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LEGAL REVIEW OF LAND TENURE BY COMMUNITIES ON COASTAL AND COASTAL BOUNDARIES IN PALU CITY AND PARIGI MOUTONG REGENCY

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Abstract

Land acquisition, especially in coastal border areas and coastal areas, has been largely dominated by traditional/customary communities who have lived and inhabited the area for a long time, so that the occupation of land by law for many years has become an assumption for the community as an effort to transfer property rights from the state to them. The formulation of the problem from this study is what is the status of land ownership controlled by the community on the coastal border and coastal areas.? and How to implement the granting of land rights on coastal borders and coastal areas in accordance with applicable laws and regulations. The purpose of this study is to find out the status of land ownership controlled by the community on the coastal and coastal borders. And the implementation of the granting of land rights on coastal borders and coastal areas. This research is empirical research, namely research obtained from experience, observations based on data in the field and information obtained from direct interviews with various sources. Ownership status for communities in coastal areas and coastal borders is a property right obtained from state land and has long been given to local, traditional and customary communities who have lived in the area for less than 20 years and have been making a living or carrying out activities around the coast for generations. The granting of rights to coastal areas is given with Land Rights in the form of Right to Use, namely land rights with a time limit to the community, the implementation of granting land rights in coastal areas and also coastal borders paying attention to the public interest, limited carrying capacity, sustainable development, ecosystem linkage, biodiversity and sustainability of environmental functions.

***Keywords**: coastal territory, coastal border, land tenure, community*

Abstrak

Pengusaan atas tanah khusunya diwilayah sempadan pantai dan wilayah pesisir telah banyak dikuasai oleh masyarakat tradisonal/adat yang telah lama tinggal, mendiami wilayah tersebut sehingga penguasaan tanah secara fsik dalam jangka waktu bertahun-tahun lamanya menjadi anggapan buat masyarakat sebagai upaya peralihan hak milik dari negara kepada mereka. Rumusan masalah dari penelitian ini yaitu Bagaimana status kepemilikan tanah yang dikuasai oleh masyarakat pada sempadan pantai dan wilayah pesisir.? dan Bagaimana pelaksanaan pemberian hak atas tanah pada sempadan pantai dan wilayah pesisir menurut peraturan perundang-undangan yang berlaku. Tujuan yang ingin dicapai penelitian ini, yaitu: mengetahui status kepemilikan tanah yang dikuasai oleh masyarakat pada sempadan pantai dan wilayah pesisir. Dan pelaksanaan pemberian hak atas tanah pada sempadan pantai dan wilayah pesisir. Penelitian ini bersifat penelitian empiris yaitu penelitian yang diperoleh dari pengalaman, pengamatan berdasarkan data-data dilapangan dan informasi yang diperoleh dari

wawancara langsung kepada berbagai narasumber. Status kepemilikan bagi masyarakat di wilayah pesisir dan sempadan pantai merupakan hak milik yang diproleh dari tanah negara dan sejak lama diberikan kepada masyarakat lokal, tradisional dan juga adat yang telah kurang 20 tahun tinggal di wilayah tersebut dan secara turun temurun mencari nafkah atau melakukan aktivitas di sekitar pesisir pantai .Pemberian hak atas pada wilayah pesisir pantai diberikan dengan Hak Atas Tanah berupa Hak Pakai yaitu hak atas tanah dengan batas waktu kepada masyarakat, pelaksanaan pemberian hak atas tanah di wilayah pesisir pantai dan juga sempadan pantai memperhatikan kepentingan umum, keterbatasan daya dukung, pembangunan berkelanjutan, keterkaitan ekosistem, keanekaragaman hayati serta kelestarian fungsi lingkungan

Kata kunci: : wilayah pesisir, sempadan pantai, penguasaan tanah, masyarakat

INTRODUCTION

Sulawesi is the 5th largest island in Indonesia after Papua, Kalimantan and Sumatra with a land area of 227,654 km². One of the provinces in Sulawesi, namely Central Sulawesi, is the only province in the Sulawesi Islands that has 3 waters at once, namely Tomini Bay, Tolo Bay and the Makassar Strait/Sulawesi Sea so that this province relies on fishery resources as a regional revenue asset. Of the three waters, the total area of Central Sulawesi waters is 77,295.9 km² with a coastline length of about 6653.31 km and the number of islands is 1,604. (Indonesia. KKP, 2018)

Land is one of the natural resources which is an essential need for humans and functions very essential for human life and livelihood, even determining the civilization of a nation. Land for human life has a very important meaning because most of human life depends on soil. (Arisaputra, 2015)

Coastal areas are relatively rich in resources that can be utilized, resulting in coastal areas generally being used for industry, tourism, and other public interests, as well as being controlled and used as a place to live by communities around the coast. The people who inhabit coastal border areas are usually traditional people and local communities, both those who have inhabited the area for generations and some immigrant communities. Traditional communities are traditional fishing communities that are still recognized for their traditional rights to carry out fishing activities or other legal activities in certain areas within the archipelago's waters in accordance with the rules of international maritime law. This traditional community is a member of the community who lives not far from the coast who mostly work as fishermen, farmers, traders and other professions. (Sundari, 2023)

Juridical land tenure means that there is a right in the possession which is regulated by law there is the authority to control physically, for example, in the case of a juridical lease of land, the land is the right of the land owner but physically the land is cultivated or used by the tenant of the land within an agreed period, also in the case of guaranteeing the land to the Bank,

the Bank as a creditor is the holder of the right of guarantee over the land that is used as collateral but the physical control or Its use remains with the owner of land rights. This control is in the private aspect while the public aspect is regulated in article 33 paragraph 3 of the 1945 Constitution and article 2 of the UUPA that the Earth and water and natural resources contained in it are controlled by the State and used for the greatest possible prosperity of the people (Suparji & Ayu, 2018)

According to Urip Santoso that the meaning of "domination" can be used in a physical sense, also in a juridical sense, as well as in a private and public aspect. Ownership in the juridical sense is control based on rights, which is protected by law and generally gives authority to the right holder to physically control the land that is righted, for example, the land owner uses or benefits from the land that is his right, not handed over to another party. There is juridical control, which even though it gives the authority to control the land that is physically possessed, in fact the physical control is carried out by another party, for example a person who owns land does not use his own land but is leased to another party, in this case juridically the land is owned by the landowner but physically carried out by the land tenant. There is also juridical control that does not give the authority to control the land concerned physically. (Ilham Arisaputra, 2015)

Coastal communities are people who live in coastal areas. In Law Number 1 of 2014 concerning Amendments to Law Number 27 of 2007 on the Management of Coastal Areas and Small Islands, the definition of coastal communities is used in this Law, according to Article 1 point 32 is "communities consisting of Customary Law Communities, Local Communities, Traditional Communities who live in Coastal Areas and Small Islands."

The purpose of a research is to direct the goals intended or to be achieved in a research. Therefore, the goal of this research is to find out the status of land ownership controlled by the community on the coastal and coastal borders. And the implementation of granting land rights on coastal borders and coastal areas in the Palu City area. In connection with the objectives to be achieved from this research, the results of this research will be published in nationally accredited journals.

The pre-existing studies related to land tenure in coastal areas are Juridical Analysis of the Granting of Land Rights on the Coastal Border by Kurnia Rheza Randy Adinegoro (2023), The Legal Basis for the Granting of Rights to Coastal and Island Areas to Indigenous Peoples in the Riau Islands Province by Eldi (2020), Juridical Analysis of the Establishment of Settlements on the Coastal Coasts of Sibolga City (Study in Pancuran Bambu Village, Sibolga

District, Sambas City Sibolga by Rinaldi Sinabariba, Zaidar, Maria Kaban (2023), which is different from previous research, namely providing an overview of how land tenure by communities in coastal areas in the Palu City and Donggala Regency areas is of course different and has never been studied before, the focus of this research is the status of ownership of land rights and also the implementation of granting land rights for people who have physically controlled the land but have not yet obtained rights on his land. The result of this study is that the community can be given land rights in the form of Hak Pakai while some land rights that have been granted with Hak Milik and are not in accordance with the regional RTRW are still recognized as property rights by the local government. This is an effort by the local government to respect traditional, local and customary communities that have lived, built, and also made a living around the coastal area.

PROBLEM FORMULATION

1. What is the status of land ownership controlled by the community on the coastal and coastal borders?
2. How is the implementation of the granting of land rights on coastal borders and coastal areas in accordance with applicable laws and regulations?

RESEARCH METHOD

This research is empirical research, namely research obtained from experience, observations based on field data and information obtained from direct interviews with various sources and agencies related to this research. This research was conducted in Palu City and Parigi Moutong Regency. Consideration The researcher chose Palu City and PARIMO Regency which have surrounding communities occupying the coastal area and working and taking results around the coast, the researcher easily conducted research and took data for research needs. All sources of legal materials that have been collected in this study, both in the form of primary and secondary legal materials, will be processed with an analytical approach in accordance with the nature and character of empirical legal research. The processing of primary legal materials and secondary legal materials in the research will also use qualitative research using an inductive approach method. The prominence of the research process and the use of theoretical foundations are carried out so that the focus of the research is in accordance with the data in the field. In addition, the theoretical foundation is also useful to provide an overview of the research background and as a material for discussion of research results (Rukin, 2019)

DISCUSSION

In the UUPA, soil is something real, namely in the form of the physical surface of the earth and what is on it is man-made called fixtures. However, the main concern is not on the land, but on the aspect of land ownership and control and its development. The object of his attention is the rights and obligations related to land owned and controlled in various forms of land tenure rights. (Purnomo, 2017)

The hierarchy of land tenure rights in the UUPA and the National Land Law are (1) The rights of the Indonesian nation to land; (2) The right of control of the state over land; (3) Customary rights of customary law communities; and (4) Individual rights to land, including land rights, land waqf ownership, dependent rights, and property rights to flats. According to Soedikno Mertokusumo, the authority possessed by the holder of land rights to his land is divided into 2 (two), namely:

1. General authority; General authority, namely that the holder of land rights has the authority to use his land, including the earth, water and space on it only necessary for interests directly related to the use of the land within the limits according to the 1960 UUPA and other higher legal regulations (Article 4 paragraph (2) of the 1960 UUPA).
2. Special authority; The authority is special, namely the holder of land rights has the authority to use his land in accordance with the type of land rights, for example, the authority on land ownership is for the purpose of agriculture and or erecting buildings, the authority on land use rights is to use land only to erect and have buildings on land that does not belong to him, authority on land use rights is to use land only for the benefit of companies in the field of agriculture, fisheries, livestock or plantations.(Ilham Arisaputra, 2015)

Land acquisition, especially in coastal border areas and coastal areas, has been largely dominated by traditional/customary communities who have lived and inhabited the area for a long time, so that the legal control of land for many years has become an assumption for the community as an effort to transfer property rights from the state to them. The number of people who rely on their livelihood with fishermen makes people who take products from the sea, make houses around the beach to be able to facilitate their access to the sea. Land ownership carried out by communities on the coast is still a legal problem where it must still be clear regarding the status of land ownership or houses that they build on the coastal border or around the coastal area.

Individual rights to land consist of primary and secondary land rights, based on Article 16 of the UUPA, land rights as referred to in Article 4 paragraph (1) are:

a. Proprietary
b. Right of use
c. Building use rights
d. Right of use
e. Leasehold
f. The right to clear land
g. Right to collect forest products
h. Lien
i. Profit sharing business rights
j. Boarding rights
k. Farm land lease rights

Land ownership is the strongest and fullest right that has a very important influence on property rights over other objects and over other land rights. According to Article 22 of the UUPA, property rights occur due to several things, including:

1. According to the provisions of customary law

On the basis of customary law provisions, property rights can occur due to the process of soil growth on the riverbank. This soil growth creates new soil called the tongue of the earth (*aanslibing*). This tongue of land according to customary law belongs to those who have adjacent land. The provisions were followed up with the issuance of Law Number 1 of 2014 concerning amendments to Law 27 of 2007 concerning the Management of Coastal Areas and Small Islands and Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 17 of 2016 concerning Land Arrangement in Coastal Areas and Small Islands.

2. Due to the provisions of the law

The occurrence of this second property right is based on the provisions of conversion according to the UUPA. The *eigendom* right to land that exists at the time of entry into force of this law from that moment becomes a property right, unless the person who has it does not meet the conditions as mentioned in Article 21. The rights to land that authorize as or are similar to the rights referred to in Article 20 paragraph (1) as referred to by the name below, which exist at the entry into force of this law, namely *agrarisch eigendom, belonging, foundation, andarbeni, rights to druwe, pesini, grant sultan, landerinjbezitrecht, altijddurende erfacht*, business rights over former particulate land and other rights under any name shall also be the property rights in Article 20 paragraph (1), unless the person who owns them does not meet the requirements as mentioned in Article 21.

3. According to the Government's determination

The usual way of property rights is in this third way which is given directly by the Government with a determination. Only the government can grant property rights, while other land rights holders may not give property rights, all they can do is transfer their rights. (Hajati et al., 2017)

In a coastal area, there are one or more coastal environments and resources. The coastal environment can be natural or artificial. Natural environments found in coastal areas include coral reefs, mangrove forests, seagrass meadows, sandy beaches, pes-caprea formations, baringtonia formations, lagoons and deltas. Meanwhile, the artificial environment that can be found in coastal areas include tam-bak, tidal rice fields, tourism areas, industrial estates, agro-industrial areas and residential areas. The development and management of coastal areas sectorally is usually related to only one type of use of coastal resources or space by one government agency to fulfill certain objectives, such as capture fisheries, tam-bak, tourism, ports, settlements or the oil and gas industry. This kind of management can cause conflicts of interest between competing sectors that carry out development activities in coastal areas (Ilham Arisaputra, 2015)

The control of coastal land and the management of coastal areas depend on who controls the coast physically. Generally, if a tourism business stands on the beach area, then the one who controls and utilizes it is the entrepreneur himself. Similarly, vice versa, if there are no tourism businesses adjacent to the beach area or those on top of the coastal area, then the control and utilization are carried out by the community. The coast or coastal area is an area that is very vulnerable to change, both natural changes and changes due to human actions. For the sake of the public interest, it is possible to use coastal areas with the note of paying attention to the limitations of carrying capacity, sustainable development, being able to maintain ecosystems and biodiversity as well as the preservation of environmental functions. Therefore, management is the key to whether or not the coastal area can be used for the public interest (Francesca Jalli Pattruhu, 2023)

Conflicts or disputes over land have several varieties, they can be administrative conflicts, criminal or civil conflicts, personal or structural issues or with legal entities. According to Sumardjono (2009) and Mahfiana (2013), in general, conflicts can be categorized into five causes: First, conflicts of interest; Second, structural conflicts; Third, value conflict; Fourth, relationship conflicts due to differences in perception and poor communication; and Fifth, data conflicts due to incompleteness or unclear procedures (Christian et al., 2019)

The Palu City and Donggala Regency areas, whose people are still very dependent on their livelihoods at sea, have built many settlements and houses as a place to live to be able to make a living or take products from the sea. This is of course a legal issue where the status of the land tenure is still a question whether the area can be said to be the property of the community.

Land Ownership Status in Coastal Areas and Coastal Borders in Palu City and Parigi Moutong Regencies

Indonesia as a country of law, belongs to the category of modern law countries. The conception of a modern legal state constitutionally can be referred to in the formulation of the State's objectives enshrined in the preamble to the 1945 Constitution, namely: protecting the entire Indonesian nation and all Indonesian bloodshed, advancing public welfare, educating the nation's life and realizing social justice. The normalization of the State's goals, especially to promote public welfare and realize social justice, are contained in Article 33 of the 1945 Constitution (Eldi, 2020)

The mandate of the 1945 Constitution is that local governments are authorized to regulate and manage their own government affairs according to the principle of regional autonomy. The granting of broad autonomy to the regions is directed to accelerate community welfare through improved services, empowerment, and community participation. (Hajati et al., 2017)

The planning of the allocation of national agrarian resources is generally regulated through Law Number 26 of 2007 concerning Spatial Planning (UUPR) which contains provisions for the establishment of zoning regulations, a form of controlling the use of space in Article 35 of the UUPR, in addition to licensing, providing incentives and disincentives, and imposing sanctions. (Rudhy Aghzsi, 2015)

The authority of the Regional Government is regulated in Article 18 of the 1945 Constitution which states that the Unitary State of the Republic of Indonesia is divided into provincial areas and the provincial area is divided into districts and cities, where each province, district, and city has a local government, which is regulated by law. According to Law Number 23 of 2014 concerning Regional Government, the implementation of local government is based on the principles of Decentralization, Deconcentration, and Assistance Duties.

Article 9 concerning the classification of government affairs states that:

(1) Government Affairs consists of absolute government affairs, concurrent government affairs, and general government affairs.

(2) Absolute government affairs as referred to in paragraph (1) are Government affairs that are fully under the authority of the Central Government.
(3) Concurrent government affairs as intended in paragraph (1) are Government Affairs divided between the Central and Regional Governments, provinces and districts/cities.
(4) Concurrent government affairs that are handed over to the Regions are the basis for the implementation of Regional Autonomy.
(5) General government affairs as referred to in paragraph (1) are Government Affairs which are the authority of the President as the head of government.

The authority of the Regency/City in the field of land is contained in Article 12 paragraph (2), namely:

a. Labour;
b. women's empowerment and child protection;
c. food;
d. Land;
e. Environment;
f. population administration and civil registration;
g. community and village empowerment;
h. population control and family planning;
i. transportation;
j. communication and informatics;
k. cooperatives, small and medium-sized enterprises
l. Investment;
m. youth and sports;
n. statistics;
o. encryption;
p. culture;
q. library; and
r. Archives.

The implementation of regional autonomy has become a milestone for the handover of government authority by the government to autonomous regions to regulate and manage government affairs in land services. For this reason, the regions are given the authority to make regional policies in the context of services in the land sector to encourage increased participation, initiatives and community empowerment in 9 (nine) in the field of land services. The right aims to improve the welfare of the community, especially the community in the region in the field of land services. The submission of decentralization in the implementation in the regions in the land sector is outlined in the form of Regional Regulations (Hajati et al., 2017)

The central government and local governments need to develop a high commitment in enforcing regulations for coastal and coastal areas so that they are not damaged due to ignorance or accident. The central government and local governments can stipulate that activities located in the area must meet the requirements specified in the regulations (Pujiwati, A, et al., 2020)

Land control in coastal areas or coastal borders in the Parigi Moutong Regency and Palu City is the authority of the Province/Regency/City as outlined in the Regency and City Regional Regulations. Efficiency and synchronization of space utilization in the context of implementing various good spatial planning activities must also be supported by unidirectional spatial planning regulations, so that there is no overlap of policies and management. This conflict of interest often collides between the authority of the central government, provincial governments, and district/city local governments, so that the implementation of integrated and comprehensive policies is needed *(integrated and comprehensive policy)* (Pertiwi & Kn, n.d.)

a. Land Tenure in the Coastal Region and Coastal Boundary of Palu City

Coastal areas that are vulnerable to change also need to be protected through management so that they can be used to meet the needs of people's lives and livelihoods. Therefore, policies are needed in its management so that they can balance the level of utilization of coastal resources for economic interests without sacrificing the needs of future generations through the development of conservation areas and coastal boundaries. The ratification of Law Number 23 of 2014 concerning Regional Government which repealed Law Number 32 of 2004 concerning Regional Government, had an impact on regional autonomy in the management of coasts and small islands. Article 27 paragraph (1) of Law Number 23 of 2014 concerning Regional Government states that Provincial Regions are given the authority to manage marine resources in their areas. This article repeals Article 18 paragraph 1 of Law Number 32 of 2004 concerning Regional Government, which states that regions that have marine areas are given the authority to manage resources in marine areas. (Simamora & Ari Sarjono, 2022)

Palu City as the capital of Central Sulawesi Province is located in the plains of the Palu valley and Palu bay. The area consists of five dimensions, namely mountains, valleys, rivers, bays and oceans. Astronomically, Palu City is located between 0°.36"-0°.56" South Latitude and 119°.45" – 121°.1" East Longitude, so it is right at the Equator with an altitude of 0-700 meters above sea level. The administrative boundaries of Palu City are as follows:

a. North: Donggala Regency;
b. South: Sigi Regency;
c. West: Donggala Regency;
d. East: Donggala Regency and Parigi Moutong Regency (https://palukota.go.id/letak-geografis/)

The Palu City area with an area of 35,591.91 (thirty-five thousand five hundred and ninety-one point ninety-one) hectares consists of 4 Planning Areas 4 (four). In the Palu City

area, land control in coastal areas or coastal borders is still largely controlled by the surrounding community, especially fishermen who live in coastal areas. The land control of the Palu city area is outlined in Palu City Regional Regulation Number 2 of 2021 concerning the Spatial Planning of the Palu City Region for 2021-2041 and Palu Mayor Regulation Number 1 of 2023 concerning the Detailed Spatial Plan for 2023-2043. The stipulation of Regional Regulations related to the spatial arrangement of the City in accordance with Law Number 26 of 2007 concerning Spatial Planning and the amendment of Perpu Number 2 of 2022 concerning Job Creation in Article 11 states:

The authority of the Regency/City Regional Government is carried out in accordance with the norms, standards, procedures, and criteria set by the Central Government in the implementation of spatial planning, including:

a. *regulation, guidance, and supervision of the implementation of spatial planning of the district/city area;*
b. *implementation of spatial planning of districts/cities; and*
c. *cooperation in spatial planning between districts/cities.*

Referring to Law Number 26 of 2007 concerning Spatial Planning, that the implementation of spatial planning has the main objective in order to realize a safe, comfortable, productive, and sustainable national regional space based on the vision of the archipelago and national resilience with the intention of realizing harmony between the natural environment and the artificial environment; the realization of integration in the use of natural resources and artificial resources by paying attention to human resources; and the realization of the protection of spatial functions and the prevention of negative impacts on the environment due to the use of space. In line with that, Law Number 26 of 2007 concerning Spatial Planning which was then followed by the issuance of Government Regulation Number 15 of 2010 concerning the Implementation of Spatial Planning was intended as an effort to manage space through the process of forming regulations. Through the regulation, it is stated that all districts/cities must immediately follow up on the law by drafting a Regional Regulation on Regional Spatial Planning (RTRW). (Simamora & Ari Sarjono, 2022)

People who are around coastal areas and coastal borders usually only control physically, but to obtain land rights in the form of certificates for the land they control, it is necessary to see whether the area is a protected area or cultural heritage.

Article 15 of GR 16/2004 states that the use and utilization of land on small islands and land plots located on coastal borders, lake borders, reservoir borders, and/or river borders must pay attention to: public interest, limited carrying capacity, sustainable development, ecosystem linkage, biodiversity and sustainability of environmental functions. This is strengthened by the

Circular Letter of the Minister of Agrarian Affairs Number 4/SE-100. PG.01.01/II/2022 concerning Land Stewardship Policy in Protected Areas.

Mr. Suryadi Sabri (as the Head of the Land Division of the Palu City Spatial Planning and Land Office) said that in the Palu City Region itself, the issuance of rights around the coastal area and coastal borders has not yet existed, as for the application for the issuance of land rights in the coastal area, then again look at the City RTRW first whether it is included in the housing development plan or not.

Since the Post-Tsunami and Earthquake that occurred in 2018, changes have been made to the RTRW and also the RDTR in the Central Sulawesi Province and Palu City, with the issuance of Zoning for disaster-prone areas (ZRB). The Zoning of Disaster Space is divided into 4 (four), namely: ZRB 1 Development Zone, ZRB 2 Conditional Zone, ZRB 3 Limited Zone, and ZRB 4 Prohibited Zone. The resource person also stated that the Spatial Planning Office cannot simply give a building permit if it turns out that the community will erect buildings, either semi-permanent or permanent, in prohibited areas, especially those that have been affected by the tsunami.

Mr. Ibrahim (as the Head of the Palu City BPN Administration Sub-Division) stated that based on the building permit from the city spatial planning office, it is the basis for BPN to be able to issue a certificate of land rights, if there are no problems from the relevant agencies, then the BPN can process the application for the issuance of land rights in the form of a certificate.

In addition to what is stated by the Land Office, the regulation that requires the need to obtain a recommendation or permission from the government before applying for rights to empirical land located in coastal areas can be seen in Article 6 paragraph (2) of the Regulation of the Minister of State of Agrarian Affairs/Head of the National Land Agency number 17 of 2016 concerning Land Arrangement in Coastal Areas and Small Islands, which states that: 1) The granting of land rights in coastal areas must also meet the requirements for its designation in accordance with the spatial plan of the province/district/city or the zoning plan of the coastal area; 2) Receiving recommendations from the provincial/regency/city government in the event that it has not been regulated regarding land allocation in the RTRW; 3) Meet the licensing requirements of the relevant agencies (Purnomo, 2017)

b. Land Tenure in Coastal Areas and Coastal Borders in Parigi Moutong Regency

Based on the Regional Regulation of Parigi Moutong Regency Number 5 of 2020 concerning the Spatial Plan of Parigi Moutong Regency for 2020-2040.The district area has an

area of approximately 581,300.37 (five hundred and eighty-one thousand three hundred point three seven) hectares, which is located at 119° 45' – 121° 06' East Longitude and 0° 14' – 4° 40' North Latitude. The boundaries of the Regency include:

a. the North borders Buol Regency, Toli-Toli Regency and Gorontalo Province;
b. the South borders Poso Regency and Sigi Regency;
c. to the west it is bordered by Donggala Regency and Palu City, and Sigi Regency; and
d. to the east it is bordered by Tomini Bay.

According to the opinion of Mr. Ade Prasetya (as the Head of the Spatial Planning Division of the Public Works, Spatial Planning and Land Office of PARIMO Regency) said that many people in Parigi Moutong still build buildings, both permanent and semi-permanent, storing fishermen's equipment around the coastal area and coastal borders. They control land and build buildings on the coast or coastal areas without looking at the condition of the Regional RTRW, especially PARIMO, and this is considered natural because the public in general does not understand the existence of the Regional RTRW. The Spatial Planning and Land Office of Parigi Moutong Regency still has very little information to the public related to the erection of buildings around the coastal area.

So far, people who have erected buildings for more than 20 years and who already have proof of ownership of land rights in the form of certificates are considered legal holders of land rights and related agencies cannot interfere with lawsuits or blame the community even though the issuance of certificates is not in accordance with the latest RTRW.

The resource person said that most of those who already have land rights certificates in coastal areas are local/customary communities who have long controlled the land and have erected buildings for more than 20 years, and at the time they applied for land registration it was in accordance with the RTRW of the PARIMO area so they could not be blamed. Currently, the relevant agencies only carry out supervision if there are still people who erect buildings around the beach. There are still many people who live around the coast but do not have certainty with the granting of land rights, referring to the PARIMO Regional Regulation on Coastal Areas and Small Islands, hereinafter abbreviated as WP3K, is an area on land covering the boundaries of the sub-district administrative area in the coastal area and towards the sea as far as 12 (twelve) nautical miles measured from the coastline at the time of the highest tide towards the open sea and/or towards the waters of the archipelago.

The coastal area is an area that is very intensively used for human productivity activities. Visually, the use of space in coastal areas is increasingly uncontrollable and seems to be

neglected by the authorities even though it clearly violates the applicable legal provisions unless it can only be given to buildings used for defense and security, ports, piers, towers that guard the safety of beach visitors, residences of customary law communities or community members who have lived in the place for generations and for power plants. Meanwhile, the coastal area is an area with a distinctive ecosystem because it has high biodiversity and supports the lives of coastal communities, so its existence needs to be preserved (Kenotariatan, 2023)

The people who control the coastal area in PARIMO Regency are indigenous people, local communities around which have been living for generations, looking for life in the coastal area until now. Inhabiting the area for more than 20 years, so the local government must respect the customary rights of indigenous peoples who are still alive and living in coastal areas.

According to Soerojo Wignyodipoer, the objects of customary rights include:

a. Land (land), as the scope of life;
b. Water (waters, rivers, lakes, rivers);
c. Wild-living vegetation (woody forests, fruits); and
d. Wild animals.

As described in the following section, customary rights include everything that is the environment and life of an indigenous people, such as land (ulayat) – along with everything on it (cultivation businesses, forests including reserve forests) and also in it (excavated materials); water includes rivers, situ, ponds, lakes, swamps, and seas; and also air (Sembiring, 2018)

In accordance with the PERDA RTRW of PARIMO Regency, every development is based on the condition of the area, and the management of the district land, so that the granting of development permits or permits tries to pay attention to this. Article 8 of PP 16/2004 states that land rights holders are obliged to use and utilize land in accordance with the Regional Spatial Plan, as well as maintain the land and prevent land damage. The determination of the RTRW does not affect the status of the legal relationship over the land, for the land after the determination of the RTRW, the settlement of the land administration is carried out by the holder of the right to land or by his power has met the conditions for using and utilizing the land in accordance with the RTRW, but if he does not meet the conditions for land use, he can be subject to sanctions.

Implementation of the Grant of Land Rights on Coastal Borders and Coastal Areas in Accordance with Laws and Regulations

The granting of land rights in coastal waters as stipulated in Article 5 paragraph (2) of Law Number 1 of 2014 concerning Amendments to Law Number 27 of 2007 concerning the

Management of Coastal Areas and Small Islands, can be granted for buildings that must exist in coastal waters, including:

a. state strategic programs;
b. public interest;
c. settlements on water for customary law communities; and/or
d. Tourism (Aghazzasi, 2015)

The objectives of the Management of Coastal Areas and Small Islands are contained in Article 4 of Law 1/2014, namely:

a. protect, conserve, rehabilitate, utilize, and enrich Coastal Resources and Small Islands and their ecological systems in a sustainable manner;
b. creating harmony and synergy between the Government and Regional Governments in the management of Coastal Resources and Small Islands;
c. strengthening community participation and government institutions and encouraging community initiatives in the management of Coastal Resources and Small Islands to achieve justice, balance, and sustainability; and
d. increasing the social, economic, and cultural value of the community through community participation in the utilization of coastal resources and small islands.

One of the fundamental factors for the emergence of land problems in Indonesia, especially those related to land acquisition in the era of decentralization, is the formal legal aspect of existing laws and regulations. This aspect will have a negative impact on other aspects such as the technical, administrative, and operational aspects of land policy (Sutedi, 2009)

Article 21 Law Number 1/2014 states that the use of space and resources of Coastal Waters and small island waters in the territory of Customary Law Communities by Customary Law Communities is the authority of local Customary Law Communities and the utilization of space and resources of Coastal Waters and small island waters is carried out by considering national interests and in accordance with the provisions of laws and regulations.

Recognition of the rights of the community over the coastal area in Law No. 1/2014 in Article 16, namely Every person who makes use of space from part of the Coastal Waters and the use of some small islands on a permanent basis must have a Location Permit. Furthermore, Article 17 paragraph (2) states that the Granting of Location Permits as intended in paragraph (1) must consider the preservation of coastal ecosystems and small islands, communities, traditional fishermen, national interests, and the right of peaceful passage for foreign ships. The government recognizes, respects, and protects the rights of indigenous peoples, traditional customs, and local wisdom over WP3K that has been used for generations (Article 61 paragraph (1)). This recognition is a reference in PWP3K (Article 61 paragraph (2)). Therefore, customary

territories (indigenous peoples) are also a concern for the conservation program in this law. (Sumardjono et al., 2014)

Regarding the status of coastal land controlled by the community in Indonesia, in general, it is land with the status of state property rights or controlled by the state. However, people who live in the area have occupied a fairly long time bracket, which is an average of approximately 30 (thirty) years. Broadly speaking, the status of coastal land occupied by the community is only given the right to use and management rights, on the condition that it must comply with all applicable rules. In other words, if one day the government wants to take over the land, then the people who live in the area must hand it over.(Francesca Jalli Pattruhu, 2023)

The use of coastal and coastal areas for development is of course inseparable from the status of land tenure in the area which is generally used for residence, for land on land that is not affected by sea tides already has a clear legal basis regarding the status of land tenure that can be owned because it has been regulated by the UUPA and other related laws and regulations. While this is certainly different from the land in coastal and coastal areas which of course is affected by the tides and tides of the sea so that it can move unexpectedly which of course causes uncertainty about the land. The UUPA also does not specifically regulate the status of land tenure in coastal and coastal areas (Pujiwati, A. Amiruddin, et al., 2020)

State land whose notabene is controlled by the state can be given land rights to legal subjects who apply for land rights to the country's land. Article 2 paragraph (1) of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units and Land Registration stipulates that state land or land directly controlled by the state is all parcels of land in the territory of the Unitary State of the Republic of Indonesia that are not owned with a right by another party. Then in Article 2 paragraph (2) of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats and Land Registration, it is stipulated that state land as referred to in paragraph (1) by the state can give it to individuals or legal entities with a Land Rights in accordance with its designation and needs or provide it with Management Rights. State land as referred to in paragraph (1) of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units and Land Registration includes:

1. Land stipulated by Law or Government Regulation;
2. Reclaimed land;
3. Embossed soil;
4. Land derived from the relinquishment/assignment of rights;
5. Soil derived from the discharge of forest areas;
6. Abandoned land;

7. Land rights that have expired and are not requested for extension and/or renewal;
8. Land rights whose term expires and due to the policy of the Central Government cannot be extended; and
9. Land that has been the status of national land since the beginning. (Suganda Simon, 2023)

Bachtiar Effendi stated: Land registration is an obligation that must be carried out by the government continuously in order to inventory data related to land rights according to the UUPA and Government Regulation Number 24 of 1997 while land right registration is an obligation that must be carried out by the right holder concerned and carried out continuously every time there is a transfer of land rights in order to inventory data related to the transfer of land rights according to the UUPA and Government Regulation Number 24 of 1997 in order to obtain a strong certificate of proof of land rights (Widiana, 2014)

Although full of challenges, granting land rights on the coastal border is basically allowed with certain limitations and obligations. The granting of land rights on the coastal border has limitations and obligations recorded in the land book and land right certificate, which consists of right, restriction, and responsibility or abbreviated as 3R. The 3R concept in question includes the following.

1. Rights holders are prohibited from building building structures that can reduce the conservation function of embankments, coastal zone conservation functions, or other conservation functions.
2. The use and utilization of land in protected areas must be carried out without disturbing the function of natural ecosystems, and without changing the physical characteristics of nature.
3. Rights holders are prohibited from damaging natural resources and maintaining environmental sustainability.
4. Rights holders are obliged to take care of the soil, including increasing its fertility, preventing damage, and preserving the environment.
5. Rights holders are obliged to maintain the conservation function of the coastal zone or other conservation functions.
6. The use and utilization of land in protected areas must be in accordance with the functions of the area in the applicable spatial plan.
7. There are other provisions that are in accordance with the applicable laws and regulations.

Thus, land rights in coastal zones have a number of controls and responsibilities to ensure environmental sustainability and the conservation function of the zone.(Adinegoro Randy, 2023)

Regarding the granting of location permits or management permits in coastal areas and coastal borders, it refers to the Regulation of the Ministry of Maritime Affairs and Fisheries Number 24/PERMEN-KP/2019 concerning Procedures for the Granting of Water Location

Permits and Water Management Permits in Coastal Areas and Small Islands regulating the granting of location permits for local and traditional communities, namely:

Article 41

Licensing facilitation for Local Communities is an effort by the Government to protect community activities.

Article 42

(1) Local communities as referred to in Article 41 who obtain licensing facilitation have the following criteria:
   a. have a basic livelihood as fishermen with static fishing equipment, fish cultivators or salt farmers; and
   b. producing production or having an income not more than the average value of the provincial minimum wage.

(2) In addition to meeting the criteria as intended in paragraph (1) for fish farmers and salt farmers, they must be domiciled on the coast and small islands for at least 5 (five) consecutive years or at least 10 (ten) years not consecutively.

Article 43

(1) Local communities that obtain licensing facilitation as referred to in Article 42 paragraph (1) are determined by the regent/mayor.

(2) The determination as intended in paragraph (1) is carried out based on the results of the identification of the Local Community submitted by the village head/village head through the sub-district.

Article 45

(1) Facilitation of the issuance of Water Location Permits for Local Communities in the following activities:
   a. capture fisheries with static fishing gear;
   b. sedentary aquaculture fisheries;
   c. Marine Tourism; and
   d. settlements on water.

(2) Facilitation of the granting of Water Management Permits for Local Communities in the following activities:
   a. salt production; and
   b. Marine Tourism.

(3) The provisions of the Water Management Permit for capture fisheries activities with static fishing gear and sedentary aquaculture as intended in paragraph (1) a and b shall be implemented in accordance with the provisions of laws and regulations.

(4) Facilitation for Water Location Permits and Water Management Permits carried out in Conservation Areas is carried out in accordance with the provisions of laws and regulations.

Referring to the regulations of the Ministry of Marine Affairs and Fisheries provides space for the community to be able to control, manage, and establish land in coastal areas and also settlements on the sea, but what is meant by location permits does not necessarily mean that there is a grant of land rights to the area where the community lives. Legal certainty to coastal communities is considered quite important because it guarantees the control of the land they have lived in for a long time and hereditary, to obtain this, the community aims to register

land for the controlled area. However, in this case, the National Land Agency (BPN) cannot simply issue a certificate without permission from the spatial planning office. In line with this, and referring to laws and regulations so that the issuance of land rights certificates for coastal communities is not simply issued by the authorities.

The community to be able to obtain land rights over coastal areas and coastal borders for buildings in the form of:

a. buildings used for defense and security;
b. ports or docks;
c. beach visitor safety guard tower;
d. the residence of the customary law community or members of the community who have lived in the place for generations; and/or
e. Power Plants The granting of Land Rights in coastal waters as intended can only be granted for buildings that must exist in coastal waters, including:
    1. state strategic programs;
    2. public interest;
    3. settlements on water for customary law communities; community members who have lived in the place for generations; and/or
    4. tourism. (Article 5 of the Minister of Agrarian Affairs/BPN Number 17 of 2016)

The granting of land rights in coastal areas is carried out in accordance with applicable laws and regulations, in Article 6 paragraph (3) of the Minister of Agrarian Affairs No. 17/2016 it is stated that for members and/or Customary Law Communities who have lived and settled in the Coastal Areas for generations, they can be granted Land Rights without having to meet the conditions as stipulated in Article 6 paragraph (1). In terms of people who live, make a living around the coastal area and carry out fisheries cultivation, they must obtain a permit for the location of the waters to be able to facilitate activities for local people in the coastal area.

Land registration in coastal areas and coastal borders can be granted with land rights in the form of Use Rights, granting land rights for a period of time in accordance with the UUPA. This is in line with information from the Central Sulawesi Regional Land Office, Mr. Nurdin , that currently the granting of land rights given to the community is in the form of Use Rights and must not be in the area of Protected Areas and Nature Reserves in line with the provisions in Article 6 of Government Regulation No. 13 of 2017 concerning the National Spatial Plan on Spatial Policies and Strategies for the Development of Spatial Patterns including:

a. policies and strategies for the development, utilization, and management of protected areas;
b. policies and strategies for the development of aquaculture areas; and
c. policies and strategies for the development of national strategic areas.

CONCLUSION

Ownership status for people in coastal areas and coastal borders is property rights obtained from state land and has long been given to local, traditional and customary communities who have lived in the area for less than 20 years and have been making a living or carrying out activities around the coast for generations. The granting of rights to coastal areas is given with Land Rights in the form of Right to Use, namely land rights with a time limit to the community, the implementation of granting land rights in coastal areas and also coastal borders paying attention to the public interest, limited carrying capacity, sustainable development, ecosystem linkage, biodiversity and sustainability of environmental functions.

BIBLIOGRAPHY

Adinegoro Randy, R. K. (2023). ANALISIS YURIDIS PEMBERIAN HAK ATAS TANAH DI SEMPADAN PANTAI (ANALYSIS REGARDING THE GRANTING OF LAND RIGHTS ON THE COASTAL BORDER). *Jurnal Pertanahan*, *13*(2), 133–141.

Aghazsi, R. S. (2015). Penguasaan Tanah di Kawasan Sempadan Pantai dan Wilayah Pesisir. *Lentera Hukum*, *2*(2), 117–135.

Arisaputra, M. I. (2015). *Reformasi Agraria di Indonesia* (M. I. Arisaputra, Ed.). Sinar Grafika.

Christian, Y., Budiman, M. A. K., Fahrudin, A., & Santoso, N. (2019). Iregularitas Agraria "Tanah Timbul" (Aanslibbing) Dan Perubahan Lanskap Di Wilayah Pesisir Ujung Pangkah, Gresik Jawa Timur'. *BHUMI: Jurnal Agraria Dan Pertanahan*, *5*(2), 230–243. https://doi.org/10.31292/jb.v5i2.374

Eldi. (2020). Landasan Hukum Pemberian Hak Wilayah Pesisir dan Pulau Terhadap Masyarakat Adat di Provinsi Kepulauan Riau. *Jurnal Inovasi Penelitian*, *1*, 695–706.

Fransisca Jallie Pattiruhu. (2023). Kewenangan Perorangan Dalam Menguasai Tanah Pesisir. *Jurnal Ekonomi, Manajemen Pariwisata Dan Perhotelan*, *3*(1), 78–87. https://doi.org/10.55606/jempper.v3i1.2492

Hajati, S., Winarsi, S., Sekarmadji, A., & Moechthar, O. (2017). *Buku Ajar Politik Hukum Pertanahan* (Buku Ajar). Airlangga University Press.

Ilham Arisaputra, M. (2015). Penguasaan Tanah Pantai Dan Wilayah Pesisir di Indonesia.

Perspektif Hukum, *15*(1), 27–44.

Indonesia. KKP. (2018). Potensi Usaha dan Peluang Investasi Kelautan dan Perikanan Provinsi Sulawesi Tengah. In KKP. Indonesia (Ed.), *Perpustakaan Kemetrian Kelautan dan Perikanan Republik Indonesia* (Koleksi Digital, pp. 1–65). Direktorat Jenderal Penguatan Daya Saing Produk Kelautan dan Perikanan.

Kenotariatan, M. (2023). Status Penguasaan Tanah Sempadan Pantai oleh Masyarakat di Pesisir Pantai Ujong Blang Lhokseumawe Indri Laras Sundari. *Locus Journal of Academic Literature Review*, *2*(2). https://doi.org/10.56128/ljoalr.v2i2.130

Pertiwi, E., & Kn, M. (n.d.). *Status Hukum Tanah Dan Hak Masyarakat Pesisir Pantai Atas Kebijakan Reklamasi Pantai Dan Laut Serta Implikasinya Berdasarkan Pulau-Pulau Kecil yang Ada di Indonesia*.

Pujiwati, Y., A, A., Imami, D., & Maesha, A. (2020). Status Penguasaan Tanah di Kawasan Pantai dan Pesisir Yang Dijadikan Kawasan Permukiman Rumah Pelantar di Kabupaten Kepulauan Anambas. *Hermeneutika*, *4*(2), 117–131.

Pujiwati, Y., A. Amiruddin, Imami, D., & Maesha, A. (2020). Status Penguasaan Tanah Di Kawasan Pantai Dan Pesisir Yang Dijadikan Kawasan Permukiman Rumah Pelantar Di Kabupaten Kepulauan Anambas. *Hermeneutika*, *4*(2), 117–131.

Purnomo, E. (2017a). *Tinjauan Hukum Penguasaan Dan Pemilikan Tanah Timbul Di Kabupaten Barru Provinsi Sulawesi Selatan* (E. Purnomo, Ed.; Tesis). Universitas Islam Indonesia.

Purnomo, E. (2017b). *Tinjauan Hukum Penguasaan dan Pemilikan Tanah Timbul di Kabupaten Barru Provinsi Sulawesi Selatan*. Program Magister Kenotariatan Universitas Islam Indonesia.

Rudhy Aghzsi, S. (2015). Penguasaan Tanah di Kawasan Sempadan Pantai dan Wilayah Pesisir. *Lentera Hukum*, *2*(2), 117–135.

Rukin. (2019). *Metodologi Penelitian Kualitatif* (Rukin, Ed.). Yayasan Ahmar Cendikia Indonesia.

Sembiring, J. (2018). *Dinamika Pengaturan dan Permasalahan Tanah Ulayat*. STPN Press.

Simamora, J., & Ari Sarjono, G. (2022). Urgensi Regulasi Penataan Ruang Dalam Rangka Perwujudan Pembangunan Berkelanjutan di Indonesia. *NOMMENSEN JOURNAL OF LEGAL OPINION*, *3*(1).

Sumardjono, Maria. S. W., Ismail, N., Rustiadi, E., & Damai, A. A. (2014). *Pengaturan Sumber Daya Alam di Indonesia Antara yang Tersurat dan Tersirat*. Gadjah Mada University

Press.

Sundari, L. I. (2023). Status Penguasaan Tanah Sempadan Pantai oleh Masyarakat di Pesisir Pantai Ujong Blang Lhokseumawe. *Locus Journal of Academic Literature Review*, *2*(2). https://doi.org/10.56128/ljoalr.v2i2.130

Suparji, & Ayu, W. R. (2018). HAK PENGUASAAN ATAS TANAH REKLAMASI PANTAI. *Jurnal Magister Ilmu Hukum*, *III*(2).

Sutedi, A. (2009). *Tinjauan Hukum Pertanahan* (A. Sutedi, Ed.). PT Pradnya Paramita.

Widiana. (2014). *Pelaksanaan Pendaftaran Tanah Pesisir Pantai Oleh Masyarakat Sedanu Kecamatan Bunguran Barat Kabupaten Natuna Kepulauan Riau*. Fakultas Hukum Universitas Tanjungpura.