

Legal Protection of Indonesia's Fisheries from Foreign Investment: A Social-State Approach

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Abstract

The fisheries sector is at the criticality of Indonesia's maritime sovereignty, economic resilience and coastal communities' livelihood security. Simultaneously, the increase in foreign investments on marine and fisheries activities has aroused big apprehensions over resource depletion, inequality in profit sharing as well as diminishing power of small-scale fishers. This is further complicated by Indonesia's overlapping legal regimes, particularly the Fisheries Law and the Investment Law, as well as international ones such as UNCLOS. This study focuses on the legal protection in Indonesia regarding the fisheries sector affected by foreign investment, to see from normative and scientific perspectives. It also aims to offer directions for how regulatory reform can be shaped through a social-state perspective. The study with semi-structure qualitative descriptive method use Systematic Literature Review (SLR) followed by bibliometric analysis using VOSviewer and PRISMA mapping. Initially, 128 articles published from 2021 to 2025 underwent a screening process by following the Global PRISMA model as per meta-analysis standards; finally, 20 articles met the final inclusion criteria. Results indicate that ongoing discourses are still mostly governed by technocratic and punitive law-making processes. Thus, little attention is paid to the legal re-establishment in accordance with principles of distributive justice, ecological sustainability and effective involvement of the community. Regulatory gaps arise from unclear legal protection for small-scale fishers, and poor integration of the fisheries policy within the broader across marine governance framework. These gaps have resulted in fragmented protection and unequal benefit sharing from fish resources of Indonesia. This research advocates for a state-based regulatory model which empowers the state to act more strongly as both protector and distributor of maritime goods. This framework should be centered on issues of ecological justice, rigorous control over foreign investment, and an increased role for coastal communities in governance of fisheries. The research effort aids the creation of equitable, participatory, and sustainable legal policies for marine and fisheries in Indonesia.

Keywords: *Fisheries Industry; Foreign Investment; Legal Protection; Regulatory Reform.*

1. INTRODUCTION

Indonesia is widely known as the world's largest archipelagic state, with a maritime territory of about 5.8 million square kilometers and a coastline extending approximately 81,000 kilometers. This place Indonesia among the

countries with the longest and most productive coastline in the world.¹ Located between the Indian and Pacific Oceans, Indonesia holds a highly strategic position in global trade, maritime defense, and marine resource management.² The country's sustainable marine fisheries potential is estimated to reach 12.54 million tons per year, covering both national waters and the Exclusive Economic Zone (EEZ).³ Indonesia is also home to remarkable maritime biodiversity, including around 8,500 fish species, 555 seaweed species, and 950 types of coral reef biota. These natural resources show how enormous value of the fisheries sector, not only for economic growth but also for strengthening and food security.⁴

With its strategic geographical position on major international shipping lanes such as the Malacca and Sunda Straits, Indonesia is key to global maritime trade.⁵ The sea has become not only a natural resource, but also a national treasure and has many strategic functions. It feeds several mouths, it carries infrastructures, it is the core of the mineral and energy assets and it is security buffer. International markets also have larger demand for high-value fisheries commodities including tuna, shrimp, lobster, and seaweed. Given this vast potential, the fisheries sector could easily play a strategic role by taking part in Indonesia's desire to be a sovereign and prosperous maritime nation. This, in fact, necessitates a legal structure which is necessarily sound, just, and robustly directed towards the national interests.

While foreign investment is not new to the fisheries sector, many have viewed as a tool for productivity gains and technological modernization.⁶ But it also questions who own's Indonesia's natural resources. Foreign corporate behaviors, in some cases, were observed to facilitate exploitative practices with an insufficient regard for sustainability while also negatively impacting local fishers dependent on healthy marine ecosystems. Unequal access to capital, technology, and markets has created imbalance between foreign investors and coastal communities. This situation can weaken local economic independence and threaten social justice in fisheries-based communities.

The rapid growth of foreign investment in Indonesia's fisheries sector, especially in capture fisheries, aquaculture, and fish processing, has not been fully supported by strong and coherent regulations. Law No. 25 of 2007 tends to emphasize investment facilitation, while Law No. 31 of 2004 focuses more on fisheries resource management. As a result, there remains a normative gap in how foreign capital is regulated and how small-scale fishers are protected. Existing regulations are still fragmented and have not sufficiently directed toward safeguarding natural resources and the wider public interests.⁷ The

¹ B. R. Condro and U. Siahaan, "Environmentally Friendly Fish Processing Center in Muara Angke, Jakarta," *IOP Conference Series: Earth and Environmental Science* 878, no. 1 (October 2021): 012041, <https://doi.org/10.1088/1755-1315/878/1/012041>.

² Estradivari et al., "Marine Conservation beyond MPAs: Towards the Recognition of Other Effective Area-Based Conservation Measures (OECMs) in Indonesia," *Marine Policy* 137 (March 2022): 104939, <https://doi.org/10.1016/J.MARPOL.2021.104939>.

³ "Direktorat Jenderal Pengelolaan Kelautan Dan Ruang Laut | KKP | Kementerian Kelautan Dan Perikanan," n.d.

⁴ Mohammad Basyuni et al., "Current Biodiversity Status, Distribution, and Prospects of Seaweed in Indonesia: A Systematic Review," *Heliyon* 10, no. 10 (May 2024): e31073, <https://doi.org/10.1016/J.HELIYON.2024.E31073>.

⁵ Muhammad Ashri et al., "Ideal Concept of Implementing the PSSA in Protection on the Marine Environment," *IOP Conference Series: Earth and Environmental Science* 860, no. 1 (October 2021): 012090, <https://doi.org/10.1088/1755-1315/860/1/012090>.

⁶ Nikolaos Giannopoulos, "International Protection of Foreign Investments in Offshore Energy Production and Marine Environmental Protection: Birds of a Feather or Frenemies Forever?," *Netherlands International Law Review* 68, no. 2 (September 2021): 249–80, <https://doi.org/10.1007/S40802-021-00192-9>.

⁷ Ireina Rahayanti Nural, "Dynamics Of Investment Regulation: A Legal Review Of Law No. 25 Of 2007 On Investment In Indonesia In Overcoming The "Investment Ghost," *Jurnal Syntax Transformation* 4 (2023), <https://doi.org/10.46799/jst.v4i9.820>.

absence of effective coordination among sectors has also created regulatory overlaps, weak supervision, and legal loopholes that foreign actors may use to maximize profit, often at the expense of environmental sustainability and social welfare.⁸

At the same time, national law has not yet fully reflected the constitutional mandate on natural resource management. Article 33 paragraph (3) of the 1945 Constitution states that the earth, water, and natural resources contained within them are controlled by the state and must be used for the greatest prosperity of the people. In practice, however, the implementation of this principle is often constrained by legal approaches that place investment interests above sovereignty and public welfare. When law is threatened mainly as an instrument to support market expansion, the state's responsibility to protect natural resources and ensure collective welfare becomes weakened. As a result, the interests of local communities, particularly small-scale fishers, risk being pushed aside.

There is continued large-scale regulatory fragmentation in marine and fisheries governance. More importantly, they still lack clear mechanisms to effectively provide equitable access and protection of smaller fishers as foreign investment increases. For instance, Law No. 25 of 2007 stresses non-discriminatory treatment and investment facilitation. Another is Law No. 31 of 2004, with a rather famous fisheries resource management law that does not explicitly limit foreign ownership nor ring-fence the rights of local fishing communities. Consequently, small-scale fishers continue to be vulnerable to a lack of equal competition and accessibility in marine resources. In this sense, it highlights social justice, the responsibility of the state and the equitable distribution of resources.⁹ It calls for the state to proactively intervene for the benefit of vulnerable populations,¹⁰ And through natural resource governance to ensure that the interests of wider society are prioritized over those of investors. The law cannot be neutral where the dominance of foreign capital creates structural inequality. Rather, it must be a buffer to coastal communities who are still marginalized in the fisheries commodity chain.

Indonesia learns of regulatory differences across sectors and between central and regional authorities in the fisheries sector. Maritime governance is also heavily decentralized, with sometimes non-existing policies and poor coordination across local governments increasing the likelihood of legal disputes and abuse of power. Sometimes regional governments have granted operational permits to foreign companies with little comment and few environmental or social impact assessments.¹¹ The nexus of these factors straining state administrative law underscores the challenges facing stakeholders pursuing effective, fair, and accountable oversight.

With the absence of a robust, welfare-oriented legal framework, Indonesia's fisheries sector is becoming more susceptible to abuse.¹² That is why we need sweeping legal

⁸ Hariyanto et al., "Eco-Governance Fiqh and Urban Waste Management: A Critical Study of Environmental Policy in Yogyakarta," *Journal of Islamic Law* 7, no. 1 (2026): 247–74, <https://doi.org/10.24260/JIL.V7I1.5167>.

⁹ M. Sniegocka-Dworak, A. Wilczyńska, and H. Śniegocki, "Changes in International Legal Regulations Concerning the Protection of the Marine Environment," *TransNav* 15, no. 4 (December 2021): 893–97, <https://doi.org/10.12716/1001.15.04.23>.

¹⁰ Ahmad Muhasim et al., "Revisiting Indonesia's Zakat Law: Legal Analysis of Marine Product Zakat and Reform Proposals," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 8, no. 2 (September 1, 2025): 309–28, <https://doi.org/10.24090/VOLKSGEIST.V8I2.14169>.

¹¹ Hariyanto, Idamatussilmi, and Daud Risma, "The Government's Role in Legal Protection of Land Ownership: Urutsewu Case," *Legality: Jurnal Ilmiah Hukum* 32, no. 2 (August 6, 2024): 277–91, <https://doi.org/10.22219/LJIH.V32I2.34254>.

¹² B. M. Rehatta et al., "Growth, Mortality, Recruitment Pattern, and Exploitation Rate of Shared Stock Flying Fish (Exocoetidae) at Border Area of Indonesia and Timor Leste in Ombai Strait," *IOP Conference Series: Earth and Environmental Science* 744, no. 1 (April 2021): 012062, <https://doi.org/10.1088/1755-1315/744/1/012062>.

reform as soon as possible. This reform should integrate sovereignty, sustainability and social justice within a unified regulation.¹³ The management of marine resources and foreign investment in the fisheries sector should be underpinned by a welfare-oriented legal model. The state has to retake its position as the main guardian of public interests with legal forms not only normatively, but also practically, equitably and justice-oriented.

Against the backdrop of this regulatory complexity, there is a clear need for systematic legal investigation into foreign direct investment in Indonesia's fisheries sector. In short, this inquiry should not only identify who is legally weak and which regulations are absent but rather ask how much fairer reform can be pursued and where? The systematic review of the literature described above provides a reasonably solid basis for designing national legal reform agendas to respond to globalization and the external pressures associated with increasing foreign capital inflows. This approach is also in line with Indonesia's long-term vision of becoming a sovereign, sustainable and just maritime nation.

The welfare state in public law has therefore been conceptualized as one which positions the state as its center in a subsidiary role to play a key role as the guardian of social justice.¹⁴ It is the role of managing and controlling resources for maximum gain and good of the citizen.¹⁵ Specifically, the welfare state has a strong normative justification for the state not just to be a regulator of natural human beings but also as (the guardian and custodian of) society's collective control over any natural wealth in its territory which is legally under state control.¹⁶ This principle adheres to Article 33(3) of the 1945 Constitution which stipulates that the earth, water and natural resources therein shall be controlled by the state and used for the greatest prosperity of people. Accordingly, the state is obliged to embrace law as an instrument of positive action, for at least not only protection of sovereignty but equity and ecological balance in regulating foreign investment in fisheries.¹⁷

Indonesia's main legislation governing its fisheries sector and foreign investment is, largely speaking, scattered in the form of some major laws which are not yet fully integrated. Law No. 31 of 2004 concerning fisheries, which has been amended by Law No. 45 of 2009, concerns the management of fish resources, conservation, and protection of the rights of fishers in Indonesia. Investment Law No. 25 of 2007 provides open access to foreign investors on national treatment basis and allows foreign ownership in the maritime sector. On the global stage, the 1982 UNCLOS serves as Indonesia's legal foundation for their sovereign rights over Exclusive Economic Zone. Nevertheless, these principles have not made into national practice in full. Full harmonization across sectors undermines the power of states to regulate foreign investor operations and open communities up to a wide range of exploitative practices that are known to harm services provided by marine ecosystems.

¹³ Daud Rismana and Hariyanto, "Legal System Theory Perspective in Vaccination Policy in the Middle of The Covid-19 Pandemic [Perspektif Teori Sistem Hukum Dalam Kebijakan Vaksinasi Di Tengah Pandemi Covid-19]," *Jurnal IUS Kajian Hukum Dan Keadilan* 9, no. 3 (December 1, 2021): 591–606, <https://doi.org/10.29303/ius.v9i3.951>.

¹⁴ Hananta Aldhanny Wibisono, Reza Octavia Kusumaningtyas, and Helmi Ayuradi Miharja, "E-Government and Artificial Intelligence in Electronic Administration: A Normative Legal Analysis of Modern Government Digitalization," *Journal of Law and Digital Civilization* 1, no. 1 (2026): 1–17, <https://doi.org/10.66277/jldc.v1i1.20>.

¹⁵ Virginia Mantouvalou, "Structural Injustice and Workers' Rights," *Structural Injustice and Workers' Rights*, January 2023, 1–188, <https://doi.org/10.1093/OSO/9780192857156.001.0001>.

¹⁶ Khudzaifah Dimiyati et al., "Indonesia as a Legal Welfare State: A Prophetic-Transcendental Basis," *Heliyon* 7, no. 8 (August 2021): e07865, <https://doi.org/10.1016/j.heliyon.2021.e07865>.

¹⁷ Nita Triana, Ade Tuti Turistiati, and Lincoln James Faikar Monk, "Alternative Dispute Resolution in Marine Pollution: Advancing Ecological Justice through the Polluter Pays Principle," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, June 2024, 89–107, <https://doi.org/10.24090/volksgeist.v7i1.10047>.

Past studies explored the different viewpoints of maritime law and fisheries governance. For instance, Butt (2022) studies the different ways that political interests dominate international legal norms governing maritime disputes. For example, weaknesses in ecological protection and altogether lack of coordination of marine spatial governance—have been indicated by Martin (2023).¹⁸ Tseng (2021) analyzed the role of maritime law enforcement in dealing with cross-border fisheries, while Zheng (2022) explored how environmental regulation influences FDI to distinguish marine economic efficiency.

Nonetheless, the existing scholarship typically remains international legal mechanisms-centered, environmental governance-focused and prioritizes technical or efficiency-based approaches.¹⁹ The normative dimension of domestic legal protection—the effect of foreign investment on small-scale fishers and fisheries law/investment regulatory linkages, has received less attention. Consequently, the relationship between regulatory fragmentation and distributive justice in the fisheries sector has been relative understudied.

This study aims to study the legal protection of the fisheries industry in Indonesia related to foreign investment using a systematic literature review. It identifies the deficiencies in regulation and potential directions for legal reform.²⁰ This study is informed by the research question: *How can Indonesia's legal system provide a more equitable safety-net for its fisheries sector in the context of rising foreign investment?*

This article employs a qualitative descriptive approach, using the method of the Systematic Literature Review (SLR) detailed by Harris (2019), to analyze the structural instability of legal protection for Indonesia's aquatic resources from foreign investment. The welfare-state framework offers the most effective lens for evaluating current regulations and generating perspective reform recommendations.²¹

The literature search was carried out systematically using three major academic databases: Scopus, Crossref, and Google Scholar. The search covered publications from 2021 to 2025²² In order to capture recent developments in maritime governance, foreign investment, and sustainability-oriented regulatory debates. The search strategy used predefined keywords, including “marine legal protection”, “fisheries law”, “foreign direct investment”, “maritime law”, “environmental justice marine”, and “Indonesia fisheries.” These keywords were combined using Boolean operators such as AND and OR to obtain broad, relevant, and focused search results.

The article selection process followed the PRISMA 2020 protocol,²³ which consists of four main stages: identification, screening, eligibility, and inclusion. In the identification stage, 1,024 records were found across Scopus, Crossref, and Google Scholar. After 312

¹⁸ K J ; ; Zulfiqar et al., “Maritime Dispute Settlement Law towards Sustainable Fishery Governance: The Politics over Marine Spaces vs. Audacity of Applicable International Law,” *Fishes 2022*, Vol. 7, Page 81 7, no. 2 (April 2022): 81, <https://doi.org/10.3390/FISHES7020081>.

¹⁹ A.S. Martin, “Spaceports on Coastal Areas and Spaceflights: Legal Considerations on the Protection of Marine Environment,” *Maritime Safety and Security Law Journal* 13 (2023).

²⁰ Hui Zheng, Li Zhang, and Xin Zhao, “How Does Environmental Regulation Moderate the Relationship between Foreign Direct Investment and Marine Green Economy Efficiency: An Empirical Evidence from China's Coastal Areas,” *Ocean & Coastal Management* 219 (March 2022): 106077, <https://doi.org/10.1016/J.OCECOAMAN.2022.106077>.

²¹ Emily Weyant, “Research Design: Qualitative, Quantitative, and Mixed Methods Approaches, 5th Edition,” *Journal of Electronic Resources in Medical Libraries* 19, no. 1–2 (April 2022): 54–55, <https://doi.org/10.1080/15424065.2022.2046231>.

²² Weyant.

²³ M.B Miles, M. Huberman, and J. Saldana, *Qualitative Data Analysis-A Methods Sourcebook*, 4th ed. (Sage Publications, 2020).

duplicate records were removed, 712 articles remained for title and abstract screening. From these, 128 articles were selected for full-text eligibility assessment. After detailed review based on the established inclusion and exclusion criteria, 20 articles were ultimately selected for final analysis. The complete selection process is shown in the PRISMA flow diagram in Figure 1.

To ensure the reliability and validity of the review process, article selection and coding were carried out independently by two researchers. Any differences in assessment were resolved through discussion and consensus. This process helped minimize subjective bias and improve the consistency of the findings.

The inclusion and exclusion criteria used in this study are presented in Table X.²⁴ Articles were included if they met the following criteria: (1) they were peer-reviewed journal publications, (2) they discussed maritime law, fisheries governance, or foreign investment, and (3) they were relevant to Indonesia or comparable contexts. Articles were excluded if they (1) focused only on technical or biological aspects without legal analysis, (2) were non-scholarly publications, or (3) did not provide accessible full texts.

Data analysis followed the interactive model proposed by Miles, Huberman, and Saldaña, which consists of data condensation, data display, and conclusion drawing. To support and deepen the analysis, bibliometric mapping was also conducted using VOSviewer to identify patterns of keyword co-occurrence and thematic clusters within the literature.²⁵ Validity was strengthened through source triangulation by comparing findings across different publications, types of data, and analytical perspectives. Although the screening process was conducted by the research team, the use of systematic inclusion criteria and iterative review procedures helped ensure consistency and reliability in article selection. All sources were cited according to standards to maintain research integrity.

2. ANALYSIS AND DISCUSSION

2.1. Literature Selection Results and General Mapping

This study was conducted systematically according to the PRISMA protocol for identification and selection of literature. We did so in a way that the review process would remain transparent, accountable, and replicable.²⁶ The process started with a digital search based on predefined keywords followed by title and abstract screenings. These articles underwent full text reading for eligibility qualification. The final analysis consisted only of publications that met the inclusion and exclusion criteria. Besides the selection method itself, this paper went through general mapping of selected articles as well. This mapping was then used to make precise topical trends, geographical concentration of authorship, years of publication and theoretical perspectives dominating the literature. The findings were then used for thematic categorization and further synthesis.

²⁴ U. Flick, *Revitalising Triangulation for Designing Multi-Perspective Qualitative Research* (Sage Publications, 2022), <https://doi.org/10.4135/9781529770278.n40>.

²⁵ Ghifari Yuristiadhi M. Makhasi et al., "Discovering Halal Tourism's Footprints: A Bibliometric Perspective on Business Research Using Scopus Data (1997–2023)," *Malaysian Journal of Syariah and Law* 13, no. 3 (December 31, 2025): 797–818, <https://doi.org/10.33102/mjssl.vol13no3.681>.

²⁶ Debajyoti Pati and Lesa N. Lorusso, "How to Write a Systematic Review of the Literature," *Health Environments Research and Design Journal* 11, no. 1 (January 2018): 15–30, <https://doi.org/10.1177/1937586717747384>; PAGE-GROUP:STRING:PUBLICATION.

Table 1. PRISMA Tabulation in Literature Selection

Selection Stage	Description
Identification	Identification was based on screening literature from Scopus, Crossref and Google Scholar using the predefined keywords for the 2021–2025 period.
Screening	Duplicate entries were extracted manually from the databases. This excluded articles that were not specifically about maritime law, fisheries or foreign investment. The titles and abstracts were then screened to check for relevance.
Eligibility	Each article was examined for thematic relevance, its interpolation with the Indonesian context or comparable regional context, and the essential orienting scientific approach that underpinned legal analysis and the welfare-state framework.
Included	Only articles that were deemed relevant in terms of (1) the choice of the subtitle, (2) scientific quality standards, and (3) significant emphasis on maritime law and resource protection from foreign direct investment.

Source: Researcher's Observation (2025)

The initial search was conducted using three major databases: Scopus, Crossref, and Google Scholar. The search strategy combined several predetermined keywords, including *marine legal protection*, *marine resources regulation*, *maritime law*, *foreign direct investment law*, *Indonesian maritime law*, *environmental justice marine*, and *Indonesia fisheries*. The search was limited to publications from 2021 to 2025. After the identification stage, the screening process was carried out by removing duplicate records and excluding publications that were not relevant to the focus of the review. The titles and abstracts of each article were then assessed to determine their topical relevance, legal approach, and connection to the Indonesian context.

Then came eligibility test. Screened articles were read in full at this point to confirm that these substantive discussions fell within the scope of interest driven by the main theme for study—the balance of legal protection for the fisheries industry, foreign investment drivers and welfare-state models. The eligibility criteria were peer-reviewed (academic) articles, which included at least one from public law or maritime law and either theoretical or practical-oriented contributions to debates over sovereignty and access to marine resources. This filtering excluded articles that were excessively technical, purely bio-scientific publications, or those that were only descriptive accounts from a legal perspective.

Using the above selection process, a corpus of relevant articles was acquired and subsequently analyzed through bibliometric mapping methods. Visualization was conducted with VOSviewer to identify dominant thematic clusters, including the relationship between maritime law and foreign investment, the role of the state in natural resource management, and the representation of ecological justice within the legal framework of fisheries governance. The authorship mapping also showed geographical trends, but the majority of studies were still from Indonesia and other Southeast Asian countries. Meanwhile, the welfare-state perspective continued to occupy only a

marginal position in legal discussions about maritime workers. These results underpin subsequent thematic categorization and synthesis.

2.2 Thematic Categories and Regulatory Gaps

To keep going through the chosen studies, the analysis was completed by identifying each main thematic categories that arose from selecting or mapping literature. These categories were derived from common themes, theoretical perspectives and prevailing legal issues across the literature. This classification was done inductively, taking into account both the national and international legal contexts as well as the link between legal protection, foreign investment, and fisheries resources management. This process uncovered a number of key regulatory gaps. Weak legal integration, lack of a welfare perspective and interests not balanced among the state, investors and coastal communities. The following discussion introduces these thematic categories, placing a critical lens on regulatory loopholes identified in the literature.

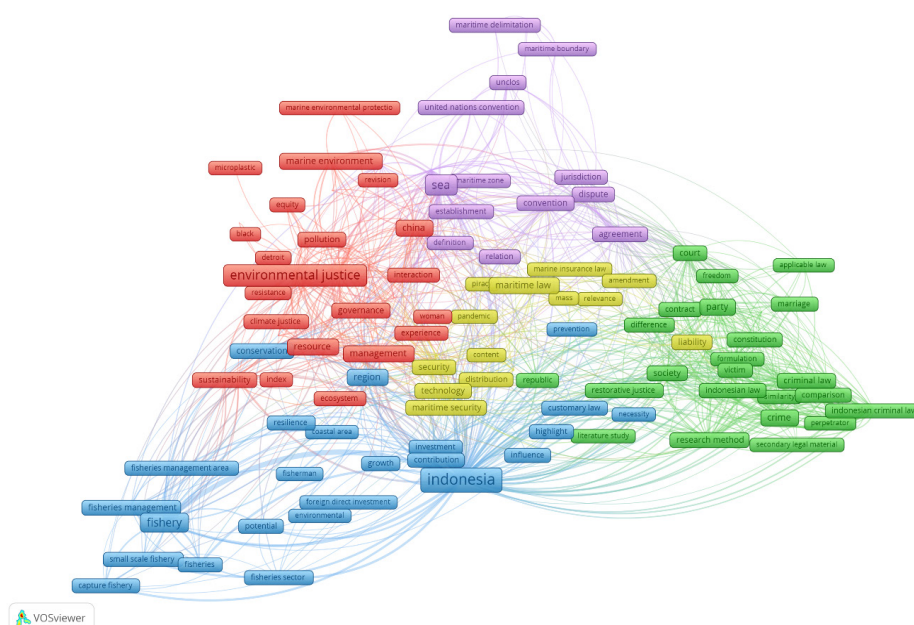


Figure 1. PRISMA Flow Diagram of Article Selection Process (Source: VOSviewer, 2025)

The keyword co-occurrence network visualization produced using VOSviewer shows five dominant thematic clusters in the scholarly discussion on maritime legal protection, foreign investment, and marine resource management. The blue cluster highlights the terms such as “Indonesia”, “fishery”, “fisheries management”, and “foreign direct investment”, indicating that much of the literature focuses on local contexts and governance practices in developing maritime countries. Meanwhile, the red cluster emphasizes issues such as “environmental justice”, “marine environment”, “pollution”, and “climate justice”, showing that concerns about environmental justice dimensions have become increasingly important in academic discussions on exploitation of marine resources.

The purple cluster has an international legal angle with terms like “UNCLOS”, “maritime boundary”, and “jurisdiction”. This indicates a healthy literature devoted to the problem of maritime delimitation and jurisdictional disputes. The green cluster relates to the area of criminal law and legal responsibility and classifications such as “criminal

law”, “liability”, and “constitution”, showing that traditionalistic ‘legally oriented’ perspectives still hold a strong place in operations. Compared to the pink cluster, the yellow cluster commits only partially to technical and institutional issues, characterized by words like “technology”, “maritime security”, and “distribution”. The studies in this cluster focus around technocratic issues, rather than deeper fundamental structural legal problems. In general, the visualization indicates that even if environmental protection and maritime governance are widely addressed in literature relative perspectives based on social justice, welfare-state principles and public-law-integration are not as strongly represented by current academic debates.

Table 2. Thematic Clustering of Previous Research

Cluster Color	Main Theme	Dominant Keywords
Blue	Governance of Fisheries in Indonesia	Indonesia, fishery, fisheries management, foreign direct investment, fisherman, small-scale fishery
Red	Environmental Justice	environmental justice, marine environment, governance, pollution, climate justice, resource
Purple	International Maritime Law	UNCLOS, maritime boundary, maritime delimitation, convention, jurisdiction, dispute
Green	Criminal Law & Legal Accountability	criminal law, liability, constitution, victim, applicable law, society
Yellow	Technology & Maritime Security	technology, maritime security, marine insurance law, distribution, republic

Source: VOSviewer, 2025

Table 2 summarizes five topical clusters stemming from the keyword network analysis. The blue cluster addresses fisheries governance in Indonesia, specifically dealing with foreign investment into fisheries and the situation of local (small scale) fishing communities. The red cluster translates larger discourses that have been held on environmental justice, marine pollution, climate justice and resource governance. In particular, the purple cluster points to a large number of mentions of international maritime law, evidenced by references to UNCLOS, maritime boundaries, jurisdiction and dispute settlement. Conversely, the studies from the green cluster deal with maritime issues through criminal law, legal liability, constitutional principles, and victim protection, the yellow cluster spans more technocratic issues like security at sea, technology, marine insurance law, and resource allocation. Nevertheless, from can be observed in this cluster, it seems to devote less amount of importance to public law perspectives and welfare-oriented issues.

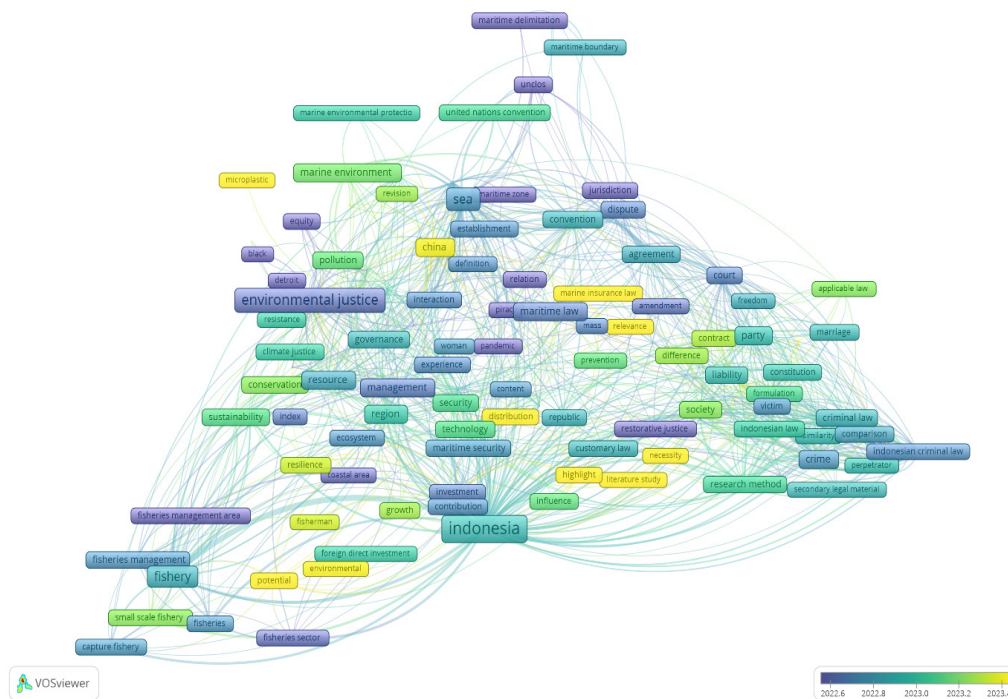


Figure 2. Overlay Analysis (Source: VosViewer, 2025)

As evidenced by the overlay visualization from bibliometric mapping, academic discourse on legal protection of the marine environment and foreign investment has noticeable changed over time. In this visualization, dark blue themes were more abundant in earlier publications (more or so for the years 2021–2022), while yellow keywords have become more evident in newly published studies when comparing between 2023 amd 2024. The findings reveal that topics like *environmental justice*, *UNCLOS*, *criminal law*, and *fishery* were explored at earlier stages of the literature, and these issues are still among the important ongoing discussion. All of these themes eco chronic issues regarding keywords like *distribution*, *foreign direct investment*, *potential*, and *marine insurance law* have appeared more recently. They seem to signal a change from scholarly focus towards how marine resources are distributed, and the finance behind maritime resource allocation and the political economy of wealth about its investment.

Table 3. Temporal Trends of Keywords

Emergence Category	Dominant Keywords
2021–2022 (Initial Phase)	environmental justice, fishery, UNCLOS, criminal law, governance, pollution
2022–2023 (Middle Phase)	marine environment, fisheries management, society, maritime law, jurisdiction
2023–2024 (Latest Phase)	foreign direct investment, potential, marine insurance law, distribution, resilience

Source: VosViewer, 2025

Density Level	Dominant Keywords
High (Yellow)	Indonesia, environmental justice, sea, fishery
Medium (Green)	governance, region, maritime law, pollution, technology, management
Low (Blue)	foreign direct investment, distribution, maritime security, insurance, equity

Source: VosViewer, 2025

As the table displays, academic literature in the last five years have been well concentrated on wide maritime matters mostly about Indonesia, environmental justice, marine ecosystems and fisheries sector. This means previous studies have mostly focused on macro-level issues, like what kind of maritime nation Indonesia is, ecological inequality, and fisheries management in general.²⁷ But, they tend to stop short in terms of looking at institutional, regulatory and structural legal frameworks that govern maritime governance.

On the other hand, themes closer to the social-state approach and foreign investment regulation—such as *foreign direct investment*, *distribution*, and *marine insurance*—still remain among those in the low-density category. Although they are relevant to the much needed development of socially just maritime legal reform, this means these issues appear to have drawn comparatively little academic attention. Findings this highlights a significant gap in the current literature. Topic that are central to constructing a more equitable benefit-oriented regime of maritime law are relegated to the periphery of academic discussions. Thus, density analysis corroborates the necessity for a new approach on maritime law research. The future work should not only address thematic (general or surface-level) maritime issues, but also explore the normative, institutional and structural dimensions of foreign investment governance in the maritime sector.

2.3 Synthesis of the Direction of Regulatory Reform

The comprehensiveness examination reveals that maritime law and fisheries industry protection in academia still takes place across a limited number of topics. These themes are frequently discussed individually and have not yet received substantial conceptual linkages. While environmental justice and marine resource management has gained a significant amount of attention, existing studies still tend to overlook the deeper structural problems surrounding fair benefit distribution, protection of local actors, and, most importantly, the role of the state in balancing asymmetric economic power relations. The prevalence of themes like *criminal law*, *UNCLOS*, and *marine security* also suggests that the predominant legal paradigms continue to reflect largely legalistic and internationalist views. While these methods are vital, they generally have not integrated into the framework of the Indonesian national welfare. This uncovers an

²⁷ Nurhasan, Bunyamin, and Andian Achya Dzikiyyah Khoirudin, “Peran Kearifan Lokal Dalam Mewujudkan Prinsip Keberlanjutan Lingkungan Hidup Di Indonesia: The Role of Local Wisdom in Realizing The Principle of Environmental Sustainability Principles in Indonesia,” *LITIGASI* 26, no. 1 (April 30, 2025): 382–408, <https://doi.org/10.23969/LITIGASI.V26I1.19691>.

apparent epistemic gap in the literature, since at the conceptual level, welfare-centered and socially just legal principles have not yet been fully incorporated into efforts to protect Indonesia's fisheries sector.

This weakness is consistent with overlay and density maps. Keywords like *foreign direct investment*, *distribution*, and *marine insurance law* appeared only relatively recently and have not yet been dominant in the literature. This implies that structural implications of foreign investment and management of marine economy are not as classic technical, legal or normative issues. Indeed, the fact that keywords like *welfare state*, *social protection*, and *equitable governance* are conspicuously missing validates that legal approaches based on distributive justice remain underdeveloped. In particular, this fervent research and teaching on legal science is essential in Indonesian context since Indonesia itself has a maritime state and an economic system that comprises its socio-economic constitution (Article 33 of the 1945 Constitution). Welfare must not be an afterthought but at the heart of maritime policies and legislation.²⁸

Also, the existing regulatory framework mirrors a similar issue. This sectoral approach remains in operation under Law No. 31 of 2004 on Fisheries and Law No. 25 of 2007 on Investment. So far, they have not been backed by an overarching framework that links environmental symmetry and national sovereignty with equitable access and the safeguarding of local fishing arrangements. The Investment Law tends to focus more on investment facilitation and investor protection. On the other hand, Fisheries Law primarily provides provisions on management and use of fishery resources but does not explicitly provide rights for small-scale fishers in the process of foreign capital penetration. This regulatory vacuum is made even more difficult when viewed under Indonesia's obligation under international maritime regimes, particularly UNCLOS, the details of which have not been fully expressed in cohesive national legal instruments. That is, both academic literature and existing regulation reflect a similar pattern. Fisheries industry governance is still often governed through partial, technocratic, and sectoral legal approaches. Maritime legal reform has not yet been firmly based within a holistic welfare paradigm, which prioritizes distributive justice, social protection, and the interests of coastal communities.

Table 5. Comparison between SLR Findings and Indonesian Regulation

Aspect/Sub-stance	SLR Findings (Literature)	Indonesian Regulation (Law)	Gaps/Criticism
Protection Focus	Strong emphasis on environmental justice and maritime jurisdiction	Fisheries Law focuses on resources management, while the Investment Law focuses on investment facilitation	No explicit protection for small-scale fishers from the impacts of FDI

²⁸ Imam Sujono and Krisnadi Nasution, "Legal Politics Economic Democracy in Indonesia," *Journal of Business Management and Economic Development* 1, no. 02 (May 2023): 46–62, <https://doi.org/10.59653/JBMED.V11i02.29>.

Legal Approach	Dominated by legalistic and technocratic discussions, such as criminal law, UNCLOS, territorial delimitation	Regulations remain sectoral and administrative	Limited integration of constitutional principles and human rights perspectives into regulatory substance
Welfare Aspects	Rarely discussed in the literature, except marginal themes such as equity	Not explicitly emphasized in either the Fisheries Law or Investment Law	Not yet grounded in social-state approach or principles of fair distribution
Foreign Investment	Only recently discussed conceptually and still lacks depth	The Investment Law provides strong protection to investors	Potential exploitation through foreign investment is not balanced by adequate state protection
International Relations (UNCLOS, etc.)	Strongly connected to themes such as UNCLOS, jurisdiction and maritime boundaries	Limited practical synchronization within national legislation	Fragmentation remains between global commitments and local community interests

Source: Researcher's Analysis, 2025

The problem is thus not only structural, given the regulatory overlap and fragmentation identified in this study. The main focus of Investment Law No. 25 of 2007 is to facilitate investment, based on non-discrimination and fair treatment for investors. But it offers no specific protections for important sectors, including fisheries. Consequently, Law No. 31 of 2004 on Fisheries remains largely a resource management and licensing legislation that fails to limit foreign capital participation or protect small-scale fishers adequately. The absence of such normative alignment constitutes a regulatory gap. Investment interests in marine areas are generally afforded more robust legal protection, as mechanisms for equitable resource access to marine resources and social protection of coastal communities remain nascent.²⁹

This indicates a lack of developed regulatory framework in the place and thus there is need for new form of regulations. It should provide for a national legal framework at sea in accordance with the principles of justice, that incorporates the substance of the Fisheries Law, the Investment Law, and relevant international maritime laws and conventions like UNCLOS. A potential trajectory is the creation of a legal framework for marine investment, based on sovereign resources. This model should govern licensing, relations of beneficiaries, and the degree of central control over foreign operations (if any) within Indonesia's exclusive economic zone. Finally, substantively participatory public involvement should be strengthened as an accountability mechanism for maritime lawmaking through institutional capacity-building. Local governments, small-

²⁹ Lalu Wira Pria Suhartana et al., "Risk-Based Mining Investment in the Framework of Fair Legal Certainty," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 8, no. 1 (April 19, 2025): 63–85, <https://doi.org/10.24090/VOLKS-GEIST.V8I1.12894>.

scale fishers, coastal civil society organizations and academics as well as other affected stakeholders should be involved in the formulation of maritime regulations. Such participatory process matters not only as a matter of democratic governance but also for long-term legitimacy and sustainability of the marine policies.

In addition, that idea of welfare-based marine regulation is in line with the values enshrined in the constitution of Indonesia particularly with Article 33 paragraph (3) of the 1945 Constitution. Such provisions comprises that the state owns the earth and all water within it, as well as part of all minerals, oil and gas present beneath its surface with a particular emphasis on enjoying the greatest benefits of natural resources for society. For these reasons, placing the fisheries entirely in free-market conditions is not an option for a state that protects maritime communities.³⁰ It follows that marine policy should go beyond a purely technocratic dimension and embrace an ethical and social direction. Such an approach should guarantee fair distribution, environmental protection, and economic sovereignty. By developing a legal system that is responsive to welfare values, Indonesia can create a stronger pedestal for a just economic development through its maritime territories not only by defending its marine resources legal framework.

It is the prevalence of legalistic and technocratic discourse in maritime law that may lead to the formulation of regulatory frameworks that are more focused on enforcement than on distributive justice.³¹ Indeed, this is evident in the ongoing focus on policing and jurisdictional power over those suspected of engaging in unlawful activity as legal mechanisms to prevent human trafficking given that most laws relating to socio-economic protection for vulnerable cohorts are low-level policies at best. In Indonesia the impacts of this imbalance are apparent in the form of lack of strategic and coherent regulatory framework that ensure access rights, participation opportunity and economic protection for small-scale fishers in the face of growing foreign investment. Consequently, legal protection is often formal and with procedural character not sufficient to address the structural inequalities of fishing communities.³²

This disparity also illustrates the failure of maritime law to sufficiently advocate for vulnerable groups such as small-scale fishers who are routinely at the front lines of the negative impact associated with foreign capital penetration and marine resource extraction. Indeed, Zheng (2022)³³ argues that foreign investment can only produce benefits in the presence of good regulation. Yet, the efficiency-based approach used in that study does not adequately deal with questions of who benefits and who is rightfully entitled to access marine resources.³⁴ Such a point reinforces in this paper, such that maritime law should be redeveloped in the social-state way rather than by efficiency or investment security and investor legal protection.

In the Indonesian case, such weak integration is substantively backed by a normative gap between Indonesian Law No. 25 of 2007 on Investment and Law No. 31 of 2004 on Fisheries. Investment openness supported by the principle “equal treatment for foreign

³⁰ Michael Sievers et al., “Submerged Cage Aquaculture of Marine Fish: A Review of the Biological Challenges and Opportunities,” *Reviews in Aquaculture* 14, no. 1 (January 2022): 106–19, <https://doi.org/10.1111/RAQ.12587>; W-GROUP.STRING.PUBLICATION.

³¹ Huan Sheng Tseng, “Maritime Law Enforcement on Border-Crossing Fishing Vessels: Experience of Taiwan’s Practices under Its Unique Political Relationship,” *Marine Policy* 133 (November 2021): 104749, <https://doi.org/10.1016/J.MARPOL.2021.104749>.

³² Martin, “Spaceports on Coastal Areas and Spaceflights: Legal Considerations on the Protection of Marine Environment.”

³³ Zheng, Zhang, and Zhao, “How Does Environmental Regulation Moderate the Relationship between Foreign Direct Investment and Marine Green Economy Efficiency: An Empirical Evidence from China’s Coastal Areas.”

³⁴ Siti Mariyam et al., “Safeguarding Personal Data in Indonesian E-Commerce From a Constitutional Rights Perspective,” *Jambe Law Journal* 8, no. 2 (December 31, 2025), <https://doi.org/10.22437/X5Q9Y093>.

and domestic investors” as guaranteed in Article 3 of the Investment Law does not differentiate strategic sectors, such as fisheries, which are directly linked to national resource sovereignty and the living conditions of coastal communities. In contrast, the Fisheries Law includes provisions for licensing, resource use and conservation but fails to set limits on foreign ownership or put in place well-defined protections for small-scale fishers against capital-intensive competition. This absence of regulatory synchronicity results in a dissimilar legal disparity. Investment by foreigners is given extensive legal protection local fishing communities are not afforded similar access to the law.³⁵ As a consequence, contemporary marine resource regulatory framework has not yet ensured equitable access to marine resources and has not fully reflected the constitutional mandate of Article 33(3) of the 1945 Constitution, which requires natural resources to be controlled by the state and used for the greatest prosperity of the people.³⁶

In the paradigm of social-state approach, it is wrong to consider natural resources as a neutral object which obeys only market mechanisms. It is not, rather, it must be interpreted as a matter of public rights organized by the state itself for maximum power of the citizen. This principle can be clearly seen in Article 33 paragraph (3) of the 1945 Constitution. But this constitutional duty has yet to be realized in a regulatory framework that is functional and enforceable. The results of the density and overlay maps demonstrate that discourses around welfare, social equity, and redistributive justice are not a primary focus in maritime law. This signals a critical theoretical lacuna in this study of marine resource governance. To fill this gap, we need to reframe the legal paradigm away from the regulatory state and toward constitutional law and administrative law— as though what a decent program of our neoliberal-state-learning systems suggests is not merely regulation but fairness, protection, and redistribution.

This article primarily contributes to a proposal of welfare-based legal regime in the maritime field. This goes beyond the redefinition of legal norms, also involves changes to institutional design and governance practices, as public law theories and social justice mandate. This framework has to push the boundaries for the role of state: it can no longer be just an additional regulation, but should rather act as a distributive active actor. This conforms to the arguments of Butt (2022),³⁷ that international law is largely ineffective when states do not sufficiently assert their sovereignty domestically.

The bibliometric analysis similarly reveals that maritime law research frequently regards Indonesia as merely a geographical object or policy object, dismissively deferring the fact of more legal and political agency. This is indicated, among others, by the high density of the “Indonesia”, which are not supported with deeper theoretical development based on local legal traditions and constitutional values. On the contrary, this paper contends that Indonesia must be an active drafter of alternative maritime regimes. These sorts of regulations might be an example for other coastal states worldwide, especially developing countries in the Global South that have to deal with similar dilemmas between foreign investment and resource control in equilibrium with human rights. The direction of maritime legal reform, therefore, should move away from a narrative of mere “compliance with foreign investment” and toward a stronger framework of “legal resistance against structural inequality.”

³⁵ Martin, “Spaceports on Coastal Areas and Spaceflights: Legal Considerations on the Protection of Marine Environment.”

³⁶ Zulfiqar et al., “Maritime Dispute Settlement Law towards Sustainable Fishery Governance: The Politics over Marine Spaces vs. Audacity of Applicable International Law.”

³⁷ Zulfiqar et al.

This study has also formulated a core criticism of focus, towards the overlay dominant role of the criminal law paradigm in response to marine environmental crimes. They are able to treat only those legal issues which present symptoms but only the tip of the iceberg and do not go to deal with the deeper structural causes behind these issues. More critically necessary is better regulatory design and more robust policy harmonization, as well as the reinstatement of coastal communities in the hierarchy of law. This understanding is not presented as transparently in either (2021)³⁸ or Martin (2023),³⁹ who ultimately continue to rely on penal logic as the key mechanism for justice, rather than a larger scale institutional transformation.

It may be possible to realize from a policy perspective a welfare-based legal strategy through the introduction of a *Marine Sovereignty and Equity Act*. Such a national legal structure would enshrine ecosystem safeguarding, investment management, and the equitable allocation of marine gains within one overarching system.⁴⁰ Such a framework could provide an alternative to the existing sectoral legal model, while also rectifying biases in law that favor interests and jurisdictional limits over social justice. However, in this model the state should not be a neutral arbiter. Rather, it needs to serve as the defender of fiscal equity, environmental sustainability, and social protection in maritime areas.

Implementation-wise, this translates to legal instruments of an administrative nature enabling local coastal communities to effectively engage in regulatory processes, licensing investments and social audits of foreign business activities. This method links the very public law of justice and state responsibility (in constitutional law) with those administrative mechanisms that implement these principles through practical machinery. This approach has largely not been taken in previous literature, except for explicit proposal in the synthesis framework of this study.

Thus, overall, a careful reading of the literature as well as of existing regulations demonstrates that Indonesian maritime law is now in the transformation phase. It is shifting from conservative and symptomatic legal model to a more responsive and communal law. Yet, this transition does not end in partial reform. It should be led by the legal and political guts to reconceptualize the national maritime system as an arena for equitable allocation, not just another object of capitalist commodification. Indonesia must consciously turn its maritime sovereignty to substantive justice by viewing law not as a tool for 'territorial mutli-barrier' but as an instrument of regulation socio-economic relations in the era of economic globalization.

The primary novelty of the study is its contribution toward an actual welfare-state-based maritime legal policy. This all-in-one national regulatory scheme combines features of constitutional law, administrative law and ecological justice. This article provides a public policy design based on resource sovereignty, control of foreign investment and protection of the social rights of coastal communities as well, inconsistent with previous research that centers mainly around technical, jurisdictional or narrow economic issues. By integrating systematic literature review and bibliometric analysis, this article

³⁸ Tseng, "Maritime Law Enforcement on Border-Crossing Fishing Vessels: Experience of Taiwan's Practices under Its Unique Political Relationship."

³⁹ Martin, "Spaceports on Coastal Areas and Spaceflights: Legal Considerations on the Protection of Marine Environment."

⁴⁰ Henrique Corrêa Giacomini et al., "Statistical Modelling of Aquatic Size Spectra: Integrating Data from Multiple Taxa and Sampling Methods," *https://doi.org/10.14321/Aehm.026.03.17* 26, no. 3 (February 2024): 17–25, <https://doi.org/10.14321/AEHM.026.03.17>.

illustrates the conceptual basis for alternative public legal policy reform in Indonesia maritime sector.

3. CONCLUSION

This study highlights the still poorly integrated fragmented nature of Indonesia's legal framework in governing the fisheries sector with regard to foreign investment. These results suggest that existing regulations, in particular Law No. 31 of 2004 concerning Fisheries and Law No. 25 of 2007 on Investment, still work sectorally. They fail to articulate guidelines for setting limits on foreign capital entry, or mechanisms for protecting the rights of small fishers. As a result, their protection from legal action is weak, as seen in the case of local fishing communities. Fishing livelihoods would remain disadvantaged, structurally distant from access to the resources they know most intimately and in competition with state-affiliated foreign investors. Furthermore and sort of related to the previous theme is that dominant legalistic and technocratic approaches, expressing themselves through ascendance of criminal law, UNCLOS and maritime security have tended to limit any ambitions toward regulatory arrangements grounded in notions of distributive justice, welfare protection and community presence.

This paper contributes to the burgeoning literature on maritime law by offering a regulatory framework that embraces welfare, integrating constitutionalism, ecological justice and investment provision. This methodology is not only aimed at solving regulatory fragmentation, but also reinforcing the state as the fount of reliable distribution of marine wealth and shield for coastal communities. Future research needs to explore how this framework can be implemented in practice. More research is required to understand the experiences of small-scale fishers, the dynamics of foreign investment in fisheries and state institutional capacity for operationalization of welfare-based maritime regulation within Indonesia's legal system.

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"Direktorat Jenderal Pengelolaan Kelautan Dan Ruang Laut | KKP | Kementerian

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