

## **Fighting over the Power of Coastal and Marine Resources (A Case in Tomini Bay, Indonesia)**

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**Abstract:** Coastal and marine resources that are freely accessible to everyone (open access) lead to systematic social conflict. This happens because everyone is trying to maximize their access to take the maximum benefit. This research analyzed the role and interests of actors over coastal and marine resources in Tomini Bay. Everyone is fighting over power of access to these resources. The data collected in this research was primary and secondary data. Primary data was obtained through indepth interviews and observations. Informant selection was done through snowball technique. While secondary data was obtained through literature studies. Data analysis was done through qualitative approach. The results of the research showed that there are five actors who have roles and interests in Tomini Bay, namely the state both central and local, private, multilateral agencies, NGOs and indigenous people, Bajo tribe. The state is legitimized by laws as both a protector and a beneficiary of natural resources. The state then grants concession rights to the corporation. On the basis of the concession rights, corporations exploit coastal and marine resources in Tomini Bay. Conflicts occur because the concession areas are under the control of indigenous people as their hereditary livelihood basis. As a result of the exploitation of coastal and marine resources has caused severe environmental damage. This encourages the involvement of local and international NGOs, working with indigenous people, rehabilitating mangroves for the sustainability of existing resources as well preventing the damage of mangrove area that is still intact. The movement has received financial support from multilateral agencies.

**Key words:** Fighting over the power, coastal and marine resources, Tomini Bay, hereditary livelihood

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### **INTRODUCTION**

The wealth of natural resources including coastal and marine areas has appeal to various actors to utilize them and various agencies seek to regulate their utilization (Yulianda *et al.*, 2010; Deni, 2009). There are 5 main actors with interests in natural resource management, i.e., state, private, multilateral agencies, NGOs and grass roots (Bryant and Bailey, 1997). Differences in perceptions and interests among actors have led to overlapping of authority and conflict of interest in the application of coastal area management regulations. Studies on the seizure of natural resources power can be seen, among others, research conducted by Rahmawati (2013). She researched the topic of forest resources conflict in West Java and West Kalimantan, Indonesia, by taking conflict cases at two locations: Gunung Halimun Salak National Park located in Bogor Regency, Sukabumi Regency and Lebak Regency, West Java and Banten Provinces and Sungai Utik Forest of Kapuas Hulu Regency, West Kalimantan Province. She concludes that the conflict of forest resources is always happening involving many parties with many interests.

Research related to natural resource conflict is also conducted by Zainuddin (2012) by the topic "Scramble Authority: Between Gold Luster Versus Conservation (Traditional Gold Mining Case Study on Community "Adat" in Tahura Poboya City of Palu of Central Sulawesi Province). If it is mapped by actors, the conflict in Poboya involves government, public, private and NGOs. The ongoing conflict at Poboya is a conflict of interest between actors, each of which carries different issues such as the formal legal actors who are oriented towards local revenue by providing large opportunities to companies in the form of concessions. While other actors are local NGOs (ecopopulism) oriented towards social justice by giving opportunity to community for participating. The other actors, green NGOs are oriented towards rescue or environmental protection. The actors who have interested in Poboya are i.e., central government, local political elite (governor, mayor), security apparatus, corporations, indigenous community. The representation of indigenous communities is manifested in the form of seizing control of access and control of natural resources at Poboya.

Tangketasik (2010)'s research under the topic "Between State and Tongkonan: new negotiation spaces

in the Control of Forest Resources in Tanah Toraja District, South Sulawesi”, indicates that the dynamics of forest tenure and power relations established between parties influenced the claim of their respective authorities parties based on state and customary law. Actors play a dual strategy by promoting the formal regulatory power that comes from the government and the power of custom norms and tongkonan symbols to achieve their goals.

Priyatna (2013) researched the topic, “Interest contestation in the management of water resources Djuanda reservoir Jatiluhur”. The results of this study indicate that the utilization of Djuanda reservoir resources, Jatiluhur is multi-function and involves various actor beneficiaries. The actors in this research location consist of two, namely the authority actor group and the user actor group. The distribution of rights in reservoir water resource ownership does not occur evenly to the two groups of actors. Groups of authority actors master the configuration of collective decision-making rights (management, exclusion and alienation) while user actor groups only have access and withdrawal configurations. This study has the other side of previous studies as described above, namely first, the phenomenon of research location and second, the results of the study. The novelty of this research related to the location phenomenon is conflict that happened double that conflict happened because of state policy giving concession permit to corporation in addition, conflict also happened because of state policy which set coastal area and sea in Tomini Bay as conservation area. Indigenous people, the Bajo tribe, face a very complicated conflict on the one hand facing corporations that also involve the state because of concessions at the same time in conflict with the state because of the conservation policy. Through this research, the researcher wanted to answer the question of how the role and interests of the actors over the coastal and marine resources in Tomini Bay, so that, the actors are fighting over the power of access to these resources.

## **MATERIALS AND METHODS**

The type of data collected in this research was primary and secondary data. The primary data sources are the actors associated with the management of coastal and marine resources in Tomini Bay, namely government officials, corporations, multilateral institutions, NGOs and indigenous people, the Bajo tribe. Primary data were obtained through indepth interviews and observations. Informant selection was done through snowball technique. The researcher first interviewed indepth particular actor then asked to mention other actors who

were considered to know the topic of the problem being studied. Thus, the numbers of informants more and more, like a snow ball that rolled ever bigger. While secondary data was obtained through literature studies, namely laws, government regulations, ministerial decisions, previous research results and others. Secondary data in this case served to complement the primary data. Data analysis was done through qualitative approach. Data analysis was performed simultaneously during data collection and after completion of data collection within a certain period.

## **RESULTS AND DISCUSSION**

**State:** State in relation to the management of natural resources has multiple functions. On the one hand it acts as a protector of natural resources but on the other hand the state also serves as a beneficiary of natural resources (Bryant and Bailey, 1997). The state in this study is represented by the central and local governments. Regulation of coastal and marine areas prior to the enactment of Law No. 22 of year 1999 on regional government becomes the absolute authority of the central government. This can be seen in the 1945 constitution of Article 33 Paragraphs 2 and 3. One of the things that are still debated about this article is about the notion of “State control” or some call it “The right to control the state”. The interpretation of the concept of state control can be observed in the constitutional court’s decision on law testing cases relating to natural resources. The court in the legal considerations of the decision of the case of the oil and gas law, the power law and the water resources law interpret the “Right to control the state” not in the meaning of the state owns but in the sense that the state only formulates policies, regulates, conduct management, administers and supervision. Thus, the meaning of “State control” over the production branches that are important to the state and which affect the livelihood of the people and to natural resources do not deny the possibility of individuals or private parties, provided that the five roles of the state/government as mentioned above is still fulfilled and as long as the government and local governments are not or have not been able to do so.

In line with Artical 33 of 1945 constitution as the constitutional foundation requiring that the earth, water and natural resources contained therein shall be controlled by the state and shall be used for the welfare of the people, the implementation of forestry including mangrove forests in coastal areas shall be controlled by the state in Artical 5 Paragraph 1 and 2 of Law No. 5 of 1967 on basic provisions on Forestry. Forest tenure by the state in the law is in line with the general explanation of Law No. 41 of 1999 on Forestry. The concept of forest

tenure by the state is not an ownership but the state authorizes the government to regulate and manage everything relating to forests, forest area and forest products, determine forest area and/or change status of forest area, regulate and establish legal relationships between people with forests or forest areas and forest products and regulate legal action on forestry. Furthermore, the government has the authority to grant licenses and management rights to private to conduct activities in forestry. However, for certain matters of great importance, scaled and impacted strategically and strategically, the government must pay attention to the aspirations of the people through the approval of the house of representatives.

Local governments in their capacity as stakeholders and policy makers at the local level, play a role in determining environmental conditions in the regions. This is in line with the implementation of the concept of decentralization and regional autonomy with the enactment of Law No. 22 of 1999 on regional government and Law No. 25 of 1999 on financial balance which then revised, respectively into Law No. 32 of year 2004 and Law No. 33 of year 2004. Related to the implementation of regional government in article 18 of the 1945 constitution has arranged the territorial division of the unitary state of Republic of Indonesia into the province, then divided into districts/municipalities that have local government, regulated by law.

Since, the enactment of regional autonomy through Law No. 22 of 1999 to be revised into Law No. 32 of 2004, there are several laws relating to the management of natural resources that appear with the spirit of regional autonomy. Some of them are Law No. 41 of 1999 on Forestry, Law No. 31 of 2004 on fisheries and Law No. 27 of year 2007 on the management of coastal areas and small islands. In general, there are two types of authority submitted to the local government, namely first, technical authority of natural resource management. This authority is closely related to the policy of permits for the supply, allocation, use and exploitation of natural resources in the regions and second, the authority to regulate and manage natural resources which constitute a unified whole, whether management that covers planning, utilization/management, recovery or institutional, administrative and law enforcement.

In the case of fisheries, the handover of central government affairs to the local government is regulated in Law No. 31 of 2004 on fisheries which is a revision of Law No. 9 of 1985 on fisheries. Meanwhile, related to coastal management, Law No. 27 of 2007 on the management of coastal areas and small islands, also arranges the transfer of authority to local governments. The authority relating

to the plan to cover the strategic plan, the zoning plan, the management plan and the action plan (Article 7), the use of which the local government is authorized to set coastline limits (Article 31) or control (Article 40).

The jurisdiction contained in Law No. 22 of year 1999 concerning regional government shall apply regional authority over the sea divided over the territorial sea territory of the province and the regency/city sea territory. The provincial authority over the sea as far as 12 nautical miles is measured from the coastline toward the open sea or towards the archipelagic waters (Article 3 of Law No. 22 of 1999). Meanwhile, the regency/municipal sea area is one-third of the provincial sea border. The regional authority in the sea area is set forth in Article 3 and Article 10 of Law No. 22 of year 1999.

Law number 22 of 1999 is subsequently replaced by Law No. 32 of year 2004 on regional government. However, it does not change the substance of regional authority issues in managing marine areas. In Law No. 24 of 2004, the regulation on the authority of the region over the sea directly assumes that the territory of the territory includes also the territorial sea. Therefore, areas that have marine territories are declared to have the authority to manage resources in the marine areas. It is not only authorized to administer, the region is also authorized to obtain revenue sharing from natural resource management activities under and or on the seabed (Article 18 of Law No. 32 of year 2004). Regional authority under such articles is widely implemented, intact and integral covering planning, implementation, monitoring, control and evaluation on all aspects of government. Nevertheless, the issuance of Law No. 23 of 2014 on regional government which replaces Law No. 32 of 2004 on regional government because it is no longer appropriate with the development of state, state administration and demands of local government has negated the authority of regency/municipality in the field of marine and fisheries. The management of sea spaces up to 12 miles as well as the issuing of permits and utilization of sea spaces under 12 miles beyond oil and gas into provincial affairs (Law No. 23 of 2014, annex y, number 1).

In line with the implementation of regional autonomy, local government seeks to exploit the potential of coastal areas to increase local revenue. In addition, local governments are also exploiting the potential of coastal areas to improve the growth and economy of people in the region. The management of coastal areas that have the potential to improve the economy on the one hand, conflict with the protection of resources, especially, mangrove forests on the other side. This creates a conflict of interest between the fisheries sector versus forestry. In Tomini Bay, the fishery and maritime office policy

supporting the development of the pond business deal with conservation interests under the supervision of natural resources conservation center and district forest service. The assistance of fisheries and maritime offices to farmers in the form of facilities and ponds, feed, seeds, pond repair and production facilities in the form of alcon machinery, contrary to the mission under the natural resources conservation center and the forestry department that seeks to expel the ponds workers and owners from Tomini Bay area.

**Private:** Private sector in this study is represented by the presence of corporations utilizing the services of coastal and marine resources in Tomini Bay. At least to date there are four groups of businesses directly involved in the control of coastal and marine resources in Tomini Bay, namely, saltwater farming, shrimp and fish farming business, logging and rattan companies and oil palm plantation companies.

The existence of ponds in Tomini Bay started with a salt farming business covering an area of  $\pm 70$  ha in 1977 under Gorontalo District government initiative which was then included in the area of North Sulawesi Province. Land tenure for the saltwater farming business was further expanded following the issuance of the decree of the provincial Governor of North Sulawesi number 200/1996 on land reserves of ponds transmigration sites in Gorontalo Regency of 12,752 ha (Obie *et al.*, 2014). The second group is shrimp and milkfish. Fishpond entrepreneurs in Tomini Bay already controlled  $\pm 2600$  ha of coastal areas. As a result of the ponds, mangrove forest disappeared. Of the 3000 ha of nature reserves, the remaining is only  $\pm 400$  ha (Obie *et al.*, 2015). Mangrove destruction into this pond is very massive because in addition to involving police officers, also involves the local politicians.

The third group of companies is logging and rattan companies. By estafes these companies have been operating in Tomini Bay, since, 1977. There are four logging companies that have used Tomini Bay, namely PT. MBT, PT. IP, PT. WS and the last one currently operating is PT. KG and its subsidiary, PT. JAD. These companies are granted permits for timber concessions, use rights or logging permits from the central government and local government and utilize Tomini Bay as a logging harvest location as well as loading and unloading dock.

**Multilateral agencies:** Multilateral agencies have a role and an interest in the management of coastal and marine resources in Tomini Bay. The agencies such as the

International Bank for Reconstruction and Development (IBRD)/World Bank and the Canadian International

Development Agency (CIDA) have been instrumental in funding various programs in Tomini Bay. Since, the Indonesian government launched a community empowerment program, the World Bank is one of the most important sources of funding through Foreign debt instruments for the Indonesian government. In Tomini Bay, since, 1999, the World Bank has funded community empowerment activities through the Kecamatan Development Program (KDP). The program focuses on reducing poverty with a decentralized approach. Three main areas are: continuing economic recovery, to create a responsible and transparent government and providing better public services, especially from the poor.

Since, 2007, after KDP entered the outgoing phase, funding of the World Bank program in Tomini Bay has been transferred to the National Program for Community Empowerment (PNPM) of Mandiri Perdesaan. Just like KDP, PNPM Mandiri Perdesaan focuses on three main areas, namely education and health, facilities and infrastructure and savings and loan group of women. The program upholds the principles of transparency, accountability and decentralization, by encouraging and engaging communities at every stage of the activity. With these principles, communities are directly involved in programs ranging from planning, implementation, monitoring and arriving to the preservation of activities.

PNPM Mandiri Perdesaan activities have been directly benefited by the Bajo tribe in Tomini Bay given the many developments that have been implemented. The development covered the procurement of boats as the transportation of the Bajo tribe children went and went home from school, boat moorings, savings and loan assistance to the Bajo tribe women groups, the assistance of building early childhood education, the construction of posyandu buildings and so forth.

Meanwhile, CIDA's involvement in Tomini Bay is seen with the launch of Sustainable Coastal Livelihood and Management (SUSCLAM) program. The SUSCLAM program is a 5 years (CIDA) grant program (2007-2012) and implemented by the International Union for Conservation of Nature and Natural Resources (IUCN) in partnership with Lestari Sustainable Development Inc and Wetlands International Indonesia Program. In its implementation in Tomini bay, the program partners with local NGOs, the Natural Resources Management Advocacy Network (JAPESDA).

The implementation of the SUSCLAM program in Tomini Bay promotes sustainable community-based coastal resource management (mangrove), while improving the livelihoods of communities. Both are closely related. Resource sustainability is essential to

support the livelihoods and welfare of communities but people can only pay attention to the aspects of protection and conservation when they feel their livelihoods are guaranteed. In its implementation, SUSCLAM selects mangrove management as an entry point. However, in the awareness and education activities, the SUSCLAM program uses a more holistic approach, emphasizing the importance of overall coastal ecosystem integrity in which every component of the ecosystem (e.g., mangroves, coral reefs, seagrass beds, fish resources) is structurally and functionally interconnected and interdependent.

To encourage community-based resource management in Tomini Bay, the SUSCLAM program places the Bajo tribe as a core player in resource management planning. SUSCLAM integrates livelihoods and village level mangrove management into a planning process in the Village Mid Term Development Plan (RPJMDes) system. The SUSCLAM program facilitates collaboration and community participation in the preparation and implementation of participatory RPJMDes in line with the conditions and potential resources in the village. SUSCLAM also facilitates the implementation of coastal resource management (especially, mangroves) and alternative eco-friendly livelihood components in village plans. The emphasis lies in strengthening the social capital of society (building trust, participation and voluntary collective measures to achieve common goals) and institutions in line with the strengthening of physical capital, financial capital, natural capital and political capital in society.

**Non-Governmental Organizations (NGOs):** Tomini Bay can not be separated from the interests of various NGOs, both local and international. International NGOs who have conducted activities in Tomini Bay are International Union for Conservation of Nature and Natural Resources (IUCN), Sustainable Sustainable Development Inc. and Wetlands International. The three international NGOs are collaborating in order to succeed the SUSCLAM program that has been implemented in 2007-2012. In carrying out its mission in Tomini Bay, the three international NGOs are partnering with local NGOs, JAPESDA. When viewed from the ideology of movement, existing NGOs tend to carry the green ideology. This move upholds environmental protection, rejection of the value of greed, control of expansion, elimination of unemployment and empowerment of the poor. The efforts to balance the relationship between humans and the various natural systems in which humans depend, so much, that all components are accorded appropriate treatment for their sustainability.

The NGOs activists encourage conservation in the success of the SUSCLAM program in the Tomini Bay. This can be seen from the actual activities aimed at protecting mangrove forests. First, increase the public awareness on mangrove issues and sustainable coastal resources in Tomini Bay. Intensive awareness raising campaigns (e.g., via. radio, TV, newspapers, workshops, public policy dialogue, fishermen meetings and joint mangrove planting campaigns) have brought sustainable mangrove and coastal resource management into the center of public attention. This is a prerequisite to move together in the protection and conservation of resources. Second, introduction of environmental education materials (including coastal resources into local content in primary schools) environmental education for children is a direct and long-term investment as it has the potential to create a generation with higher environmental awareness. Third, prevent the large scale mangrove openings. Fourth, synergize the various initiatives in rehabilitating mangroves. Fifth, sustainable mangrove resources have become a popular public policy discourse in Tomini bay. Sustainable mangrove management has shifted from marginal issues to a major policy agenda. And sixth, the formation of traditional fishermen associations. The SUSCLAM program recognizes the needs of traditional fishermen to have an institution where they can network, exchange information and ideas, discuss and solve common problems and assemble collective moves (e.g., to influence policy actions).

**Indigenous people:** Naturally the potential of coastal and marine resources is utilized directly by the people who live in the area which in general are fishermen. The potential of coastal and marine resources is utilized by fishermen limited to fulfilling the needs of life. Fishermen utilize the wealth of the sea, like fishes, seaweed, coral reefs and so forth are only limited to fulfill the needs of their life. Utilization of the potential of coastal and marine resources on a large scale to obtain economic benefits in order to increase economic growth grass root community has not been done.

Meanwhile, for the Bajo tribe community, coastal and marine resources are the main production factors that are not only related to the economic aspect but also related to social and cultural aspects. As indigenous peoples, the Bajo tribe community has a right that its existence is recognized constitutionally as affirmed in the amendment of the 1945 Constitution Article 18b and 28i Paragraph 3.

When viewed closely, indigenous and tribal peoples manage coastal and marine resource potentials traditionally known as marine customary rights. Compared

with the ulayat right to land, it is clear that customary rights over the sea are indigenous traditions that have been passed on for generations and are respected by indigenous peoples. Ulayat rights are part of the customary law conception of land and water rights. Customary law is formulated as a communal, religious conception which allows the control of land individually with private land rights as well as elements of togetherness (Harsono, 1997).

The authority and obligation of customary law community belonging to civil law is the right to belong to land and water whereas classified in the field of public law is the duty of authority to manage and lead the allotment, control, use and maintenance. Ulayat right cover all the land and waters that exist within the territory of the legal community concerned that has been abused by a person or not yet, so that, in the area of ulayat right there is no land or water as *res nullius* (Harsono, 1997). The consequence of the presence and absence of land and *res nullius* waters within the customary rights domain is that none of the civil and public legal acts occurred without the intervention of the customary law community, represented by a system of leadership with its authorities. In the context of the ulayat right of the sea, this means that waters which are the territory of certain customary rights, subject to the authority of the customary law community leadership institution. Some elements that indicate the presence of marine control areas of coastal customary law communities, namely: there is a certain area in the sea where the community takes the materials of life, the ability to reach such places carried out from generation to generation, done periodically and are always maintained against other parties entering the territory without the permission of the customary law community.

The real dominance of coastal and marine resources by indigenous peoples, in relation to meet the needs of the region, is something that is hereditary from the ancestors. Within this territory, *de jure* is actually the authority of indigenous peoples. The authority is concerning the management and utilization of natural resources according to the principles of customary law with their own peculiarities. Some legislative products have adopted recognition of the existence of indigenous peoples such as Law No. 27 of 2007 on management of coastal areas and small islands. This law recognizes indigenous people's ownership rights over customary territories on coastal and small islands. In addition, Law No. 32 of 2009 on environmental management and protection also recognizes the existence and rights of indigenous people traditional wisdom. The general provisions in the law describe the terminology of indigenous peoples, that is those who have traditionally

settled in certain geographical areas because of the ties to the ancestral origins, the existence of a strong relationship with the environment and the determination of the value system economic, political, social and legal institutions.

However, the government does not yet have a comprehensive and integrated policy regarding the recognition and protection of the rights of indigenous peoples. This is reflected in various other laws and regulations that have not fully acknowledged the existence, rights and aspirations of indigenous peoples. In Law No. 41 of 1999 on Forestry, the government uses the terminology of customary law community in Article 4 which states that forest tenure by the state continues to pay attention to the rights of customary law community as long as the reality still exists and is acknowledged to exist and not in conflict with national interests. The forestry law states that customary forests are state forests and show that forest functions determine the status of tenure. Thus, customary forests as one of the important identities directly related to the survival of indigenous peoples do not get recognition from the government because it is fully controlled by the state.

## CONCLUSION

The availability of abundant coastal and marine resources in Tomini Bay has encouraged interested of many actors to seize the power. There are at least five actors with interests in coastal and marine resources in Tomini bay, namely the state of both central and local governments, private sector, multilateral agencies, NGOs and indigenous people, Bajo tribes. The state with its power which is legitimated by law has a role to protect and utilize existing resources. State protection is the establishment of the Tomini Bay into a conservation area, while on the other side to improve the economy, the state gives the private sectors of consetion rights to exploit the existing resources. The problems then arise when the application of the role of the state with the protection and utilization of these resources clash with the interests of indigenous people, Bajo tribe. The Bajo tribe who for a long time passed down generations of their livelihoods on coastal and marine resources in Tomini Bay, greatly disturbed by the presence of state policy on the protection and utilization made by the state. Conflict then occurs between indigenous people, Bajo tribe dealing with the state as well as indigenous people, Bajo tribe against state-backed corporations.

Due to the state's policy of granting concessions to corporations to exploit natural resources in Tomini Bay, it

has created severe environmental damage. This encourages fourhy local NGOs with indigenous people to conduct prevention and rehabilitation movements. With the assistance of international NGOs that receive funding from multilateral agencies, local NGOs with indogenous people rehabilitate the mangrove area in Tomini Bay as well as to prevent the damage of mangrove area that is still intact. In addition, multilateral institutions also support community development programs in communities of indigenous people undertaken by the government over the last few decades.

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