The Nature of Land Law in Coaseral Communities
Development of South Sulawesi Province

Sufirman Rahman¹, Said Sampara², Hikmawati Mustamin³, Laola Subair⁴

¹,2,3Faculty of Law, Universitas Muslim Indonesia
⁴Doctoral Student of Law, Muslim Indonesia University and Lecturer of Faculty of Law, Andi Jemmah University Palopo

Abstract: The aim of study to analyze, explain and discover the nature of land law in the development of coastal communities. The method if this research is a type non-doctrinal research. Research results showed the nature of land law in the development of coastal communities in South Sulawesi is based on principles, the objectives of land and coastal area management which states that the whole of Indonesia and the natural resources therein shall be controlled by the state as the highest authority to regulate and organize the designation, use, supply and the maintenance for public welfare. Recommendations, land laws prioritize direct/special integrated coastal zone management settings, by prioritizing the regulation of land rights of coastal communities coastal natural resources and environment in coaseral.

Keywords: Lan Law, Development, Coaseral Communities

Introduction
Coastal is complex area, dynamic and unique environment because of the influence of two ecosystems, i.e. terrestrial ecosystem and marine ecosystem. These are conditioned as a coastal resource and if properly managed can be the foundation and source of new growth for economic development sustainably in realizing an advanced society and independent.

Indonesia has coastline with length of 80,791 km and an area with the majority population living on the coastal. In this coastal area is also place of strategic economic activity developed, seen from the number of city infrastructure, services, fisheries and industrial activities.

South Sulawesi Province is one of the provinces in Indonesia which geographically is a huge large marine-based area. South Sulawesi Province has coastline along the 1,937 km and sea area of 266,877 km². That's because of the 24 regencies found in South Sulawesi Province, 2/3 of them are regencies that have coastal areas and sea. In addition, South Sulawesi Province has 263 small islands scattered in several regencies such as Makassar, Selayar regency, Bone regency, and Pangka'ene regency and islands (Pangkep).

On progress the potential wealth of marine resources is certainly a gift as well as disaster for the fishermen who live in the coastal areas and sea of South Sulawesi Province, even the economic and socio-cultural conditions of coastal communities, especially fishermen in the province is very alarming. The geographical condition of coastal area of South Sulawesi is inversely proportional to the condition of the community residing in the region. Poverty and hardship of life are the objective description of coastal communities/fishermen in South Sulawesi.

The regulation of coastal area management in South Sulawesi refers to the provincial spatial plan, in accordance with regional regulation No. 9 of 2009 concerning the Spatial Plan of South Sulawesi Province of 2009-2029, with the general purpose of spatial planning of Provinicial region is to organize the space area of South Sulawesi, including coastal and small islands into a knot of transportation, industry, trade, tourism, settlement, agriculture, sustainable food land, and to improve the environmental quality of watersheds, synergically between sectors and inter-region, participatory, democratic, fair and balanced, in the national spatial system, which leads to the process of improving the welfare of the people, especially the people of South Sulawesi sustainable.

The management of coastal area is one form of regional development that is basically intended to improve the quality of society and the environment in general, ongoing, such efforts may include: Improving human capabilities; Increasing production efficiency; Controlling environmental impacts; Increasing the role of socio-economic institutions; Capacity building of regional government.

The regulation on the management and utilization of coastal natural resources is still sectoral. These become obstacles in the implementation of sustainable development of marine natural resources, because it allows the emergence of dispute. It is because of the presence...
of different legal authorities as the result of sectoral regulation. Sustainable development can only be implemented if supported by a set of integrated rules, coordinated and harmonious. So far, the set of rules explicitly regulating the management of coastal areas have not yet exist, so the expectation of a regulation on coordinated and harmonious coastal management is still far from expectations.

Research methods

The research method used sociological juridical method, that is to study the implementation of laws and regulations of coastal area management by connecting to social phenomena. The data were collected through 70 respondents selected at random. Data analysis was done by quantitative data to be explained qualitatively in the form of analytical argument to get the validity of research result.

Discussion

Indonesia is one of the countries with the longest coastline, so it can be assumed that Indonesia as a country that has huge potential in terms of maritime and fisheries. Since the holding of the World Ocean Conference in Manado on 11-15 May 2009, Indonesia which is an archipelagic country with stretch of long coastline and wide, must already prepare marine and fisheries management scenarios and sustainable biodiversity in cross sectorally. In addition, the environmental awareness is influenced by Albert Gore campaign with the Intergovernmental Panel on Climate Change (IPCC) which disseminate knowledge on climate change due to human actions.

Kay and Alder stated that coastal area is unique area, because in the context of the landscape, coastal area is where land and sea meet. South Sulawesi Province has the unique coastal territorial waters and has strategic value in economic development, either in economic utilization or its ecology. In the management required the integration between the various activities in coordination and directing the various activities that exist in the coastal area.

1945 Constitution (UUD NKRI 1945) in amendment of Article 1 Paragraph (3), “Indonesia is a law country.” Remembering that Indonesia is a country of law, normatively the wealth of natural resources controlled by the state to be managed in such a way in order to realize the welfare of society (Article 33 Paragraph 3 of the Constitution of the Republic of Indonesia, 1945) and provide benefits for the society at this time without sacrificing the interests of the next generation, especially in efforts utilizing the coastal resources of Law provisions governing preservation and environmental management.

Legislation has been established by the government relating to the management of coastal areas is the rule of law that is fundamental and functional that regulates and directs government and society in implementing activities directly related to development. The legal system as positive law for the Indonesian nation that serves as the foundation of law and guidance, on the importance of policy and national development strategies to be implemented and realized.

In this regard, the development in question is legal system concerning of coastal area management and its natural resources management and environment, with the implementation of development implementation based on the provisions of the law, because in it related many aspects of economic, social, cultural and political aspects. The existence of these aspects cannot be separated, because the interplay between one another in the implementation and law enforcement in the community, especially the implementation of law enforcement in the implementation of coastal community development activities. Relation to coastal area management.

Darajati in (La Sara, 2014) explained that Integrated Coastal and Marine Area Management (PWPLT) require information on potential development that can be developed in a coastal area and ocean along with existing problems, either actual or potential. Therefore, the formulation of PWPLT compiled based on potentials, opportunities, problems, constraints and existing actual conditions, taking into consideration the influence of the environment strategic on national development, regional autonomy and globalization. To implement it on practical level (policies and programs) then there are five strategic: (1) Application of the concept of sustainable development of PWPLT, (2) Referring to the basic principles in PWPLT, (3) PWPLT planning process, (4) Elements and structure of PWPLT, and (5) Implementation of PWPLT in regional development planning.

In realizing the implementation of law enforcement in the implementation of community development in coastal area to achieve justice (Gerechtigkeit), law certainty (Rechtssicherheit) and law benefit (Zweckmässigkeit) in order to achieve the welfare of the community, any applicable legislation in the state of Indonesia must be a rule of law intact, in the sense of a rule with other rules of law there should be no opposition, either vertically or horizontally. To maintain the integrity of a rule of law in order to be preserved, then by the legislators important and need to understand and pay attention to the hierarchy of legislation.

Results of interview on March 6, 2017 Mr. Haryanto SH., M.H. (South Sulawesi Provincial Legislation staff) said that “Regional regulations on
coastal area management, the implementation had not been effective (60-75%), coastal area management in South Sulawesi due to changes in authority, technical in field and human resources capability had not yet adequate.

How respondents’ opinions about the implementation of coastal area management legislation can be seen from various answers and reasons that have been expressed as the researcher's mind to analyze, describe and will provide answers as the final conclusion later.

Table 1: Implementation of Legislation in Coastal Area Management

<table>
<thead>
<tr>
<th>No</th>
<th>Respondents Answer</th>
<th>Frequency</th>
<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Ineffective</td>
<td>4</td>
<td>6</td>
</tr>
<tr>
<td>2</td>
<td>Less effective</td>
<td>51</td>
<td>73</td>
</tr>
<tr>
<td>3</td>
<td>Effective</td>
<td>15</td>
<td>21</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>70</td>
<td>100</td>
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</table>

Source: Primary Data Processed in 2017

Based on table 1, how the implementation of legislation coastal area management, Respondents' opinion (73%) said less effective of law enforcement of coastal area management, meaning the respondent said that because the law device was not executed properly, because it had been explained in advance that the problems faced in the management of coastal area were the lack of law enforcement and the lack of policy implementation, overlapping regulations of various sectors for the sake of their interests and the emergence of regional regulations to regulate its territory for the benefit of its territory without regional coordination and other sectors, (6%) of respondents said ineffectiveness of law enforcement implementation of coastal area management meaning that the law was not executed, and (21%) of respondents said it was very effective, it meant that the existing law had already in proper stages either in the planning stage or in the management of coastal areas and small islands or (PWP3-K).

Authority Aspect

Coastal area management is part of the protection and environmental management that cannot be separated, because the environment is means to develop the dignity and the dignity of humans, animals, and plants and other living beings, all need healthy environment and human right and constitutional rights that are guaranteed by law.

In the general explanation of Law No. 32 of 2009 on Protection and Environmental Management, Number (1) that 'The 1945 Constitution of the State of the Republic of Indonesia states that a good environment and health is human right and constitutional right for every Indonesian citizen. Therefore, state, government and all stakeholders are obliged to protect and environmental management in the implementation of sustainable development, so that Indonesian environment can be a source and supporting life for the people of Indonesia and other living things.\textsuperscript{xiii}

This law provides wide authority to the Minister to implement all government authorities in the field of protection and environmental management and coordination with other agencies. Through this law also, the government gives widespread authority to regional government in protecting and managing the environment in their respective regions which are not regulated in Law Number 23 of 1997 on Environmental Management. Therefore, institution that has workload based on this law is not sufficiently just an organization that establishes and coordinate the implementation of policies, but needed an organization with portfolio to establish, implement and oversee protection policy and environmental management. In addition, these institution is also expected to have the scope of authority to oversee natural resources for conservation purposes. To ensure the implementation of main duties and functions of the institutions are required the funding support from the state budget of revenues and state expenditures that adequate for government and the budget revenues and state expenditures that adequate for regional government.\textsuperscript{xiii}

Here, respondents’ responses to Coastal Area Management and small islands:

Table 2: Authority in Coastal Area Management

<table>
<thead>
<tr>
<th>No</th>
<th>Respondents Answer</th>
<th>Frequency</th>
<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Ineffective</td>
<td>17</td>
<td>24</td>
</tr>
<tr>
<td>2</td>
<td>Less effective</td>
<td>40</td>
<td>57</td>
</tr>
</tbody>
</table>
In table 2 above, shown that authority of related parties in coastal area management, respondents (24%) stated ineffective, (19%) respondents stated effective and in general respondents stated (57%) less effective, respondents argued that because of the management of coastal area, not paying attention to the environmental sustainability of coastal area, resulting in environmental ecosystems being damaged, in the sense that Law No. 27 of 2007 on Coastal Area Management and Small Islands had not provided authorized and State responsibility adequately on coastal area management and small islands management, so that several articles need to be refined according to the development and legal needs in the community, coastal area management and small islands had not given authority and State responsibility adequately coastal area management and small islands through the mechanism of awarding Coastal Water Rights (HP-3), because the mechanism of HP-3 reduced the State rights on coastal area management and small islands.

Coordination Aspects Inter-Agency/Institutions

In general, coordination is bond or relationship within institution that links the role of parties in agencies/institutions to achieve the goal. In other words, coordination can ensure the movement of parties in institutions toward the common goal. Without coordination, all parties in agencies/institutions will move in accordance with their interests, but regardless of the role of the other parties in the organization and the respective roles of parties are not necessarily to achieve the common goal.

<table>
<thead>
<tr>
<th>No</th>
<th>Respondents Answer</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ineffective</td>
<td>7</td>
<td>10</td>
</tr>
<tr>
<td>2</td>
<td>Less effective</td>
<td>43</td>
<td>61</td>
</tr>
<tr>
<td>3</td>
<td>Effective</td>
<td>20</td>
<td>29</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>70</td>
<td>100</td>
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Source: Primary Data Processed in 2017

The more complex organization and management the more complex are also the coordination process that must be done. In fact, in the context of private organizations (private institutions), coordination is not only done within the scope of one country but also across countries as has been widely practiced by multi-national corporations. It is conceivable, how difficult the process of resource management is scattered in various countries without any coordination. Without coordination, the scattered resources cannot be managed effectively and efficiently.\(^{xx}\)

In relation to coordination in coastal area management, Law No. 1 of 2014 on Amendment to Law No. 27 of 2007 concerning Coastal Area Management and Small Islands Article 1 Number (15) “that the Management Plan contains the policies framework, procedures, and responsibilities in order to coordinate the decision-making among various government agencies/institutions regarding the agreement of resources usage or development activities in the designated Zone”.\(^{xxi}\)

Coastal Area Management in integrated is important because there are many activities that can be implemented, so it needs to be formulated as a concept of spatial planning (strategic plan) as well as various choices of matching development objects. Rokhmin Dahuri,\(^{xvi}\) in this context, integrated coastal area management at least contains three (3) dimensions, including: Sectoral, Scientific and Ecological linkages.

The following of respondents’ responses to the coordination of Inter-Institutions in Coastal Area Management.

Based on table 3 above, shown that in general the community opinion that (61%) of respondents said that Coastal Area Management by agencies/institutions was still less effective, the community who said that overlapping regulations from various sectors for the sake of their interests, and Regional Regulations to regulate its territory for the benefit/interest of its territory without coordination of territorial and other sectors, resulting in management plan that containing the policies framework, procedures and responsibilities in order to coordinate the decision-making among various government agencies/institutions regarding the agreement of resources usage or development activities in the designated zone were less coordinated, (10%) of respondents said that Coastal Area Management by agencies/institutions uncoordinated, that the community who said that...
agency/institution and region concerned managing the coastal areas according to authority and their interests, and (29%) of respondents said that Coastal Area Management by agencies/institutions effective, the community who said that because of the real activities or government programs directly related to coastal areas, in the sense that there were several empowerment programs implemented by government, one of which was economic empowerment of coastal communities (PEMP).

Thus, the empowerment program for coastal communities must be designed in such a way with not generalizing one group to another moreover between one region and other coastal areas. Coastal community empowerment must be bottom up and open menu, but the most important was the empowerment itself that must directly touch the target community groups, according to the principle in coastal area management that was "economic benefits conservation as main purpose", meaning how the management of coastal area economically society can increase to reach prosperity.

**Supervision Aspects**

Reviewed from the standpoint of sustainable development and the status of Indonesia as a developing country, coastal area management and integrated islands in Indonesian context are actually at the crossroads. On one side, we face densely populated coastal area with the pace of development which is very intensive, such as in the coastal Malacca Strait, North Coast of Java, Bali, the coastal between Balikpapan and Bontang in East Kalimantan, and South Sulawesi. In this region, the sustainable capacity of many coastal ecosystems that are threatened by unsustainable development patterns, through pollution, erosion, physical degradation of important coastal habitats, excessive exploitation of natural resources, and conflicts of space use and resources.

Furthermore, threats to environmental sustainability and the sustainability of development in this region is not only caused by the intensity of capital-intensive development and technology, but also undermined by poverty are the result of development pattern that has been going on.

On the other side, Indonesia still has many coastal areas and oceans with enormous development potential, but not yet optimally utilized. This condition is mainly found in eastern Indonesia and other regions outside Java that have not been touched by development activities. Therefore, it is required policies and management strategies and utilization of marine resources that can balance the utilization level of resources between regions. In addition, it is required management approach that not to repeat mistakes (environmental damage and in-efficiency) that have occurred in the Western Region of Indonesia, especially the North Coast of Java.

To know how the supervision level in coastal area management can be seen table as follows:

**Table 4: Supervision of Coastal Area Management**

<table>
<thead>
<tr>
<th>No</th>
<th>Respondents Answer</th>
<th>Frequency</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ineffective</td>
<td>13</td>
<td>19</td>
</tr>
<tr>
<td>2</td>
<td>Less effective</td>
<td>42</td>
<td>60</td>
</tr>
<tr>
<td>3</td>
<td>Effective</td>
<td>15</td>
<td>21</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>70</strong></td>
<td><strong>100</strong></td>
</tr>
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</table>

*Source: Primary Data Processed in 2017*

In table 4, shown that supervision of coastal area management in general respondents (60%) said less effective, the community who said that because of the consequences still-existence of fishing activities that were not environmentally friendly such as the used of explosives (handak), cyanide poison, taking coral reefs for building materials, as well as harvesting of seafood by gouging the coral resulting in the destruction of coral reefs ecosystem were also caused the high frequency levels of fisherman activities in fishing, and other marine biota were continuously excessive even many who used tools, ways or prohibited materials were used to obtain a lot of results so forgot the preservation of coral reef ecosystem and other ecosystems such as seagrass beds, mangroves and estuaries, (19%) of respondents said that it was ineffective, because of the environmental damage of coastal areas everywhere from upstream to downstream, as the result of irresponsible activities conducted by government, private and community (coastal community), for the sake of certain parties without regardless of environmental sustainability of coastal area, and (21%) of respondents stated that very effective, the community who said that because of the real supervision as an example needed guidance and socialization in order to increase income and welfare of coastal community and island. The most appropriate guidance was the provision of Alternative Livelihood for the fishermen community, and control gradually through supervisory activities in persuasively or preventively.
Therefore, required integrated operational degree involving stakeholders such as Satpolair, Navy, Fisheries Supervision, Fisheries PPNS, and Sea Transportation and Pangkep Police officers who were expected to improve performance and effectiveness of supervision, awareness and law enforcement in the field so that fishery activities were not environmentally friendly can be reduced.

**Policy Aspects**

To know the level of realization of government policy in coastal area management by community can be seen in the following table:

<table>
<thead>
<tr>
<th>No</th>
<th>Respondents Answer</th>
<th>Frequency</th>
<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Ineffective</td>
<td>8</td>
<td>11</td>
</tr>
<tr>
<td>2</td>
<td>Less effective</td>
<td>44</td>
<td>63</td>
</tr>
<tr>
<td>3</td>
<td>Effective</td>
<td>18</td>
<td>26</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>70</td>
<td>100</td>
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</tbody>
</table>

*Source: Primary Data Processed in 2017*

Based on table 5 above, the results of public opinion on how government policy in coastal area management shown that respondents answer in general said (63%) less effective, because there were still many areas and natural resources had not been managed, there were managed but less optimal management, because of the damaged coastal areas, managed not to be allocated, in the sense that they were not in accordance with the process of planning, utilizing, supervision and controlling coastal resources, less of implementing the policies and development strategies of coastal area and oceans which were independent and sustainable, (11%) of respondents argued ineffectiveness of government policies in coastal area management, the public opinion who said that because of the policies that exist in the legislation were not running in the sense that there were not realization of existing coastal area management policies, such as: (1) Uphold sovereignty and National jurisdiction; (2) Utilize the potential of the sea and seabed; (3) Increase the dignity and Standard of fishermen living; (4) Developing the potential of various national marine industries and its distribution throughout the territory of homeland; (5) fulfill data needs and marine information and integrate and develop it in a network of marine information systems; and (6) Maintain power support and preservation of environmental functions, and (26%) of respondents said effective, the community who said that because of all existing policies had been implemented, meaning that the actualization of government policies based on law provisions. Law enforcement that related to government policy in coastal area management had been enforced to achieve the community welfare in coastal area, in accordance with one of the concepts of welfare state, "the theory of welfare state", that the state has an obligation and ensures the creation of common prosperity in the life of the community, whether of economic, social, cultural, legal, educational, or in political interests. This of course in line with the preamble of 1945 Constitution, especially paragraph IV which stated: "Then from then on to form an Indonesian state government that protects the whole Indonesian nation and all over Indonesia to advance general welfare....". From the foundation it affirms the existence of "State obligation" and "government duty" to protect and serve the whole public interest, in order to realize the happiness of all Indonesian people.

**Community Participation Aspects**

The importance of participation or community participation in coastal area management, this must be supported by the accommodating aspirations and community interests in harmony and balance, in the development program. Therefore, it is an impossibility of a participation involvement in a process of development activity, if only by listening to the voice and community interests, regardless of and accommodating aspirations and community interests in the decision making of a development program.

Accommodating the aspirations and community interests in harmony and balance in the development program, it is clear will provide better enlightenment for the community to be able to participate optimally in development. Therefore, involving the community participation actively in the development process activities, then the ideals and expectations for the realization of a quality coastal area and conducive will be realized.

To know how the level of community participation in coastal area management can be seen in the following table:

| Table 6: Community Participation in Coastal Area Management |
In table 6, it appeared and cleared how community participation in coastal area management, shown that respondents stated (7%) ineffective, (36%) of respondents stated effective, and respondents generally stated (57%) less effective, respondents who stated that because it still less involvement of community in coastal area management physically and non-physical, either in planning, implementation or supervision. In the sense that less of role in drafting proposal and drafting of RSWP-3-K, RZWP-3-K, RPWP-3-K, and RAPWP-3-K covering the general picture of coastal area conditions and small islands containing data and information of coastal area and small islands and community needs in the form of proposed coastal area utilization activities and small islands, less of role in implementation and supervision of coastal area management. Thus, impact on the lack of community participation and government institutions and the lack of community initiatives in coastal resources management and small islands in achieving justice, balance and sustainability, and low social values, economic, and cultural communities in the utilization of coastal resources and small islands.

Related to this, Zainuddin said that so far marine policy in Indonesia was considered still less to include elements of community participation and attention to the diversity of territorial, either province or regency/municipality in an integrated national marine policy context. Although the attention to marine had been more directed to the fisheries sector, oil and gas and marine environment, but overall some national policies had not been integrated into local or regional aspects are unanimous, intact, and integrated.

Conclusion
Underlying the research results and discussion, it can be concluded that, the implementation of the determination of coastal area management legislation in South Sulawesi was less effective. It was based on the implementation of law that had not yet led to the goal to create the community welfare in coastal area. This was apparent in the authority given to the implementers of law that had not performed their functions well, inter-agency coordination had not been done well, and also coupled with government policies that were less lead to the interests of coastal communities. So, the implications of the lack of community participation to obey the legislation.

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