5. Land and Sea Tenure in the Kei Islands

As mentioned in the introductory chapter, the focus of this book is the politics of communal marine tenure in the Kei Islands. While the preceding chapters set out a broad context of the Kei people, this chapter will provide a specific understanding of communal marine tenure. The knowledge of marine tenure’s general principles and practice will be crucial in understanding the politics of marine tenure that will be elucidated in the next four chapters.

Two notes worth mentioning before I start explaining customary marine tenure. First, I will make comparisons between general principles and the practice of marine tenure in Watlaar Village on Kei Besar Island (see Rahail 1995) and Dullah Laut Village. This comparison is intended to show that even within villages in the Kei Islands, the general principles of traditional marine tenure are not always the same. Thus even in a single cultural group, the understanding and practice of marine tenure varies. Second, this chapter will also illustrate the flexibility and contestability of the principles and practices of marine tenure which may be different from our understanding as they relate to modern concepts of rules and regulations. These practices will explain the nature of conflicts that I will discuss in the following chapters.

The Concept of Territory

The basic concept of territoriality in the Kei Islands is embodied in the concept of petuanan. The word itself derives from tuan which means ‘owner’ or ‘master’. The prefix pe and suffix an attach a specific location to this word. Therefore, it is not far from its literal meaning for the people of the Kei Islands—and for many other communities in Maluku (Zerner 1992)—who understand it as an estate or territory of a certain traditional social group.

As islander communities, the concept of territoriality covers ownership of both land and sea. This linkage is expressed with the pairing of petuanan with terms that refer to sea territories such as: sea estate (laut); coastal area (met); and sea (roa) and land territories such as: land estate (darat); island (nuhu); and land (nangan).

For specific purposes the concept of sea territory can be discussed independently from land territory, although it would be difficult to comprehend the former without any reference to the latter. This is because, to some extent, the concept
of sea territory is an extension of land territory. In other words, some elements of the concept of the sea territory derive from the land. For this reason, I will discuss land territory before dealing with sea territory.

**Land Territory**

The concept of land territory in Dullah Laut refers to the nine islands of their territory. These islands are Dullah Laut (Duroa), Moa, Adranan (Dranan), Rumadan Warwahan, Rumadan Warohoi, Sua, Baer, Ohoimas and Watlora (Ruin) (see Map 5-1). When talking to outsiders, Dullah Laut villagers consider these islands to be inseparable. Thus when a villager says ‘this is my island and land’ (*nii yaaw nuhu tana*), he or she is talking about all the islands of the Dullah Laut territory. And of course, when a person is talking to an outsider, the word *yaaw* (meaning ‘I’) does not refer to that person as an individual but as a member of the Dullah Laut community. A different way of addressing the issue of land territory would be used with fellow villagers. In this context villagers will divide each island into zones based on use.

The following identification of land territory was set out by Rahail (1995: 18–21). Rahail is the ruler of Maur Ohoi Wut Kingdom on the northern part of Kei Besar Island (see Map 1-2). He is a well known traditional leader, particularly among NGOs. He has written two books concerning tradition in his domain (Rahail 1993, 1995).

Rahail (1995) divides the land area into several zones (Figure 5-1). The first zone, closest to the sea, is where the settlement (*ohoi*) is located. Apart from housing, people use this zone to grow decorative and medicinal plants and tend domestic animals such as chickens, goats and pigs. The second zone is primarily a zone of intensive cultivation (*ohoi murin*). Vegetables, spices, cassava, corn and nuts are planted in this area. Because this area is still relatively close to the settlement, people use it for their domestic animals as well. According to Rahail, the third zone (*rok*) is similar to the cultivated zone but with plantings of other crops and fruit trees. The fourth zone is the area where people practice shifting cultivation (*kait*), and the highest part of their territory is the zone covered with forest (*warain*). People cut trees for house construction and hunt wild animals in this zone.
Map 5-1: Dullah Laut island territories and land classification.

Source: Author’s fieldwork.
The division of land territory is more simply defined in the Dullah Laut territory (refer to Map 5-1). The discussion of land territory among the villagers is more clearly represented by the word ‘island’ (nuhu). In Dullah Laut, the island is divided into four sections. The first section refers to a plot of land where a house and its garden are located (kintal). The aggregation of house plots form a hamlet or settlement (ohoi)\(^1\) and further inland is the area where a range of cultivation activities take place (kebun). The concept of kebun in Dullah Laut encompasses three distinct zones recorded in the Kei Besar land zone classification: ohoi murin; rok; and kait (as shown in Figure 5-1). This indicates that people in Dullah Laut do not differentiate between areas which are used intensively and those for shifting cultivation. However, people do use the expression ‘unused garden’ (bekas kebun) to distinguish areas where cultivation activities have stopped either temporally or permanently.\(^2\) At the highest altitude of the island is the forest (yaat). This area is the only zone in which people’s activities are limited.

Looking at these divisions on each of the nine islands, it is possible to distinguish that Dullah Laut is the only island where all four zones of land territory exist (refer to Map 5-1). On this island dwell the Ohoislam (Muslim) and Ohoisaran

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\(^1\) It is important to note that the meaning of ohoi here refers to a space or territory, which is different from the political concept of ohoi as a social organisation.
\(^2\) The term ‘permanently’ here refers to a garden that has been abandoned for more than the usual fallow period (one to five years).
(Christian) settlements (*ohoi*) with their gardens (*kintal*) in close proximity. The cultivated region (*kebun*) covers the widest area of the island. Except for a small portion of forest (*yaat*) on the western tip of the island, the two settlements, and some sacred areas, the whole island has been cleared for cultivation.

As for the distribution of land on the other islands, Sua Island has mostly been used for cultivation and a very small portion of the island has been left undisturbed to support the forest. Rumadan Warohoi Island is divided into cultivated and forest areas in almost equal portions. Baer, Ohoimas, and Rumadan Warwahan islands have a small portion of cultivated land with a greater area of forest. Watlora Island is entirely forest because people consider it to be too far from their settlements for cultivation purposes. Adranan Island is very sandy in nature and even mangroves grow sparsely. People have tried to plant coconut trees but they did not grow and the island has been left uncultivated ever since. The mangroves that do grow on the island are not considered a forest and people call this island ‘an empty island’ (*pulau kosong*).

**Sea Territory**

To understand the concept of the sea territory, I will refer again to Rahail’s classification of Watlaar on Kei Besar Island. He divides the sea territory into ten zones (see Figure 5-2). The first zone includes the coastal area which is dry during the lowest tide (*ruat met soin*) and has a maximum depth of around three metres. The second zone stretches from the minimum to maximum low tide (*met*) with a depth of three to five metres. The third zone is the frontier between the tidal zone and the deep sea (*hangar soin*). This zone is never dry, even during the maximum yearly low tide season in the last months of the year. According to Rahail (1995: 23), this area is covered by coral reefs that sustain a wide variety of fish species, molluscs and other sea organisms. The depth of water in this area ranges from five to fifteen metres and this is where villagers set their small fish pots and gill nets and use lines and spears to fish. The next zone is deeper and may reach up to 100 metres (*nuhan soin*). The ecological characteristics of this zone are similar to the previous zone but the coral is larger and much more diverse. The next zone is identified by the dark blue colour of the sea (*faruan*), reaching 100–200 metres in depth and traditionally used for tow fishing and setting fish aggregating devices. The outer five zones are as follows: *wewuil; wahdaan; leat dong; walaar entetat; and tahit ni wear*. These names are derived from a reference point on the land visible from the zones. In discussing these divisions, Rahail claims that the zone that is furtherest from the
land is the frontier of the people’s sea territory. This means that the area from that furtherest zone to the innermost named zone is under their control while the unnamed zone beyond is not available to them for fishing purposes.

Figure 5-2: Sea territories classification of Watlaar, Kei Besar.

Source: Adapted from Rahail (1995: 22).

The concept of sea territory in Dullah Laut is simple compared to Rahail’s model. Unlike land territory, villagers consider their sea territory to be inseparable. There is only one word representing their concept of the sea territory: meti. This word expresses their main claims regarding sea territory.
Map 5-2: Land and sea territories of Dullah Laut.

Source: Author’s fieldwork.

Note: Kebun refers to fields and yaat refers to forests.
The term *meti* in the context of sea territory is broadly understood in two different ways. The first refers to the coastal area from the high tide mark to the boundary of shallow and deep sea water. It also refers to submerged atolls and underwater reefs. The first version of *meti* is used when people describe the sea territory surrounding and within the nine islands of their land territory. The second meaning describes submerged atolls and underwater reefs in the area outside of the first. The location of this *meti* might be miles away from the nine islands such as the ‘snake meti’ (*meti rubay*), located some three to four nautical miles to the north of Baer Island.

The detailed naming of *meti* compensates for the lack of spatial division of the sea territory. The people have developed quite detailed names for their sea territory. As can be seen in Map 5-2, people even divide a block that might be considered a single *meti* into smaller parts and give each a different name. I believe this is done because a name is very important since it is proof of a connection between people and a particular place. As mentioned in Chapter Four, names are also proof of the ‘historical truth’ of a particular narrative by which people may claim special attachment to a place.

### Rights over Territory and their Distribution

Two rights attached to a territory define the exclusivity of tenure. The first is the ‘use right’ (*hak makan*). The holder of this right is entitled to make use of the territory and can exercise the use right by cultivating a plot of land, cutting down the trees in the forest, and fishing. The second is ‘property right’ (*hak milik*) and it confers greater powers than use right. Those who hold this right are not only free to make use of the territory, but can also freely transfer their use right to another party. A contract between the committee of origin group (*Ohoiroa Fauur*) under the leadership of the village head granting permission for a fishing company to fish in the Dullah Laut sea territory is an example of how the property right holders transfer their use right to another party.

The distribution of these rights differs depending on the context of the discussion. As with the division of land territory, who is involved in the discussion influences how people address the issue. Also, the distribution of rights differs depending on the specific property concerned, such as whether it is village territory, or land or sea territory. The following discussion will deal with this issue in more detail.

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4 In addition to these two meanings, *meti* is also understood to mean low tide. For example, when someone asks ‘*So meti ka seng?*’ the person is asking ‘Is it low tide already?’
Traditional Domain as the Right Holding Unit

When I started this discussion on issues of territory, I defined petuanan as an estate or territory of a certain social group in a traditional domain. Now, I would like to detail the units of traditional domain that control a particular territory. This is an important issue because when people talk to outsiders, it is these units to which issues of ownership refer.

In the Kei Islands, various traditional domains control territorial tenure. An example of this is the settlement petuanan (petuanan kampung) of Hollay and Hoko on Kei Besar Island (Map 1-2). Each of these settlements controls its own territory, despite the fact that they are administratively a part of Hollat Village. Some territories are controlled by a larger domain, namely the village (ohoi or desa). Dullah Laut is an example of this. Although Dullah Laut Village consists of two different settlements, they control a single undivided territory. Thus, whenever they have to deal with issues of territorial tenure with outsiders, the village will handle it. Another traditional domain that in some cases controls a single territory is a kingdom, for example the Kingdom of Ibra on Kei Kecil Island (Map 1-2). This kingdom—comprising the three villages of Ibra, Sathean and Ngabub—controls a single territory. This means that none of these villages has the autonomy to handle issues relating to their territory and all three are under the leadership of the King of Ibra who can speak for their territory. I was also told that there were some territories which were controlled by the nine group or the five group (see Chapter Two) although I was unable to identify the territory referred to. Finally, there is a territory that is called ‘public territory’ (petuanan umum) that is shared between the nine and five group. There are two views concerning the exact location of this public territory. Some suggested that it was Daar Island and its surrounding sea in the Kei Kecil Archipelago. Others believed it was a submerged island, located some kilometres to the east of Daar Island.

Before I discuss the distribution of rights over territory within the domain, I will return to Dullah Laut to look at how the village represents the interests of territory right holders to outsiders. I suggested earlier that in Dullah Laut the village controls the territory whenever they have to deal with outsiders. There are two types of scenarios where the village exercises this role. The following two examples illustrate these scenarios:

1. In July 1996, a fisherman came to the village leader’s house. After being accepted by the village head, this fisherman introduced himself. He was from Madura (see Map 1-1), the owner and skipper of a boat which was fishing for sea cucumber in the Kei Islands. He asked the village leader if he would be allowed to search for sea cucumber in the village sea territory for about a week. In return, he would give an amount of Rp50 000 (approximately US$22)
as contract money. The village head agreed and wrote a letter of permission. Handing over the letter, he then told the fisherman to show the letter if any Dullah Laut villagers questioned his fishing activities. I saw the boat passing the village the day after. I also noticed the boat anchored near Ohoimas Island (Map 5-1) some days later.

2. In October 1996, Mr JW came to the village head’s house. Mr JW was a representative of a grouper fishing company operating around the Kei Islands. His company was involved in reef fishing and trade and their business was not a small one, according to local perceptions. After some introductory remarks, Mr JW said that he intended to make a contract with the village concerning his intention to bring his ship and fishermen to fish in Dullah Laut territory. The contract he talked about was for a period of a year.

The village head agreed in principle. However, he said that the issue of contracting sea territory to a fishing company was beyond his authority and explained that he would call a customary court meeting attended by representatives of the origin fam from both settlements in the village as well as Mr JW or another person representing the company. This customary court would discuss whether the company would be permitted and if so, how much money they would be asked to pay for the use of the territory. The village head then made an appointment with Mr JW to hold court a week later.

The customary court was held as planned. Each representative of the origin fam, Ohoiroa Faur, was given a chance to express an opinion on the issue. Finally, the court decided to sign the contract. The company was allowed to operate in their territory and in return they had to pay Rp3.5m (approximately US$1522). The money was distributed to Ohoiroa Faur representatives, each receiving Rp30 000 (approximately US$13). The rest was allocated for the construction of the village mosque and church.

Some points should be made to clarify these two examples. Both examples concern the transfer of rights over the village sea territory, which means that both also concern property rights issues. The first example is a scenario in which the village head alone represents the interests of the right-holding unit. The second scenario illustrates a situation in which transferring the right over sea territory is beyond the village head’s authority. In this case, the property right was put in the hands of the ‘committee of origin fam’ (Ohoiroa Faur). I should also note that the application of either scenario depends on the villagers’ consideration of the level of exploitation by the outsider. The level of exploitation by the Maduran fishermen was relatively low over a short period, while the grouper fishing company was considered a big enterprise in which a high level of exploitation for a lengthy period was to be predicted.
Distribution of Rights over Land Territory

The rights over land territory are distributed to different units within the village. The section of the territory influences how the rights are distributed. Rights to each house plot are granted to the family or families who constructed a house on it. Families might obtain this right from their parents. Theoretically, the property right is in the hands of the parents. When they die it goes to their son(s), while their daughter(s) get only use right. Other than inheritance, rights to house plots can be transferred from one family to another through trade, exchange, or gift.

The principal premise of the distribution of property rights to a field of mixed annual crops (*kebun*) is that the right is given to those who clear or open the forest and cultivate it. Based on this premise, the property right holder of a field ranges from an individual to a particular segment of a *fam*. In the case of an individual property right holder, this could refer to a new field that has been made by clearing the forest for example, the fields that were newly opened at Awear on Dullah Laut Island (see Map 5-2). With *fam* member property right holders, this refers to fields that were made decades ago. The property right on these fields has been transferred for generations. Theoretically, the more ancient a particular field, the larger the right-holding unit might be. For example, if Bal Ulab had cleared a portion of forest and cultivated it, the property right of his field is theoretically inherited by his male descendants. The number of use right holders of his field might be even larger since this right is transferred not only through the female line but also to those who are connected to the property right holder through affinal relationships. In practice however, this field might have been divided into smaller plots and the right-holding unit might be a limited number of families. This might happen because it is possible for a particular family to ask for, buy or exchange part of the field meaning that the right-holding unit of a particular part of the field is in the hands of that particular family.

The distribution of rights to forests represents the original ownership pattern of the territory. The issue of property right holding units to forests goes back to the narrative of origin. Referring to particular segments of this narrative, there are three social units that claim ownership of forests. The first social unit comprises the origin *fam*, *Ohoiroa Fauur*. Their claim is based on the narrative of origin which explains that the entire domain of Dullah Laut was acquired and developed by these origin *fam*. This segment of the narrative is interpreted as meaning that the land territory of Dullah Laut is inseparable and that each of the origin *fam* contributed equally to the occupation and development of the domain. Thus the whole territory is owned collectively by all origin *fam*. In this context, since property rights to other sections of land territory have been distributed to the smaller units, this means that references to land territory are
only referring to forests. The second social unit is Rahaded fam. Their claim is based on the segment of narrative concerning the leadership of the village during the Papuan War and the court decision during the Dutch period (see Chapter Four). According to Mr A. Rahaded, it was his grandfather’s father that led the people of Dullah Laut to win the Papuan War. Thus, he claimed, the islands of Baer and Ohoimas (acquired due to their success in driving away the Papuans), should be under Rahaded fam control. The Dutch also granted these islands to Mr Z. Rahaded when people from Letman Village contested their claim in the 1920s.

The third social unit that lays claim of ownership over part of Dullah Laut territory is Rumadan fam in Rumadan Village on Dullah Island. This fam claims ownership of Rumadan Warwahan and Warohoi islands. Their claim is based on the narrative of the War of the Waterspout (see Chapter Four). They believe their ancestor drove away the enemy and successfully controlled these islands and as a result, the right of ownership over the islands is in their hands.

The distribution of use right in relation to forests has never been a problem. This is because use right is not only acquired by inheritance through the male line but also through affinal relationships with the property right holding unit. In these two ways, it is assumed that all villagers—regardless of their fam membership—are entitled to use right. Even outsiders might claim use right if they are able to show their affinal relationship with the property right holder.

It is worth mentioning that the origin fam (Ohoiroa Fauur) and all of the villagers of Dullah Laut acknowledge the use rights given to the people from Ut Island (Map 5-1). Theoretically, this use right is limited to taking a kind of mangrove. This acknowledgment is based on the narrative of the Papuan War. According to this narrative, the people from Ut supplied weapons to the people of Dullah Island, and one of the weapons was used to kill the leader of the Papuans. To show their gratitude for this help, the people of Dullah Laut granted the people from Ut Island use rights on a kind of mangrove that grows on Dullah Laut territory. This mangrove is used as fire wood for their blacksmith activities.

**Distribution of Rights over Sea Territory**

The distribution of rights concerning sea territory is the same as for forests. However, besides the origin fam of Ohoiroa Fauur, Rahaded, and Rumadan, there is an additional claim to the village sea territory by the people of Ut Island. By way of background, I will discuss the three social units involved in the claim. Based on the same segments of the narrative used to claim ownership of forests, these three social units not only claim the right of ownership of the sea territory, but deny other claims as well. The Ohoiroa Fauur believes that the village sea territory is indivisible and thus Rahaded fam’s claim is nonsense. Although...
\textit{Ohoiroa Fauur} members agree that during the Papuan War and their legal battle with people from Letman Village that Dullah Laut was under the leadership of Y. Rahaded and Z. Rahaded, they think it was impossible for these two traditional village leaders to deal with problems without support from other members of \textit{Ohoiroa Fauur}. In the Papuan War, there was living proof—a man called Beruntung, who was captured and then became a slave to the war commander from Rahawarin—that other members of \textit{Ohoiroa Fauur} were involved in the fight. This meant that Y. Rahaded did not go to the war by himself. This was also the case when Z. Rahaded dealt with the Dutch government when the Letman villagers disputed their claim. Although it was Z. Rahaded who went to Ambon to meet the Dutch official to sort out the problem, the finance needed for his trip was partly provided by Nuhuyanan and other \textit{fam} members of \textit{Ohoiroa Fauur}.

On the other hand, the Rahaded \textit{fam} believes that the Dutch declared that Z. Rahaded won the case and therefore granted him the right over Baer and Ohoimas islands and their sea territory. For the Rahaded \textit{fam}, it was not the villagers as a whole who won. Based on this argument, Rahaded claims that the territories of these islands were their property. Referring to the sea territory of these islands, they insist that it is their right to give permission to—and consequently receive payment from—those who wish to make use of the territory commercially such as the Madurese fishermen mentioned in the first example in the previous section.

The \textit{Ohoiroa Fauur} also denies the Rumadan claims on the Rumadan Islands and their surrounding waters. They believe that Bal Ulab Nuhuyanan, one of the leading figures of Dullah Laut in the past, took an active role in driving away Wara and Fangohoi in the War of the Waterspout from both islands. Therefore, since Bal Ulab was from Dullah Laut, the land and sea territories of these islands should be under the control of Dullah Laut Village.

The Ut villagers claim ownership of coastal waters called Metan Er\textsuperscript{5} located on the northeastern side of Dullah Laut Island (see Chapter Eight). Their claim is based on their version of the narrative of the Papuan War. They believe that after helping \textit{Ohoiroa Fauur} in this war, their ancestor was granted the property right over the sea territory. Dullah Laut villagers decline this claim because the narrative of the Papuan War referred to by the Ut villagers was not the ‘right history’ (\textit{toom}) of the war. As I noted earlier, the Dullah Laut version of the history of the Papuan War only mentions that the Ut villagers were given use right over the mangroves for the firewood needed in blacksmith activities.

To conclude this section, I would like to draw attention to the fact that the exclusive right over sea territory does not apply to all situations. Theoretically,

\textsuperscript{5} Dullah Laut villagers claimed that the name of this \textit{meti} is Wadaiyuwahan, the name taken from the adjacent land territory.
the sea is free to all for subsistence use. People from different settlements, villages, kingdoms, or even ethnic groups are free to fish in the sea territories as long as their activities are for their own consumption. Whether they conform can be verified by the technology they use. Fishing lines, spears and arrows fall into the subsistence fishing category. In practice however, the enforcement of this norm is influenced by the personal relationship between the outsiders and local people. For example, when I went fishing in Dullah Laut territory, I often met non-villagers who were obviously, judging by their equipment, engaged in commercial fishing. When I asked the village head or other villagers if these people had asked permission to do so, I was told ‘no’ but that these people were either friends of theirs or other villagers, or were considered to be good people. In contrast, an informant told me that he had once driven away a fisherman from another village even though the non-villager was only fishing for subsistence. He explained:

This person did not know his place, he did not want to share his bait with me, even when I told him that I needed only a little and did not expect it for free, I would buy it. Since I could see that he had enough bait to share, I was upset. I asked him to leave. He has not fished in Dullah Laut territory since.

The above cases demonstrate the flexibility of the exclusivity of the village sea territory. It seems that the use of the sea territory depends more on the type of relationship between villagers and non-villagers rather than the degree of the exploitation. However, it does not mean that the level of exploitation is not taken into account at all. Those who obviously want to fish for highly commercial purposes, such as for grouper, will not be allowed to do their business in the village’s sea territory unless they sign a formal contract with the village regardless of how good their relationship is with the Dullah Laut villagers or even the village head himself.

**Conclusion**

Although this chapter discusses land and sea territory issues and illustrates their practical indivisibility, the main purpose was to introduce the basic features of traditional marine tenure in practice that will become the main focus of discussion in the following chapters. In conclusion, I will emphasise some points in relation to traditional marine tenure in Dullah Laut.

The sea territory under the ownership of Dullah Laut Village covers the entire waters surrounding the nine islands of Dullah Laut Village land territory. People

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6 This norm does not apply to a territory under sasi regulation.
do not divide the sea territory into divisions as is done in Watlaar, but they
do identify their territory by names that are given to specific places within
it. If we compare the detailed division in Watlaar with the lack of division in
Dullah Laut, we note that concerns related to boundaries are also different. In
Watlaar, the boundary of their territory is defined by land boundaries with
their neighbouring villages and by the outer division of their sea territory.
Dullah Laut Village does not have land boundaries with other villages since its
territory is archipelagic. They also do not define their sea boundary as is done
in Watlaar, but they claim that particular coastal areas are theirs. For example,
when they rejected the claim of ownership over Metan Er by Ut villagers, Dullah
Laut villagers argued that the particular fishing spot called Metan Er was theirs.
They did not include an explanation of the boundaries of their sea territory
and show that the disputed spot was located within the demarcated areas,
which may have been done if the case had happened in Watlaar territory. The
different approaches to territorial boundaries between Watlaar and Dullah Laut
may suggest that traditional concepts of sea boundaries in the Kei Islands are
relatively flexible.

Another important feature of traditional marine tenure in Dullah Laut is that
they differentiate between two different rights over the sea territory. The use
right covers all activities related to extracting the sea resources such as fishing
and formerly coral mining. The property right comprises more rights than use
right because it allows use rights as well as the right to transfer those use rights.

In the Kei Islands, the existence of the two rights is very important in relation to
discussions of communal tenure. Discourse on communal property rights often
makes the assumption that there is only a single right attached to the sea: either
a right of ownership or a territorial use right (Christy 1982; Pollnac 1984 for the
latter). Researchers investigating communal tenure in the region were not aware
of the existence of different types of rights such as those in the Kei Islands and
as such, did not analyse how each right was distributed within the community.
Based on this false premise, inaccurate generalisations have been made such as:
‘[w]ithin the community the rights to the resource are unlikely to be either
exclusive or transferable; they are often rights of equal access and use’ (Feeny
et al. 1990: 4).

Looking at how use rights and property rights are distributed within Dullah
Laut, I would argue that communal marine tenure operates differently. It is
correct to say that the use right is distributed equally to all members of the
community. In fact, those who have an affinal relationship with community
members might share in the right. However, the property right is controlled

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7 People used to use coral for house construction before cement became more available. The Indonesian
government now prohibits coral mining.
exclusively by the orgin fam, according to their version of local history. On the other hand, an alternative version proposed by Mr A. Rahaded, suggests that the descendants of the first village head are the exclusive right holders. Thus, the assumption that communal marine tenure means that all community members share equal rights to the territory or resources is not appropriate. In addition, the fact that the origin fam or the village head or Mr A. Rahaded signed contracts with various outside agencies proved that in practice, the communal use right over the sea territory is transferable. Therefore, the assumption that the communal property right is not transferable is not correct. This assumption applies to the property right but not use right.

In closing this chapter, I would like to emphasise that besides the flexibility of the concept of boundaries and the transferability of the rights, claims over sea territory are also based on narratives of origin which are subject to multiple interpretations and multiple versions (see Chapter Four). Therefore at a practical level, the practice of traditional marine tenure might become a source of conflict rather than a basis for developing a sustainable and socially just system of marine resource management. Various aspects of such conflict are explored in the following four chapters.