly pronounced following the enactment of the Land Registration Regulation, which allows for the legalisation of reclaimed land developed without permits, despite the absence of both reclamation and environmental authorisations.

LEGAL BASIS FOR GRANTING MANAGEMENT RIGHTS ON RECLAIMED LAND

The legal basis for implementing land registration in Indonesia is regulated through Law Number 5 of 1960 (UUPA) (Djabbarudin, 2020). Management rights, as one of the objects of land registration, are never explicitly mentioned in the UUPA, which is the parent of agrarian-related regulations (Supriadi, 2006). This law only refers to the term "management" in section II, point 2 of the UUPA's general explanation. In its development, management rights are subsequently addressed in the Job Creation Law, as stipulated in Articles 136 to 142, which focuses on strengthening management rights (Cahyaningrum, 2022). The regulation of management rights in the Job Creation Law aims to provide legal certainty and enhance the investment ecosystem. Simultaneously, it represents an effort to bolster the regulation of management rights, which were not previously explicitly covered in the UUPA.

Then, in 2021, the definition of management rights began to emerge through the Land Registration Regulation (Maulana et al., 2024) and Regulation of the Minister of Agrarian Affairs

and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 18 of 2021 concerning Procedures for Determining Land Management Rights and Land Rights (the Permen ATR/BPN on Land Rights), namely as the right of control of the state (Maruf et al., 2024), the authority of which is partially delegated to the holder of management rights (Ghoriibah, 2023). The Land Registration Regulation and the Permen ATR/BPN on Land Rights contain provisions that allow reclaimed land to be granted management rights and/or land rights, provided a reclamation licence has been obtained (Putri & Setyadi, 2024).

It further explains that reclamation licences are granted to legal entities or individuals under the following conditions:

- a. For reclamation licence holders, land rights and/or land rights over management rights are granted; and
- b. For the central government or local government that grants the reclamation licence, management rights are granted based on an agreement (Suganda, 2023).

The Land Registration Regulation and the Permen ATR/BPN on Land Rights further explain that reclamation activities carried out without a permit, which is the official authority to grant reclamation permits, must undergo technical and spatial research in accordance with statutory provisions. From the results of the technical and spatial research, the legal ramifications of land reclaimed without a licence are evaluated to determine compliance with the requisite criteria. Should the outcomes of the technical and spatial research regarding the land reclaimed without a licence meet the established criteria, such land shall be classified as state-controlled. Conversely, if the requirements are not satisfied, the land shall be restored to its original condition by the party responsible for reclamation (Devita, 2021). This provision introduces an exception that allows Management Rights to be granted over reclaimed land, even without the necessary permits. The process for granting such rights, based solely on technical and spatial planning assessments, creates legal ambiguity regarding the original status of land reclaimed without approval. This provision conflicts with both the Environmental Law and the Reclamation Law, as it effectively allows for the administrative legalisation of land that, under current statutes, should be considered the result of unlawful conduct. The lack of a clear normative distinction between legal and illegal reclamation during the process of granting Management Rights enables unauthorised developers to maintain legal title to land obtained through regulatory breaches. Such a framework directly contradicts the provisions of the Environmental Law and the Reclamation Law, both of which explicitly require reclamation permits and environmental permits as essential preconditions for any reclamation activity.

PRECAUTIONARY AND INTEGRITY PRINCIPLES

The Precautionary Principle is a fundamental element of contemporary environmental law, asserting that a lack of complete scientific certainty should not be used as a reason to postpone preventive measures against potential environmental harm (Buenavista Ivett, 2025). In land reclamation, this principle supports the requirement that an EIA must be conducted before any activity likely to cause significant ecological effects. Neglecting this principle can lead to severe environmental catastrophes, particularly affecting coastal environments and the livelihoods of local communities (Gullett, 2021).

When government regulations permit the legalisation of reclamation outcomes without the requirement for environmental permits and reclamation licences, the precautionary principle is

significantly undermined. This not only signifies a failure to ensure environmental protection but also breaches the constitutional obligation to defend citizens' rights to a healthy environment. The diminished application of the precautionary principle in such regulations also underscores the state's limited capacity to integrate global legal norms into its national legal system.

Furthermore, the principle of integrity is further eroded by the lack of coherence and integration among regulatory norms. When land administration is permitted to operate independently of environmental permitting processes, a form of procedural disintegration occurs, which undermines the legitimacy of land rights allocation. Consequently, the provisions within the Land Registration Regulation can be viewed as a form of legal fragmentation that ignores the connection between legal regimes, specifically, land, environmental, and maritime law. This lack of integration results in regulations that are substantially conflicting, thereby weakening the legal framework that should be holistic and systematic. The state must not permit regulatory loopholes that undermine the precautionary principle and the integrity of the permitting system.

THE MAXIM *EX INJURIA JUS NON ORITUR*

The maxim *ex injuria jus non oritur* means that no legal rights can emerge from an unlawful act. It upholds the notion that legal entitlements cannot be derived from conduct that contravenes the law (Cohn, 1962). This principle, within the domain of public and administrative law, prohibits the state from granting *ex post facto* legal recognition to acts that were originally unlawful (Christakis & Constantinides, 2018).

When the state grants legal recognition to land reclaimed through unlawful means, it effectively endorses the results of legal violations as a legitimate basis for acquiring rights over land. In administrative law, this constitutes a form of abuse of power (*détournement de pouvoir*), where public authority is exercised for purposes that deviate from those prescribed by law (W. Rahman et al., 2024). Moreover, such actions risk establishing a negative precedent, implying that legal violations may be tolerated if they produce economic value or tangible assets.

Normatively, this type of administrative conduct violates both the principle of legal certainty and the principle of substantive justice. The state not only fails to uphold the law when violations occur but also provides legal security to the outcomes of such violations. This creates a situation where the law ceases to function as a mechanism of power control and instead becomes a tool for legitimising unlawful behaviour.

Therefore, the strict application of the *ex injuria ius non oritur principle* is essential for restoring the moral foundations of administrative law and strengthening the state's credibility in law enforcement. The state must strongly reject any legalisation of the outcomes of unlawful acts, including in land reclamation cases, to ensure justice and legality remain the cornerstones of the national legal system.

LEGAL CONFLICT AND NORMATIVE DISHARMONY

One of the main substantive changes introduced by the Land Registration Regulation is the mechanism for granting Management Rights over reclaimed land. Previously, such rights could only be conferred after completing all administrative procedures, including acquiring reclamation permits and environmental permits, in line with the requirements set out in the Environmental Law and the Reclamation Law. However, the new regulation creates an alternative pathway, permitting Management Rights to be issued even without these permits, provided that technical and spatial

planning assessments support the land's intended use (Devita, 2021). While this mechanism may be seen pragmatically as a way to expedite the legalisation of reclaimed land, encouraging investment and spatial efficiency, it raises significant legal issues. Firstly, exempting entities from needing environmental permits and reclamation permits conflicts directly with mandatory legal norms (*dwingend recht*) outlined in the Environmental Law and the Reclamation Law. Secondly, legally, this provision risks weakening environmental protections and eroding the permit-based legal framework, which is built on principles of precaution and legal responsibility.

Relying solely on technical and spatial planning assessments to grant land rights risks creating legal loopholes and encouraging unauthorised reclamation. These actions could later be legitimised through the issuance of Management Rights. Additionally, this sets a concerning normative precedent, allowing violations of Environmental Law to be retroactively 'corrected' through administrative acts based on lower-level regulations within the legal hierarchy. Within this context, the provision in the Land Registration Regulation that permits the granting of Management Rights over unauthorised reclaimed land contravenes the provisions of both the Environmental Law and the Reclamation Law. These laws explicitly require an environmental permit and a reclamation permit as prerequisites for any lawful reclamation activity within coastal areas.

This phenomenon illustrates the existence of a normative antinomy, a contradiction between two legal norms that operate within the same legal system simultaneously and relate to the same legal object (YIP, 2025). The antinomy is clear in the following two norms:

- a. Norm A (Prohibition): The *Environmental Law* and the *Reclamation Law* prohibit reclamation without permits and specify that an environmental permit is an essential prerequisite for such activities.
- b. Norm B (Permission): The *Land Registration Regulation* establishes a legal pathway through which unauthorised reclamation activities can be granted *Management Rights*, based solely on technical and spatial assessments conducted by the competent authority.

To resolve the antinomy problem outlined above, Robert Alexy makes a notable contribution to understanding normative conflict through his concept of legal norm antinomy. According to Alexy, an antinomy occurs when two legally valid norms, both formally recognised within the same legal system, govern the same legal object but impose contradictory commands or prohibitions, making simultaneous compliance impossible (Alexy, 1991). This type of antinomy differs from conflicts between legal principles. While a conflict of principles can be managed through balancing (*abwägung*), a conflict between norms is logical and absolute, requiring the exclusion of one norm, as applying both simultaneously is not feasible (Petersen, 2020).

Robert Alexy further elaborates on various methods for resolving such normative antinomies.

- a. Logical Exclusion
When two norms are logically incompatible and cannot both be applied, one must be disregarded. This principle also applies in judicial or interpretative contexts, where judges or legal interpreters are required to decide which norm should take precedence, based on considerations of normative rationality and the coherence of the legal system.
- b. Application of the Principle of Practical Discourse
In choosing which norm to set aside, Alexy highlights the importance of juridical argumentation based on principles of justice, rationality, and the realisation of fundamental rights. This reasoning follows the principle of *universalizability* that the norm kept must be applied fairly and consistently to all parties in similar circumstances.
- c. Normative Hierarchy and Derivation

Although Alexy does not endorse the *Stufenbau* theory as formulated by Kelsen, he recognises the importance of normative hierarchy in specific situations. Constitutional norms override ordinary legislation, and so forth, thereby enabling hierarchical principles to influence the resolution of normative conflicts.

Based on the three approaches proposed by Alexy, the validity of the Land Registration Regulation should be reconsidered and possibly set aside. Substantively, this regulation creates an imbalance in justice, particularly impacting business actors who have undertaken land reclamation in accordance with the law and obtained the necessary permits. These compliant entities are required to fulfil various administrative and substantive obligations, including: conducting EIA, engaging in public consultation with local communities, and paying non-tax state revenues (*Penerimaan Negara Bukan Pajak*).

Ironically, businesses that undertake reclamation without proper authorisation are exempt from these obligations. They fail to conduct a series of EIA and also neglect to pay Non-Tax State Revenue. This situation leads to structural injustice, where legal violations not only avoid penal sanctions but are also implicitly legitimised through the Land Registration Regulation, which instead facilitates the legal recognition of outputs resulting from unlawful reclamation. Within the scope of legal ethics, such a situation violates the principle of universalizability that legal norms must be applied consistently and fairly (Foran, 2022). Therefore, to maintain the rule of law and ensure justice, the Land Registration Regulation should not be enforced. Moreover, regarding the normative hierarchy of legislation, the Land Registration Regulation is subordinate to both the Environmental Law and the Reclamation Law. It thus cannot supersede the provisions contained within those higher laws.

Legal conflict between the Land Registration Regulation and the Environmental Law, as well as the Reclamation Law, undermines the principle of legal certainty, which should be embedded within the substantive content of legislative norms. Such a conflict departs from the expectation that legislation should promote coherence, clarity, and normative consistency (Elpah & Manao, 2019). The issue of legal certainty is increasingly recognised as a fundamental necessity, one that can only be achieved through the reformulation and harmonisation of existing legislative instruments. This raises a critical question: which legal framework should be amended? Should it be the Reclamation Law and its implementing regulations, or the Land Registration Regulation? The Reclamation Law and its derivative rules explicitly require reclamation to be carried out with the appropriate permits; any breach of this obligation is subject to criminal sanctions, including imprisonment or fines.

The Environmental Law similarly mandates the necessity of environmental permits and imposes penal consequences for non-compliance. In contrast, the Land Registration Regulation permits the granting of Management Rights over reclaimed land, even where such land was created without the requisite permits for reclamation.

Under Indonesia's positive legal system, which recognises a hierarchy of norms, statutory laws hold a higher position than government regulations. Law Number 12 of 2011 concerning the Formation of Legislation, amended by Law Number 13 of 2022, establishes that government regulations are subordinate to statutes within the legal framework (F. Rahman, 2025). This concept, known as *lex superior derogat legi inferiori*, means that a higher legal norm takes precedence over a lower one if they conflict. Consequently, if a government regulation conflicts with a statute, its provisions are considered invalid and must be revised or annulled through a judicial review process in the Supreme Court (Butt, 2019). Consequently, any government regulation that conflicts with statutory provisions must be aligned with higher legal norms (Maarif, 2024). According to the

hierarchy of legislation, the substantive provisions of the Land Registration Regulation should not conflict with those in the Environmental Law and the Reclamation Law.

Therefore, to guarantee legal certainty across these two conflicting regulatory regimes, a reformulation of the Land Registration Regulation is required. Such reform should expressly stipulate that land resulting from reclamation must be supported by a valid reclamation permit issued by the competent authority and by the applicable legal and regulatory framework. Such a reformulation would enhance legal certainty in the acquisition of Management Rights. As Van Apeldoorn notes, there are three principal functions of legal certainty: to ensure the enforcement of the law, to protect individual rights, and to facilitate the implementation of regulations. One of the essential elements in achieving legal certainty is the harmonisation of legislative instruments (Mahfud & Chin Chin, 2024). By aligning the Environmental Law, the Reclamation Law and the Land Registration Regulation clearly and consistently, the legal framework would better reflect the objectives of Indonesia's agrarian legal system, particularly its commitment to upholding legal certainty as a foundational principle.

CONCLUSION

The analysis reveals that Indonesia's reclamation legal system lacks harmony, particularly between Environmental Law, Reclamation Law, and the Land Registration Regulation. The latter allows granting Land Management Rights over reclaimed land without prior permits if the project meets technical and spatial criteria. This provision creates a legal antinomy, a contradiction between norms within the same system that regulate the same subject in conflicting ways. This conflicts with principles of legality, certainty, and *ex injuria jus non oritur*, which states rights can't arise from unlawful acts. Therefore, legalising land from illegal reclamation by issuing Land Management Rights undermines the precautionary principle and compromises Indonesia's environmental legal system.

Indonesia should implement regulatory reform, particularly of the Land Registration Regulation, to ensure consistency with the legal hierarchy established by Law No. 12 of 2011, alongside Law No. 13 of 2022. Such reform is vital to prevent the creation of legal precedents that endorse violations, and to bolster the enforcement of the precautionary principle, cross-sectoral coordination, and legal certainty in all coastal reclamation activities.

In conclusion, this study highlights the urgent need for regulatory harmonisation in Indonesia's reclamation governance by implementing ecological, legal, and systemic principles, thus ensuring that the goals of sustainable coastal development are not compromised by administrative concessions or normative inconsistencies.

REFERENCES

- Alexy, R. (1991). *Theorie der juristischen Argumentation: Die Theorie des rationalen Diskurses als Theorie der juristischen Begründung*. Suhrkamp.
<https://archive.org/details/theoriederjurist0000alex/page/n5/mode/2up>
- Arifin, R., Masyhar, A., Sumardiana, B., Ramada, D. P., Kamal, U., & Fikri, S. (2024). Indonesian sustainable development policy: How the government ensures the environment for future generations. *IOP Conference Series: Earth and Environmental Science*, 1355(1), 012005.
<https://doi.org/10.1088/1755-1315/1355/1/012005>
- Ayu, I. G., Santi, G., & Turisno, B. E. (2019). Rekonstruksi kebijakan reklamasi pantai yang berkeadilan sosial di Indonesia. *Pandecta: Jurnal Penelitian Ilmu Hukum (Research Law Journal)*, 14(2), 128–139. <https://doi.org/10.15294/pandecta.v14i2.20622>

- Buenavista Ivett, M. (2025). The precautionary principle in environmental law. *Environmental Analysis & Ecology Studies*, 13(1). <https://doi.org/10.31031/EAES.2025.13.000802>
- Butt, S. (2019). Judicial reasoning and review in the Indonesian Supreme Court. *Asian Journal of Law and Society*, 6(1), 67–97. <https://doi.org/10.1017/als.2018.26>
- Cahyaningrum, D. (2022). Hak pengelolaan tanah ulayat masyarakat hukum adat untuk kepentingan investasi. *Jurnal Negara Hukum*, 13(1), 21–39. <https://jdih.dpr.go.id/setjen/view/id/1087>
- Christakis, T., & Constantinides, A. (2018). Territorial disputes in the context of secessionist conflicts. In M. G. Kohen & M. Hebie (Eds.), *Research handbook on territorial disputes in international law* (pp. xx–xx). Edward Elgar Publishing. <https://doi.org/10.4337/9781782546870.00019>
- Cohn, S. L. (1962). Ex injuria jus non oritur: A principle misapplied. *Santa Clara Law Review*, 3(1), 1–11. <http://digitalcommons.law.scu.edu/lawreview/vol3/iss1/3>
- Devita, S. M. (2021). Perkembangan hak pengelolaan atas tanah sebelum dan sesudah Peraturan Pemerintah Nomor 18 Tahun 2021 tentang hak pengelolaan, hak atas tanah, satuan rumah susun, dan pendaftaran tanah. *Rawang Rencang: Jurnal Hukum Lex Generalis*, 2(9), 870–888. <https://doi.org/10.56370/jhlg.v2i9.130>
- de Vries, W. T., & Pinuji, S. (2025). Balancing between land and sea rights—An analysis of the “Pagar Laut” (sea fences) in Tangerang, Indonesia. *Land*, 14(7), 1382. <https://doi.org/10.3390/land14071382>
- Djabbarudin, A. (2020). Cadastral surveyor in land registration system in Indonesia: A current developments. *Journal of Law and Legal Reform*, 1(4). <https://doi.org/10.15294/jllr.v1i4.39889>
- Elpah, D., & Manao, D. F. (2019). Angkanisasi sebagai jaminan kepastian hukum dalam konteks Undang-Undang Administrasi Pemerintah. *Jurnal Hukum Peratun*, 2(1), 1–10. <https://doi.org/10.25216/peratun.212019.1-10>
- Foran, M. (2022). The cornerstone of our law: Equality, consistency and judicial review. *The Cambridge Law Journal*, 81(2), 249–272. <https://doi.org/10.1017/S000819732200023X>
- Ghoriibah, U. (2023). *Pengaturan hak guna usaha atas tanah sebelum dan sesudah UU Cipta Kerja*. Salim Media Indonesia. https://www.google.co.id/books/edition/Pengaturan_Hak_Guna_Usaha_Atas_Tanah_Seb/D0nfEAAAQBAJ
- Gullett, W. (2021). The contribution of the precautionary principle to marine environmental protection: From making waves to smooth sailing? In R. Barnes & R. Long (Eds.), *Frontiers in international environmental law: Oceans and climate challenges: Essays in honour of David Freestone* (pp. 368–406). Brill. https://doi.org/10.1163/9789004372887_015
- Hansson, S. O. (2020). How extreme is the precautionary principle? *NanoEthics*, 14(3), 245–257. <https://doi.org/10.1007/s11569-020-00373-5>
- Hasan, S. (2024). The role of precautionary approach and sustainable development in international environmental law: A comparative analysis. *Journal of Law, Policy and Globalization*, 141. <https://doi.org/10.7176/JLPG/141-13>
- Husin, S. (2017). Reclamation in the view of the protection of marine environment under the environmental law and the law concerning the management of coastal areas and small islands. *Indonesian Journal of International Law*, 14(3), 293–308. <https://doi.org/10.17304/ijil.vol14.3.698>

- Karageorgou, V. (2023). The environmental integration principle in EU law: Normative content and functions also in light of new developments, such as the European Green Deal. *European Papers*, 8(1), 159–189. <https://doi.org/10.15166/2499-8249/645>
- Maarif, I. (2024). Dinamika kedudukan peraturan lembaga dalam hierarki perundang-undangan: Tinjauan yuridis dan perspektif praktis. *Unes Law Review*, 7(1), 336–344. <https://doi.org/10.31933/unesrev.v7i1>
- Mahfud, M. A., & Chin Chin, S. (2024). Incongruence in the definition of land rights in national agrarian law: A path to legal uncertainty. *Law Reform*, 20(1), 22–33. <https://doi.org/10.14710/lr.v20i1.49047>
- Maruf, A., Yakin, M. A., Putri, E. S., Karimah, E. A., & Moechthar, O. (2024). Tracing the continued existence of ulayat land: Granting management rights in the context of protecting the rights of Indigenous peoples. *Notaire*, 7(1), 23–46. <https://doi.org/10.20473/ntr.v7i1.54223>
- Maulana, I., Fadli, M., Herlinda, H., & Nur, A. I. (2024). Justice for Indigenous People: Management Right Term to Third Parties. *Indonesia Law Reform Journal*, 4(1), 59–74. <https://doi.org/10.22219/ilrej.v4i1.33058>
- Putri, B. E., & Setyadji, S. (2024). Prinsip Hukum Hak Guna Bangunan (HGB) pada Tanah Hasil Reklamasi dalam Perspektif UUPA. *IBLAM LAW REVIEW*, 4(3), 34–47. <https://doi.org/10.52249/ilr.v4i3.415>
- Rahman, F. (2025). Safeguarding personal data in the public sector: Unveiling the impact of the new personal data protection act in Indonesia. *UUM Journal of Legal Studies*, 16(1), 1–18. <https://doi.org/10.32890/uumjls2025.16.1.1>
- Rahman, W., Djatmika, P., & Madjid, A. (2024). Discretion of government officials detrimental to state finances: The intersection between administrative illegality and criminal illegality. *Law Reform*, 20(2), 230–249. <https://doi.org/10.14710/lr.v20i2.64129>
- Suganda, Y. S. (2023). Possession rights over reclaimed land: A legal analysis of foreign legal entities ownership status. *Indonesia Walisongo Law Review (Walrev)*, 5(1). <https://doi.org/10.21580/walrev/2023.5.1.14924>
- Supriadi. (2006). *Hukum agraria* (1st ed.). Sinar Grafika. <https://books.google.co.id/books?id=NyqpEAAAQBAJ>
- Yip, K. L. (2025). Reconceptualizing norm conflict in international law. *Asian Journal of International Law*, 15(1), 47–75. <https://doi.org/10.1017/S2044251324000031>
- Yustitiantingtyas, L., Pratiwi, L. Y. E., Irawan, A. D., Stansyah, D., & Arifin, S. (2025). Environmental law policy in Indonesia: Challenges and sustainable justice. *IOP Conference Series: Earth and Environmental Science*, 1473(1), 012046. <https://doi.org/10.1088/1755-1315/1473/1/012046>