

The responsibility of the coastal states to protect the marine environment, emphasizing the principle of participation

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Abstract

The marine environment is a global concern, the effects and consequences of which are not hidden in the political, economic, and security realms of coastal nations or any nation worldwide. The reason is nowadays most countries directly or indirectly benefit from the advantages derived from the seas. Hence, the present study aims to address the responsibility of coastal states in protecting the marine environment based on the principle of participation. The current research question revolves around the strategies for responsibility acceptance by coastal states concerning the marine environment. The findings have shown that the responsibility acceptance of coastal states requires striking a balance between the economic interests of nations and environmental advocacy groups. Additionally, relying on scientific and research findings, referring to the opinions of experts, depending on principles of international maritime law, as well as modeling some regional treaties such as European maritime laws or constraints established by the Australian government, serve as a suitable support for identifying the rights and obligations of coastal states. Furthermore, the automatic and supervised participation of coastal states is not a panacea, as these states are stakeholders in marine resources, and therefore, non-governmental organizations, civil entities, and independent media play a role in identifying marine environmental issues and offering solutions, based on pollution cases, each state's share, and the extent of responsibility of that specific state. In the present study, due to the critical nature of the issues, the critical theoretical framework of problem-solving derived from critical theory was employed. The research method is descriptive and analytical, utilizing library resources.

Keywords: Coastal states, responsibility, marine environment, marine pollution, participation.

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1. Introduction

The subject of the marine environment is no longer confined to a particular country or state surrounded by open waters. This is because seas have become routes for commercial ships, oil tankers, passengers, tourists, and industrial, scientific, and economic explorers. Considering that oceans might involve the borders of many countries, addressing their issues and problems requires collective efforts. Furthermore, due to the expansion of communications and interdependence in the economic and political realms, marine pollution affects the lives of many humans both directly and indirectly. Given the developments related to marine pollution and the responsibilities of various governments, including coastal states, their commitments are intertwined with international law discussions. Hence, various strategies for the marine environment, including education, assessment, precaution, concern, and its expression, prevention, control, and compensation, are dimensions of the legal aspects related to marine environmental issues. Adhering to them is now emphasized from the perspective of maritime law at the international and regional levels.

Thus, the discussion of the responsibility of coastal states pertains to environmental rights as a significant part of human rights (third-generation human rights) and the observance of ethical considerations and international regulations. When coastal countries strive to develop their economy using maritime capacities, they must simultaneously pay attention to the consequences of their activities or interactions with other countries. This responsibility is referred to as the responsibility of the coastal state, which demands accountability from these states. Given the specific boundaries in coastal regions, dealing with pollution resulting from economic and industrial activities, seabed utilization, as well as maritime transportation concerns, are major environmental concerns. Addressing these issues without accepting responsibility and maintaining a balance between the rights and obligations of coastal states is not feasible. This responsibility is not solely limited to the negative aspect of a specific governmental role; rather, what matters is the participation and role of coastal states in addressing existing problems, whether the country itself is the cause of environmental threats to the sea or whether environmental threats arise within its territorial jurisdiction. Hence, exploring mechanisms to demonstrate the responsibility of coastal states,



critical analysis of the destructive role of coastal states or other nations, and presenting solutions to overcome these conditions are all crucial and necessary. Therefore, in the present study, we aim to identify the responsibility of coastal states in terms of their role in the marine environment and provide protective solutions based on participation.

2. Theoretical framework of research: Critical theory and problem-solving

The critical theory draws its roots from a branch of thought which have often been associated with the enlightenment era and the writings of Kant, Hegel, and Marx. Searching for the origin, relevance, and effective context in generating critical theory cannot be limited to just one possibility; instead, it can be as diverse as classical Greek thought on autonomy and democracy, Nietzsche's ideas, and Weber's contributions. However, in the twentieth century, critical theory merged into a distinct intellectual body known as the Frankfurt School. Critical theory was revitalized and reinvigorated with the works of Max Horkheimer, Teodor Adorno, Walter Benjamin, Herbert Marcuse, Erich Fromm, Leo Löwenthal, and more recently Jürgen Habermas. As a result, "critical theory" became the symbol and signifier of a philosophy that challenged the social and political order of modernity through internal critique. This theory primarily aimed to reinvigorate the critical potential that had recently come under attack by intellectual, social, cultural, economic, and technological trends (Der Derian & Devetak, 2001: 41). In the discourse of critical theorists, even though criticism of international relations paradigms and inequalities between different countries is highlighted, this analysis also extends to behaviors of governments and actors who, due to many reasons and the desire to enhance their power, exploit nature as a tool.

Therefore, according to critical thinkers, reducing the behavior of governments and individuals to a "security-seeking" behavior (Hobbesian politics) is an inadequate policy that only considers the interests of the powerful, ignoring other facets of security. The Hobbesian approach (viewing the sea and nature as instruments for economic benefits) is also incorrect and contrary to the rationality of sustainable life. Nonetheless, according to critical thinkers, regional cooperation in political, maritime, water, and military spheres should also consider that overturning the hierarchy of power and emancipating humans requires a critical approach that primarily aims to change the existing situation. In this critical approach, addressing existing problems and offering solutions for

constructive interaction among humans, between humans and nature, etc., is of utmost importance (Der Derian & Devetak, 2001: 47).

Critics, in critiquing the current situation and existing theories, believe that none of the systems of exclusion and removal can be elevated from this moral trial; unless the founders of these systems can gain the consent of everyone, especially those who are to be excluded from the social arrangements under discussion (Linklater, 2010: 273). This implies that social arrangements must be such that they can fulfill human rights in various dimensions of political, social, and environmental life and consider rights for future generations as well. According to Robert Cox, critical theory inherently contains an element of idealism, in the sense that it presents a coherent picture of an alternative order but confines its idealism within an understanding of historical processes. As this theory rejects the stability of the existing order, it also rejects improbable alternatives. Thus, critical theory can be a strategic guide for achieving an alternative order, whereas problem-solving theory guides tactical actions that intentionally or unintentionally sustain the existing order (Cox, 1986: 55). According to the critics, critical theory can present itself as an alternative since it encompasses all the elements necessary for generating necessary changes. Therefore, relying on critical theory, the perspective of problem-solving can be extracted and directed towards criticizing the prevailing conditions governing the seas on one hand and focusing on the responsibility of coastal states on the other. Thus, considering the potential in the problem-solving perspective, derived from critical theory, addressing the issue of coastal state responsibility and critiquing existing approaches towards the seas, along with considering solutions like participation, can illuminate some of the challenges in the realm of marine environmental issues.

3. Theoretical foundations; principles of marine environment

The marine environment is an important aspect of human interaction with the natural environment, representing two fundamental issues: first, the appropriate, principled, and rational utilization of natural resources, including those in the seas; and second, fulfilling commitments and establishing laws to prevent and mitigate environmental threats. Thus, prevention is of paramount importance in the discussion of marine environmental protection. Prevention has been referred to as



a golden rule of international law, aimed at controlling and reducing the adverse effects of marine environmental threats (Mahmoudi Kordi & Hosseini, 2021: 17). From this perspective, various governments, including those interacting with marine environments, should establish regulations to conserve marine resources and rationally exploit them. These governments should take action to formulate common regulations with countries that have coasts, seas, and ports. Thus, marine environmental principles are based on preventive measures that can prevent the entry of environmental threats and damages, while also taking positive actions to protect the environment (Jucher et al., 2018: 1460).

In another aspect of marine environmental principles, the observance of these principles by commercial and tourist ships in these areas is emphasized. This means that the laws and regulations of coastal states are important based on international documents, including Article 58 (3) of the Convention on the Law of the Sea, which is about observing the laws and fulfilling duties in economic zones. For example, ships traveling through seas and coastal areas must comply with the laws of coastal states according to international documents. Furthermore, the protection of the marine environment and its living and non-living resources, considered as collective interests of coastal countries, requires adherence. Sustainable development involves the standard use of marine resources, protection of existing resources, and prevention of environmental pollution (Salehi et al., 2021: 204). The importance of supervising ships' behavior in the seas stems from the fact that over 65% of the world's oil is transported by ships in open seas (Hesami et al., 2022: 92).

Supervision of ships and their activities is crucial in marine environmental issues. If mechanisms for supervising their activities, pollution levels, or other destructive actions are not established, positive measures for environmental protection by coastal states or even by countries benefiting from maritime communication services will be incomplete.

Numerous efforts have been made through declarations and international conventions for marine environmental protection. To eliminate harmful and dangerous activities, it is stated in the Convention on the International Maritime Regime that providing a series of services and facilities to ships to protect the marine environment is important. These services include receiving sediments and wastes, washing tanks, and inspecting ships' documents (Convention and Statute on the International Regime of Maritime, 2019). This means that such an

inspection prevents the entry of marine pollutants and even imposes a punishment for those who pollute the seas.

In addition, other international treaties have been established in this context, either to prevent or create suitable conditions for the desirable use of marine environments. It is essential to create a set of rules and regulations capable of encompassing all marine environmental issues. This framework can facilitate the realization of a green government both domestically and internationally, based on principles such as transparency, accountability, participation, and effective environmental governance (United Nations Convention on the Law of the Sea (UNCLOS), 1982). Therefore, the Law of the Sea Convention also recognizes the presence of environmental risks and threats in the marine environment. Achieving its goals necessitates cooperation and efforts to eliminate or minimize these risks and establish global regulations to shape a new pattern of human-environment relationships in the seas. In terms of marine environmental principles, the Law of the Sea Convention stands as one of the most comprehensive documents outlining regulations for protection and support in this area. Just as the comprehensiveness of the provisions of the Convention on the Law of the Sea to prevent any kind of pollution and environmental risk in different sea areas will cause governments to commit themselves. Based on the aforementioned convention, marine areas have been determined, which include: internal waters, territorial sea, surveillance zone, exclusive economic zone, continental shelf, open seas, and territorial waters (Salehi and Al-Kajbaf, 2021: 205). This division signifies the delineation of various human activities, the rights and responsibilities of governments, and the existence of clear boundaries. Adherence by interested states, combined with compliance with marine environmental regulations, can ensure adherence to principles of maritime environmental protection. This can act as a supervisor for the rights and responsibilities of coastal states and as a representation of their sovereignty over a portion of their territory (the sea), concerning marine environmental matters.

4. The Responsibility of coastal states to support marine environment

Based on the problem-solving approach derived from critical theory, criticism of existing policies on one hand and finding a solution based on participation on the other hand require overcoming certain limitations, and changing some



policies, attitudes, and even tools in the field of marine environment. Therefore, addressing the responsibility of coastal states requires, above all, identifying some existing issues and problems and then presenting solutions to overcome them. In the following cases, it is tried to simultaneously address challenges and solutions.

4.1. Balancing economic interests and environmental demands

Utilizing the economic benefits of seas poses a major obstacle to coastal states' compliance with environmental treaties. That is, due to the existence of water resources, ports, shipping, etc., there are profitable industries which have led to non-compliance with environmental agreements by coastal states (Holthus, 2018: 5). This profitability can diminish governments' commitments to environmental issues or even influence on their participation in environmental matters. Conversely, a solution to create responsibility in supporting the marine environment is to reduce the linkage between governments' interests and water resources, which would serve as a foundation for distancing governments from policies that prioritize economic gains over long-term environmental protection. Consequently, addressing this matter is vital, especially considering the complex interplay of governmental bodies that primarily pursue their economic interests. These economic interests include activities such as shipping, fishing, extracting mines and resources from the sea bed, and supporting regional economic cooperation. This self-interested approach prevails, with fewer organizations currently supporting the issue of sea and ocean health and biodiversity (Wright et al., 2018). Hence, economic organizations related to coastal states are more prevalent than those actively supporting marine environmental protection, leading to an organizational imbalance. The relationship between the interests of these organizations and coastal states leads to neglect of the environmental health of the seas.

The responsibility of coastal governments in environmental protection doesn't entail a complete cessation of natural resource exploitation, as that would undermine economic development. Protection here refers to the proper management of human consumption of marine resources, including the maximum possible use of resources for the current generation while preserving resources for future generations. In achieving this balance, the correct and principled utilization of natural resources aligns with economic development (Zargar & Noroozi Kalarmi, 2016: 254-255). In addition to coastal governments and economic

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organizations' exploitation, legal and environmental mechanisms should be meticulously observed. Topics like education, human and marine life health, clean climate, and non-economic aspects like preserving the natural beauty of coasts and ports all contribute to sustainable development in these areas. Proper and principled management by coastal states and achieving a balance between economic and non-economic needs form a substantial part of this responsibility. The real form of this responsibility involves considering the diverse demands of environmental activists and economic entities, both governmental and non-governmental, operating within these regions.

States' effective responsibility will only be realized when cooperation extends beyond national borders. This is because marine issues engage a wide spectrum of countries, continents, and regional and global organizations. Therefore, outside national boundaries, we require the involvement of coastal countries, experts, local communities (coastal inhabitants), stakeholders, and the pursuit of ongoing actions concerning environmental impacts (Lily and Roady, 2020: 336). Thus, states' responsibility alone and even direct intervention in marine environmental affairs will not be sufficient. Maritime issues are pervasive, multidimensional, and encompass the interests of countries, economic groups, and even various governmental bodies which require participation based on collective wisdom. In such instances, it seems that the state should responsibly act as a facilitator. It should constrain economic interests related to seas and coasts, as well as manage the economic environmental affairs on the seabed and coasts. Thus, benefiting from the seabed will impact the coasts, and this continuous cycle requires difficult and complex decisions and at the same time based on foresight.

Another important aspect of coastal states' responsibility is to determine the allocation of benefits through a specific political-legal framework. This implies that coastal states and economic groups should create necessary guarantees for marine resource management. Australia is an example of countries that makes arrangements in the field of fisheries productivity. Australia's fisheries management and biodiversity conservation program (1999) establishes a model of ecologically sustainable management among countries sharing common interests (Warner, 2020: 34). This model aims to limit the use of marine resources in the coasts and determine the share of each government in the coasts and seas.



4.2. Scientific participation in the protection of marine natural resources

The protection of natural resources and affairs related to the marine environment plays a crucial role in maintaining the functionality of seas and healthy ecosystems. This requires the development of knowledge and research related to preventing marine pollution by coastal states. Consequently, there is another form of collaboration and participation, promoting studies, and research programs, exchanging information and data, as well as actively engaging in regional and global initiatives. This scientific and research-oriented approach aims at understanding pollution levels, being in real situations, identifying risks, and ultimately offering solutions (Cjerde et al., 2021: 24). Scientific research contributes to raising awareness about the role of coastal states and their responsibilities towards the environment. In other words, independent and scientific research specifies the action of each state based on their responsibility, thereby addressing environmental threats to marine ecosystems.

Some scientific research conducted by international institutions, including the United Nations and its affiliated institutions, shows the serious problems and threats of the environmental hazards of sea pollution. The Espoo Convention, which operates under the United Nations Economic Commission for Europe, is one of the international treaties specifically dedicated to marine environmental assessments (Cjerde et al., 2021: 27). These independent and unannounced assessments, conducted by states, help identify damages resulting from pollution, changes, and climate impacts on the marine environment, which also endanger human life. The detrimental effects of marine degradation or pollution are significantly related to human life. For example, it is estimated that coral reefs worldwide protect about 100 million people living along coastlines from wave impacts. Additionally, the loss of coral reefs leads to annual damages exceeding 400 million dollars for countries like Mexico, Indonesia, Malaysia, the Philippines, and Cuba (Beck et al., 2018: 2186). Such a threat means that if marine corals are threatened due to human interventions such as manipulation of the marine environment, hospital waste discharge, municipal waste, or economic exploitation of the marine environment, the consequences will affect coastal cities in those countries. These human interventions can lead to the migration of a significant number of coastal inhabitants, which in turn poses security and social implications for the marine environment.

Continued environmental degradation in the seas raises concerns even for countries with fewer challenges in terms of access to water resources, including those within the European Union. Hence, in 2016, the European Union Commission approved a statement on the international governance of the oceans, which means linking the program of this union with the programs announced by the United Nations in the field of water resources management. This new agenda includes 53 points covering various areas such as oceanic cooperation, international guidelines, oceanic capacity building, expansion of maritime information and knowledge, and related services (Margaras et al., 2022: 3). The process of continuous supervision of the seas and prevention of their environmental degradation requires a continuous approach that can observe the implementation of policies, plans and specific programs while inspecting any unforeseen adverse environmental and hygienic impacts and take action to rectify them (Warner, 2020). Therefore, the responsibilities of governments involve stopping certain maritime activities which result in unfavorable environmental consequences.

4.3. Public participation and supervision in coastal states⁴

Public participation plays a significant role in holding coastal states accountable, as it can reveal the destructive actions of these states and also show the role of public opinion and their involvement in holding the state accountable. As an example, a substantial part of the activities of coastal states or those with access to open waters involves disseminating information about climate changes, including land subsidence, which can have global implications. Cases like land subsidence in Jakarta, with subsidence rates ranging from 3 to 10 centimeters, serve as examples (Abidin, 2015: 17). Therefore, effective participation of coastal states not only helps mitigate global issues stemming from marine environmental degradation but also reduces the impact of human and financial losses, forced migrations among these countries. A crucial aspect of state involvement in this process is supporting the supervisory role of the people and public organizations, including the concept of public participation. Public participation serves the purpose of demonstrating state responsibility and illustrating its various tasks

⁴ . Supervision on coastal states refers to the time that coastal states agree to be supervised by other entities.



throughout different stages due to its role as a coastal governmental entity. In this regard, to protect marine environments, as Doelle and Sander state, "public participation needs to begin early and continue through the supervision and follow-up stages. The effectiveness of public participation is visible if it is accompanied by a flexible procedure, good judgment and attitude towards public participation and having an open arm to accept public concerns" (Doelle and Sander, 2020: 33). Therefore, striving to empower people's role and their involvement is an effective solution to enhance state accountability and responsiveness, particularly in countries benefiting from open seas and coasts.

Enhanced collaboration in assessing the marine environment through participatory approaches in information-related tasks by states presents multiple benefits. This includes aligning environmental goals with access to information, congruence with protection objectives, widespread participatory decision-making, enhancing strategies for considering biodiversity and increasing participatory engagement in decision-making (Cjerde et al., 2021: 8). However, public participation, whether in terms of information dissemination or demonstrating a path for improving environmental strategies by coastal states, must be carried out in a way that promotes an independent, impartial process, transparency, full and accurate accountability, and articulation of criteria for decision-making (Doelle and Sander, 2020: 34). This implies that addressing environmental issues requires practical and transparent decisions from states and guarantees their execution. Only then can the process of public participation and its integration into executive decisions of coastal states truly contribute to improving marine environmental conditions.

Another aspect of coastal states' responsibility in protecting marine environments involves aligning with common environmental interests among countries benefiting from various ocean resources. Implementing marine environmental programs necessitates high levels of collaboration among member countries and regional and global organizations, inducing even small countries to shoulder their responsibility. Nonetheless, some countries such as remote or small countries may not have much expertise and may not have significant authority (Cjerde et al., 2021: 45). A low-cost solution involves establishing local, regional, or global mechanisms or uniting these regions to mitigate threats to marine environments and encouraging responsible behavior for coastal governments.

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Various models for cooperation and participation of coastal states in environmental protection have been proposed, both by some states and international entities like the United Nations. Notably, the United Nations Convention on the Law of the Sea (UNCLOS) offers a comprehensive legal framework for oceans and seas (Koh, 1982: 134). Based on UNCLOS, countries in open seas have rights and freedoms, but these rights come with responsibilities to protect marine ecosystems, and safeguard vulnerable and endangered species, and other marine life (Freestone, 2012: 23). The United Nations program is a prominent example of coastal states responsibility, emphasizing their role in utilizing and benefiting from the seas while also emphasizing their obligation to protect the environment. Therefore, the protection of the environment and endangered species signifies compliance with UN convention provisions. Creating participatory programs involving coastal states that utilize ocean resources is a form of respect for marine life and mandates taking actions to protect living resources. However, due to various reasons, protection programs in the seas today are focused only on supervising and managing a small percentage of rare fish (Crespo, 2019: 67). Hence, the concept of coastal government responsibility and accountability requires a substantial expansion to encompass all segments of marine ecosystems and effective protection activities. This entails guaranteeing the necessary measures to protect various marine species in the quantitative field and supervising the protection of special and endangered species in the qualitative field. Thus, protecting marine environments necessitates elevating the quantitative and qualitative aspects of coastal government responsibility.

4.4. Criticizing States' supervision⁵ and Supporting Civil Society Participation

Some believe that states, due to their involvement in exploiting coastal resources, are not suitable entities for supervision. Therefore, the role of the state should be to support civil and non-governmental organizations (NGOs) and enable participation through these non-governmental organizations. Some argue that ocean and sea supervision should not be the responsibility of states. This task should be carried out by non-governmental organizations (NGOs), and small,

⁵ . States' supervision refers to the time that states are supervisor.



traditional, and participatory-based economic sectors. Such participation can help overcome challenges and strengthen a kind of participatory-based governance (Margaras, 2022: 8). Thus, relying solely on states' support to curtail their interests in marine resources might not be sufficient. NGOs and civil entities can achieve participatory activities more effectively if they engage in environmental activities with specialized work.

States' responsibility should involve reducing their interventionist role in a way that strengthens non-governmental organizations and increases their influence. This approach is suggested because states, being stakeholders in exploiting marine resources, show less enthusiasm for effective participation in upholding regulations that could maintain the health of marine environments. However, civil entity participation faces challenges such as limited authority, lack of access to scientific solutions, and financial constraints (Ardron et al., 2014: 19). The approach to participating in marine environmental protection and the commitments of coastal states should be such that regional actors also act as supportive agents. This strategy has been implemented to some extent within the European Union through participation in maritime agreements. These treaties determine sustainable biodiversity protection in regions irrespective of national borders (Margaras, 2022: 2-3). Acquiring information, identifying marine environmental issues, and determining states' responsibilities necessitate primarily that coastal states receive and analyze data submitted by civil and non-governmental organizations and then find appropriate solutions for them. Hence, finding solutions to environmental problems requires "strategic environmental assessment". Strategic environmental assessment oversees the evaluation of marine and coastal environments, delivers environmental reports, engages public participation, presents participatory results, and offers public consultation in the form of a plan or program (Cjerde et al., 2021: 8). Therefore, in a sustainable program, to operationalize the responsibility of coastal states, recognizing environmental problems, receiving program from experts and supervisory entities, and formulating a practical plan to address these issues are crucial parts of coastal states' responsibilities. Considering the rising marine pollution and resulting environmental challenges, this becomes an essential aspect of coastal states' responsibilities.

5. Conclusion

The present study aimed to establish the coastal states' responsibility in supporting marine environmental protection, based on the principle of participation. Each state benefiting from various marine resources assumes a form of legal and ethical responsibility (in terms of considering the rights of future generations) and compliance with international law. Therefore, some solutions criticize the destructive behavior of coastal states that prioritize economic interests over environmental rights, resulting in minimal possibilities for their participation in supporting marine environmental plans. It is important to achieve a balance between the economic interests of governmental and non-governmental groups in the seas and environmental groups to overcome this challenge. This would enable continuous supervision of developments arising from the economic interests of coastal states or any state benefiting from marine resources, and finding solutions to address these issues. Solutions which require the involvement of coastal states in marine environmental protection are not likely to be sustainable without scientific and research-based support and without relying on expert opinions. Therefore, to instill responsibility in coastal states, it is necessary to rely on scientific methods and global sustainable development approaches by international legal bodies, requiring coastal states to practically implement the results and observe a reduction in marine pollution. Some legal patterns used in Australia or European countries could provide a suitable basis for the accountability of coastal states. This implies that cooperation among states should be considered as the foundation of participation while avoiding individual and unilateral actions by specific states.

Supervision of coastal states is another measure in holding coastal states accountable. This approach necessitates the activation of civil and non-governmental organizations so that they can identify marine pollution instances, determine each state's contribution, and inform the public about the states' responsibility accordingly. Creating global concerns about marine pollution, rather than being solely addressed by interested states, requires the involvement of non-governmental sectors and civil entities related to environmental activities. Considering the advancements in communication and concerns about neglecting environmental rights, these entities can potentially create an anti-coastal state



discourse. Therefore, civil and non-governmental entities require legal and judicial support and should not fear coastal states. In this case, they can freely raise issues and present solutions by referring to experts and specialists.

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