

Land Control in The Beach Border Area According to Presidential Regulation No. 51 of 2016

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Abstract. *Presidential Decree No. 51 of 2016 concerning Coastal Boundaries stipulates regulations regarding land use in coastal areas to protect ecosystems and prevent environmental degradation. This research aims to analyze these regulations in the context of protecting community rights and environmental sustainability. This research analyzes regulations governing restrictions on land ownership in coastal border areas as well as protection mechanisms for traditional and local communities by applying normative juridical methods. The research results show that the coastal border is state land whose use is restricted, except for public interests or conservation with government permission. This regulation provides legal protection for communities through recognition of customary rights, public consultation, as well as compensation and relocation mechanisms. Apart from that, there are administrative sanctions for parties who violate the provisions, including written warnings, fines, and demolition of illegal buildings. Regional governments have the authority to supervise and enforce these regulations, while still considering humanitarian aspects and community rights. Implementation of this policy is expected to balance development and conservation interests, protect coastal ecosystems which are vital for environmental sustainability, and prevent the risk of natural disasters. Thus, this regulation plays an important role in realizing sustainable coastal management and supports the interests of future generations.*

Keywords: *Boundaries; Coastal; Conservation; Land; Protection.*

1. Introduction

Indonesia is an archipelagic country consisting of more than 17,508 islands, both large and small, and has a coastline stretching 81,000 km and a water area of around 3.1 million km². The existence of extensive coastal areas means that Indonesia has abundant marine resources, one of which is in the fisheries sector with an estimated sustainable fish production of around 6.51 million tons per year (Aulia Ade Putra, 2019). Apart from that, coastal areas also have potential for the development of other sectors such as the salt industry, tourism and renewable energy (Shofie Rudhy Aghazsi, 2015). However, this potential must be managed wisely so that its use remains sustainable and does not damage the balance of the coastal ecosystem.

Coastal areas have an important role in social, economic, cultural and environmental aspects, as well as contributing to state sovereignty (Not so much, 2018). However, this Region is also faced with various problems, one of which is a decline in environmental quality, uncontrolled land conversion, as well as threats from climate change and rising sea levels. Therefore, sustainable coastal area management policies are needed to maintain a balance between resource utilization and environmental sustainability. One of these efforts is carried out through statutory regulations that regulate coastal border management to ensure management is in accordance with applicable regulations (Gading Putra Hasibuan, Yar Johan, and Bieng Brata, 2020).

The coastal border area is part of the coastal area which has an important and strategic role in ecosystem protection and disaster mitigation. Based on "Article 1 paragraph (2) Presidential Regulation Number 51 of 2016" concerning Coastal Boundaries, this area is a land area along the coast whose width is determined based on the physical conditions and geomorphology of the beach, with a minimum requirement of 100 meters from the highest tide point towards the mainland (Irsal Marsudi Sam, et.al, 2020). This regulation requires local governments, both at the provincial, district and city levels, to have a role in determining coastal border boundaries through regional regulations related to spatial planning (Ratih Agustin Wulandari, 2020). However, this regulation does not specifically regulate the measurement methods and procedures for determining these limits, "thus potentially giving rise to differences in interpretation in its implementation.

According to Article 33 paragraph (3) of the 1945 Constitution, land, water and natural resources contained therein are under state control and must be utilized as fully as possible for the welfare of the people. This also applies to land control in coastal areas and coastal areas in the context of agrarian law. This provision is further emphasized through Law No. 5 of 1960 concerning Basic Agrarian Regulations (UUPA), which gives the state the authority to regulate and manage land use, including in coastal areas and coastal borders (Farida Patittingi, 2012). However, in its implementation, various obstacles are still encountered in implementing this policy, especially those related to land tenure rights by coastal communities who have lived in the area for a long time.

As an implementation of Law No. 27 of 2007 concerning Management of Coastal Areas and Small Islands, which has been revised through Law No. 1 of 2014, regional governments are required to determine coastal boundaries in their regional spatial planning through Presidential Regulation Number 51 of 2016. However, the implementation of this rule has not been optimal, especially in the aspects of supervision and law enforcement. One of the main problems is overlapping land control between coastal communities who have long lived and other parties who claim rights to the land, both legally and illegally.

The land case in Southwest Sumba Regency is an example of problems in land ownership located in coastal areas. Land ownership disputes in this area show that there is legal uncertainty regarding the status of land ownership, whether it is land with state-owned status or land with certified ownership rights. Indecisiveness in regulating coastal border boundaries also causes conflict between indigenous communities, local governments and private parties in the use of coastal land. Because of this, stricter regulations and stricter law enforcement mechanisms are needed to avoid similar problems in other coastal areas.

The importance of protecting and managing coastal areas is not only related to legal aspects, but also concerns environmental sustainability and the welfare of coastal communities. Strict regulations regarding coastal border boundaries are needed to prevent excessive exploitation and maintain the balance of coastal ecosystems from the threat of environmental degradation. However, in practice, the implementation of this regulation still faces various challenges, such as a lack of effectiveness in implementing policies, weak law enforcement, and overlaps in land control in coastal border areas.

Several previous studies have discussed land control in coastal border areas as regulated in Presidential Regulation no. 51 of 2016. Research by Irsal Marsudi Sam highlights the policy of granting land rights and the suitability of land use with spatial planning in Bulukumba Regency, while Kristina Daido Riti's research focuses on the status of control over land rights and legal protection for communities in coastal border areas. In addition, research by St. Nadiyah Hudjaemah Parawansa highlighted the discrepancy between Makassar City Regional Regulations and the provisions of coastal border zoning regulations. The different approaches in this research, both empirical and normative, show the complexity of land tenure in coastal border areas which involves aspects of policy, law and protection of community rights. This research focuses on an in-depth analysis regarding the status of ownership of land rights in coastal border areas, as regulated in Presidential Regulation Number 51 of 2016. Apart from that, this research also aims to examine and assess the form of legal protection given to people who have controlled land in this area.

Apart from contributing to the development of legal science, this research also has practical benefits for various parties. Conceptually, this research is expected to enrich academic insight and function as a reference source for law enforcers and practitioners in understanding and resolving land tenure disputes in coastal areas. This research practically brings benefits to the author in various aspects in improving scientific skills and deepening understanding of land control. Based on Presidential Regulation Number 51 of 2016, coastal border areas have been designated as part of this study. Apart from that, the results of this research can also be used as a reference or study material for the Master of Notary program at Unisma, especially in learning about land law in coastal areas. Not only that, the results of this research can also be used by further researchers as a basis for developing more in-depth studies regarding land management in coastal border areas and the effectiveness of legal policies that regulate it.

2. Research Methods

This research adopts a normative juridical method, namely a legal research approach that focuses on literature study with the aim of reviewing and analyzing various related legal sources. This approach allows researchers to uncover the truth through normative legal science logic. According to Jonny Ibrahim in his book "Normative Legal Research Theory and Methods", normative juridical research is a scientific process that focuses on the logical structure of law, using disciplines and work methods typical of normative legal studies.

This research applies various methods, one of which is a written legal approach (statute approach), which focuses on the analysis of laws and regulations that are relevant to the problem being studied. In addition, a statutory regulation-based approach or statutory approach is also applied to analyze regulations as the main reference in research. The law applied comes from various references, including primary legal materials such as laws, presidential regulations, and court decisions, as well as secondary legal materials which include books, journals, and other supporting documents.

The technique for collecting legal materials is carried out through identification and classification of legal sources, which are then analyzed using deductive and inductive legal reasoning methods. The deductive approach is used to explain legal problems by referring to provisions in statutory regulations, while the inductive approach prioritizes analysis of legal facts before linking them to applicable regulations. The analysis was carried out qualitatively by comparing the quality of legal sources to existing conditions, and the results were presented in the form of descriptions that explained and detailed solutions to the issues raised in this research.

3. Results and Discussion

3.1. Status of Ownership of Land Rights in Coastal Border Areas Based on Presidential Regulation No. 51 of 2016

Presidential Regulation no. 51 of 2016 regarding Coastal Boundaries specifically regulates land ownership and management in coastal border areas. This regulation stipulates differences in the status of land in the area in accordance with the provisions that apply to land outside the coastal border area, especially in terms of ownership and management (M Yazid Fathoni, 2020). The following are several main points related to the status of control over land rights in this area:

1. **National Land:** Generally, coastal border areas are categorized as state land, which means this land cannot be owned individually or privately. As part of state assets, its use and management are under the authority of the government to ensure environmental sustainability and public interests (Ucha Hadi Putri, 2019).

2. **Restrictions on Control and Utilization:** Although in practice there are individuals or groups who control land in this area, regulations set strict restrictions on their use. This aims to maintain the balance of coastal ecosystems and prevent environmental degradation. Therefore, all forms of land use in this area must obtain special permission from the government.

3. **Recognition of Indigenous and Local Community Rights:** This regulation also provides recognition of the traditional or customary rights of local communities who have long lived in coastal border areas. However, these rights must still be in line with government policies regarding environmental conservation, so that their use must not damage coastal ecosystems.

4. **Prohibition of Transfer of Rights:** The status of state land in coastal border areas means that its ownership cannot be bought and sold or transferred to other parties without government approval. These restrictions are imposed to ensure that the land continues to be used in accordance with conservation and environmental protection objectives (Ana Ramadhona, 2017).

5. **Management and Protection by the Government:** The government has full authority to manage and protect coastal border areas, including supervising their use. In certain cases, the government can take action in the form of control or restoration if there is land use that is not in line with regulations.

Overall, land ownership control status in coastal border areas is an aspect that according to Presidential Decree No. 51 of 2016 indicates that this area is state land with restrictions on ownership and use. Residents cannot own land in full, but are only allowed to use it within specified limits.

3.2. Provisions for Coastal Boundaries in Presidential Regulation no. 51 of 2016

The coastline is an area that must be preserved so that it continues to function as a natural protector from natural disasters such as tsunamis, abrasion and erosion. Thus, coastal border boundaries are determined in accordance with geographical conditions and environmental factors as regulated in Presidential Regulation no. 51 of 2016. In Article 6 of the regulation, it is explained that in determining coastal border boundaries, several important aspects need to be taken into account:

1. Mitigation efforts for the impact of earthquakes and tsunamis to increase optimal protection.
2. Prevention of coastal erosion or abrasion.
3. Maintain infrastructure in coastal areas so that it remains protected from threats such as storms, floods and other natural disasters.

4. Preserving coastal ecosystems, including mangrove forests, coral reefs and seagrass beds.
5. Arrangement of public access to coastal areas.
6. Management of water and waste channels in coastal areas.

By considering these factors, areas along coastal borders must remain free from all types of permanent buildings that have the potential to damage the ecosystem and disrupt its protective function. However, in reality, there are still many people who build structures in coastal border areas, even though these areas should not be used for building construction. This practice occurs because most people have occupied the area for generations for residential and business purposes, although their ownership status is unclear.

3.3. Legal Mechanism for Ownership and Utilization of Coastal Land

Although land in coastal border areas basically cannot be owned privately, there are several mechanisms that allow individuals or groups to legally obtain management rights or use rights (Nanin Trianawati Sugito & Dede Sugandi, 2016). Some mechanisms include:

- 1. Management Rights (HPL) and Use Rights:** The government can grant Land Management Rights (HPL) or Use Rights to certain parties to manage land on the coast. This right is limited and must be extended according to regulations.
- 2. Customary Property Rights:** Indigenous communities who have settled in coastal areas for a long time and still maintain their presence in the area can obtain recognition of their customary property rights. This right can be registered and converted into a Certificate of Ownership Rights (SHM) if it meets the requirements set by the state.
- 3. New Land Reclamation and Management:** In the case of reclamation, the land resulting from this process can be used as an object of land rights, but must go through strict licensing procedures and still pay attention to environmental aspects.
- 4. Registration of Ownership Certificate:** Land that has been controlled for generations and has no claims from the state can be submitted to obtain a certificate of ownership through the registration process at the National Land Agency (BPN).
- 5. Use for Public Interest:** The government can grant permits to use coastal land for certain purposes such as sustainable tourism, public infrastructure, or conservation, while still paying attention to ecological aspects.

Even though there is a legal mechanism that allows people to obtain land rights in coastal areas, land use must still follow the provisions in Law No. 27 of 2007 concerning

Management of Coastal Areas and Small Islands. This is done to ensure a balance between community interests and environmental protection.”

3.4. Challenges in Implementing Regulations and Monitoring Coastal Border Land Use

Various buildings standing on land bordering the coast in Pogotena Village, Southwest Sumba Regency, show that not all land and buildings have legal title documents. Although some buildings have been erected on a certain legal basis, this fact raises questions regarding private ownership of coastal land. This is contrary to Article 2 of Presidential Regulation no. 51 of 2016 which explicitly states that coastal borders cannot be privately owned. As a result, much land is used in ways that do not comply with applicable regulations. Apart from that, there is evidence in the form of Ownership Rights Certificates (SHM) owned by the community around the coastal border area, especially in Pogotena Village. The existence of this certificate strengthens the argument regarding legal ownership, even though legally the coastal land belongs to the state. This condition shows the need for clearer and firmer legal certainty in the management of coastal land to prevent violations in coastal areas.

The government, as a policy maker, has the responsibility to enforce coastal border regulations to maintain ecosystem balance and protect public interests (Sundari, 2023). Based on Presidential Regulation no. 51 of 2016, every region with a coastline is required to determine coastal boundaries that are under government management. Land in coastal border zones must be managed according to regulations to avoid ownership conflicts and environmental damage (M Alif Usman, et.al, 2023). Explains that in the context of land law in Indonesia, the Basic Agrarian Law (UUPA) regulates land control and ownership rights. The UUPA establishes a hierarchical system of land tenure rights that includes:

1. National rights.
2. The right to control from the state.
3. Customary law community customary rights.
4. Individual rights.

This hierarchy provides a legal basis for determining the management of land along coastal borders as well as limits on its use so that it remains in line with public interests and environmental sustainability. This is also the key to many problems in Indonesia where cases of lack of clarity regarding land ownership status are still very high (M Muhibbin, 2015).

In its implementation, there are still various obstacles related to the implementation of Presidential Regulation no. 51 of 2016. Some challenges that often arise include:

- 1. Lack of Socialization and Education:** Many communities do not fully understand the limitations and provisions regarding land ownership in coastal border areas.

2. Conflict of Interest: Economic and development interests often clash with environmental protection efforts on the coast.

3. Weak Law Enforcement: There are still many violations of coastal border regulations that do not receive firm action from the authorities.

4. Regulatory Incompatibility with Local Conditions: In some areas, this policy is difficult to implement due to long-standing cultural factors and traditional ownership.

It is necessary to strengthen policies and increase supervision in the implementation of this regulation so that the ecological function of coastal border areas is maintained, while ensuring that community rights are respected within the limits set by law.

A. Legal Protection for Communities Who Own Land in Coastal Border Areas

Legal protection for people who have long controlled or lived in coastal border areas in Indonesia is a complex issue that includes aspects of land ownership, customary rights, as well as regulations related to coastal environmental conservation (Fence M Wantu, 2024). Coastal border areas themselves have crucial ecological functions and are often strictly regulated in their use.

Several regulations that provide legal protection for communities in coastal areas include:

1. **Law No. 27 of 2007:** This Law, as revised through Law No. 1 of 2014, regulates the management of coastal areas and small islands. This regulation also includes recognition of the rights of indigenous communities in managing coastal resources.
2. **Law No. 5 of 1960 on the Policy Regulation of Agrarian Trees (UUPA):** This law recognizes the existence of customary rights of indigenous peoples to land, water and other natural resources, as long as they can be legally proven and recognized by the state.
3. **Minister of Maritime Affairs and Fisheries Regulation No. 21 of 2018:** This law regulates zoning plans for coastal areas and small islands which provide spatial planning guidelines in coastal areas and ensure protection for the people who have lived there for a long time.
4. **Law No. 32 of 2009 concerning Environmental Protection and Management:** This law aims to maintain the balance of coastal ecosystems so that they remain sustainable without compromising the rights of local communities."

With the existence of regulations, coastal communities who have long lived and utilized land along coastal borders receive legal protection for their rights, including the sustainable

use of coastal resources (Gracia Luciana Handayani, 2020). Apart from that, they also have an important role in preserving the coastal environment.

Indonesia, as a legal state as stated in Article 1 paragraph (3) of the 1945 Constitution, is committed to protecting human rights. One of the guaranteed rights is the right to land, as stated in Article 28H paragraph (4) of the 1945 Constitution, which confirms that every individual has the right to own personal property which cannot be confiscated without adequate compensation (Ramdlon Naning, 1983).

Communities living in coastal areas are closely related to marine ecosystems, both in terms of livelihoods, resource utilization and socio-cultural aspects. They consist of fishermen, pond farmers, tourism industry players, and workers in the sand mining sector. Law No. 1 of 2014 defines coastal communities as customary, local and traditional communities who depend on coastal ecosystems and small islands. However, there is no more detailed regulation regarding the rights and obligations of coastal communities in the context of land use in coastal border areas.

In Article 28H paragraph (1) of the 1945 Constitution, it is stated that every citizen has the right to live in prosperity and have a decent and healthy environment. However, reality shows that coastal communities often face threats to their rights due to environmental exploitation and land control by certain parties. To overcome this, the government has issued several regulations, including:

1. Law No. 1 of 2014 as a revision of Law No. 27 of 2007 regarding the management of coastal areas and small islands.
2. Government Regulation no. 26 of 2008 concerning National Regional Spatial Planning which regulates the use of space throughout Indonesia, including coastal areas.
3. Presidential Regulation no. 51 of 2016 which determines coastal border boundaries and restrictions on their use.

For example, in Southwest Sumba Regency, the regional government has issued Regional Regulation no. 15 of 2009–2029 concerning Regional Spatial Planning which emphasizes that beaches are public property and cannot be privately owned. However, there are no regulations that are truly effective in providing maximum protection for local communities against industrial expansion and commercial use of coastal areas.

3.5. The Challenges and Solutions in Legal Protection for Coastal Communities

In relation to legal protection for coastal communities, several challenges seen in its implementation include:

1. ***Indecisive Regulation and Implementation:*** Even though there are various regulations, implementation in the field is often inconsistent. Conflicts of interest between the government, local communities and investors often make regulations difficult to implement.
2. ***Inequality in Land Ownership:*** Many coastal communities do not have official certificates for the land they live on, making them vulnerable to eviction and land conversion by certain parties.
3. ***Environmental Exploitation by Industry:*** The presence of large industries such as sand mining, exclusive tourism, and reclamation projects often harm local communities, both from an ecological and economic perspective.
4. ***Lack of Community Participation in Policy Formulation:*** Coastal communities are often not actively involved in spatial planning and coastal management policies.

As a solution to strengthen legal protection, the following steps can be considered:

1. ***Strengthening Regulations and Law Enforcement:*** The government must ensure that existing regulations are implemented strictly and do not have multiple interpretations, so that they can provide legal certainty for coastal communities.
2. ***Increasing the Legality of Land Ownership:*** Land certification programs for coastal communities need to be encouraged to reduce inequality in land ownership and provide stronger legal rights for them.
3. ***Economic Empowerment of Coastal Communities:*** The government and private sector can collaborate in developing a sustainable coastal resource-based economy, such as ecotourism, sustainable fisheries and marine-based micro-enterprises.
4. ***Increasing Community Participation in Decision Making:*** Coastal communities must be involved in the process of formulating spatial planning policies and environmental regulations so that the policies produced are in line with their needs.

With a more holistic approach that supports coastal communities, it is hoped that legal protection can be more optimal and a balance between environmental conservation and the welfare of coastal communities can be maintained.

4. Conclusion

Based on Presidential Regulation no. 51 of 2016 concerning Coastal Boundaries, control of land rights in this area has special characteristics due to its status as state land with restrictions on its control and use. This regulation emphasizes that land along coastal borders

cannot be fully owned by individuals or groups, but can only be used according to regulations to maintain ecological functions and prevent environmental damage. However, indigenous peoples and local communities still receive legal protection through recognition of their rights, consultation and participation mechanisms, utilization permits, as well as compensation and relocation if necessary. Thus, even though there are restrictions, people's rights are still respected and protected in order to maintain a balance between social interests and environmental sustainability.

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