

Equitable Maritime Law Policy: A Study of the Blue Constitution and Environmental Fiqh Regarding Land Use Rights in Tangerang, Banten

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Abstract:

Environmental issues in Indonesia reveal signs of an ecological crisis that directly impacts humanity as the stewards of the earth. This situation is evident in the state's failure to uphold ecological justice, as seen in extractivist practices such as the construction of a sea wall in Tangerang-Banten. The case of Building Use Rights (HGB) permits in this marine area indicates a disregard for the state's constitutional obligation to protect environmental sustainability and potentially deviates from state and religious norms. This study aims to examine the political character of environmental law in the HGB permitting policy for the bamboo seawall in Tangerang-Banten using the "blue constitution" and environmental fiqh as analytical tools. The approach used is socio-normative through content analysis of legislation, Constitutional Court rulings, and environmental fiqh literature. The results of the study indicate that the granting of HGB to private parties in the marine area constitutes a deviation from constitutional norms, as it has the potential to privatize marine space—a practice explicitly rejected in Constitutional Court Ruling No. 3/PUU-VIII/2010. From an environmental fiqh perspective, such actions contradict the prohibition against destruction (*ifsād*) as stated in QS. al-A'raf: 56 and the principles of *hifz al-bi'ah*. Environmental fiqh in this study does not rely on *maslahah mursalah*, but rather on *maslahah mu'tabarah*, which is reinforced by sharia evidences regarding the obligation to preserve ecosystem sustainability. The integration of the blue constitution concept and environmental fiqh provides an analytical framework for evaluating policies in a more eco-centric manner, viewing the sea not merely as an economic space, but as an ecological entity that possesses the right to protection. The implications of this study underscore the need for a licensing policy design that is more socially and ecologically just and consistent with the constitutional mandate and the principle of *hifz al-bi'ah* in Islamic law.

Abstrak:

Persoalan lingkungan hidup di Indonesia menunjukkan gejala krisis ekologis yang berdampak langsung pada kemanusiaan sebagai penjaga bumi. Kondisi tersebut tampak pada absennya negara dalam menjalankan peran menjaga keadilan ekologis, sebagaimana terlihat dalam praktik ekstraktivisme melalui pembangunan pagar laut di Tangerang-Banten. Kasus perizinan Hak Guna Bangunan (HGB) pada wilayah laut tersebut menunjukkan adanya pengabaian terhadap kewajiban konstitusional negara untuk melindungi kelestarian lingkungan serta berpotensi menyimpang dari norma negara dan agama.

Penelitian ini bertujuan mengkaji karakter politik hukum lingkungan dalam kebijakan perizinan HGB pagar bambu di Tangerang-Banten dengan menggunakan blue constitution dan fikih lingkungan sebagai alat analisis. Pendekatan yang digunakan adalah sosio-normatif melalui analisis konten terhadap peraturan perundang-undangan, putusan Mahkamah Konstitusi, serta literatur fikih lingkungan. Hasil penelitian menunjukkan bahwa pemberian HGB kepada pihak swasta di wilayah laut merupakan bentuk penyimpangan norma konstitusi, karena berpotensi memprivatisasi ruang laut yang secara tegas ditolak dalam Putusan MK No. 3/PUU-VIII/2010. Dari perspektif fikih lingkungan, tindakan tersebut bertentangan dengan larangan perusakan (ifsād) sebagaimana termaktub dalam QS. al-A'raf: 56 dan prinsip-prinsip hifz al-bi'ah. Fikih lingkungan dalam penelitian ini tidak bertumpu pada masalah mursalah, melainkan pada masalah mu'tabarlah yang diperkuat oleh dalil-dalil syar'i mengenai kewajiban menjaga kelestarian ekosistem. Integrasi konsep blue constitution dan fikih lingkungan menyediakan kerangka analitis untuk menilai kebijakan secara lebih ekosentris, memandang laut bukan semata ruang ekonomi, tetapi entitas ekologis yang memiliki hak untuk dilindungi. Implikasi penelitian ini menegaskan perlunya desain kebijakan perizinan yang lebih adil secara sosial-ekologis serta konsisten dengan mandat konstitusi dan prinsip hifz al-bi'ah dalam hukum Islam.

A. Introduction

The construction of a 30.16-kilometer bamboo fence phenomenon in the coastal waters of Tangerang-Banten reflects a serious problem in the governance of Indonesia's marine environment.¹ To date, at least 263 Certificates of Right to Build (HGB) have been issued, comprising 234 HGB Certificates in the name of PT Intan Agung Makmur, 20 HGB Certificates in the name of PT Inti Sentosa, 9 certificates in the names of individuals, and 17 Certificates of Ownership (SHM) have been found in the marine area.² These licensing practices indicate legal and policy inconsistencies, as the issuance of HGBs in marine areas potentially deviates from Article 33, paragraph (3) of the 1945 Constitution, which affirms state control over the land, water, and natural resources for the greatest prosperity of the people, and contradicts Constitutional Court Decision No. 3/PUU-VIII/2010, which rejected the privatization of coastal areas to protect the public interest.³

¹ Ombudsman RI, "Ombudsman RI Usut Penerbitan SHM Di Kasus Pagar Laut Pesisir Tangerang," 2024, <https://ombudsman.go.id/news/r/ombudsman-ri-usut-penerbitan-shm-di-kasus-pagar-laut-pesisir-tangerang>. *Media Online Ombudsman RI.com*, Accessed at Saturday, 12 April 2025.

² Kementerian ATR/BPN, "Kementerian ATR/BPN Investigasi Polemik Sertifikat HGB Di Lokasi Pagar Laut," 2025, <https://www.atrbpn.go.id/berita/kementerian-atrbpn-investigasi-polemik-sertipikat-hgb-di-lokasi-pagar-laut>. Accessed at Saturday, 12 April 2025.

³ Mahkamah Konstitusi, "Putusan MK No. 3/PUU-VIII/2010", accessed at Sunday, 13 April 2025.

Normatively, the sea cannot be treated as an object of private ownership under the Building Use Right regime, which is conceptually and legally intended for terrestrial areas. The granting of HGB permits in the sea creates a space for the exclusive control of public space, shifting the function of the sea from a shared space to an economic commodity, and directly hinders fishermen's ability to earn a living.⁴ This situation highlights the state's failure to uphold ecological and social justice, while also underscoring the weak orientation of licensing policies toward environmental protection and the rights of coastal communities.⁵ In this context, this study considers the use of the blue constitution and environmental fiqh as formal frameworks or analytical tools. The concept of the blue constitution positions the sea as an integral part of the constitutional order that must be managed in an eco-centric manner, not merely oriented toward economic exploitation.⁶ Meanwhile, environmental fiqh emphasizes the obligation of humans and the state, as khalifah, to preserve nature through the principle of *hifz al-bi'ah* and the prohibition against destruction (*ifsād*).⁷ Both of these frameworks are relevant for assessing the legitimacy of marine HGB policies, as they both emphasize justice ecological, environmental sustainability, and the protection of the public's rights to natural resources.⁸

The discussions on the environmental studies have become a major concern in the 21st century, as the polarization of ESG (Environmental, Social, and Governance) has led to the degradation of laws and policies, to the point of neglecting an inclusive approach to environmental life on Earth. Scholars are discussing environmental studies, noting that the constitution and the environment must be safeguarded so that the importance of ecocentrism and green policies can be implemented in the 1945 Constitution (Susanto;

⁴ Yevhen Leheza et al., "The Human Right To An Environment Safe for Life and Health: Legal Regulation, Contemporary Challenges and Comparative Perspectives," *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 2 (2023): 140–150, <https://doi.org/10.18592/sjhp.v23i2.12257>.

⁵ Fathan Ali Mubiina, "Telaah Konsepsi Negara Hukum Dan Demokrasi Dalam Pembentukan Blue Constitution Di Indonesia," *SASI* 26, no. 1 (2020): 52-74, <https://doi.org/10.47268/sasi.v26i1.211>.

⁶ Farah Fidela and Et al, "Mendorong Penegakan Hak Dan Kewajiban Negara Dalam Melestarikan Hewan Laut," *Birokrasi: JURNAL ILMU HUKUM DAN TATA NEGARA* 2, no. 2 (2024): 311–322, <https://doi.org/10.55606/birokrasi.v2i2.1195>.

⁷ Al-Mawardi, *Al-Abkam As-Sulthaniyah*, trans. Khalifurrahman Fath and Fathurrahman (Jakarta: Qisthi Press, 2014), 44.

⁸ Ali Yafie, *Teologi Sosial Telaah Kritis Persoalan Agama Dan Kemanusiaan* (Yogyakarta: LKPSM, 1997), 42.

Pudjiastuti et al.),⁹ Meanwhile, research on the “blue constitution” highlights the state’s authority in managing the ocean as a public space (Mubiina).¹⁰ From the perspectives of justice and the rule of law, other studies emphasize the importance of constitutional awareness (Asshiddiqie;¹¹ Maulana et al).¹² On the other hand, international studies highlight the environmental crisis within the context of global politics (He;¹³ Saine & Lammle;¹⁴ Sthel et al).¹⁵

Islam teaches the concept of environmental jurisprudence which remains limited to local or sectoral contexts (Sukarni & Mahmud;¹⁶ Nurdiansyah & Witro),¹⁷ while studies on HGB permits over the sea have primarily emphasized administrative legality without linking it to Islamic ecological ethics (Hidayat et al).¹⁸ Research on public participation and religious values in policy formulation has also not been specifically directed at the issue of marine HGB by Madjid¹⁹ and Rofii and Hosen.²⁰ Thus, there is no study that integratively

⁹ Antono Adhi Susanto, “Reconstruction of the 1945 Constitution for Strengthening the Legal Framework of Indonesia Environmental Law,” *Jurnal Konstitusi* 21, no. 2 (2024): 183–202, <https://doi.org/10.31078/jk2122>.

¹⁰ Mubiina, “Telaah Konsepsi Negara Hukum Dan Demokrasi Dalam Pembentukan Blue Constitution Di Indonesia.”

¹¹ Jimly Asshiddiqie, “Building a Constitutional Awareness Culture to Create a Democratic Law State,” *PETITA: Jurnal Kajian Ilmu Hukum Dan Syariah* 8, no. 1 (2023): 1–11, <https://doi.org/10.22373/petita.v8i1.128>.

¹² Sandhi Imam Maulana et al., “Land Cover, Land Use, And Challenges In Implementing Peat Ecosystem Protection Policy In Bengkalis Regency,” *Journal of Natural Resources and Environmental Management* 9, no. 3 (2019): 549–565, <https://doi.org/10.29244/jpsl.9.3.549-565>.

¹³ Yugang He, “Navigating Political Uncertainty and Mineral Policy: Pathways to Global South’s Environmental Sustainability,” *Global Environmental Change* 92, no. 103002 (2025): 0959–3780, <https://doi.org/10.1016/j.gloenvcha.2025.103002>.

¹⁴ Guerby Sainté and Luca Lämmle, “Environmental, Political, and Social Crises: The Context of Territorial Vulnerability in Haiti Republic,” *Social Sciences & Humanities Open* 11, no. 101461 (2025): 2590–2911, <https://doi.org/10.1016/j.ssaho.2025.101461>.

¹⁵ Marcelo Silva Sthel et al., “Socioeconomic, Political and Environmental Consequences on the Use of Fossil Energy in Road Transport: A Case Study of the Truck Drivers’ Strike in São Paulo, Brazil,” *Environmental Development* 54, no. 101117 (2025): 2211–4645, <https://doi.org/10.1016/j.envdev.2024.101117>.

¹⁶ Sukarni and Hafini bin Mahmud, “Development and Concept of Enviromental Fiqh In The Works of Banjar Scholars: Historical and Thought Analysis,” *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 1 (2024): 173–188, <https://doi.org/10.18592/sjhp.v24i1.12906>.

¹⁷ Rifqi Nurdiansyah and Doli Witro, “Muslim Politics: Political Model of Islamic Law in Adat Societies,” *ASY-SYIR’AH: Jurnal Ilmu Syari’ah Dan Hukum* 57, no. 2 (2023): 310–331.

¹⁸ Syahril Hidayat, Melly Rifa’atul Lailiyah, and Rizki Nurdiansyah, “Analisis Keabsahan Sertifikat Hak Guna Bangunan Yang Terbit Diatas Laut,” *Amandemen: Jurnal Ilmu Pertambangan, Politik Dan Hukum Indonesia* 2, no. 1 (2025): 209–217, <https://doi.org/10.62383/amandemen.v2i1.824>.

¹⁹ Nurcholis Madjid, *Islam Dan Humanisme Aktualisasi Humanisme Islam Di Tengah Krisis Humanisme Universal* (Yogyakarta: Pustaka Pelajar, 2007), 34.

²⁰ Ahmad Rofii and Nadirsyah Hosen, *The Constitutionalization of “Religious Values” in Indonesia* (Oxford: Oxford University Press, 2023), 241.

links the blue constitution and environmental fiqh in analyzing ecological justice regarding HGB licensing policies in marine spaces.

Addressing this gap, this study analyzes the political character of environmental law in HGB licensing policies for bamboo fences in the Tangerang–Banten marine area through the blue constitution and environmental fiqh. The significance of this study lies in the advancement of socio-ecological justice in marine management, by prioritizing environmental protection, the rights of coastal communities, and as key elements in the formulation of fair and sustainable licensing policies.

B. Method

This study uses a socio-normative method.²¹ The approaches used consist of a statutory approach and a conceptual approach. Primary data sources include laws and regulations directly related to the management and utilization of marine space, namely Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, Law No. 1 of 2014 concerning the Management of Coastal Areas and Small Islands, Law-Law No. 32 of 2009 on Environmental Protection and Management, Law No. 23 of 2014 on Regional Government, Constitutional Court Decision No. 3/PUU-VIII/2010 regarding the annulment of Coastal Water Utilization Rights (HP3), as well as local regulations and/or policies of the Tangerang–Banten that regulate spatial use permits laut, including permits HGB bamboo fences bamboo fences. Secondary data sources include scientific literature such as books, journal articles, and academic documents relevant to environmental legal policy, the concept of the blue constitution, and environmental fiqh.

In this study, the concepts of the blue constitution and environmental fiqh are not treated as data but rather serve as an analytical framework (formal object) for interpreting and evaluating the legal norms under analysis. Data collection was conducted through a literature review of all relevant regulations and literature, which were then analyzed using legal interpretation methods to assess the compliance of HGB permits in the Tangerang–Banten marine area with the principles of ecological justice based on the blue constitution and environmental fiqh frameworks-as Islamic legal-ethical frameworks governing the relationship between humans and nature based on the principle of *hifz al-bi'ah*.

²¹ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Rajawali Press, 2009), 67.

C. Result

The results of this study indicate that the issuance of a Right to Build (HGB) permit for a bamboo fence to a private party in the Tangerang–Banten maritime area constitutes a violation and deviation from applicable legal norms in force, as it is inconsistent with the provisions of Article 33 (3) of the 1945 Constitution and Constitutional Court Decision No. 3/PUU-VIII/2010, which explicitly rejects the privatization of coastal and marine areas through the Coastal Water Utilization Rights (HP3) scheme. The granting of HGB in marine areas also lacks a clear legal basis within the land and maritime legal framework, given that HGB is conceptually and normatively intended for land areas, not waters.

From the perspective of environmental fiqh, such licensing practices contradict the principle of *hifz al-bi'ah* and the prohibition against environmental destruction (*ifsād*), as emphasized in Quran 7:56. The installation of bamboo fences in the sea disrupts the marine ecosystem and restricts fishermen's access to fishing grounds, thereby contradicting the principles of ecological and social justice. Thus, the findings of this study confirm that the HGB licensing of bamboo fences in the Tangerang-Banten sea does not merely indicate inconsistencies between administrative policies and constitutional norms, but also reflect a weak policy orientation toward environmental protection and the public interest.

D. Analysis dan Discussion

1. Implications of HGB Permits on the Sea and Community

Bamboo fencing over the sea resulting from HGB permits in marine areas creates problems for the sea and community rights.²² Problems in the sea include: *first*, Control of marine areas. Private entities are claiming and managing marine areas in coastal regions; 16 villages across 6 subdistricts are affected, including Kronjo Subdistrict, which comprises the villages of Kronjo, Pagenjahan, and Bakung. Kemiri Subdistrict comprises the villages of Kemiri, Rawa Kidang, and Gintung. Mauk Subdistrict comprises the villages of Tegal Kunir Lor, Tegal Kunir Kidul, Mauk Barat, and Mauk Timur. Sukadiri District comprises Sukadiri Village. Pakuhaji District comprises Kohod, Pakuhaji, Kramat, and Laksana Villages. Finally, Teluknaga District comprises Teluknaga and Tanjung Burung Villages. The control of marine

²² Andre Novensa Liunokas et al., “Balancing Tradition and Law: Indigenous Use and Legal Protection of Pulau Pasir-Ashmore Reef,” *PETTITA: Jurnal Kajian Ilmu Hukum Dan Syariah* 9, no. 2 (2024): 654–73, <https://doi.org/10.22373/petita.v9i2.413>.

areas has become a serious issue because it blocks public access and prevents fishermen from catching fish.²³ *Second*, Laut fence. Laut fence as part of the development of the Pantai Indah Kapuk 2 (PIK 2) area is suspected of being intended to demarcate the reclamation area of the National Strategic Project.²⁴ The sea is a public space that cannot be managed by private individuals or entities, as Constitutional Court Decision No. 3/PUU-VII/2010 rejects the unilateral privatization of maritime space and the granting of Coastal Water Concession Rights, which is contrary to Article 33, paragraph Article 3 of the 1945 Constitution. The establishment of maritime boundaries has had an impact on the community. Fishermen feel disrupted by these boundaries because they restrict their ability to fish; the areas they have always frequented for fishing are now off-limits, forcing them to seek new fishing grounds. Furthermore, due to these boundaries, the distances that fishermen used to cover quickly now take them much longer to traverse. The state, as the authority responsible for making laws, must reconsider its policies with the welfare of fishermen in mind. By virtue of its authority, the state has the right to revoke permits it has issued to achieve the fundamental goals of public welfare and social justice.²⁵ *Third*, Destructive marine ecosystems. Marine barriers are considered harmful to marine ecosystems, as they obstruct ocean currents, damage coral reef structures, and disrupt marine life.²⁶ The ocean is a public space that cannot be managed independently by the private sector because it has the potential to damage the environment.²⁷ Therefore, ingranting authority to manage the ocean to private companies, at the very least the government must consider the resulting impacts, as in the case of Ghana, which has experienced significant environmental damage due to illegal gold mining. According to Leonora's notes, environmental regulations in Ghana are based on the stability of the ruling coalition amidst political and institutional competition, which has led to challenges for

²³ Bono Budi Priambodo, "Analisis Yuridis-Normatif Mengenai Duduk Perkara Serta Kerangka Hukum Kebijakan Terkait 'Pagar Laut Misterius' Di Pantai Utara Tangerang," *UNNES Law Review* 3, no. 2025 (7AD): 1221–1233, <https://doi.org/10.31933/unnesrev.v7i3.2>.

²⁴ Clement Alexandrico Waruwu, "Kebijakan Reklamasi Pantai Indah Kapuk 2: Dampak Terhadap Sosial Dan Ekonomi Masyarakat Kecamatan Teluknaga," *Jurnal Studi Politik Dan Pemerintahan* 14, no. 2 (2025): 1–22, <https://ejournal3.undip.ac.id/index.php/jpgs/article/view/50204/33457>.

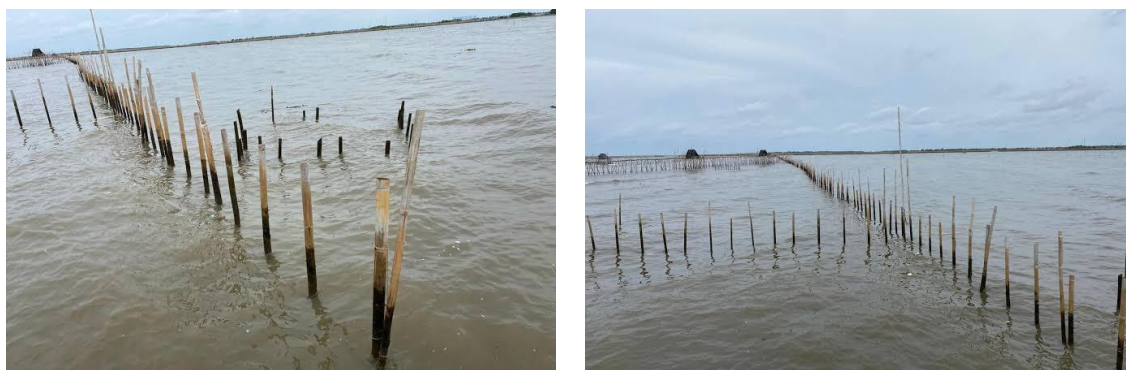
²⁵ C.F. Strong, *Konstitusi-Konstitusi Politik Modern: Studi Perbandingan Tentang Sejarah Dan Bentuk, Terjemahan (Modern Political Constitutions)*, trans. Derta Sri Widowatie (Bandung: Penerbit Nusa Media, 2008), 6.

²⁶ Humas UMM, "Pagar Laut Mengancam Ekosistem Dan Dugaan Reklamasi," 2025, Respon Pakar Kelautan, baca di <https://www.umm.ac.id/id/arsip-koran/investor/pagar-laut-merusak-ekosistem-dan-tatanan-sosial-masyarakat-pesisir.html>. Diakses Sabtu 26 April 2025.

²⁷ Rachel Carson, *Silent Spring* (New York: Mariner Books, 2002), 39.

environmental regulations.²⁸ To illustrate the impacts on the ocean, the image below shows the Bamboo Fence in the Tangerang-Banten Sea.

Table 1
Bamboo Fence in the Tangerang Sea, Banten, Indonesia



Picture.1: Bamboo Fence in the Sea Tangerang-Banten

Source: Taken in the PIK 2 Area of the Tangerang-Banten Sea.²⁹

The bamboo fence in the Tangerang-Banten Sea has significant impacts on the community, including: 1. Restricting access to fishing grounds. Marine fences can limit the mobility of fishermen using traditional boats, thereby blocking the fishing routes they typically use. Ultimately, this restricted mobility in fishing leads to smaller catches compared to before the installation of marine fences, resulting in a decline in fishermen's income. 2. Disruption caused by marine fences. For fishermen, the presence of marine fences creates limitations on access to fishing grounds and can even lead to the loss of livelihoods due to restricted access to the sea, as income is insufficient to cover high operational costs. For the community, the presence of marine fences can disrupt their activities in accessing public spaces, such as enjoying the beauty of the sea or gathering daily necessities at sea, and even hinders their reliance on the sea for subsistence, such as fishing, collecting shellfish, or harvesting seaweed. The HGB permits that led to the installation of bamboo fences in the waters off Tangerang-Banten have caused impacts significant on the marine environment and communities. Therefore, the President must evaluate the policies issued by the Minister of ATR/BPN to ensure equitable management of marine resources in fulfilling the rights of the marine

²⁸ Leonora Kleppa Stærfeldt and Paul Austin Stacey, "Environmental Governance and Political Contestation in Contexts of Illegal Small-Scale Gold Mining in Ghana," *Geoforum* 160, no. 104221 (2025): 0016–7185, <https://doi.org/10.1016/j.geoforum.2025.104221>.

²⁹ Informan S, "Fenomena Pagar Bambu Di Laut Tangerang-Banten," 30 April 2025.

environment, fishermen, and communities.³⁰ Furthermore, the issuance of HGB permits for marine enclosures is oriented toward neoliberal dictatorship (deregulation interests at the expense of people's rights and environmental destruction) that excludes the participation of affected communities in achieving socio-ecological environmental justice.³¹

2. Blue Constitution and Environmental Fiqh in the Context of Environmental Law

Etymologically, blue constitution originates from English, where blue means blue and constitution means constitution. According to the terminology, a blue constitution is a constitutional concept that protects marine areas to create a balanced aquatic ecosystem.³² The term blue constitution is synonymous with discussions on the legal framework for waters as an integral part of governance an area that emphasizes environmental justice for marine ecosystems and communities. Jimly Asshiddiqie states that the blue constitution refers to matters concerning the regulation of natural resources contained within water areas, as indicated by the term *al-bi'ah*.³³ From this definition, it can be understood that environmental fiqh is a discussion based on *nas kauniah* (verses that address the environment) used to protect the marine environment from destructive actions by human hands.³⁴ defines environmental fiqh as an effort to raise human awareness to protect the natural world bestowed by the Almighty as the place where humans live on Earth.³⁵ He emphasizes that environmental fiqh addresses ecological issues related to real-life challenges because humans are an integral and inseparable part of the environment. Therefore, Ali Yafie views the environment as a living space that must be safeguarded by humans as stewards on Earth, as humans are obligated to maintain the balance natural ecosystems on the surrounding

³⁰ Anna Maria Tri Anggraini et al., "Ensuring Justice and Utility: Addressing Allegal Monopolistic Practices in Ibu Kota Nusantara," *Jurisdictie: Jurnal Dan Syariah* 15, no. 2 (2024): 274–308, <https://doi.org/10.18860/j.v15i2.28765>.

³¹ Jeremy Anleyth Evans et al., "Toxic Violence in Marine Sacrificial Zones: Developing Blue Justice Through Marine Democracy in Chile," *Environment and Planning C: Politics and Space* 40, no. 7 (2022): 1492–1514, <https://doi.org/10.1177/23996544221084193>.

³² Mubiina, "Telaah Konsepsi Negara Hukum Dan Demokrasi Dalam Pembentukan Blue Constitution Di Indonesia."

³³ Jimly Asshiddiqie, *Green and Blue Constitution Undang-Undang Dasar Bernawasan Nusantara* (Depok: PT RajaGrafindo Persada, 2021), 92.

³⁴ Mariatul Istiani and Muhammad Roy Purwanto, "Fiqh Bi'ah Dalam Perspektif Al-Qur'an," *At-Thullab: Jurnal Mahasiswa Studi Islam* 1, no. 1 (2019): 24–39, <https://doi.org/10.20885/tullab.vol1.iss1.art2>.

³⁵ Ali Yafie, *Merintis Fiqh Lingkungan Hidup* (Jakarta Selatan: Yayasan Amanah, 2006), 43.

environment.³⁶ As emphasized in QS. al-A‘rāf verse 56, humans are prohibited from causing destruction on earth after it has been restored (walā tufsidū fī al-arḍi ba‘da iṣlāḥihā), which serves as the normative basis for maintaining environmental balance. In this context, the practice of marine enclosures has the potential to restrict public access-particularly for fishermen-to the marine commons as a source of livelihood, thereby raising issues of ecological and social justice. This situation cannot be separated from the underlying permitting policies, which must be evaluated normatively based on the principle of public interest. In environmental fiqh, the relevant public interest is not *maslahah mursalah*, but rather *maslahah mu‘tabarah*-that is, a public interest grounded in and legitimized by sharia.³⁷ This aligns with the *usul al-fiqh* principle *taṣarruf al-imām ‘alā al-ra‘iyyah manūṭun bi al-maṣlaḥah*, which affirms that every policy or action by state officials must be oriented toward the public interest and must not cause harm, including to environmental sustainability and public access to natural resources.³⁸

The natural resources contained in the earth and water,³⁹ as well as the natural resources within them, as mentioned in Article 33, Paragraph 3 of the 1945 Constitution, hold a noble significance. As Miriam Budiardjo states, every citizen has the right to enjoy these natural resources.⁴⁰ Jimly Asshiddiqie states that Indonesia’s natural resources are a gift from the One and Only God, whose existence must be preserved and managed properly for the people’s prosperity.⁴¹

Meanwhile, environmental fiqh views the sea as an integral part of Allah’s creation, the sustainability of which must be preserved; thus, its conservation is considered *Rub’ul ‘Ibadat* (the servitude of the creature to the Creator).⁴² Therefore, granting HGB permits to private entities in marine areas, which results in enclosure, inevitably gives rise to a political-exploitative paradigm (conflicts of interest in the utilization of marine resources) that does not

³⁶ Ali Yafie, 43.

³⁷ Ali Yafie, 38.

³⁸ Afifuddin Muhajir, *Fiqh Tata Negara: Upaya Mendialogkan Sistem Ketatanegaraan Islam* (Yogyakarta: IRCiSoD, 2017), 92.

³⁹ Nirwana Halide, "THE URGENCY OF ESTABLISHING A LOCAL GOVERNMENT REGULATION CONCERNING WASTEWATER MANAGEMENT IN LUWU REGENCY," *Jurnal Al-Dustur* 6, no. 1 (2023): 1-15. <https://doi.org/10.30863/aldustur.v6i1.3962>

⁴⁰ Miriam Budiardjo, *Dasar-Dasar Ilmu Politik* (Jakarta: PT Gramedia Pustaka Utama, 2008), 231.

⁴¹ Jimly Asshiddiqie, *Konstitusi Keadilan Sosial Serial Gagasan Konstitusi Sosial Negara Kesejahteraan Sosial Indonesia* (Jakarta: Buku Kompas, 2018), 225.

⁴² Ali Yafie, *Menggagas Fiqh Sosial Dari Soal Lingkungan Hidup, Asuransi Hingga Ukhuwah* (Bandung: Mizan, 1994), 231.

reflect the substance of Article 33, Paragraph (3) of the 1945 Constitution, which affirms that the earth, water, and natural resources contained within It is controlled by the state and utilized to the greatest extent possible for the prosperity of the people. Within the framework of *the Blue Constitution*, this provision is not merely understood as a textual norm, but as a constitutional mandate requiring the state to safeguard the sea as an ecological public space that cannot be privatized. The issuance of Building Use Rights (HGB) certificates in the Tangerang–Banten maritime area, particularly for the construction of bamboo fences, indicates an inconsistency between the legal policy direction of maritime management and this constitutional principle.

Constitutional Court Decision No. 3/PUU-VIII/2010 explicitly rejected the Coastal Waters Utilization Right (HP3) because it opens the door to the privatization of the sea and threatens the public interest. Therefore, the practice of granting HGBs in marine areas can be understood not merely as an administrative issue, but as a deviation from environmental legal policy, as it treats the sea as an object of private control that contradicts with the constitutional of natural resource management. From a blue constitution perspective, the sea must be positioned as an integral part of the state’s ecological sovereignty exploitation.

In environmental fiqh, the ocean is viewed as part of Allah SWT’s creation, possessing ecological and social functions whose sustainability must be preserved. The prohibition against causing damage to the earth, as emphasized in Surah al-A‘raf, verse 56, serves as the normative basis for evaluating policies that have the potential to disrupt the balance of the marine ecosystem. The practice of enclosing the sea by granting HGB (Right to Build) to private parties has the potential to hinder coastal communities’ and fishermen’s access to their living spaces, while simultaneously disrupting the ecological balance of the sea.

The evaluation of such policies in environmental fiqh does not rely on *maslahah mursalah*, but rather on *maslahah mu‘tabarah*-that is, a public interest that possesses sharia legitimacy and aligns with the objective of environmental protection (*hifz al-bi’ah*). The principle that the ruler’s exercise of authority over the people is contingent upon the public interest affirms that every state policy must be oriented toward a tangible public interest that is normatively accountable. In this context, HGB permits at sea that cause ecological and social impacts cannot be categorized as *maslahah mu‘tabarah*, because they actually open the door to destruction (*ifsād*) and unequal access to marine resources.

The integration of the blue constitution and environmental fiqh provides a mutually reinforcing analytical framework for evaluating HGB licensing policies in marine areas. The

“blue constitution” emphasizes the state’s obligation to preserve the sea as a public space and an ecological entity protected by the constitution, while environmental fiqh underscores the ethical⁴³ and moral dimensions of maintaining the balance of nature as a divine trust.

In the context of environmental law and policy, the issuance of HGB permits for bamboo fences in the Tangerang-Banten sea reflects a shift in policy orientation away from ecosystem protection ecosystems toward an exploitative paradigm. This indicates that the primary issue does not lie in the absence of legal norms, but rather in the inconsistency of the direction of environmental legal policy in the implementation of licensing policies. Therefore, whether or from the perspective fiqh, the sea must be positioned as an ecological public space whose management is based on the principles of sustainability, socio-ecological justice, and normatively recognized public interest (*maslahah mu‘tabarah*).⁴⁴

3. Equitable Ocean Management and Communities from the Perspectives of the Blue Constitution and Environmental Fiqh

An anthropocentric approach to natural resource management policy essentially places humans at the center of concern, with nature understood primarily as a means of fulfilling human needs. In the context of marine management, a policy orientation that places too much emphasis on economic interests and investment risks neglecting the carrying capacity and ecological functions of the ocean, thereby creating tension between the use of marine space and the sustainability of coastal ecosystems. This situation underscores the importance of a shift toward a social-environmental justice approach, which views the relationship between humans and the ocean as an interdependent whole and must be managed in a balanced manner.⁴⁵

From the perspective of the blue constitution, socio-ecological justice serves as a normative framework in maritime law that affirms that the sea is not merely an object of economic exploitation, but rather a shared living space with ecological, social, and

⁴³ Sargsyan, Hovhannes, Annisatul Maulidiyyah Rahman, Alice Björnsson, Yusuf Ndong Nzé, and Ana Sofia Del Carmen. "Beyond anthropocentrism: Reinterpreting Islamic legal ethics through transspecies rights and ecological jurisprudence." *Indonesian Journal of Islamic Law* 8, no. 1 (2025): 92-112. <https://doi.org/10.35719/9vrysr32>

⁴⁴ Zezen Zainul Ali, "The Urgency of Patriotism in Maintaining the Unity in the Republic of Indonesia in the Perspective of Maslahah," *El-Maslahab* 11, no. 2 (2021): 116–126, <https://doi.org/10.23971/elma.v11i2.2958>.

⁴⁵ Elly Kristiani Purwendah et al., "Ecological and Social Justice Basis on Marine Environment Protection and Preservation in The System of Indonesian Law," *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarga Negara* 7, no. 2 (2022): 412–428, <https://doi.org/10.17977/um019v7i2p413-428>.

constitutional functions.⁴⁶ This principle aligns with the regulations on marine spatial planning in Law No. 27 of 2007 as amended by Law No. 1 of 2014 on the Management of Coastal Areas and Small Islands, which emphasizes the protection of coastal ecosystems, public access, and the sustainable use of marine space. Furthermore, Government Regulation No. 27 of 2021 on Spatial Planning reinforces the state's obligation to integrate environmental, social, and economic aspects into spatial planning—including marine spatial planning—to prevent conflicts of interest and environmental degradation. Thus, licensing policies in marine areas must be placed within a framework of marine spatial planning oriented toward ecosystem protection and the public interest, not solely toward the optimization of economic value.

In line with this, environmental fiqh views the ocean as part of *hifz al-bi'ah*—the obligation to preserve the environment as a prerequisite for the sustainability of human life. This perspective positions humans as stewards (*khalifah*) who bear moral and legal responsibility to utilize natural resources proportionally and without causing harm. Therefore, marine management practices that restrict public access and disrupt ecosystem balance are inconsistent with the normatively recognized principle of public interest (*maslahah mu'tabarah*).⁴⁷ The integration of the blue constitution and environmental fiqh approaches thus underscores that marine management policies must be directed toward protecting marine spaces as sustainable and equitable ecological public spaces for coastal communities.

The human tendency to exploit nature stems from a mindset that views nature merely as a means to fulfill interests and ambitions, as reflected in the proverb *al-Insānu Madiyyun bi-Thab'ih*—that humans possess an innate nature (*fitrah*) in building social life. However, because the negative traits within him—such as greed, selfishness, and ambition—lead him to engage in destructive behavior in pursuit of his own interests, without regard for the consequences. The ocean, as part of the natural environment, must be protected from exploitative actions.⁴⁸ In Fazlur Rahman's view, the ocean, as a living environment, is regarded as an inseparable part of the unified universe; thus, it must be safeguarded with awareness and responsibility when humans utilize nature to meet their needs.⁴⁹ Similarly, Wahbah Zuhaili views the environment as part of the *maqashid al-sharia* that must be preserved and protected by humans to create a

⁴⁶ Asshiddiqie, *Green and Blue Constitution Undang-Undang Dasar Berwawasan Nusantara*, 165.

⁴⁷ Yafie, *Merintis Fiqh Lingkungan Hidup*, 28.

⁴⁸ Uthman Mehdad Al-Turabi, and Jasser Auda. "Toward a Maqāṣid-Based Legal Reform: Systemic Thinking for Social Transformation in the Modern Muslim World." *Indonesian Journal of Islamic Law* 8, no. 2 (2025): 209-228. <https://doi.org/10.35719/fhw10v84>

⁴⁹ Fazlur Rahman, *Tema Pokok Al-Qur'an*, trans. Anas Mahyuddin (Bandung: Pustaka, 1995), 115.

balanced ecosystem between nature and humanity with full responsibility, safeguarding against arbitrary actions toward nature, and the misuse of nature.⁵⁰ Meanwhile, Yusuf al-Qaradhawi holds the view that protecting the environment is equivalent to safeguarding the objectives of Islamic Sharia, such as: 1. Protecting the environment is equivalent to protecting the religion. 2. Protecting the environment is equivalent to protecting the soul. 3. Protecting the environment is the same as protecting future generations. 4. Protecting the environment is equivalent to protecting the mind. 5. Protecting the environment is equivalent to protecting one's wealth. He emphasizes environmental conservation as a human commitment to fulfilling the objectives of Islamic law to ensure the preservation of a sustainable environment free from destruction, pollution, and the depletion of natural resources within its ecosystem.⁵¹

From the perspectives of the contemporary scholars mentioned above regarding *hifz al-bi'ah*, there is a consensus that protecting nature is part of the objectives of Islamic Sharia, and damaging it is viewed as an act of harm. Therefore, preserving the sustainability of marine ecosystems is an obligation for the state to achieve ecological justice in the oceans and social justice for society. To explore the substance of social-ecological justice, the following presents a comparison of the core concepts of social-ecological justice within the blue constitution and environmental *fiqh*.

Tabel.1.1: Concepts of Social-Environmental Justice

ASPECT	BLUE CONSTITUTION	ENVIROMENT AL FIQH	SUBSTANCE OF JUSTICE
Foundation Thoughts	Legal law based on the ocean part	Preserving the sea as of the objectives Islamis law regarding the preservation of the enviromental	Realizing harmony between humans and the marine environment as a collective responsibility
objective	Ensuring the sustainability of the	Environmental conservation and	The creation of a healthy marine ecosystem and the

⁵⁰ Wahbah Zuhaili, *Fiqh Islam Wa Adillatuhu Jilid 4*, trans. Abdul Hayyie Al-Kattani and Et al (Depok: Gema Insani, 2011), 634.

⁵¹ Yusuf Al-Qaradhawi, *Islam Agama Ramah Lingkungan*, trans. Abdullah Hakam Shah, Lukman Hakim Sa, and Muhammad Sulthoni Yusuf (Jakarta Timur: Pustaka al-Kautsar, 2002), 72.

	marine environment and the fishing profession	fishermen's rights	protection of fishermen's rights
Ethics Environmental and Social	Ecocentric policy HGB on the coast in marine	Trust maintaining a leader the balance of the marine ecosystem	Maintaining balance of the marine ecosystem based on an ecocentric principle, rather than policies that are merely for economic interest based on an anthropocentric
Social-Environmental Violations	Enclosing of the sea is viewed as environmental exploitation	Abusing authority leads to corruption and injustice	Enforcing punishment

Source: *Jimly Asshiddiqie*,⁵² *Ali Yafie*,⁵³ *Yusuf al-Qaradhawi*,⁵⁴

The vision of socio-ecological justice outlined above points toward a fair and sustainable legal framework for the oceans, and environmentally conscious framework aimed at maintaining the balance of marine ecosystems and supporting fishing communities and those who depend on the sea for their livelihoods, thereby ensuring the management, utilization, and control of maritime security as mandated by Article 33, paragraph 3 of the 1945 Constitution.⁵⁵ The state, as the regulator of the private sector through *its* legal policies in promoting investment, must view legal policies not merely as tools to achieve objectives, but as means to create a national legal framework that is fully accountable, thereby realizing the nation's ideals and the state's objectives as enshrined in Pancasila and the 1945 Constitution; thus, if such policies have the potential to cause suffering or injustice, and social inequality within society, this policy needs to be reviewed.⁵⁶ The revocation of HGB permits, from the perspective of *the blue constitution*, demonstrates the state's commitment to ensuring the people's prosperity the people, preserving marine ecosystems, and overseeing the

⁵² Asshiddiqie, *Green and Blue Constitution Undang-Undang Dasar Berwawasan Nusantara*, 134.

⁵³ Yafie, *Merintis Fiqh Lingkungan Hidup*, 163.

⁵⁴ Al-Qaradhawi, *Islam Agama Ramah Lingkungan*, 24.

⁵⁵ Asshiddiqie, *Green and Blue Constitution Undang-Undang Dasar Berwawasan Nusantara*, 146.

⁵⁶ Moh. Mahfud MD, *Politik Hukum Di Indonesia* (Depok: PT RajaGrafindo Persada, 2009), 2.

implementation of spatial planning in regencies and cities within strategic areas.⁵⁷ Once the HGB permits are revoked, the coastal barriers will also be removed; this reflects that justice remains alive within society (living law) without favoring corporations or interested parties; thus, it can be said that justice for all Indonesian people-as embodied in equality before the law (everyone is equal before the law)-must be upheld, even if the world were to perish, in accordance with the maxim fiat justitia et pereat mundus which the state still upholds.⁵⁸

The revocation of HGB permits from an environmental fiqh perspective demonstrates the state's commitment to preserving the marine environment as part of the Islamic Sharia's objective of hifz al-bi'ah, which must its existence is safeguarded to maintain a peaceful environment by prioritizing the public interest. Yusuf al-Qaradhawi defines the public interest as a means of preventing potential harm that could threaten the tranquility, security, order, and happiness of human life.⁵⁹ In line with this, Abdul Wahab Khallaf views the public interest as something that must bring benefits to the majority of people while taking into account all potential harms that may aris.⁶⁰

Public interest serves as the basis for consideration in the formulation and repeal of legal policies, as articulated by the *usul al-fiqh* principle: "Dar'ul Mafāsīd Muqaddam a'la al-Jalbil Masālih" (preventing harm takes precedence over seeking benefit). Policies should not merely prioritize formal recognition; rather, the legitimacy of such policies must embody moral values, utility, and social justice as substantive foundations for the people. Thus, the repeal of policies demonstrates the state's responsiveness in addressing public aspirations.⁶¹ Policy that responsive law has an aspirational nature grounded in the aspirations or will of the people, so that the legal products created are viewed as the crystallization of the people's will. This differs from orthodox law, which is positivist-instrumentalist in nature which tends to reflect social and political visions as tools to realize the will of specific interests alone.⁶² Therefore, policies

⁵⁷ Asshiddiqie, *Green and Blue Constitution Undang-Undang Dasar Bermawasan Nusantara*, 164.

⁵⁸ Jimly Asshiddiqie, *Konstitusi Dan Konstitusionalisme Indonesia*, Cetakan Pe (Jakarta Timur: Sinar Grafika, 2010).

⁵⁹ Yusuf Al-Qaradhawi, *Fiqih Maqashid Syariah*, trans. Arif Munandar Riswanto (Jakarta Timur: Pustaka al-Kautsar, 2007), 97.

⁶⁰ Abdul Wahhab Khallaf, *Ilmu Ushul Fiqh*, trans. Moh. Zuhri and Ahmad Qarib (Semarang: PT. Karya Toha Putra, 2014), 142.

⁶¹ M. Sulthon, Imam Syafi'i, and Auliya Ghazna Nizam, "Contemporary Fiqh in Indonesia: The Dynamics of Istinbāt Al-Ahkām at Ma'had Aly Salafiyah Shafi'iyah Sukorejo Situbondo," *Abkam: Jurnal Ilmu Syariah* 24, no. 1 (2024): 119–133, <https://doi.org/10.15408/ajis.v24i1.321754>.

⁶² Mahfud MD, *Politik Hukum Di Indonesia*, 32.

not grounded in morality will only produce legal legitimacy that tends to be absolute and disregards moral values in pursuit of power ambitions.⁶³

E. Conclusion

The issuance of Building Use Rights (HGB) for bamboo fences in the Tangerang–Banten maritime area has been proven to be inconsistent with Article 33(3) of the 1945 Constitution and Constitutional Court Decision No. 3/PUU-VIII/2010, as it has the potential to privatize maritime space and disregard ecological interests as well as fishermen’s rights. Through *the blue constitution* framework, the formulation of maritime policy should ideally be oriented toward ecological justice, open access, and the protection of public rights to marine space. Environmental fiqh, through the principles of *hifz al-bi’ah* and the prohibition against *ifsād*, emphasizes that the sea cannot be privately controlled and must be protected from actions that damage the ecosystem. Both frameworks prioritize ecological well-being as the primary basis for assessing the legitimacy of policies. Therefore, this study recommends that HGB licensing policies in marine areas be formulated based on sustainability, public morality, and ecological benefit so that they align with the constitutional mandate and Islamic environmental ethics. This study has limitations in its normative analysis and has not examined institutional dynamics in licensing practices. Further research is recommended to examine conflicts of interest among licensing agencies and to deepen the role of public engagement in decision-making regarding the utilization of marine space.

F. Conflict of Interest Statement

The author declares that there is no conflict of interest in the publication of this article

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⁶³ Niccolò Machiavelli, *The Prince (The Famous Analysis of Statesmanship and Power)*, trans. Natalia Triaji (Surabaya: Ecosystem Publishing, 2018), 144.

H. References

- Ahmed, Ashraf. "A Theory of Constitutional Norms." *Michigan Law Review* 120, no. 7 (2022): 1361–1418. <https://doi.org/10.36644/mlr.120.7.theory>.
- Al-Farisi, Muhammad Adib. "Perspektif Fikih Bi'ah Dan Green Constitution Terhadap Undang-Undang Nomor 3 Tahun 2022 Tentang Ibu Kota Negara." (Tesis, UIN Sunan Kalijaga), 2024.
- Al-Mawardi. *Al-Abkam as-Sulthaniyah*. Translated by Khalifurrahman Fath and Fathurrahman. Jakarta: Qisthi Press, 2014.
- Al-Qaradhawi, Yusuf. *Fiqih Maqashid Syariah*. Translated by Arif Munandar Riswanto. Jakarta Timur: Pustaka al-Kautsar, 2007.
- . *Islam Agama Ramah Lingkungan*. Translated by Abdullah Hakam Shah, Lukman Hakim Sa, and Muhammad Sulthoni Yusuf. Jakarta Timur: Pustaka al-Kautsar, 2002.
- Al-Turabi, Uthman Mehdad, and Jasser Auda. "Toward a Maqāṣid-Based Legal Reform: Systemic Thinking for Social Transformation in the Modern Muslim World." *Indonesian Journal of Islamic Law* 8, no. 2 (2025): 209–228. <https://doi.org/10.35719/fhw10v84>
- Ali, Mohammad Mahrus, Firma Aditya, and Abdul Basid Fuadi. "Coastal Communities Protection of Constitutional Rights: The Urgency of Harmonization of Integrated Coastal Management Regulations." *Jurnal Konstitusi* 17, no. 4 (2020): 800–827. <https://doi.org/10.31078/jk1745>.
- Ali, Zezen Zainul. "The Urgency of Patriotism in Maintaining the Unity in the Republic of Indonesia in the Perspective of Maslahah." *El-Masblahab* 11, no. 2 (2021): 116–26. <https://doi.org/10.23971/elma.v11i2.2958>.
- Anggraini, Anna Maria Tri, Ahmad Sabirin, Sharda Abriant, Rais Akbar Rahma, and Berto Mulia Wibawa. "Ensuring Justice and Utility: Addressing Allegal Monopolistic Practices in Ibu Kota Nusantara." *Jurisdiction: Jurnal dan Syariah* 15, no. 2 (2024): 274–308. <https://doi.org/10.18860/j.v15i2.28765>.
- Asshiddiqie, Jimly. "Building a Constitutional Awareness Culture to Create a Democratic Law State." *PETITA: Jurnal Kajian Ilmu Hukum dan Syariah* 8, no. 1 (2023): 1–11. <https://doi.org/10.22373/petita.v8i1.128>.
- . *Green and Blue Constitution Undang-Undang Dasar Berwawasan Nusantara*. Depok: PT RajaGrafindo Persada, 2021.

- . *Konstitusi Dan Konstitusionalisme Indonesia*. Cetakan Pertama. Jakarta Timur: Sinar Grafika, 2010.
- . *Konstitusi Keadilan Sosial Serial Gagasan Konstitusi Sosial Negara Kesejahteraan Sosial Indonesia*. Jakarta: Buku Kompas, 2018.
- Bill of Right Institute. “Natural Rights and the Declaration of Independence,” <https://billofrightsinstitute.org/essays/rights-and-the-declaration-of-independence>.
- Budiardjo, Miriam. *Dasar-Dasar Ilmu Politik*. Jakarta: PT Gramedia Pustaka Utama, 2008.
- Carson, Rachel. *Silent Spring*. New York: Mariner Books, 2002.
- Evans, Jeremy Anleyth, Manuel Prieto, Jonathan Barton, Ana Garcia Cegarra, Sandor Muslow, Emilo Ricci, Campus Leonardo, and Vergara Pinto Fransisca. “Toxic Violence in Marine Sacrificial Zones: Developing Blue Justice Through Marine Democracy in Chile.” *Environment and Planning C: Politics and Space* 40, no. 7 (2022): 1492–1514. <https://doi.org/10.1177/23996544221084193>.
- Fariz, Reza Darma Al, Ramdiana Muis, Nani Anggraini, Indriani Rachman, and Toru Matsumoto. “Good Enviromental Governance Roles in Sustainable Solid Waste Management in Indonesia: A Review.” *Journal of Community Based Enviromental Engineering and Management* 8, no. 1 (2024): 45-56. <https://doi.org/10.23969/jcbeem.v8i1.12035>.
- Fauzani, Muhammad Addi. “The Shifting in the Legal Politics of Regulating the General Principles of Good Governance in Indonesian Legislation.” *AS-SIYASI: Journal of Constitutional Law* 3, no. 1 (2023): 1–24. <https://doi.org/10.24042/as-siyasi.v3i1.14970>.
- Fidela, Farah, and Et al. “Mendorong Penegakan Hak Dan Kewajiban Negara Dalam Melestarikan Hewan Laut.” *Birokrasi: JURNAL ILMU HUKUM DAN TATA NEGARA* 2, no. 2 (2024): 311–322. <https://doi.org/10.55606/birokrasi.v2i2.1195>.
- Halide, Nirwana. "THE URGENCY OF ESTABLISHING A LOCAL GOVERNMENT REGULATION CONCERNING WASTEWATER MANAGEMENT IN LUWU REGENCY." *Jurnal Al-Dustur* 6, no. 1 (2023): 1-15. <https://doi.org/10.30863/aldustur.v6i1.3962>
- Hasan, Noorhaidi. *Dinamika Politik Islam Di Indonesia Tahun 2020*. Yogyakarta: UII Press, 2020.
- He, Yugang. “Navigating Political Uncertainty and Mineral Policy: Pathways to Global South’s Environmental Sustainability.” *Global Environmental Change* 92, no. 103002 (2025): 0959–3780. <https://doi.org/10.1016/j.gloenvcha.2025.103002>.

- Hidayat, Syahril, Melly Rifa'atul Lailiyah, and Rizki Nurdiansyah. "Analisis Keabsahan Sertifikat Hak Guna Bangunan Yang Terbit Diatas Laut." *Amandemen: Jurnal Ilmu Pertahanan, Politik Dan Hukum Indonesia* 2, no. 1 (2025): 209–217. <https://doi.org/10.62383/amandemen.v2i1.824>.
- Humas UMM. "Pagar Laut Mengancam Ekosistem Dan Dugaan Reklamasi," 2025. <https://www.umm.ac.id/id/arsip-koran/investor/pagar-laut-merusak-ekosistem-dan-tatanan-sosial-masyarakat-pesisir.html>.
- Isharyanto, Rifandy Ritonga, Rudy, and Aulia Oktarizka Vivi Puspita Sari A.P. "Hak Negara Untuk Mengontrol Sumber Daya Alam Di Indonesia: Review Putusan Mahkamah Konstitusi." *AS-SIYASI: Journal of Constitutional Law* 1, no. 2 (2021): 1–13. <https://doi.org/10.24042/as-siyasi.v1i2.11343>.
- Istiani, Mariatul, and Muhammad Roy Purwanto. "Fikih Bi'ah Dalam Perspektif Al-Qur'an." *At-Thullab: Jurnal Mahasiswa Studi Islam* 1, no. 1 (2019): 24–39. <https://doi.org/10.20885/tullab.vol1.iss1.art2>.
- Kementerian ATR/BPN. "Kementerian ATR/BPN Investigasi Polemik Sertifikat HGB Di Lokasi Pagar Laut," 2025. <https://www.atrbpn.go.id/berita/kementerian-atrbpn-investigasi-polemik-sertipikat-hgb-di-lokasi-pagar-laut>.
- Kementrian Agama RI. "Badan Penelitian Dan Pengembangan Dan Pendidikan Dan Pelatihan Lajnah Pentashihan Mushaf Al-Qur'an." Tangerang: Forum Pelayanan Al-Qur'an, 2019.
- Khallaf, Abdul Wahhab. *Ilmu Ushul Fikih*. Translated by Moh. Zuhri and Ahmad Qarib. Semarang: PT. Karya Toha Putra, 2014.
- Leheza, Yevhen, Olena Sinkevych, Zorina Kravtsova, Olena Kudriavtseva, and Levgeniia Cherniak. "The Human Right To An Environment Safe for Life and Health: Legal Regulation, Contemporary Challenges and Comparative Perspectives." *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 2 (2023): 140–150. <https://doi.org/10.18592/sjhp.v23i2.12257>.
- Liunokas, Andre Novensa, Farida Patittingi, Tri Fenny Widayanti, Budiyanto, and Sabria Umar. "Balancing Tradition and Law: Indigenous Use and Legal Protection of Pulau Pasir-Ashmore Reef." *PETITA: Jurnal Kajian Ilmu Hukum Dan Syariah* 9, no. 2 (2024): 654–673. <https://doi.org/10.22373/petita.v9i2.413>.
- Lukito, Ratno. "State and Religion Continuum in Indonesia: The Trajectory of Religious

- Establishment and Religious Freedom in the Constitution.” *Indonesian Journal of International and Comparative Law* 5, no. 4 (2018): 654-681.
- Machiavelli, Niccolo. *The Prince (The Famous Analysis of Statesmanship and Powe*. Translated by Natalia Triaji. Surabaya: Ecosystem Publishing, 2018.
- Madjid, Nurcholis. *Islam Dan Humanisme Aktualisasi Humanisme Islam Di Tengah Krisis Humanisme Universal*. Yogyakarta: Pustaka Pelajar, 2007.
- Mahkamah Konstitusi. Putusan MK No. 3/PUU-VIII/2010 (n.d.).
- Manan, Bagir. *Membedah UUD 1945*. Malang: Universitas Brawijaya Press (UB Press), 2012.
- Maulana, Sandhi Imam, Lailan Syaufina, Lilik Budi Prasetyo, and Muhammad Nur Aidi. “Land Cover, Land Use, And Challenges In Implementing Peat Ecosystem Protection Policy In Bengkalis Regency.” *Journal of Natural Resources and Environmental Management* 9, no. 3 (2019): 549–65. <https://doi.org/10.29244/jpsl.9.3.549-565>.
- MD, Moh. Mahfud. *Politik Hukum Di Indonesia*. Depok: PT RajaGrafindo Persada, 2009.
- Mertokusumo, Sudikno. *Mengenal Hukum: Suatu Pengantar*. Yogyakarta: Cahaya Atma Pustaka, 2010.
- Mubiina, Fathan Ali. “Telaah Konsepsi Negara Hukum Dan Demokrasi Dalam Pembentukan Blue Constitution Di Indonesia.” *SASI* 26, no. 1 (2020): 52-74. <https://doi.org/10.47268/sasi.v26i1.211>.
- Muhajir, Afifuddin. *Fiqih Tata Negara: Upaya Mendialogkan Sistem Ketatanegaraan Islam*. Yogyakarta: IRCiSoD, 2017.
- Munajat, Makhrus. *Dinamika Hukum Islam Di Indonesia*. Yogyakarta: IERPRO KREASINDO, 2019.
- Narayan Belbase. *Good Environmental Governance In Th Future Constitution*. Nepal: IUCN, 2010.
- Nurdiansyah, Rifqi, and Doli Witro. “Muslim Politics: Political Model of Islamic Law in Adat Societies.” *ASY-SYIR’AH: Jurnal Ilmu Syari’ah Dan Hukum* 57, no. 2 (2023): 310-331.
- Ombudsman RI. “Ombudsman RI Usut Penerbitan SHM Di Kasus Pagar Laut Pesisir Tangerang,” 2024. <https://ombudsman.go.id/news/r/ombudsman-ri-usut-penerbitan-shm-di-kasus-pagar-laut-pesisir-tangerang>.
- Pemrov Banten. “Gerak Cepat, Pemrov Banten Segera Cabut Pagar Laut Di Pesisir Tangerang,” 2025. <https://bantenprov.go.id/berita/gerak-cepat-pemprov-banten-segera-cabut-pagar-laut-di-pesisir-tangerang>.

- Priambodo, Bono Budi. "Analisis Yuridis-Normatif Mengenai Duduk Perkara Serta Kerangka Hukum Kebijakan Terkait 'Pagar Laut Misterius' Di Pantai Utara Tangerang." *UNNES Law Review* 3, no. 2025 (7AD): 1221–33. <https://doi.org/10.31933/unesrev.v7i3.2>.
- Pudjiastuti, Sri Rahayu, Saryono, and Lutfi Hardianto. "Ecological Citizenship Based on Green Constitution through Environmental Education." *Jurnal Ilmu Pendidikan (JIP) STKIP Kusuma Negara* 16, no. 1 (2024): 132–40. <https://doi.org/10.37640/jip.v16i1.2088>.
- Purniawati, Nikmatul Kasana, and Rodiyah. "Good Environmental Governance in Indonesia (Perspective of Environmental Protection and Management)." *The Indonesian Journal of International Clinical Legal Education* 2, no. 1 (2020): 44–56. <https://doi.org/10.15294/ijicle.v2i1.37328>.
- Purwendah, Elly Kristiani, Agoes Djatmiko, Eti Mul Erowati, Ikama Dewi Setia, and Elisabet Pudystiwi. "Ecological and Social Justice Basis on Marine Environment Protection and Preservation in The System of Indonesian Law." *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarga Negara* 7, no. 2 (2022): 412–28. <https://doi.org/10.17977/um019v7i2p413-428>.
- Rahman, Fazlur. *Tema Pokok Al-Qur'an*. Translated by Anas Mahyuddin. Bandung: Pustaka, 1995.
- Ridho, M. Zainor. *Pengantar Ilmu Politik*. Malang: Intrans Publishing, 2019.
- Rofii, Ahmad, and Nadirsyah Hosen. *The Constitutionalization of "Religious Values" in Indonesia*. Oxford: Oxford University Press, 2023.
- Sainté, Guerby, and Luca Lämmle. "Environmental, Political, and Social Crises: The Context of Territorial Vulnerability in Haiti Republic." *Social Sciences & Humanities Open* 11, no. 101461 (2025): 2590–2911. <https://doi.org/10.1016/j.ssaho.2025.101461>.
- Sargsyan, Hovhannes, Annisatul Maulidiyyah Rahman, Alice Björnsson, Yusuf Ndong Nzé, and Ana Sofia Del Carmen. "Beyond anthropocentrism: Reinterpreting Islamic legal ethics through transspecies rights and ecological jurisprudence." *Indonesian Journal of Islamic Law* 8, no. 1 (2025): 92-112. <https://doi.org/10.35719/9vrysr32>
- Sarie, Fatma, Atiek Untarti, M. Nur Kamila Amrullah, Robby Firman Syah, Amruddin, Wati Asriningsih Pranoto, Siti Wish Back, Dewi Ulfah Arini, Kiki Kunthi Lestari, and Herie Saksono. *Mengenal Ekologi Sosial*. Batam: Yayasan Cendekia Mulia Mandiri, 2023.
- Soekanto, Soerjono, and Sri Mamudji. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta:

- Rajawali Press, 2009.
- Stærfeldt, Leonora Kleppa, and Paul Austin Stacey. “Environmental Governance and Political Contestation in Contexts of Illegal Small-Scale Gold Mining in Ghana.” *Geoforum* 160, no. 104221 (2025): 0016–7185. <https://doi.org/10.1016/j.geoforum.2025.104221>.
- Sthel, Marcelo Silva, Leonardo Mota, Fernanda Gomes Linhares, Marcenilda Amorim Lima, and Guilherme Rodrigues Lima. “Socioeconomic, Political and Environmental Consequences on the Use of Fossil Energy in Road Transport: A Case Study of the Truck Drivers’ Strike in São Paulo, Brazil.” *Environmental Development* 54, no. 101117 (2025): 2211–4645. <https://doi.org/10.1016/j.envdev.2024.101117>.
- Strong, C.F. *Konstitusi-Konstitusi Politik Modern: Studi Perbandingan Tentang Sejarah Dan Bentuk Terjemahan Modern Political Constitutions: An Introduction to the Comparative Study of Their History and Existing Form*. Translated by Derta Sri Widowatie. Cetakan II. Bandung: Penerbit Nusa Media, 2008.
- Sukarni, and Hafini bi Mahmud. “Development and Concept of Enviromental Fikih In The Works of Banjar Scholars: Historical and Thought Analysis.” *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 1 (2024): 173–188. <https://doi.org/10.18592/sjhp.v24i1.12906>.
- Sulthon, M., Imam Syafi’i, and Auliya Ghazna Nizam. “Contemporary Fikih in Indonesia: The Dynamics of Istinbāt Al-Ahkām at Ma’had Aly Salafiyah Shafi’iyah Sukorejo Situbondo.” *Abkam: Jurnal Ilmu Syariah* 24, no. 1 (2024): 119–133. <https://doi.org/10.15408/ajis.v24i1.321754>.
- Susanto, Antono Adhi. “Reconstruction of the 1945 Constitution for Strengthening the Legal Framework of Indonesia Environmental Law.” *Jurnal Konstitusi* 21, no. 2 (2024): 183–202. <https://doi.org/10.31078/jk2122>.
- Sutrisno, S Moeh Roem, Ilham Abbas, and Baharuddin Badaru. “Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Di Bidang Perbankan.” *Jurnal of Lex Generalis (JLS)* 1, no. 7 (2020): 1045–1059. <https://doi.org/10.47532/jirk.v1i1.144>.
- Syahroni. “Fenomena Pagar Bambu Di Laut Tangerang-Banten,”
- T, Siahaan N. H. *Hukum Lingkungan Dan Ekologi Pembangunan*. Jakarta: Erlangga, 2004.
- Thooriq, Faridha Ath. “Perlindungan Hukum Dsn Hak Asasi Manusia Terhadap Pekerja Kontrak Di Indonesia (Implementasi Berdasarkan Undang-Undang Ketenagakerjaan).” *Jurnal Gema Keadilan* 10, no. 3 (2023): 153–169. <https://doi.org/10.14710/gk.2023.20428>.

Undang-Undang No 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup.

UUD 1945 Pasal 33 ayat 3
[https://peraturan.bpk.go.id/Search?keywords=UUD+1945&tentang=&nomor=.](https://peraturan.bpk.go.id/Search?keywords=UUD+1945&tentang=&nomor=)

Waruwu, Clement Alexandrico. “Kebijakan Reklamasi Pantai Indah Kapuk 2: Dampak Terhadap Sosial Dan Ekonomi Masyarakat Kecamatan Teluknaga.” *Jurnal Studi Politik Dan Pemerintahan* 14, no. 2 (2025): 1–22.
[https://ejournal3.undip.ac.id/index.php/jpgs/article/view/50204/33457.](https://ejournal3.undip.ac.id/index.php/jpgs/article/view/50204/33457)

Yafie, Ali. *Menggagas Fikih Sosial Dari Soal Lingkungan Hidup, Asuransi Hingga Ukhuvah*. Bandung: Mizan, 1994.

———. *Merintis Fikih Lingkungan Hidup*. Jakarta Selatan: Yayasan Amanah, 2006.

———. *Teologi Sosial Telaah Kritis Persoalan Agama Dan Kemanusiaan*. Yogyakarta: LKPSM, 1997.

Zhang, Ni, and Hongjun Han. “The New Environmental Protection Law, Political Connections and Corporate ESG Performance.” *International Review of Financial Analysis* 102, no. 104110 (2025): 1057–5219.
[https://doi.org/https://doi.org/10.1016/j.irfa.2025.104110.](https://doi.org/https://doi.org/10.1016/j.irfa.2025.104110)

Zuhaili, Wahbah. *Fikih Islam Wa Adillatuhu Jilid 4*. Translated by Abdul Hayyie Al-Kattani and Et al. Depok: Gema Insani, 2011.

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