

Institutional Gaps and Technical Governance in Regional Marine Management: A Legal Analysis of SDG Implementation in Bajau Tourist Zones

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ABSTRACT

This article examines institutional gaps and the operation of technical governance in regional marine management within tourist-oriented maritime spaces traditionally associated with Bajau communities. Situated within the normative framework of the United Nations Sustainable Development Goals (SDGs), particularly SDG 11 (Sustainable Cities and Communities) and SDG 14 (Life Below Water), the study employs a legal-doctrinal and governance-oriented analytical approach. It explores how fragmented legal regimes, spatial regulation, and technology-driven governance tools interact to marginalize mobile and frequently stateless marine populations. The article argues that technical governance, while enhancing regulatory efficiency and environmental protection, often intensifies governance injustice when institutional design fails to accommodate non-sedentary and non-citizen social realities. It concludes that inclusive legal recognition, adaptive governance mechanisms, and strengthened regional coordination are essential for aligning marine conservation and tourism governance with the core principles of sustainable development.

KEYWORDS

Institutional gaps; Technical governance; Regional marine management; Sustainable development goals; Bajau communities; Tourism law; Marine governance

1 Introduction

Regional marine spaces have emerged as critical arenas where environmental protection, tourism development, and governance innovation intersect. Under the global sustainable development agenda, marine governance is increasingly expected to reconcile ecological sustainability with social inclusion. SDG 11 emphasizes the creation of inclusive and resilient communities, while SDG 14 focuses on the conservation and sustainable use of marine ecosystems. Together, these goals articulate a normative vision that integrates environmental integrity with human well-being.

Despite this ambition, the practical implementation of SDGs in marine tourist zones often exposes structural contradictions within existing legal frameworks. Many governance systems are designed around sedentary populations and formal citizenship, leaving mobile maritime communities—such as the Bajau—poorly accommodated or entirely excluded. This misalignment generates institutional gaps that undermine inclusive governance.

This article analyzes how technical governance tools, including spatial zoning, licensing regimes, and surveillance technologies, operate within such gaps. By focusing on legal structures and normative implications rather than empirical case narratives, the study contributes to broader debates on sustainable marine governance, governance justice, and the legal realization of the SDGs.

2 Institutional Gaps in Regional Marine Governance

Institutional gaps arise when legal and administrative systems fail to account for certain social practices, populations, or spatial realities, resulting in zones of governance ambiguity or exclusion. In regional marine governance, such gaps are particularly pronounced due to the convergence of multiple legal regimes, including environmental protection, tourism regulation, migration control, and maritime security. Each regime operates with distinct objectives and normative assumptions, often without sufficient coordination.

From a jurisprudential perspective, institutional gaps are not merely accidental omissions but structural consequences of modern legal imagination. Contemporary legal systems are predominantly built upon assumptions of territorial stability, sedentary residence, and clearly identifiable legal subjects. While these assumptions function effectively in terrestrial governance, they become increasingly inadequate in marine contexts characterized by fluid space and mobile livelihoods.

As a result, governance mechanisms may formally extend regulatory authority over marine spaces while substantively excluding the communities that depend on those spaces. Individuals subject to enforcement measures often lack corresponding access to legal protection, participation, or remedies. This condition produces a governance grey zone in which populations are governed but not fully recognized. Such asymmetry reflects a prioritization of administrative order over substantive justice and directly challenges the inclusive ethos embedded in the SDGs.

3 Technical Governance as a Mode of Marine Regulation

Technical governance refers to the deployment of regulatory technologies, scientific expertise, and administrative

instruments to manage spaces, resources, and populations. In marine tourist zones, this mode of governance commonly manifests through spatial zoning, environmental monitoring systems, licensing requirements, and digital surveillance. These tools are frequently justified by objectives such as ecological conservation, tourism safety, and economic optimization. Legally, technical governance represents a shift toward standardized, data-driven regulation. This approach enhances predictability and enforcement capacity, yet it simultaneously embeds normative assumptions about governable subjects. Licensing regimes presuppose legal identity and documentation, while zoning frameworks assume fixed patterns of use and settlement.

When applied without contextual sensitivity, technical governance tools tend to amplify institutional gaps rather than resolve them. Mobile or undocumented populations are transformed into regulatory anomalies and classified as non-compliant by default. Moreover, technical rationality often becomes conflated with governance legitimacy, marginalizing considerations of social justice, cultural continuity, and historical use rights. Consequently, technical governance risks functioning less as an inclusive management strategy and more as a mechanism of exclusion, raising critical concerns regarding its compatibility with sustainable development principles.

4 Sustainable Development Goals and Legal Normativity

4.1 SDG 11 and the Challenge of Inclusive Communities

SDG 11 calls for the development of inclusive, safe, resilient, and sustainable communities, framing inclusivity as a foundational principle rather than a supplementary policy objective. In marine contexts, however, inclusivity poses distinct legal and institutional challenges. Genuine inclusion requires formal recognition of diverse forms of habitation and livelihood, including non-sedentary, seasonal, and maritime-based ways of life that do not align with conventional territorial or urban models of community formation.

Despite this normative requirement, many national legal systems continue to define community membership through criteria rooted in permanent settlement, fixed residence, and formal citizenship status. Such criteria function as legal gateways to participation, welfare provision, and political recognition. Individuals and groups that do not conform to these standards are effectively excluded, not through explicit prohibition, but through the operation of ostensibly neutral institutional mechanisms. Registration systems, spatial planning procedures, and eligibility requirements for public services often presuppose stable residence and documentary proof, rendering mobile marine communities administratively invisible.

This form of selective inclusion undermines the normative intent of SDG 11 by restricting access to decision-making processes that shape spatial development, environmental management, and service provision. When participation is conditioned upon legal statuses that mobile populations cannot easily obtain, inclusivity becomes procedural rather than substantive. From a governance perspective, such exclusion weakens the legitimacy of planning outcomes and perpetuates structural inequalities.

Normatively, this approach stands in tension with the SDG commitment to “leaving no one behind.” Without deliberate legal adaptation, the concept of inclusive communities risks remaining a symbolic aspiration rather than a meaningful governance principle. Achieving the objectives of SDG 11 therefore requires a reconfiguration of legal definitions of community that accommodate mobility, social diversity, and alternative relationships to space.

4.2 SDG 14 and Environmentally Oriented Regulation

SDG 14 emphasizes the conservation and sustainable use of marine ecosystems, positioning environmental protection as a central pillar of sustainable development. Legal instruments designed to implement this goal commonly rely on scientific assessments, spatial zoning, protected area designations, and enforcement mechanisms aimed at regulating human interaction with marine environments. These tools offer measurable ecological benefits and provide states with clear benchmarks for policy evaluation.

However, the regulatory logic underpinning environmentally oriented marine law often prioritizes ecological indicators while treating social impacts as secondary considerations. In the absence of integrated social safeguards, environmental regulation may generate unintended distributive consequences. Restrictions on access, use, or habitation disproportionately affect populations whose livelihoods are closely tied to marine resources and who lack alternative means of subsistence.

When institutional gaps persist, environmentally oriented regulation can intensify existing vulnerabilities by imposing conservation burdens without corresponding protections or compensatory measures. From a sustainability perspective, such outcomes are problematic, as they decouple environmental objectives from social equity. Environmental protection pursued at the expense of marginalized communities risks undermining long-term ecological goals by eroding trust, compliance, and cooperative governance.

A holistic interpretation of SDG 14 therefore requires the incorporation of social justice considerations alongside ecological imperatives. This entails embedding social impact assessment, participatory mechanisms, and rights-sensitive approaches within marine environmental law. Only through such integration can environmentally oriented regulation align with the broader normative architecture of sustainable development and contribute to governance frameworks that

are both ecologically effective and socially just.

5 Fragmentation, Regional Coordination, and Governance Justice

5.1 Legal Fragmentation and Jurisdictional Limits

Marine ecosystems and maritime livelihoods inherently transcend national boundaries, while legal authority remains predominantly organized along territorial and sovereign lines. This structural mismatch lies at the core of fragmented governance outcomes in regional marine management, particularly in areas characterized by intensive transboundary marine use. National legal systems, operating independently and guided by domestic policy priorities, often adopt divergent approaches to migration control, environmental enforcement, tourism regulation, and maritime security. These divergences are not merely technical differences but reflect deeper normative variations regarding sovereignty, risk management, and development priorities. As a consequence, mobile marine populations are frequently exposed to overlapping, inconsistent, or even contradictory regulatory regimes. Individuals may encounter strict enforcement measures in one jurisdiction while remaining legally invisible or administratively unrecognized in another. This condition creates a situation in which control mechanisms multiply while legal protections remain fragmented or absent. From a governance justice perspective, such asymmetry undermines the foundational principles of legal certainty, predictability, and accountability. When authority is dispersed across multiple jurisdictions without corresponding coordination, responsibility for rights protection becomes diluted, reinforcing institutional gaps and perpetuating structural vulnerability within regional marine governance.

5.2 The Role of Regional Legal Cooperation

Regional legal cooperation offers a critical pathway for addressing the challenges posed by fragmentation and jurisdictional limits in marine governance. Rather than supplanting national legal authority, regional frameworks can function as complementary mechanisms that enhance coherence and fill structural blind spots within domestic systems. Through harmonized standards, mutual recognition arrangements, and shared governance principles, regional cooperation can promote regulatory consistency while respecting the diversity of national legal orders. Within the SDG framework, regional cooperation embodies the partnership-oriented ethos of sustainable development by emphasizing collective responsibility for shared ecological and social systems. Importantly, effective cooperation does not require uniform solutions imposed across jurisdictions. Instead, it can establish baseline protections and procedural guarantees that safeguard fundamental rights while allowing contextual flexibility in implementation. By aligning normative commitments across borders, regional legal frameworks can mitigate the exclusionary effects of technical governance, reduce regulatory uncertainty for mobile populations, and strengthen the overall legitimacy and resilience of regional marine management regimes.

6 Conclusion

This article has examined institutional gaps and technical governance in regional marine management through a legal analysis of SDG implementation in Bajau tourist zones. It demonstrates that fragmented legal frameworks and control-oriented technical governance tools frequently marginalize mobile and stateless marine communities, undermining the inclusive aspirations of SDG 11 and SDG 14.

The study contributes to legal and governance scholarship by highlighting the normative implications of technical governance and emphasizing the importance of institutional design in achieving sustainable development. Sustainability cannot be reduced to ecological or economic metrics alone but must incorporate governance justice as a central concern.

For practical application, policymakers should prioritize adaptive legal recognition, integrate social safeguards into marine environmental regulation, and strengthen regional coordination mechanisms. Future research may further explore comparative legal models and normative innovations capable of reconciling mobility, sustainability, and governance justice in marine contexts.

About the Author

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