

Center for Community-Based Resource Management (CBRM)

Natural Resources Institute, University of Manitoba

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Country:	Indonesia		
Ecosystem Type:	fisheries		
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Scale of Study:	National, municipal, local		
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Type of Initiative:	Resource conservation, ecological sustainability, conflict management		
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Summary:

The paper discusses decentralization of property right in marine fisheries in Indonesia both in legal framework and empirical perspectives. In legal framework perspective, evolution of decentralization of fisheries management since colonization period to present condition is analyzed. The result shows that most of legal products address decentralization of fisheries management in terms of operational-choice rights. Decentralization can be meant as devolution if collective-choice rights are granted. The result shows that devolution to the local people mostly take place in the colonization (pre-1945) and post-independence period (1945-1966). "Meanwhile, in the New Order (1967-1998) period, devolution to the local has never taken place. Collective-choice right was not granted to the local people during the New Order period because fisheries management was highly centralized. In the Reform period, even though the devolution to the local government (Undang-Undang 22/1999, called Local Autonomy Law) is initiated, it is not accompanied by devolution to the local people. Moreover, there is no article within the revised Fisheries Law No 31/2004 that explicitly addresses devolution to the local people as a recognition to the community-based fisheries management (CBFM) system, though they de facto exist over hundred years. "Therefore, devolution to the local people can be categorized as de facto devolution instead of de jure devolution. In empirical perspective, even though the recognition of CBFM from the standpoint of the national legal framework is minimal, nevertheless, based on the case study in Lombok Barat, the local autonomy brings the positive impact as the local government's recognition to CBFMs arises. The local government recognition is very important for the local people as an opportunity to strengthen their institution including revitalizing traditional norms of fishing, improve capacity building of MCS (Monitoring, Controlling, and Surveillance), develop mutual collaboration with other fisher associations and NGOs, and enhance economic activities. Nevertheless, tragedy of property rights, which involve multilevel institutions, still happens in the study area because there is lack of proper institutional design. The case study depicts that the solution to the complexity of property rights in coastal and marine areas is held at the community level only. This is a minimum solution regarding the tragedy of property rights that involves higher level institution. Local design is available, but this may be site specific, and fragile if there is no institutional arrangement combining formal and informal rules and involving both formal and informal authorities. Therefore, there are ways in dealing with the complexity of property right system in fisheries in decentralization era. "First, at the national level, legal reforms attempt to recognize the local people as resource managers where particular territoriality takes place. With such legal reform, property rights system in marine fisheries can be clearly defined. Second, at the municipal or regency level, devolution to the local fishers needs to be formalized. Without formal recognition to the devolution to the local people, it may be vulnerable to external shocks, such as political situation change or business investment. Furthermore, harmonization between government regulation and the local rules concerning property rights can be arranged.

