

**The struggling and winning of coastal society on Northern Sulawesi
to get legal recognition on community-based coastal and marine resources
management, from provincial and regency government¹**

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Introduction

The archipelago state of Indonesia comprises coast line more than 81.000 km and more or less 17.500 islands, contains of greatly overflow fish potential, with MSY about 5,2 million tons/year³, beside several bio-diversity resources as coral reefs, sea weeds, mangroves, several kinds of mineral deposits, and several places for eco-tourism or marine-tourism etc..

Comparing the ways to exploit fish resources, the Marine and Fishery Affairs Department of the Republic of Indonesia informs, that up until now the efficiency of fishery-company management and technology implementation system dominates all other efforts to maintain the sustainability of the natural resources⁴. These systems did not maintain the sustainability of the fish resources.

The New Order regime (1965-1998) need to achieve a high economy growth and profit taking by using efficiency and excessive technology implementation with 'modern' enterprises economy activities in catching fish and from other resources on coastal and marine. Market influence produces this mastery of fishery and other coastal and marine resources exploitation. Similar to coastal and marine resources, forest resources is also being victim of New Order Regime policy. Myrna Savitri writes that, every one, in strong competition to others, has great access to take greatest benefit on forest resources without burden to the markets does the responsibility to maintain the natural resources⁵.

Since New Order regime, community's access on coastal and marine natural resources gradually vanishes. The New Order Regime disregards his community's rights on natural resources, especially on coastal and marine

¹ Paper under subject: Politics of the Common, presented in RCSD Conference, Chiang May, Thailand, July 11-14, 2003.

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³ According to the data of the Marine and Fishery Affairs Department of the Republic of Indonesia, Jakarta, in *Naskah Akademik Pengelolaan Wilayah Pesisir (Academic draft for Coast Area Management)*, November 2001, page. II-1

⁴ *Ibid*, page I.II-2

⁵ See Myrna A. Savitri, *Desa, Institusi Lokal Dan Pengelolaan Hutan: Refleksi Kebijakan dan Praktik, (Village, Local Institution and Forest Management : Policy Reflection and Practice)*, Lembaga Studi dan Advokasi Masyarakat, 2000, page 1 (in Indonesia language)..

resources. Step by step but exactly, the government carelessness to the communities' rights comes greater. The New Order regime won. They rules and practice their activity based on their concept to command and manage the coastal and marine resources. New Order regime government, hand in hand with private sector (corporations, companies), caused some problems to the communities:

- 1) Dehumanization process to the communities, consist of:
 - a. Marginalization of customary (*adat*)/local community wisdom.
 - b. Lost of authority on their ancestral land and water, include on coastal and marine territory.
 - c. Significantly lost of political rights
 - d. Unequal treatment by the government caused the communities lost their access on natural resources.
 - e. Several fish taxes collected by the government while the communities lost their significant yield on coast and marine resources.
 - f. Marine and/or coast resort are prohibited for village community/people.
 - g. The community has no awareness enough to criticize the government public policies. In their opinion, the government policies are still true, so there is no need to examine it.
- 2) Coast and marine degradation caused by:
 - a. Mangroves area converted to be shrimp pond, harbour etc.
 - b. Soils and/or sands piling up on coast side to be new part mainland.
 - c. Environment contamination caused by tailing waste
 - d. Sand and/or coral reef mining comes greater caused by government license to exploit it for constructions activities.
 - e. Less critical sense of the community to examine environment damages causes.
- 3) Formal or state laws are above the traditional or local law. Traditional or local law relating to community based coastal and marine resources management are not recognized by the government. The Government does not need other law than formal law. They produce several laws not to accommodate local or traditional law, but to create a 'monopolistic' law that subordinates all local or traditional law.

Coastal and marine natural resources

The natural resources availability surround people, has take place in a long time. Coastal and marine resources are also has the same position toward the people, especially those who live along the coast and on small islands...As has been informed above, there are three kinds of coastal and marine characteristics:

- 1) An area contains of habitat of biodiversities, ecosystem (estuary, coral reefs, sea weeds etc.), provides fishes, oils, minerals etc. and several services for the community who live along the coast and small-island for example as hindrance or stumbling block to the waves..

- 2) Among several stakeholders, this area are full of competition for getting space and resources
- 3) As an economic backbone for the state, natural resources contribution for the GNP is very high.
- 4) The natural resources are resources used by the people, or exactly communities, as their livelihood stock, to fulfil their daily life⁶.

Great and strong organizations as the state and strong corporations came later to operate it under their authority in the sake of having profit. They need it to achieve a very high economic profit. It means, then, the state and great corporations are institutions with great forces, eliminating community's access on their own natural resources.⁷ Their main aim is both to achieve high economic growth for the state⁸ and economic wealth for the great corporations. At the other side, the coastal and marine natural resources surround the communities who live along the coast and on small islands do not automatically guarantee a prosperous life, especially for the small-scale fishermen. The government and great corporations urged the community out of the resources.

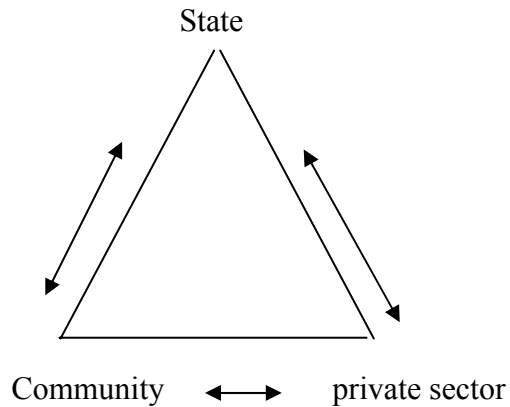
It remains the structural imbalance in the community, hailing from feudal and colonial times. The existence of Fishery Act of the Republic of Indonesia shows a centralization of power.

We can conclude really that the natural resources are resources belongs to three parties' needs or opportunities, that are: state's needs and opportunities, community's needs and opportunities, and private sector's needs and opportunities..

⁶ Some anthropologist provides a significant evidence of this. See among other Joy Hendry, *An Introduction to Social Anthropolgy : Other Peoples Works*, MacMillan Press Ltd., 1999, London

⁷ Compare with Myrna A. Safitri, *Desa, Institusi Lokal dan Pengelolaan Hutan : Refleksi Kebijakan dan Praktik*, Lembaga Studi dan Advokasi Masyarakat, (ELSAM), Jakarta, 2000. See also Noer Fauzi-R.Yando Zakatia, *Men-siasat-i Panduan Fasilitasi Pengakuan dan Pemulihan Hak-hak Rakyat*, Badan Kerjasama Konsorsium Pembaruan Agraria dan INSIST Press, Yogyakarta, 2000. See also Noer Fauzi-I Nyoman Nurjaya, *Sumber Daya Alam Untuk Rakyat*, (Modul Lokakarya Penelitian Hukum Kritis-Partisipatif bagi Pendamping Hukum Rakyat), ELSAM, Jakarta, 2000.; See too :Owen J. Lynch-Emily Harwell, *Whose Natural Resources ? Whose mmon Good ? Toward a New Paradigm of Environmental Justice and the National Interest in Indonesia*, Center of International Environment Law (CIEL), Washington D.C., U.S.A., 2002.

⁸ I am awaring that not all states practicing this same aim.



The Government under the New Order regimes, more than three decades ago, systematically yanked out community's access on natural resources in several sectors as:

- 1) In social institution.
- 2) In modern tenure system
- 3) In traditional tenure system, which have a strong relation with culture.
- 4) Several regulations in formal legal system accommodate a little community's needs and opportunities, but at the other side, accommodate state and corporations needs and opportunities strongly.
- 5) In human rights that are rights of the community having a good standard of life. .

The local knowledge in each local community in Indonesia, include those who live along side coast and small-islands, practice their own, traditional and customary management system on environment and the resources inside. The system of management stems from

- a. historical background
- b. their closed and intentional relations with places or zones surround them (they claims belongs to them);
- c. the way they fill their necessities from scarcity high grade difficulties of natural resources;
- d. the way to defends their life against nature and outside-community,
- e. the way to maintain the balance condition among the community because the using of 'scarcity' natural resources,
- f. the way to maintain the availability of natural resources.

To realize it, the community incorporated the system of management into customary law and at once be integrated into cultural, supernatural or spiritual life, local-social, local-economic, local-politics and local-ecological context. The coastal and small-island community does not assume the natural resources solely in

economic sense. They see it to both cultural, spiritual, social, politics and ecological senses. As an example the *mane'e* practice in Kakorotan Island, lays in Talaud Regency. Every one allowed to catch fish in a certain area until the traditional leader, *Ratumbanua*, has decided to do it after a traditional ceremonial. Fishermen community in Para Island, lays in Sangihe Besar Regency, practices some different methods as a model of management in catching fish. In shoreline of the island, no one permitted to use fishing-nets in certain size. In Sanggeluhang fishing ground, closed to Para Island, no one permitted to use the same nets as nets they used to catch fish in shoreline.

Natural resources in Northern Sulawesi coastal and marine

Based on Indonesia Environmental Statistics (1999), wide of Northern Sulawesi Province are 19.023,9 km² occupied by 1.523.791 of peoples, with density about 146 km²/person. Northern Sulawesi Province consist of 3 regencies (Bolaang-Mongondow, Minahasa, and Sangihe Talaud), and 2 cities (Manado and Bitung) The coast and marine around Northern Sulawesi Province consist of Sulawesi Sea at north, Tomini Gulf at south and Maluku Sea at east. These places is rich in several resources like fishery, oil, underwater spots for diving, several places along coast and on small islands as recreation or tourism place, and good condition water for marine culture as sea-grass planting, pearl and fish cultivations. Marine fisheries, marine culture and tourism industry play a major role in the economy. Many people regard these sectors as a high economy activities sector. Most doers at these sectors are rich entrepreneurs. They run and owned fishing industry, marine tourism industry, marine culture industry etc. and picked the profit. Nevertheless, that does not mean that poor-communities along the coast and in small islands has no concerned with this activity. How does it operate? I will explain it below in the part of the process of small-scale fishery communities has done to get recognition from the provincial and regency government.

JICA research⁹ on selected area of Bitung, Manado, Minahasa and Bolaang-Mongondow (around 7.800 km²) noticed among others:

- 1) 90% of total fish production (74.000 tons/year)¹⁰ like tuna fish *skipjack*, tuna fish, flying fish (scads), *Travelies*, Eastern little tunas, etc. comes from fishery-industry. This report contains no data-record of fish catching in coral

⁹ *InteCoReef*, Research Report of JICA in cooperation with Marine and Fishery Department of the Republic of Indonesia and research and Development Agency of Northern Sulawesi Province, January 2002

¹⁰ It is not an accurate data. Resource persons from Fish Landing Base and Fish Auction Place informed that actually the data must be four or five times than they can record as above.

reef area and internal-waters closed to the coast, by most communities who live along side coast and small-island. Based on my own observation, actually, coral-reef fish product by the coastal and small islands communities is not much. They catch it especially to fulfil their daily life than as economy commodities.

- 2) However, some fishermen at some communities run a small-scale cultivation of coral-reef fish and sea-weeds. They are still poor if they solely hangs their every day life on coral reef fish-catching and sea-weeds cultivation. Some other fishermen mostly in the coastal side of mainland, do other activity as farmer to fulfil their daily needs. However, comparing with hinterland villages in the mainland, most of villages in coastal side of mainland and small islands is isolated and poor.

In 1993, the research of MREP and Project Part A on water area of group of islands of Nanusa, Sangihe Talaud Regency, reported that the condition of water and bio-diversity in this area is still in good condition. Human intervention on this area is very small. Nevertheless, in other area, sedimentation on mangroves area in both Lapango and Laine villages, lay in Great Sangihe Island, appears caused by exploration activity to get gold by the corporation which get authority from the government to explore gold deposit..

Some problems identified by Northern Sulawesi Fishermen

Since years ago, Northern Sulawesi fishermen struggled against the local government in achieving their needs and opportunities. They did by demonstrations, commonly or separately or sporadic, several times. Demand for government's recognizing toward coastal and small-island communities' rights on coastal and marine management has run from year to year. They sent letters contains of protests to the government and several political parties.

Supported by several local and national NGOs, in August 2001 they hold a conference in Manado , the capital of Northern Sulawesi Province¹¹.. The conference noticed some problems as fishermen complains, that are :

- 1) Foreign lift-nets spread from the north side of Indonesia territorial water, closed to Philippine, until Gorontalo Province in the west of Northern Sulawesi Province, and also to Mollucas Sea. to the east side of Indonesia
- 2) The Indonesia Navy has no enough capacity to drive out the foreign lift-net.

¹¹I attend the conference as an observer without right to speak except by the permission of the steering committee of the conference, or based on their request opinion giving for special case.

- 3) Some parties indicate the existence of military and police enterprises that plays a great role in catching-fish industry.
- 4) Local government does not significantly realize local autonomy as a way to give a positive influence to the small-scale fishermen .
- 5) Small-scale fishermen, or coastal and small islands communities has no representatives in regency or provinces parliaments.
- 6) There is no recognition from the government, local or national, to the tenure system rights on coastal and marine of the small-scale fishermen or communities of the coastal and small islands.
- 7) Damages of habitats caused by illegally and destructively fish catching, clearing of mangrove, sands or ground piling up in coastal side etc.
- 8) Small-scale fishermen and small-scale fishermen or communities of the coastal and small islands. has no bargaining power to determine or to establish market fish price.

The conference gave special attention to some points:

- 1) Some efforts to damage site of coral reef and mangrove.
- 2) Bridging the coastal and small islands communities needs and interest to the role of legislatives in local or national level.
- 3) Coastal and small-islands communities need NGOs and government role to strengthening and empowering them.
- 4) Coastal and small-island communities need significant benefits from every private sectors activity, which operate closed to their settlement territory.
- 5) Coastal and small-island community need the existence of Information Centres at several points, functioned as meeting point among them in the sake build agreement among themselves.

As noticed above there are five sectors that fishermen community lost their significant access on

- 1) Social institution.
- 2) Modern tenure system
- 3) Traditional tenure system, which have a strong relation with culture.
- 4) Several regulations in formal legal system accommodate a little community's needs and opportunities, but at the other side, accommodate state and corporations needs and opportunities strongly.
- 5) Human rights that are rights of the community having a good standard of life.

The process to get government recognition.

Similar with the main attention gave by the conference, some people in some villages in Minahasa Regency, success with their improving efforts by practicing Marine Protected Area programs on coral reef in front of their village. Instead of waiting until the government's program came, , supported by some local NGOs, they took activities to improve the damage coral reef area.

The main reasons are:

- (1) The natural resources surround them are heritage belongs to them from their ancestral.
- (2) They must protect the territory as land surrounds them against the destructives activities done by people.
- (3) Improving their life condition must be based on their awareness that they must achieve their daily life hood by them self.
- (4) Government and other organizations are external elements outside the community should pay great attention in assisting the community development.

Several villages follow the success of some villages to ‘create’ Marine Protected Area, in the same regency. Learning process run from time to time.

The following problem is the need to protect the land from outside especially from private sectors and government arbitrarily The community need the existence of their land are free from outsider interests and opportunities, except it collaborates with the community interests based on agreement with them.¹² They need full authority on the land... They need to protect it by using village ordinance. However, the village ordinance cannot stand-alone. There must have an umbrella regulation issued by the regency government that both protect and recognized the community’s rights.

Some members of Minahasa Regency Parliament support the needs and interests of the community. Both with some NGOs the community try to realize their needs and interest by arranging a draft of Minahasa Regency Regulation about Integrated and Community Based Costal Resources Management. They need local government’s recognizing about the rights of coastal communities on coast and marine natural resources, sounds in regency regulations. They need regency government recognition that they have rights to manage the coast and marine natural resources.

After a series of debates, discussions and consultations among stakeholders¹³, in June last year the Minahasa Regency Government recognized some points of coastal community’s rights to manage coast and marine resources.

¹² An agreement has been made between Talise community with an pearl cultivation corporation upon an traditional fishing ground of the community.

¹³ The stakeholders consist of fishermen-communities, academicians, bureaucrats, local NGOs relating to environment, fishery, and social or community development interest, police and military, and some members of the Minahasa Regency Parliament as initiatives persons.

- 1) The government recognized community's rights to have information before some activities should be realized around or in their village area includes in coastal area (*prior inform consent*)
- 2) The government recognized community's authority to manage the resources on coast and marine
- 3) The government agree to establish environment guarantee before an corporation activity should be operate in the coastal side..
- 4) The government push forward community's self-reliant, partnership and ability to develop their own life.
- 5) The government recognized community's capacity in controlling and practising every activity on environment especially coast and marine resources surround them.
- 6) The government-recognized community's permission as prior requirement before any party, whoever he/she is, begins to have permission from formal government for operating their project or activities.

Nevertheless, Northern Sulawesi Province Parliament supported by Faculty of Law Sam Ratulangi University and several NGOs developing a new Provincial Regulations. They put the same principles in the Provincial Regulations. It means that the government in whole regencies in the province should implements the principles. It means too, that the community have authority to reincorporate the system of management into village ordinance. The village ordinance accommodates their customary law and at once be integrated into cultural, supernatural or spiritual life, local-social, local-economic, local-politics and local-ecological context again.

Conclusion:

The natural resource, especially coastal and marine resources, availability surround people in village community is not automatically liberates them from poverty. Government's indifferences attitude to community interest caused conflicts between the community against private sectors and the government, and caused poverty among the community...Community needs government's recognition both to their capacity to manage natural resources, especially coastal and marine resources, and to their rights to control every activities that potential damaging the nature or environment.

Developing community political control on the using of natural resources, especially on coastal and marine resources, is not emerging by normal government's good will. From the experience we found that the community capacity to control the using of coast and marine resources must be based on power of the community it self and several components of the civil society. The

university or intellectual person's role is also a significant role in enhancing the community's capacity to develop their life.

The role of political party in the parliament has a significant meaning. The parliament member must have strong tied relation with the community it self. If there is no strong tied relation between the community and the party's member in the parliament, it means that the will of the party is not similar with the will of the community. The interest, needs and opportunities of the party is not automatically similar with the interest, need and opportunities of the community.

Government recognizes the community's rights to manage, control and use coastal and marine resources. It means the government gave a very important role to the community to practice their capacity. Moreover, it means as a requirement condition in any community's efforts to reach their welfare.

When the community gets government recognition on their rights to manage coastal and marine resources by themselves, it means the community won.

Manado, May 19, 2003