

Strengthening Marine Ecosystem Protection through the Blue Constitution Approach in Indonesia

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Abstract

Indonesia, as an archipelagic nation, possesses vast marine resources, yet faces serious threats in the form of ecosystem degradation, such as the destruction of coral reefs and mangroves, and marine pollution. These issues demonstrate that marine conservation laws are not yet fully effective in ensuring ecological sustainability. This study aims to analyze the conceptualization of the Blue Constitution in the Indonesian legal system and assess its relevance in strengthening the protection of marine ecosystems. The research method used is normative legal research with a statutory and conceptual approach. The results of the study indicate that the concept of Blue Constitution is a development of the Green Constitution, which places the sea as part of constitutional rights and an object of state protection. However, in the Indonesian legal system, this concept has not been explicitly formulated, so its implementation remains fragmented across various sectoral regulations. Therefore, conceptual strengthening and regulatory harmonization are needed to enable the Blue Constitution to function as a normative basis for the protection of sustainable marine ecosystems.

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1. INTRODUCTION

As the world's largest archipelagic nation, Indonesia's geographic characteristics make the ocean a fundamental element of national life. The ocean plays a vital role in the economy through fisheries, tourism, and energy, but it also serves as a vital ecological system that supports sustainable life. However, the reality is that Indonesia's marine ecosystems face significant pressures due to human activities, such as overexploitation, pollution, and coastal habitat destruction. This phenomenon highlights the urgency of strengthening the legal framework that comprehensively integrates marine ecosystem protection, given that the Indonesian Constitution still does not explicitly recognize the environment as a legal subject with clear constitutional obligations for the state and its citizens to protect it.

Protection of marine ecosystems has a strong constitutional basis as a form of state responsibility in maintaining environmental sustainability and the sustainability of natural resources for current and future generations. This is stated in Article 33, paragraph (3) and Article 28H, paragraph (1) of the 1945 Constitution. Both articles emphasize that the management of natural resources must be directed towards realizing the greatest possible prosperity of the people while guaranteeing the right to a good and healthy environment.

This concept then developed into the idea *green constitution*, which places environmental protection as a basic principle of the state system.

Along with the development of environmental legal thinking, the concept of the Blue Constitution emerged as an extension of the green constitution, which specifically highlights the protection of marine ecosystems. This concept views the sea not only as an object for economic exploitation, but as an ecological entity that plays an important role in the sustainability of life and national sovereignty. Within this framework, the state bears a constitutional obligation to maintain a balance between the use and protection of the sea.

However, in the Indonesian legal system, the concept of *Blue Constitution* has not been explicitly formulated in applicable regulations or constitutional structures. Regulations regarding marine conservation are still scattered across various sectoral regulations, leading to fragmentation and overlapping authority. This results in the effectiveness of marine ecosystem protection being less than optimal.

Based on this background, a normative study is needed that not only identifies the concept of *Blue Constitution* but also formulates its integration in the national legal system to strengthen the protection of marine ecosystems sustainably. This study focuses on two main problem formulations, namely how the concept of *Blue Constitution* is understood from the perspective of Indonesian natural resource law and law, as well as its relevance and implementation in strengthening the protection of marine ecosystems in Indonesia.

2. RESEARCH METHODS

This research is a normative legal study that positions law as a norm contained in statutory regulations. The *approaches* used include:

1 Statute approach.

This research method uses a normative legal research type that focuses on the study of positive legal norms, legal principles, and legal doctrines related to environmental protection and the management of marine and coastal areas from a sustainable development perspective. This study aims to analyze the synchronization, conformity, and implementation of legal norms that regulate the concept of the Blue Constitution in the state system and environmental law in Indonesia. The approach used includes a statute approach, namely by reviewing and analyzing various laws and regulations related to environmental protection, marine resource management, and coastal areas to determine the consistency, harmonization, and position of legal norms in supporting the concept of the Blue Constitution and sustainable development. The regulations reviewed include the 1945 Constitution of the Republic of Indonesia, in particular Article 28H paragraph (1) and Article 33 paragraph (3) and paragraph (4), Law Number 32 of 2009 concerning Environmental Protection and Management, Law Number 32 of 2014 concerning Maritime Affairs, and Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands as amended by Law Number 1 of 2014 concerning Amendments to the Law on Management of Coastal Areas and Small Islands along with various other implementing regulations relevant to environmental management and marine resources.

2 Conceptual approach

The conceptual approach in this research is carried out by examining the doctrines, theories, principles, and views of legal experts related to the concepts of the Blue Constitution, the Green Constitution, and the principles of sustainable development. This approach is used to build a theoretical framework in analyzing the relationship between the constitution, environmental protection, and marine resource management. The concept of the Blue Constitution is understood as the development of

environmental constitutionalism that emphasizes the importance of protecting marine areas, coasts, and marine resources as part of the constitutional rights of citizens and the obligations of the state. Meanwhile, the concept of the green constitution places environmental protection as a constitutional value that serves as the basis for policy formation and law enforcement. In addition, this research also uses the principle of sustainable development that emphasizes the balance between economic, social, and environmental aspects to ensure the sustainability of natural resources for present and future generations.

The legal materials consist of primary legal materials (statutory regulations), secondary legal *materials* (journals, books), and tertiary legal materials. The analysis was conducted qualitatively using legal interpretation and normative argumentation methods.

3. RESULTS AND DISCUSSION

A. Concept of *Blue Constitution* in the Perspective of Indonesian Natural Resources Law and Law

Draft of *Blue Constitution* is a development of the paradigm *green constitution*, which places the environment as part of the basic norms of the state. The Green Constitutional concept is an approach that integrates environmental protection into a country's legal and constitutional framework. In this context, the development of this concept can be achieved through several aspects, such as the inclusion of environmental principles in the Constitution, including articles that explicitly state the right to a healthy environment as a human right. This provides legal legitimacy for individuals and communities to demand environmental protection from the state. Apart from that, there is a State Obligation in Natural Resource Management. This includes strict regulation of resource exploitation and the application of sustainable development principles in every policy adopted.

The draft *Blue Constitution* specifically highlights the ocean as an ecological and constitutional entity that must be protected by the state. Theoretically, this concept views the ocean not merely as an object of economic management, but as part of a life system with intrinsic value and a connection to citizens' constitutional rights. Therefore, the implementation of the Blue Constitution requires legal harmonization that integrates the principles of sustainability, justice, and democracy in the management of marine resources.

Normatively, the concept *Blue Constitution* has a relationship with the constitutional values contained in the 1945 Constitution of the Republic of Indonesia, especially Article 33 paragraph (3), which states that the earth, water, and natural resources are controlled by the state for the greatest prosperity of the people. This norm emphasizes the existence of state authority in managing marine resources, while also containing an obligation to ensure the sustainability of their use. This relationship is strengthened through Article 28H paragraph (1), which provides legitimacy that a good and healthy environment is a constitutional right of every citizen, which also includes marine ecosystems as part of the environment. Through this approach, the concept of state sovereignty is transformed into the role of the state as a *trustee* or trustees who are required to maintain a balance between resource utilization and protection of marine biodiversity in accordance with the principles of sustainable development.

Meanwhile, within the natural resource legal framework, marine regulations remain sectoral and have not been integrated into a coherent constitutional concept. This presents challenges to achieving comprehensive marine management, with policies often

overlapping or even contradictory, ultimately threatening the sustainability of marine ecosystems and the rights of coastal communities.

Regulations such as the Environmental Law, the Maritime Law, the Fisheries Law, and the Coastal and Small Islands Law address different aspects, resulting in a separation of norms. This situation indicates that *Blue Constitution* in Indonesia has not yet developed as an operational norm, but is still at the conceptual and interpretative level. Looking at the theory of natural resource law which emphasizes how the law ensures that natural resources are managed fairly, sustainably, and for the welfare of the people, the concept of *Blue Constitution* can be understood as an effort to shift the paradigm from anthropocentric to ecocentric, where the sea is no longer seen solely as an economic object or commodity to fulfill human interests, but as a legal subject that has intrinsic value and the right to be protected for the sake of ecosystem balance..

National policies have developed within an anthropocentric paradigm, with the sea often viewed primarily as a source of profit for humans, leading to its management being oriented toward excessive resource utilization and exploitation. However, through a sustainable approach, *Blue Constitution*, this orientation was shifted to the concept of "ecocracy," which places the environment, especially water areas, as the center of sovereignty whose sustainability must be maintained by the state, corporations, and citizens. This paradigm shift is a crucial step to ensure that marine resource management continues to respect the ecological capacity of the marine environment. This aligns with the concept of a green constitution, which seeks to elevate environmental legal norms to the constitutional level to ensure the principles of environmentally sustainable development are firmly anchored in legislation..

Draft *Blue Constitution* is also related to the concept of state control over natural resources (*state control doctrine*). Starting from this context, the state plays not only a regulator but also a trustee with a responsibility to protect marine resources for present and future generations. Thus, state control must be interpreted not merely as the authority to exploit, but also as an obligation to protect. Furthermore, the state bears constitutional responsibility for protecting marine biodiversity from the threat of environmental damage and degradation.

Therefore, it can be understood that the concept of *Blue Constitution* in the Indonesian legal system, there is a close relationship with constitutional principles, although it has not been explicitly incorporated into national law. Conceptual strengthening of this concept is necessary to provide normative direction for sustainability-oriented marine resource management.

B. The Relevance of the Blue Constitution in Strengthening Marine Ecosystem Protection

The Blue Constitution concept is a development of the idea of environmental constitutionalism, which places the protection of marine resources and coastal areas as an integral part of the state's constitutional responsibilities. In the context of an archipelagic nation like Indonesia, this concept is particularly relevant, given that Indonesia's maritime territory covers more than two-thirds of the nation's territory and plays a strategic role in supporting the economic, social, cultural, and environmental life of the community. The sea is not only seen as an economic resource, but also as part of the constitutional rights of citizens to a good and healthy environment as guaranteed in Article 28H paragraph (1) of the 1945 Constitution. Therefore, the Blue Constitution is an important conceptual foundation in strengthening the orientation of state policy towards the sustainable protection of marine ecosystems.

Theoretically, the Blue Constitution can be understood as an extension of the green constitution concept, which has previously focused more on general environmental

protection. The Blue Constitution places particular emphasis on protecting the sea, coastal areas, small islands, and marine resources as part of an ecological system that must be maintained for sustainability. This concept positions the sea as an object of constitutional protection, not only related to the country's economic interests but also to the survival of present and future generations. Therefore, the Blue Constitution concept develops the environmental law paradigm by shifting the orientation from an exploitative approach to natural resources to an ecological approach that focuses on sustainability and intergenerational justice.

In the context of Indonesian national law, the relevance of the Blue Constitution is reflected in various constitutional provisions and laws governing the management of natural resources and the environment. In addition to Article 33 paragraph (3), Article 33 paragraph (4) of the 1945 Constitution also emphasizes the principle of sustainable and environmentally conscious development as the basis for organizing the national economy. In this context, *Blue Constitution*, this norm demands the "greening" (or "blueing") of macroeconomic activities to ensure that the use of marine resources does not exceed the carrying capacity of the environment. Therefore, protecting marine ecosystems cannot be separated from the state's responsibility to realize sustainable community welfare.

The relevance of the Blue Constitution is also increasingly important amidst increasing threats to marine ecosystems caused by human activities. Issues such as marine pollution, overexploitation of marine resources, coral reef destruction, illegal fishing, uncontrolled reclamation, and global climate change have seriously impacted the sustainability of Indonesia's marine ecosystems. This situation demonstrates that a legal approach solely focused on the economic utilization of marine resources is no longer adequate. A constitutional legal approach is needed that places marine ecological protection as a top priority in every coastal and marine area management policy.

The Blue Constitution is also relevant in strengthening a human rights approach to marine environmental protection. Contemporary governments must guarantee human rights, including a good and healthy environment. In addition to impacting the environment, damage to marine ecosystems affects people's rights to food, health, employment, and a decent standard of living, especially for coastal communities that depend on marine resources. Therefore, governments are responsible for ensuring that marine management policies adhere to the principles of ecological justice and do not violate community rights. Furthermore, strengthening human rights through the *Blue Constitution* provides a basis for the public to demand state accountability in preserving marine biodiversity, thus creating a balance between state sovereignty and the obligation to protect marine ecosystems as subjects that have intrinsic value.

In addition, the implementation of the Blue Constitution concept can strengthen the integration of national development policies with the principles of sustainable development. To date, marine sector development has often focused on economic growth through the exploitation of marine resources, without adequate ecological protection. As a result, various marine environmental damages continue to increase and threaten the future sustainability of natural resources. Through the Blue Constitution approach, marine development should be directed at a balance between economic interests, environmental protection, and social welfare. Thus, development policies should not only be oriented towards short-term profits but also consider the long-term sustainability of marine ecosystems.

In practice, strengthening the Blue Constitution requires harmonization of regulations and strengthening of institutions in the maritime and environmental sectors

to overcome the policy fragmentation that has hampered the protection of marine ecosystems. This harmonization includes integration between various laws and regulations, such as the Law on Environmental Protection and Management, the Maritime Law, and the Law on Coastal Area and Small Island Management, to create legal certainty and an integrated approach in the management of marine resources. In addition, institutional strengthening is needed through systematic, integrated, and sustainable strategies from the government, including increased inter-agency coordination to prevent threats to ocean health such as overexploitation and pollution. Without these steps, the implementation of the Blue Constitution will be merely normative, unable to address the conflict between economic exploitation and ecological conservation.

The relevance of the Blue Constitution is also evident in the importance of public participation in protecting marine ecosystems. Modern environmental constitutionalism emphasizes that natural resource management should not rely solely on the state as a sole actor, but rather must integrate the roles of coastal communities and fishermen, whose existence has often been overlooked in marine management. Public participation in the monitoring, management, and preservation of marine areas is an essential part of the principles of environmental democracy. The Blue Constitution encourages participatory, transparent, and accountable marine governance so that marine management policies can be more responsive to community needs and local ecological conditions.

Furthermore, the Blue Constitution concept has strategic relevance in addressing the challenges of global climate change. The ocean plays a crucial role as a climate regulator, carbon sink, and buffer for the balance of the Earth's ecosystem. However, rising sea temperatures, sea level rise, and coastal ecosystem damage due to climate change have posed serious threats to the sustainability of coastal areas and small islands in Indonesia. Therefore, protecting marine ecosystems through the Blue Constitution approach is not only crucial in a national context but also part of the global commitment to environmental protection and climate change mitigation.

Thus, the Blue Constitution concept holds significant relevance in strengthening the protection of marine ecosystems in Indonesia. This concept not only broadens the paradigm of environmental protection within the state system but also affirms that the sea and marine resources are part of citizens' constitutional rights that must be protected by the state. Through the application of the Blue Constitution principles, marine ecosystem protection can be directed towards the creation of sustainable, equitable, and human rights-based marine resource governance and environmental sustainability for present and future generations.

3. CONCLUSION

Conceptualization of the *Blue Constitution* in the Indonesian legal system is a development of the idea *green constitution*, which places the sea as part of constitutional protection. Although implicitly reflected in the 1945 Constitution, this concept has not been explicitly formulated in the national legal system.

The relevance of the *Blue Constitution* is crucial for strengthening the protection of marine ecosystems, particularly in addressing regulatory fragmentation and policy conflicts between exploitation and conservation. By using it as a normative basis, marine management can be guided by the principles of sustainability and ecological justice.

4. SUGGESTION

First, conceptual strengthening is needed for the *Blue Constitution* in the Indonesian legal system through progressive interpretation of the 1945 Constitution and the formation of more specific regulations.

Second, harmonization of maritime laws and regulations must be carried out systematically to create legal certainty and effective protection of marine ecosystems.

Third, countries need to integrate ecosystem-based approaches and increase law enforcement and community participation in marine resource management.

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