

## Original Article

# Legal Protection of Coastal Community Land Tenure Rights

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## Abstract

*Indonesia has established numerous legal frameworks governing land ownership and land use in coastal areas; however, ineffective enforcement, overlapping institutional authorities, inconsistent regional implementation, and limited protection of community rights continue to undermine their effectiveness. This study examines the regulation and management of land tenure rights for coastal communities and identifies normative weaknesses that generate legal uncertainty and social injustice. The research applies a normative juridical method, employing statutory, conceptual, and comparative approaches, with a focused comparison on the Philippine legal framework. The findings reveal that unequal access to land, fragmented institutional authority, and the dominance of a legalistic-positivist regulatory paradigm actively marginalize coastal communities, particularly indigenous peoples, and expose them to a heightened risk of displacement. By contrast, the Philippines adopts an integrated and participatory legal approach that positions coastal and indigenous communities as primary stakeholders in natural resource governance through constitutional recognition, public land regulation, indigenous rights protection, and fisheries management. This framework strengthens community participation through community-based coastal resource management and promotes shared responsibility for ecosystem sustainability. The study concludes that Indonesia must reform its coastal land tenure regulations by adopting a rights-based and participatory legal approach that enhances legal certainty, advances social justice, and ensures a balanced relationship between environmental protection and the socio-economic sustainability of coastal communities.*

**Keywords:** Coastal; Communities; Land Rights; Protection; Regulation;

## Introduction

According to Article 33, Paragraph (3) of the 1945 Constitution of the Republic of Indonesia (NRI), "The land, water, and natural resources contained therein are controlled by the state and utilized for the greatest prosperity of the people." This means that the Unitary State of the Republic of Indonesia (NKRI) must carefully manage its natural resources and use them to benefit the largest number of people. Using land, water, and natural resources to help the most people shows that their only aim is to improve people's lives, while also following the ideal of fairness, as indicated by the phrase "as much as possible."<sup>1</sup> This means that the results of using land, water, and natural resources are intended for the whole community, not just certain people or groups. Initially, discussions of agrarian issues focused only on land as the Earth's surface. Land includes both the surface of the Earth above water and the part of the Earth below water, such as seawater. Article 33 of the 1945 Constitution of the Republic of Indonesia (UNRI) addresses more than just managing land resources. It also discusses managing all of Indonesia's marine resources.

<sup>1</sup> Xin Lin and others, 'Solving Coordination Failures: Collective Land Transfer Rights and Rural Entrepreneurship', *Journal of Development Economics*, 178 (2026), 103609 <<https://doi.org/10.1016/j.jdeveco.2025.103609>>.



When talking about agrarian difficulties, we need to consider maritime and littoral environments as well, as they are essential parts of the country's sovereign territory.<sup>2</sup>

With 17,508 islands, Indonesia is the world's largest archipelagic country. Its coastline is 81,000 km long, and its marine area is about 3,273,810 km<sup>2</sup>, including 0.3 million km<sup>2</sup> of territorial waters and 2.8 million km<sup>2</sup> of archipelagic waters. The 1982 UNCLOS (United Nations Convention on the Law of the Sea) gives Indonesia sovereign rights over its 2.7 million km<sup>2</sup> Exclusive Economic Zone. This includes the exploration, exploitation, and management of living and non-living resources, research activities, and the right to build installations or artificial islands.<sup>3</sup> Indonesia constitutes an archipelagic state composed of numerous islands inhabited by diverse ethnic groups with distinct customs and land-use practices. Coastal areas encompass one or more littoral ecosystems and associated resources and may develop in natural or artificial forms. Natural coastal ecosystems include coral reefs, mangrove forests, seagrass beds, sandy beaches, *Pes-caprae* formations, Barringtonia formations, lagoons, and deltas. In contrast, artificial coastal areas consist of fish ponds, tidal rice fields, tourism zones, industrial and agro-industrial areas, as well as residential settlements.<sup>4</sup>

Indonesia's geographical location, characterized by numerous islands with diverse social, cultural, and ecological attributes, complicates the governance of coastal areas and smaller islands. Because there are so many different interests, regulations and laws need to be in place that treat them all fairly, such as protecting the environment, improving community health, and prioritizing national interests.<sup>5</sup> Indonesia is an archipelago with about 17,508 islands of different sizes. It has had the Basic Agrarian Law (UUPA) for almost 50 years, but only recently have written, positive legal provisions standardized land-use rules in coastal and beach areas. The presence of an island is strategically important since it is based on the economic interests of people and communities, as well as the political and security concerns of the state or government. Because there are many different interests on an island, rules must be put in place to ensure the land is managed and used in a legally clear way. This will ensure that these interests don't conflict or undermine one another, helping the island achieve its economic, social, and political goals.<sup>6</sup>

According to Article 4, paragraph (2) of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), land rights give people the right to use the land, including the earth, water bodies, and the space above them, only as needed for purposes directly related to land use within the limits set by UUPA and higher laws. According to the law, people in littoral areas can own land. Law Number 27 of 2007 on the Management of Coastal Areas

<sup>2</sup> Chao Hu and Jiayun Dong, 'Program Sustainability and Property Right Factors Influencing Farmers' Self-Predicted Post-Program Land Investment Behavior - Evidence from Land Enrolled in the Sloping Land Conversion Program in China', *Land Use Policy*, 158 (2025), 107752 <<https://doi.org/10.1016/j.landusepol.2025.107752>>.

<sup>3</sup> John F. McCarthy and others, 'Land Reform Rationalities and Their Governance Effects in Indonesia: Provoking Land Politics or Addressing Adverse Formalisation?', *Geoforum*, 132.April (2022), 92–102 <<https://doi.org/10.1016/j.geoforum.2022.04.008>>.

<sup>4</sup> Kasper Hoffmann and others, 'Everyday Property-Making: Negotiating Land Rights, Precarity and Public Authority in Urban Congo', *Land Use Policy*, 158 (2025), 107734 <<https://doi.org/10.1016/j.landusepol.2025.107734>>.

<sup>5</sup> Allen Pranata Putra and others, 'A Critical Review of Land Transport Management in Indonesia: Does It Support CO2 Emission Reduction?', *Social Sciences & Humanities Open*, 12 (2025), 101972 <<https://doi.org/10.1016/j.ssaho.2025.101972>>.

<sup>6</sup> Chris Huggins, Lina Awadalla, and Neema Kingamkono, 'Women's Rights to Land in Tanzania: Does Village Land Use Planning Strengthen Women's Land Rights?', *Journal of Rural Studies*, 119 (2025), 103805 <<https://doi.org/10.1016/j.jrurstud.2025.103805>>.



and Small Islands, later amended by Law Number 1 of 2014 on Changes to Law Number 27 of 2007 on Coastal Areas and Small Islands, provides greater legal protection to people living near the coast and beaches.<sup>7</sup> This is similar to how land is controlled in locations away from the coast, where land control often runs into problems. Article 60 of Government Regulation Number 40 of 1996 on Cultivation Rights, Building Rights, and Land Use Rights provides legal protections for communal land ownership in coastal areas. This article says, "The granting of Cultivation Rights, Building Rights, or Use Rights for a land parcel that is entirely an island or adjacent to the coast is governed separately by a Government Regulation, which was last amended by Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration." Article 65 (2) The ministry in charge of monitoring government affairs in the maritime and fisheries sector gives out permits for land rights in aquatic regions, following the laws and rules that apply.<sup>8</sup>

In line with population growth and expanding development across various sectors, influenced by cultural traditions and practices, the Indonesian population tends to reside along the coast, where transportation access is greater than in inland areas. A particular example is Kotabaru Regency, which has the longest coastline in South Kalimantan Province. Along the coast, there are a lot of houses close together. Most people living in coastal areas are immigrants from diverse ethnic groups; hence, they are related to one another. In this situation, it is essential to manage and use land in coastal areas. Coastal areas are vulnerable to environmental change, but traditional communities must also be integrated and used to make the most of their natural resources.<sup>9</sup>

When planning space, it is necessary to comply with environmental management, spatial planning, and other relevant legislation. Law Number 9 of 2015, which amends Law Number 23 of 2014 on Regional Government, grants each region complete control over its land and empowers the regional chief to draft spatial plans.<sup>10</sup> Spatial planning not only controls how land areas are laid out, but also covers the entire district or city, including marine areas. Coastal areas are essential because they are where land and water ecosystems meet. The state is responsible for coastal resources, protecting the public's health and safety by managing these assets in ways that benefit the current generation while safeguarding the needs of future generations.<sup>11</sup>

Law Number 27 of 2007, as amended by Law Number 1 of 2014, states that coastal regions are transitional zones between land and sea ecosystems that are affected by changes on land and in water. Article 2 also says that the management of coastal areas and small islands includes transitional zones between land and sea ecosystems that are affected by

<sup>7</sup> Purwanto and others, 'Land Cover Change Assessment Using Random Forest and CA Markov from Remote Sensing Images in the Protected Forest of South Malang, Indonesia', *Remote Sensing Applications: Society and Environment*, 32 (2023), 101061 <<https://doi.org/10.1016/j.rsase.2023.101061>>.

<sup>8</sup> Mekonnen Nigusie Asfaw and others, 'Land Rights for Women in Rural Ethiopia: Legal Framework and Reality', *World Development Perspectives*, 39 (2025), 100705 <<https://doi.org/10.1016/j.wdp.2025.100705>>.

<sup>9</sup> Nasrin Jalilian and others, 'Land Ownership Rights Enhance Farmers' Attitudes toward Soil and Soil Conservation Behavior: Insights from Iran', *Journal of Environmental Management*, 392 (2025), 126821 <<https://doi.org/10.1016/j.jenvman.2025.126821>>.

<sup>10</sup> Kazumi Wakita and others, 'Potential Signals Promoting Behavior for Coastal Conservation: Conformity in Small-Scale Fishing Communities in the Philippines', *Marine Policy*, 146 (2022), 105292 <<https://doi.org/10.1016/j.marpol.2022.105292>>.

<sup>11</sup> Jia-He Zhou and others, 'Optimal Pricing for Transfer of Development Rights under Risk Sharing: The Context of China's Inter-Provincial Construction Land Quota Trading', *Expert Systems with Applications*, 298 (2026), 129627 <<https://doi.org/10.1016/j.eswa.2025.129627>>.



changes on land and sea. These zones go from the sub-district administrative boundary on land to 12 (twelve) nautical miles from the shoreline.<sup>12</sup>

Article 60 of Government Regulation Number 40 of 1996 about Land Use Rights, Building Use Rights, and Land Use Rights says that "The granting of Land Use Rights, Building Use Rights, or Land Use Rights over a land parcel that is entirely an island or adjacent to the coast is governed separately by a specific Government Regulation." This is to protect community land ownership in coastal areas. The last change was made to Government Regulation Number 18 of 2021, Article 65 (2), which concerns management rights, land rights, apartment units, and land registration. The ministry responsible for monitoring government affairs in the maritime and fisheries sector issues permits for the allocation of property rights in waterways, in accordance with the law.<sup>13</sup>

Indonesia needs to compare its laws and policies for managing coastal areas to those of the Philippines. Both countries are archipelagic, tropical nations that rely heavily on coastal resources and face similar topographical, social, and environmental challenges. The Philippine Coastal Zone Management Act and its implementing rules constitute a comprehensive legal framework for integrated coastal management in the Philippines. These rules stress community involvement at the local level, protecting ecosystems, and giving indigenous communities more power over how they use coastal land. This comparison is critical for Indonesia to identify best practices for harmonizing land and sea legislation, strengthening cross-sector collaboration, and building a sustainable, socially equitable coastal management framework. Indonesia can accelerate reforms to its agrarian and maritime laws that better align with the ecological and social needs of its coastal communities by learning from the Philippines' experience.<sup>14</sup>

The Philippines has several advantages over Indonesia in managing coastal areas and marine resources. These include stronger legislative frameworks, more robust institutions, and greater community involvement. The Integrated Coastal Management (ICM) policy, established by the Philippine Coastal Zone Management Act, the Fisheries Code of 1998, and other relevant rules, provides the country with a more comprehensive and consistent legal framework. This method brings together land and water management in a way that makes sense, unlike Indonesia, which still has overlapping rules.<sup>15</sup> The Philippines has designated the Department of Environment and Natural Resources (DENR) as the principal body responsible for coordinating natural resource management. This makes it easier to formulate policies that are more focused and effective.<sup>16</sup> The Community-Based Coastal Resource Management (CBCRM) program also enhances community involvement in the Philippines by giving local people a greater role in planning and managing the coast. This community-centered strategy has also successfully merged environmental protection with

<sup>12</sup> Uchendu Eugene Chigbu and Taiwo Oladapo Babalola, 'Unhiding the "Land Rights" and "Land Wrongs" in Sub-Saharan Africa: An Interpretive Scoping Review', *Land Use Policy*, 154 (2025), 107576 <<https://doi.org/10.1016/j.landusepol.2025.107576>>.

<sup>13</sup> L.A. Fredrick, C. Lucian, and J. Urassa, 'Women and Land Rights: The Impact of Formalization in Tanzania's Coastal Region', *Research in Globalization*, 10 (2025), 100288 <<https://doi.org/10.1016/j.resglo.2025.100288>>.

<sup>14</sup> Akalu Assfaw Wolde, 'Assessing the Dynamic Impact of Formal and Perceived Land Rights on Fruit Tree Cultivation: Exploring the Moderating Role of Forest Ecology, Gender, and Land Acquisition Method', *Trees, Forests and People*, 20 (2025), 100871 <<https://doi.org/10.1016/j.tfp.2025.100871>>.

<sup>15</sup> Rebecca Meckelburg and Agung Wardana, 'The Political Economy of Land Acquisition for Development in the Public Interest: The Case of Indonesia', *Land Use Policy*, 137 (2024), 107017 <<https://doi.org/10.1016/j.landusepol.2023.107017>>.

<sup>16</sup> Fanny Moffette and others, 'The Value of Property Rights and Environmental Policy in Brazil: Evidence from a New Database on Land Prices', *Global Environmental Change*, 87 (2024), 102854 <<https://doi.org/10.1016/j.gloenvcha.2024.102854>>.





the blue economy. For example, community-based ecotourism has been developed that improves people's health without harming ecosystems. Moreover, the legal system in the Philippines makes it easier to enforce laws more strictly through specialist environmental tribunals, thereby making the law more straightforward than in Indonesia. With these benefits, the Philippines can serve as a major model for Indonesia in improving fair, sustainable, and community-centered coastal administration.<sup>17</sup>

Previous research by Umi Muawanah et al. demonstrates that secure tenure rights enable communities to invest in and sustainably manage fisheries resources over the long term. However, in Indonesia, conservation policies have frequently justified the deprivation of community rights. This study examines the evolution of marine tenure institutions in Indonesia and shows that colonial and post-colonial governance practices have systematically constrained and, in many cases, eroded the customary rights of coastal communities.<sup>18</sup> Additionally, a study by Naimah Lutfi Talib et al. found that "path dependence," or reliance on established patterns, is a significant barrier to reforming marine governance in Indonesia. The current maritime legal and policy framework primarily embodies a centralized and exploitative colonial legacy, resulting in the concentration of authority over marine resources within the state and bureaucratic elite. At the same time, the traditional rights of coastal communities are marginalized or diminished. So, even though many new policies have been put in place, such as the Maritime Law and "blue economy" initiatives, they are often not followed through on properly by different organizations. The hierarchical, fragmented structure of the bureaucracy makes it difficult for institutions such as the Ministry of Maritime Affairs and Fisheries (MMAF), the Ministry of Home Affairs, and local governments to operate together.<sup>19</sup> Moreover, a study by Andrew M. Song et al. reveals that the transformation in mangrove management policy in the Philippines over the past few decades has shifted from prioritizing economic development through the conversion of mangrove land to emphasizing environmental conservation, ultimately progressing to the use of mangroves for climate change mitigation via blue carbon initiatives.<sup>20</sup> This research presents a new perspective by linking coastal community ownership rights (marine tenure) to the sustainability of marine resource management in Indonesia, taking into account historical and policy contexts. This study examines ownership rights from a normative standpoint. It analyzes the evolution of management rights institutions from the colonial era to the post-colonial period, highlighting how state policies have undermined the traditional rights of coastal indigenous communities under the pretext of conservation. Its novelty is in its historical-comparative analysis of changes in maritime tenure systems that have directly impacted social justice and resource sustainability.<sup>21</sup>

According to Regulation of the Minister of State for Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of

<sup>17</sup> Eduardo Villavicencio-Pinto, 'The Geography of Property Rights: Land Concentration, Irrigation Access and Rural Poverty under Climate Change in Chile', *Land Use Policy*, 156 (2025), 107578 <<https://doi.org/10.1016/j.landusepol.2025.107578>>.

<sup>18</sup> Umi Muawanah and others, 'Going into Hak: Pathways for Revitalizing Marine Tenure Rights in Indonesia', *Ocean & Coastal Management*, 215 (2021), 105944 <<https://doi.org/10.1016/j.ocecoaman.2021.105944>>.

<sup>19</sup> Naimah Lutfi Talib and others, 'Three Centuries of Marine Governance in Indonesia: Path Dependence Impedes Sustainability', *Marine Policy*, 143 (2022), 105171 <<https://doi.org/10.1016/j.marpol.2022.105171>>.

<sup>20</sup> Andrew M. Song and others, 'From Conversion to Conservation to Carbon: The Changing Policy Discourse on Mangrove Governance and Use in the Philippines', *Journal of Rural Studies*, 82 (2021), 184–95 <<https://doi.org/10.1016/j.jrurstud.2021.01.008>>.

<sup>21</sup> Peng Cheng and others, 'Research Review on Land Development Rights and Its Implications for China's National Territory Spatial Planning', *Heliyon*, 10.15 (2024), e35227 <<https://doi.org/10.1016/j.heliyon.2024.e35227>>.



2020 concerning Procedures for Determining Management Rights and Land Rights, Article 197 says that Management Rights and/or Land Rights for business activities in Water Areas can only be given after the Marine and Fisheries Agency (KKPRL) or the relevant Ministry overseeing maritime and fisheries affairs has given their approval. Article 198 (1) Water areas that have been regulated and used may be given Land Rights or Management Rights, as long as the appropriate requirements are met. (2) Control and use, as described in paragraph (1), must be shown by a statement from the person in question and their ancestors that they have lived and settled in the Waters Area for twenty (20) years or more, spanning several generations. This is especially true for land near the ocean, which is why each coastal area must set its own rules in its own best interest. As a result, this can cause problems with larger regulations and make it hard to know what the law says about land rights in the future.<sup>22</sup>

## Method

This research is a normative legal study utilizing philosophical, legislative, and comparative approaches. Research data were gathered from primary sources, including national legislation and official government documents, as well as secondary sources such as peer-reviewed journal articles, books, and publications from relevant international organizations. Data gathering was conducted by extensive literature research and document analysis of rules and policies related to coastal area management in both countries.<sup>23</sup> The data study utilized a descriptive-comparative methodology, concentrating on the identification of similarities, differences, and determinants influencing the effectiveness of land rights allocation in coastal areas. Data validity was maintained through the triangulation of sources and approaches, with findings cross-referenced across literature reviews, legal documentation, and official government publications. The goal of this method is to provide a comprehensive picture of the rules and practices in both nations regarding land rights for coastal communities, and to suggest a policy model that Indonesia could adopt to improve legal protections.<sup>24</sup>

## Results and Discussions

### *Regulations on the Granting of Land Rights for Coastal Communities in Indonesia*

The pattern of controlling land ownership and management in coastal regions and tiny islands is clearly represented in the design of relevant rules. Government Regulation No. 40 of 1996 concerning Land Use Rights, Building Use Rights, and Land Use Rights, Article 60 stipulates that: "The granting of Land Use Rights, Building Use Rights, and Land Use Rights for a plot of land that is entirely an island or adjacent to the coast is governed separately by a designated Government Regulation." The clarification of Article 60 affirms that, under this provision, applications for new land rights exclusively on islands and adjacent to the coast shall not be processed until this Government Regulation is enacted.<sup>25</sup>

The Minister of Agrarian Affairs and Head of the National Land Agency issued Circular Letter Number 500-1197 on June 3, 1997, outlining how to comply with the Government Regulation. This was subsequently reiterated by Circular Letter Number 500-1698, dated July

<sup>22</sup> Chengzheng Li and others, 'Property Rights, Resource Reallocation and Welfare Effects: Evidence from a Land Certification Programme', *Land Use Policy*, 154 (2025), 107562 <<https://doi.org/10.1016/j.landusepol.2025.107562>>.

<sup>23</sup> Abdul Kadir Jaelani and others, 'Indonesia Carbon Tax Policy: A Key Role in Sustainable Development Goals', 2024, p. 020040 <<https://doi.org/10.1063/5.0202042>>.

<sup>24</sup> Mohammad Jamin and others, 'The Impact of Indonesia's Mining Industry Regulation on the Protection of Indigenous Peoples', *Hasanuddin Law Review*, 9.1 (2023), 88 <<https://doi.org/10.20956/halrev.v9i1.4033>>.

<sup>25</sup> Vanya Slavchevska and others, 'From Law to Practice: A Cross-Country Assessment of Gender Inequalities in Rights to Land', *Global Food Security*, 45 (2025), 100852 <<https://doi.org/10.1016/j.gfs.2025.100852>>.



14, 1997, addressed to the Heads of the National Land Agency Regional Offices of Provinces and Heads of Land Offices of Districts/Cities throughout Indonesia. The issuance of the Circular Letter was prompted by the high volume of applications received for land rights concerning entirely island territories or coastal boundaries, despite the explicit provisions of Article 60 and its explanatory notes stating that applications for land rights on entirely islands should not be processed until a Government Regulation addressing the matter is enacted.<sup>26</sup> The Circular Letter served as a key reference for the Heads of the National Land Agency Regional Offices of Provinces and the Heads of Land Offices of Districts/Cities in addressing land rights applications on small islands, as no government regulations regarding land management in coastal areas and small islands had been issued before this. At present, the regulations are confined to land management strategies in coastal regions and tiny islands, but have not been formalized into legislation. This suggests that land administration on tiny islands remains principally governed by the Basic Agrarian Law (UUPA) and its attendant laws regulating the allotment of land rights.<sup>27</sup>

Institutional land regulations about coastal zones are outlined in Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 16 of 2020 concerning the Organization and Operational Procedures of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency. Within this framework, there is a specialized agency responsible for tiny islands, namely the General Agency of Land and Spatial Control and Regulation. The Directorate VI is a component subordinate to and accountable to the Minister/Head, and the Director General directs it.<sup>28</sup> All of the aforementioned legal references should be employed as authoritative sources in the regulation of land ownership and management in coastal regions and small islands, as land in these areas should not be regarded equivalently to land on the mainland, owing to their distinct characteristics. Therefore, it is essential to promptly establish legal frameworks for land ownership and management as an integrated ecosystem with adjacent waters, through distinct laws and regulations that comprehensively address economic, political, socio-cultural, environmental, and security considerations.<sup>29</sup>

Land ownership and management in littoral regions are authorized in line with current laws and regulations. The enactment of Law Number 27 of 2007 regarding the Management of Coastal Areas and Small Islands, subsequently superseded by Law Number 1 of 2014, which revised Law Number 27 of 2007, offers increased legal certainty for people in coastal regions. Analogous to land ownership and control in mainland regions (excluding coastal zones), patterns of land ownership and regulation in coastal areas are likewise sometimes subject to controversies.<sup>30</sup>

<sup>26</sup> Kurniatun Hairiah and others, 'Soil Health Indicators, Farmer Concepts and Carbon Market Standards in Agroforestation of Underutilized Lands in West Sumatra (Indonesia)', *Soil Advances*, 3 (2025), 100051 <<https://doi.org/10.1016/j.soilad.2025.100051>>.

<sup>27</sup> Corinne J. Unger, John Burton, and Deanna Kemp, 'Abandoned Mine Clusters and Their Intersection with Indigenous Peoples' Land Rights in Australia', *Journal of Environmental Management*, 385 (2025), 125357 <<https://doi.org/10.1016/j.jenvman.2025.125357>>.

<sup>28</sup> Volker von Groß and others, 'Transformation Scenarios towards Multifunctional Landscapes: A Multi-Criteria Land-Use Allocation Model Applied to Jambi Province, Indonesia', *Journal of Environmental Management*, 356 (2024), 120710 <<https://doi.org/10.1016/j.jenvman.2024.120710>>.

<sup>29</sup> Dongsheng He, Jinshuo Wang, and Guibo Sun, 'Ambiguity in State-Owned Land Property Rights Increases Transaction Costs in China's Transit-Oriented Development Projects', *Land Use Policy*, 152 (2025), 107501 <<https://doi.org/10.1016/j.landusepol.2025.107501>>.

<sup>30</sup> Israel R. Blackie and others, 'Land Rights, Natural Resources Management, Climate Change and Ethno-Politics in Postcolonial Botswana', *Land Use Policy*, 159 (2025), 107811 <<https://doi.org/10.1016/j.landusepol.2025.107811>>.



Article 65 paragraph (2) of Government Regulation Number 18 of 2021 states that the granting of land rights in aquatic areas shall be conducted based on permits issued by the ministry responsible for government affairs in the maritime and fisheries sector, in accordance with applicable legal provisions. This may be related to Law Number 27 of 2007 about Spatial Planning, which requires that spatial utilization management be implemented through spatial utilization permits, as well as through incentives, disincentives, and fines. Spatial utilization permits are designed to oversee spatial use and ensure that all operations comply with the established spatial plan. Spatial use permits are governed and awarded by the central government and regional authorities, in accordance with their respective jurisdictions. Spatial use that contravenes the spatial plan, regardless of licensing status, is subject to administrative penalties, imprisonment, and/or fines. Incentives are designed to recognize and promote actions that adhere to the spatial plan, regardless of whether the community or regional authorities implement them. These incentives may include tax breaks, infrastructure improvements, financial rewards, streamlined licensing procedures, and recognition prizes.<sup>31</sup>

Although the total island arrangement is enormous, the bulk are tiny islands, with an estimated count reaching 10,000. Nevertheless, in practice, destitution remains the major scourge impacting residents of coastal regions and small islands. Social justice, a core purpose of the nation and the state, has not yet been totally realized by coastal and tiny island communities. They are consistently marginalized when faced with the formidable influence of capitalism and the legal authority of a state operating within a legal positivist framework, which readily undermines the legal foundations established over generations, and customary law is regarded as lacking the capacity to ensure legal certainty in a formal sense (written evidence).<sup>32</sup>

The segments of society most commonly impacted by this rigidity and lack of legal clarity are indigenous and/or local communities, including those residing in coastal regions and small islands, especially in their efforts to safeguard the "mere inch" of land and surrounding waters they have traditionally occupied and exploited for generations. Our sense of justice is aroused by the unequal regulation of land control and ownership, which favors wealthy capitalists rather than advancing indigenous peoples' land rights. Why are they continually excluded, particularly in defending their rights to land and surrounding seas, which are barely a "mere inch" in comparison to the seemingly infinite land control and ownership possessed by capitalists? This disparity reflects the continued inequality in land ownership and management in Indonesia.<sup>33</sup>

By studying all legislation relevant to coastal area management, especially that before the introduction of Law Number 27 of 2007 (Law 27/2007), three prevalent legal concerns in coastal area management can be identified. Firstly, disputes among laws; secondly, the disparity between the Constitution and customary law; and thirdly, the existence of a legal lacuna. These three fundamental difficulties give rise to legal ambiguity, disagreements over authority, and harm to coastal biogeophysical resources. Interestingly, these three challenges

<sup>31</sup> Rasmus Kløcker Larsen and others, 'Finding the Cracks: How Do Frontline Officials Maneuver State Institutions to Advance Indigenous Rights to Land and Environment?', *Earth System Governance*, 25 (2025), 100270 <<https://doi.org/10.1016/j.esg.2025.100270>>.

<sup>32</sup> Youqing Fan and others, 'Land Rights, Resource Allocation and Urban Settlement Choices of Migrant Workers in Yunnan, Western China', *Land Use Policy*, 148 (2025), 107411 <<https://doi.org/10.1016/j.landusepol.2024.107411>>.

<sup>33</sup> Jacobo Ramirez and others, 'Conflicting Injustices in Decolonization and Indigenous Land Rights: The Case of the Lake Turkana Wind Power Project', *Energy Research & Social Science*, 120 (2025), 103912 <<https://doi.org/10.1016/j.erss.2024.103912>>.





constitute a cohesive whole, and their legal solutions must be combined through the enactment of a new law that incorporates coastal area management.<sup>34</sup>

Law 27/2007 was challenged before the Constitutional Court (MK) by a coalition of non-governmental groups and many traditional fishermen, who contended that it raised various legal concerns, primarily regarding concession rights in coastal waters (HP3). Interestingly, the Constitutional Court decided in favor of a portion of the judicial review petition, ruling that the government's allotment of business rights over coastal seas (HP3) was inconsistent with the 1945 Constitution. In its legal deliberations, the Constitutional Court Panel of Judges declared that the government's issuance of HP3 to the private sector was unconstitutional, particularly in violation of Article 33, Paragraph (4) of the 1945 Constitution, which stipulates that the national economy shall be organized based on economic democracy, embodying principles of solidarity, efficiency, justice, sustainability, environmental consciousness, independence, and the maintenance of a balance between progress and national economic unity. In reaction to the Constitutional Court's verdict, the legislators subsequently adopted Law Number 1 of 2014, which changes Law Number 27 of 2007 governing the Management of Coastal Areas and Small Islands. Although the HP3 system of Law 27/2007 has been replaced by a license regime under Law 1/2014, its implementation continues to encounter problems, particularly with institutional arrangements for the management of national parks. According to Article 78A of Law 1/2014, conservation areas in coastal regions and small islands, including nature reserves and natural conservation areas located within these zones such as National Parks, Marine National Parks, and Wildlife Reserves are to be transferred from the Ministry of Forestry to the Ministry of Maritime Affairs and Fisheries. However, these regions are still under the Directorate General of Forest Protection and Nature Conservation within the Ministry of Environment and Forestry.<sup>35</sup>

Additionally, there exists a dispute between Law Number 26 of 2007 concerning Spatial Planning and Law Number 1 of 2014, specifically involving the Regional Spatial Planning (RTRW) and the Coastal Area and Small Islands Zoning Plan (RZWPPK). Article 24 paragraph (1) of Law Number 26 of 2007 on Spatial Planning indicates that detailed spatial planning, as stated in Article 14 paragraph (3) letter b, is formed through regional rules. The regional spatial planning under consideration comprises terrestrial, maritime, and aerial domains, including the space within the Earth's atmosphere. Meanwhile, Article 9 paragraph (5) of Law Number 27 of 2007, in conjunction with Law Number 1 of 2014, establishes the Coastal Area and Small Islands Zoning Plan through Regional Regulation. The RTRW or RZWPPK term is valid for twenty (20) years and shall be subject to review at least once every five (5) years.<sup>36</sup>

Meanwhile, Article 9 paragraph (2) of Law Number 27 of 2014 demands that the RZWPPK must also be harmonized, linked, and coordinated with the RTRW of the provincial or district/city administration. This highlights that both should not require establishment in two separate legal formats (two Regional Regulations). The RTRW and

<sup>34</sup> Hua Wen and Rijimoleng Si, 'Research on the Impact of Land Rights Certification on Farmers' Operating Behavior', *International Review of Economics & Finance*, 96 (2024), 103679 <<https://doi.org/10.1016/j.iref.2024.103679>>.

<sup>35</sup> Afrizal, Eka Vidya Putra, and Linda Elida, 'Palm Oil Expansion, Insecure Land Rights, and Land-Use Conflict: A Case of Palm Oil Centre of Riau, Indonesia', *Land Use Policy*, 146 (2024), 107325 <<https://doi.org/10.1016/j.landusepol.2024.107325>>.

<sup>36</sup> Francesco Bogliacino, Christian Posso, and Marta Juanita Villaveces, 'Restoring Property Rights: The Effects of Land Restitution on Credit Access', *World Development*, 186 (2025), 106830 <<https://doi.org/10.1016/j.worlddev.2024.106830>>.



RZWPPK control comparable topics; yet, at the technical level, two independent Regional Regulations are essential.<sup>37</sup>

Several government initiatives significantly imperil the survival of coastal populations and their environments. Now, a decade after the Constitutional Court's decision, a key question emerges: Does the protection of coastal communities' rights really remain? Considering the facts, coastal areas are the most exposed to varied influences. They are harmed by climate change, and several communities are forced from their habitats due to infrastructure construction, industrial expansion, and mining activities. Examining the KOTAKU program, for instance, the state, which is intended to conserve the knowledge of coastal communities, is instead the institution limiting their rights. In Tambakrejo Village, Tanjung Mas Sub-district, Semarang City, Central Java Province, for instance, 97 families residing in the coastal region were evicted by the local Public Order Agency (Satpol PP) pursuant to the Mayor of Semarang's directions. Coastal communities are among the most exposed to multiple stressors. They are affected by climate change, and many have been forced from their habitats due to infrastructural development, industrial expansion, and mining activities. Furthermore, the present legislative policy framework for coastal area management does not effectively support coastal populations, notwithstanding their constitutionally recognized rights under the 1945 Constitution.<sup>38</sup>

The coastal resources currently face significant pressure, which sectoral institutional orientations further intensify by generating authority conflicts among governing bodies. These conflicts directly affect coastal environments and small islands, as each agency asserts control over resource exploitation while deflecting responsibility when environmental degradation occurs. Consequently, environmental deterioration in coastal and small island regions arises from the absence of clear and coordinated authority among the relevant institutions.<sup>39</sup>

### ***Regulations on the Granting of Land Rights for Coastal Communities in the Philippines***

Both the Philippines and Indonesia recognize the importance of regulating land rights for coastal people as a fundamental aspect of advancing social justice and sustainable natural resource management. However, there are still significant differences between the two countries' legal systems and policy directions. The Philippines has a more unified and community-focused legal system. For example, the Fisheries Code of 1998, the Indigenous Peoples' Rights Act (IPRA) of 1997, and the Local Government Code (RA 7160) all recognize the rights of coastal and indigenous communities to manage coastal resources. This method makes local people the key stakeholders in managing resources. This is backed up by legal tools, including Certificates of Ancestral Domain Title (CADT) for indigenous groups and exclusive rights for small-scale fisheries in coastal waters. The Local Government Code gives local governments greater power, making it easier for communities to participate in shaping and implementing coastal policies. The Philippines has one of the biggest mangrove forests in the world. It serves as a biological barrier protecting more than 36,000

<sup>37</sup> Yifan Zhou, Caixia Xue, and Rasoul Yousefpour, 'Forest Land Property Rights and Forest Ecosystem Quality: Evidence from Forest Land Titling Reform in China', *Journal of Environmental Management*, 373 (2025), 123744 <<https://doi.org/10.1016/j.jenvman.2024.123744>>.

<sup>38</sup> Weixin Wang and others, 'Urban Expansion and Agricultural Carbon Emission Efficiency: The Moderating Role of Land Property Rights Stability', *Journal of Cleaner Production*, 486 (2025), 144488 <<https://doi.org/10.1016/j.jclepro.2024.144488>>.

<sup>39</sup> Jinhai Xu, Junming Zeng, and Yuan Hu, 'Property Rights System and Market Evolution: Plot-Level Evidence from China's Land Titling', *Land Use Policy*, 145 (2024), 107253 <<https://doi.org/10.1016/j.landusepol.2024.107253>>.



km of shoreline. 1 The concerns of "Who owns it?" and "Who may lawfully utilize it?" arise at the crossroads of property, environmental, and fishery law because almost all mangroves lie on the coastal plain, which is a strip that is sometimes above and sometimes below the regular high tide lines. Article XII, Section 2 of the 1987 Constitution states that the State is responsible for "all public lands and natural resources." Coastal mangrove areas are considered public land, and Congress can change that only by passing a law that makes them alienable and temporary. This category includes coastal areas, which are locations along the coastline that are covered and uncovered by tides, as well as shoreline zones.<sup>40</sup>

The Constitution says that the State owns all public lands, waters, and natural resources and must administer them for the benefit of the people. Article XII, on the National Economy and Patrimony, states that the State must implement fair agrarian policies through agrarian reform programs and rules governing public lands. The Constitution also says that indigenous people have the right to their ancestral lands, which might include areas with coastal and marine settings. The Philippine Constitution serves as the foundational framework for various subsidiary laws that protect the rights of local communities to coastal areas while fostering their sustainable and equitable management.<sup>41</sup>

As a direct result of these constitutional provisions, many laws were passed to control better the management and distribution of rights to public lands, especially those in coastal areas. One of the most fundamental acts in this regard is the Public Land Act (Commonwealth Act No. 141), which serves as the principal basis for the Philippines' land ownership and allocation policies. The Public Land Act is a basic set of laws that outlines the main rules for managing and dividing public land in the Philippines, particularly in coastal regions. This law gives the state the power to control how rights to public lands are given to people, groups, or communities that meet specific requirements. This can happen through homesteading, leasing, or sales patents. The Public Property Act gives coastal communities the legal right to get official recognition of the property they live on or use for business purposes, including fishponds, coastal farming, and small businesses that operate on the water. However, its implementation sometimes faces difficulties due to overlapping jurisdiction between agricultural and maritime agencies, particularly in defining the boundaries between terrestrial and aquatic realms.<sup>42</sup>

Additionally, the Indigenous Peoples' Rights Act (IPRA) of 1997 (RA 8371) governs land rights administration. This law affords strong legal recognition of the rights of indigenous peoples in the Philippines, including the right to possess property and to customary territories known as ancestral domains. The IPRA ensures that indigenous peoples have the full right to govern, use, and protect their lands, including coastal and marine areas that are important to their survival. These rights are based on customary laws and traditional customs. The law also says that the government must give forth Certificates of Ancestral Domain Title (CADT) as an official way to recognize indigenous lands. This understanding is essential because many indigenous coastal peoples depend on both marine and terrestrial

<sup>40</sup> Rosanna Carver, Erika Gavenus, and J.J. Manson, 'Stealing the Seabed. The Canadian State and the Question of Rights and Title over Submerged Lands', *Geoforum*, 156 (2024), 104108 <<https://doi.org/10.1016/j.geoforum.2024.104108>>.

<sup>41</sup> Mariëlle van Es and Bert Bruins, 'Pro-Poor Change in the Aftermath of Disasters – Exploring Possibilities at the Intersection of Disaster Politics and Land Rights Issues in Central Philippines', *Land Use Policy*, 132 (2023), 106771 <<https://doi.org/10.1016/j.landusepol.2023.106771>>.

<sup>42</sup> Sandra G. Catane and others, 'Development in an Environmentally Critical Coastal Area: The Risk Perception on Natural Hazards and the New Manila International Airport by Fishing Communities in Taliptip, Philippines', *Ocean & Coastal Management*, 253 (2024), 107127 <<https://doi.org/10.1016/j.ocecoaman.2024.107127>>.



ecosystems for their food, culture, and social identity. The IPRA is a key part of ensuring that coastal land management policies incorporate principles such as social justice, customary rights, and environmental sustainability.<sup>43</sup>

The IPRA formally recognizes the rights of indigenous peoples, and the focus on managing the littoral zone in the Philippines has shifted from a top-down to a more inclusive, community-driven approach. This change means that protecting land and resource rights must be balanced with getting local communities involved in protecting and managing the coastal environment in a way that is good for the long term. More institutions, agencies, and organizations have been working on the coastal zone over the last 20 years. These groups have come up with different ways to address the management problems affecting coastal areas in the Philippines, both individually and together. A typical name for a complete approach that includes these tactics and projects is Community-Based Coastal Resource Management (CB-CRM). This approach, which involves many different groups and sectors, is quickly becoming known as a good and workable way to manage coastal zones.<sup>44</sup>

CB-CRM is based on resources, focused on people, and oriented to the community. This method is based on the basic idea that everyone has the natural ability to understand and solve their own problems. It starts with what people in the community already know and builds on that to help them comprehend more and learn new things. The goal is to involve more community members in planning, carrying out, and evaluating littoral resource management projects. This means that communities are responsible for monitoring and managing the environment and its resources, as well as ensuring that agreements, laws, and rules are followed. Because communities are involved in developing and implementing management plans, they are more likely to accept and follow them. CB-CRM lets each community develop management plans tailored to its needs and situation. This gives them more freedom and adaptability.<sup>45</sup>

Community involvement in resource management gives people a greater sense of ownership, making them more responsible for ensuring those resources last for a long time. Because everyone in the community has a responsibility to ensure that future generations have enough resources, CB-CRM is more likely to be practical and fair. This method might be cheaper for running the government and enforcing the law than a centralized national system. The CB-CRM method also encourages people to recognize and value cultural diversity in their own communities, regions, and around the world. This strategy seeks to enhance the application of indigenous knowledge and experience in developing management strategies and creating institutional frameworks. A significant tenet of CB-CRM is empowerment, particularly the ability to manage productive resources effectively for the benefit of one's family and community. This method follows the basic idea of control and accountability, which says that the people who will have to deal with the results of an activity should be in charge of it.<sup>46</sup>

After over 30 years of working on community-based coastal resource management in the Philippines, key ideas have emerged to help it grow. These ideas include parts, methods, and

<sup>43</sup> Bernard Alan B. Racoma and Gerry Bagtasa, 'Characteristics and Near-Landfall Behavior of Tropical Cyclones Affecting the Philippines (1979–2024)', *Tropical Cyclone Research and Review*, 2025 <<https://doi.org/10.1016/j.tcr.2025.11.004>>.

<sup>44</sup> Justin See and others, 'The Modalities of Power Driving Climate-Related Resettlement: Evidence from the Philippines', *Geoforum*, 164 (2025), 104338 <<https://doi.org/10.1016/j.geoforum.2025.104338>>.

<sup>45</sup> Fredrick, Lucian, and Urassa.

<sup>46</sup> Lorraine S. Lao and others, 'Perceptions, Adaptations, and Innovation Barriers among Rice Farmers Facing Sea Level Rise: Insights from Bohol, Philippines', *Environmental and Sustainability Indicators*, 28 (2025), 100977 <<https://doi.org/10.1016/j.indic.2025.100977>>.





tools. CB-CRM is constantly evolving and improving based on what it learns from its users, much like an iterative process. CB-CRM includes an iterative and participatory research process of conceptualization, implementation, documentation, and evaluation. It brings together communities and development practitioners/researchers in a dynamic relationship to achieve successful coastal resource management. During this process, communities and researchers share what they know and learn from each other. These basic ideas are based on seven main parts: community organizing and Leadership development, strengthening cultural integrity, participatory research, education and training, resource management, livelihood development, and networking and advocacy. The creation of a comprehensive CB-CRM framework is now essential to ensuring that coastal policy functions in the Philippines. This method, which puts communities in charge of managing resources, has led to the creation of several rules that protect the rights and Well-being of coastal communities while safeguarding the environment.<sup>47</sup>

The Philippines' policies have been quite effective at protecting the rights of coastal communities because of its comprehensive and participatory legal system. The Fisheries Code of 1998 (RA 8550) grants small-scale fishers exclusive rights to exploit waters within 15 kilometers of the shore, especially in traditional coastal towns (municipal fishers). This rule not only limits the entry of large companies but also improves the socio-economic position of local communities by granting them secure rights to their fishing grounds. The Philippine legal system has created institutional synergy by bringing together rules for agriculture, fishing, and customary rights. This encourages people to get involved in designing, carrying out, and overseeing coastal policies. This puts the Philippines among the most advanced countries in Southeast Asia in terms of rights-based coastal governance.<sup>48</sup>

### ***Legal Protection of Coastal Community Land Tenure Rights***

The state must respect the rights of communities that live in coastal seas. This recognition of rights does not mean that business licenses will be given out, and business licenses should not violate these rights. Littoral land ownership and administration are permitted in compliance with relevant laws and regulations. Law Number 27 of 2007 on the Management of Coastal Areas and Small Islands was replaced by Law Number 1 of 2014, which amends Law Number 27 of 2007.<sup>49</sup> This makes the law clearer for those who live near the coast. Similar to land ownership and control in mainland areas (excluding coastal zones), land ownership and regulation patterns in coastal regions sometimes encounter difficulties. If there is little or no proof of land rights, the applicant and their ancestors can prove their rights by showing that they have owned the land for at least 20 years in a row. This is dependent on the individual's possession being executed in good faith and transparently as the legitimate landholder, signifying the lack of objections from the customary law community, village or sub-district authorities, or other pertinent entities, and supported by testimony from a reliable source.<sup>50</sup>

These sections make it clear that recognizing the rights of coastal communities should go beyond only administrative concerns and embrace the social and historical legitimacy of

<sup>47</sup> Juan M. Pulhin and others, 'Contextualizing Sustainable Forest Management and Social Justice in Community-Based Forest Management (CBFM) Program in the Philippines', *Trees, Forests and People*, 16 (2024), 100589 <<https://doi.org/10.1016/j.tfp.2024.100589>>.

<sup>48</sup> Gina M. Sarkawi and others, 'A Coral Microatoll Record of Sea-Level Rise, Interseismic Deformation, and El Niño in La Union, Philippines since 1906 CE', *Marine Geology*, 486 (2025), 107565 <<https://doi.org/10.1016/j.margeo.2025.107565>>.

<sup>49</sup> Laurens Bakker, 'Custom and Violence in Indonesia's Protracted Land Conflict', *Social Sciences & Humanities Open*, 8.1 (2023), 100624 <<https://doi.org/10.1016/j.ssaho.2023.100624>>.

<sup>50</sup> Afrizal, Putra, and Elida.



hereditary property ownership. Coastal communities that live in and depend on marine resources have a strong connection to the land and nearby waters, as these resources are integral to their culture and way of life. So, there needs to be a set of rules that sees coastal land rights not just as commercial assets but also as social and ecological rights that the state needs to protect. This rehabilitation project is essential to strengthen the legal status of coastal communities, clarify lines of responsibility among authorities, and ensure the implementation of fair and long-lasting policies, as shown in the table below.<sup>51</sup>

Table 1. Reconstruction of regulations regarding the protection of land rights in coastal areas

No	Arrangement	Weakness	Reconstruction Proposal
1	Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration Article 65 states that "The Granting of Land Rights in Water Areas is carried out based on permits issued by the Ministry that administers government affairs in the Maritime Affairs and Fisheries Sector in accordance with the provisions	Legal certainty has not been explained in detail: only business actors need permits for all, while communities that can be given Land Rights (indigenous communities/local communities/traditional communities) do not.	Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration. Article 65 states that "The granting of land rights to communities (indigenous/local/traditional) in water areas is carried out based on permits issued by the Ministry that administers government affairs in the Maritime Affairs and Fisheries Sector in accordance with statutory provisions to realize a fairer and more sustainable granting of land rights."
2	Regulation of the Minister of ATR/BPN Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights. Article 198 (1) "Water Areas that have been controlled and utilized can be granted Land Rights or Management Rights by considering the requirements as a subject of rights. (2) Control and utilization as referred to in paragraph (1) is proven by a statement that the person concerned has lived and settled in the Water Area for generations for 20 (twenty) years or more consecutively by the person concerned and his predecessors.	There needs to be certainty and clarity between customary/local/traditional communities who can be granted land rights.	Regulation of the Minister of ATR/BPN Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights. Article 198 "Water Areas that have been controlled and utilized by communities, whether indigenous/local/traditional, can be granted Land Rights or Management Rights by considering the requirements as a subject of rights by considering social, cultural and environmental aspects in determining land rights. (2) Control and utilization as referred to in paragraph (1) is proven by a statement that the person concerned has lived and settled in the Water Area for generations for 20 (twenty) years or more consecutively by the person concerned and his predecessors.
3	Based on Presidential Decree Number 51 of 2016 concerning Coastal Boundaries, Article 2 (2) "Regional Governments of Districts/Cities that have coastal boundaries are required to determine their coastal boundaries in Regional Regulations concerning District/City Spatial Planning".	<p>a. The fact in the field is that many district/city governments have not yet fulfilled their obligation to determine coastal boundaries and need to inventory and accommodate the existence of communities in coastal areas that have been passed down from generation to generation so that in granting land rights there is clarity and certainty that can be given ownership status to the land.</p> <p>b. Some have established coastal boundaries but spatially the boundaries are not yet clear.</p>	Presidential Decree Number 51 of 2016 concerning Coastal Boundaries Article 2 (2) "Regional Governments of Districts/Cities that have coastal boundaries are required to determine their coastal boundaries in Regional Regulations concerning District/City Spatial Planning and accommodate the existence of communities (customary/traditional/local) in coastal areas that control and utilize the land in good faith and have done so for at least 20 years or more consecutively."

<sup>51</sup> Arditya Wicaksono and others, 'Actor Collaboration in the Implementation of Business Licensing Integrated with the Land Use Framework: Indonesian Case Study', *Urban Governance*, 2025 <<https://doi.org/10.1016/j.ugj.2025.10.003>>.



- 4 Based on Government Regulation Number 16 of 2004 concerning Land Management, "Coastal Borders are protected areas that function to protect the area below them, while Article 11 states that land in protected areas that do not yet have land rights can be granted land rights, except in forest areas and for cultural heritage land that does not yet have land rights can be granted certain land rights in accordance with applicable laws and regulations, except at the site location. Meanwhile, in the Regulation of the Minister of ATR/KBPN Number 17 of 2016 concerning Land Management in Coastal Areas and Small Islands, Land Rights can be granted by fulfilling the criteria according to applicable regulations. Based on the Circular Letter of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency Number 4/SE-100.PG.01.01/II/2022 dated February 24, 2022 concerning Land Management Policy in Protected Areas, areas in protected areas that do not yet have land rights can be granted land rights except for forest areas.
- According to the rules for granting Land Rights, the location where Land Rights can be granted is outside the Area and must be in a non-Area area / (Other Use Area) APL. There is a conflict between the PP, the Ministerial Regulation and the Circular Letter, so there is a need for harmonization, synchronization and re-examination.
- It is necessary to synchronize PP Number 16 of 2004 concerning Land Use and Regulation of the Minister of ATR/KBPN Number 17 of 2016 concerning Land Management in Coastal Areas and Small Islands as well as Circular Letter of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency Number 4/SE-100.PG.01.01/II/2022 dated February 24, 2022 concerning Land Use Policy in Protected Areas, areas in protected areas that do not yet have rights can be granted land rights except for forest areas. This is intended so that Land Title Certificates issued in coastal areas have the power of protection and legal certainty for the subjects and objects of their rights, so that they can provide more benefits and can improve the welfare of the wider community in general.

*Source: processed by the author*

The regulatory reconstruction in the table shows that changes to land rights policies in coastal areas should focus on making legal protections stronger for local, indigenous, and traditional groups. Current regulations continue to rely on a licensing system that primarily focuses on economic interests, while issues of social justice and environmental sustainability remain under-addressed.<sup>52</sup> Consequently, improvements to legal norms must acknowledge coastal communities as legal entities with rights to their own area, rather than solely as subjects of development strategy. To ensure that the administration of the coastal regions balances commercial interests, protects the rights of communities that have always lived in and depended on these resources, and promotes ecosystem sustainability, a rights-based approach is necessary.<sup>53</sup> The giving coastal communities land rights and recognizing them is not just an administrative act; it is also a real sign of social fairness and environmental sustainability. The state must ensure that all rules and policies it establishes are consistent with its commitment to the people who live in and depend on coastal areas. The goal is to create coastal governance by restructuring regulations grounded in the principles of justice

<sup>52</sup> Mohammad Basyuni and others, 'Aboveground Biomass and Carbon Stock Estimation Using UAV Photogrammetry in Indonesian Mangroves and Other Competing Land Uses', *Ecological Informatics*, 77 (2023), 102227 <<https://doi.org/10.1016/j.ecoinf.2023.102227>>.

<sup>53</sup> Takashi Kurosaki, Saumik Paul, and Firman Witoelar, 'In Pursuit of Power: Land Tenancy Contracts and Local Political Business Cycles in Indonesia', *Journal of Economic Behavior & Organization*, 227 (2024), 106764 <<https://doi.org/10.1016/j.jebo.2024.106764>>.



and sustainability. This will provide legal certainty while also giving local communities greater power to manage and use coastal resources responsibly and sustainably.<sup>54</sup>

## Conclusion

Indonesia is an archipelagic country with diverse geographical features, it needs a legal system that is flexible, all-encompassing, and supportive of coastal communities that have always depended on marine and coastal resources for their survival. Coastal communities, especially those governed by customary law, are among the most vulnerable to losing their livelihoods due to unequal access to land, overlapping authority among institutions, and the dominance of a legalistic-positivist paradigm. Additionally, regulatory tensions and poor policy coordination between sectors make it even harder to control coastal areas and small islands. The Philippine legal framework exemplifies a more comprehensive, inclusive, and socially equitable approach to the administration of coastal land rights than many other countries in the region. The Philippines recognizes coastal and indigenous peoples as essential partners in resource management through a mix of constitutional provisions and sector-specific laws, including the Public Land Act, the Indigenous Peoples' Rights Act (IPRA), and the Fisheries Code of 1998. The Community-Based Coastal Resource Management (CB-CRM) strategy strengthens this position by encouraging active involvement, a sense of ownership, and collective accountability for environmental sustainability. So, changing the rules of land rights for coastal people in Indonesia is an essential step toward making society fairer and protecting the environment. To ensure that coastal area management includes legal certainty, ecosystem conservation, and community welfare, regulatory development must be grounded in a rights-based framework. So, recognizing and giving rights to coastal land is not just an administrative activity; it is also a clear sign that the state cares about communities whose livelihoods have always depended on coastal resources.

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<sup>54</sup> Ward Berenschot and others, 'Corporate Contentious Politics: Palm Oil Companies and Land Conflicts in Indonesia', *Political Geography*, 114 (2024), 103166 <<https://doi.org/10.1016/j.polgeo.2024.103166>>.





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