9. Marine Tenure and Precedence Contestation: A Village Destroyed\textsuperscript{1}

This chapter will discuss a conflict between Sather and Tutrean villages on the northern coast of Kei Besar Island (Map 1-2). This conflict is very important for a comprehensive understanding of the problem of communal marine tenure in the Kei Islands. This is not only because the conflict was very cruel and had persisted through almost a century, but because the conflict questions the very foundation of traditional communal marine tenure.

By looking at the history of the conflict and examining the failure of attempted solutions initiated by the Dutch and Indonesian governments, this chapter will argue that even in the context of tradition, the concept and practice of communal marine tenure are problematic. This is because controls over territorial and political domains are two main points of contestation over precedence between different traditional segments of the community. Thus, although the triggering factor has been associated mostly with the sea territory, the core issue of the conflict between Tutrean and Sather villages was a traditional contestation over precedence between the mel and the ren.\textsuperscript{2} For the noble of Tutrean, controlling the sea territory of Sather Village is a symbol of their precedence over the free people of Sather. For Sather villagers, having their own sea territory was a symbol of their freedom. Since tradition has taught them that fighting for their territory is a legitimate reason for ‘war’, conflict was inevitable.

When a Village was Burned to Ashes

In the beginning of this book, I described an incident involving the burning of Sather Village by Tutrean villagers in 1988. (See Plates 9-1 and 9-2 for images of the reconstruction) This is not an isolated conflict between the two villages and is one example from a limitless series of incidents that have occurred during almost a century of conflict. Conflict over coastal boundaries alone can be traced back as far as 1935. From that time on, particularly when the Trochus shell became economically valuable in the 1950s, rarely did a year go by without a fight. The climax was the incident I described.

\textsuperscript{1} A shorter Indonesian version of this chapter was published in Adhuri (1998b).
\textsuperscript{2} At the latter stage of the conflict, the mel broke up into two factions, which caused the conflict to then involve three different parties. Yet, it did not eliminate the hierarchical dimension of the conflict between the mel and the ren.
Plate 9-1: A Sather elder standing in front of the foundation of a destroyed house. A new house was built in the back of the foundation.

Source: Author’s photograph.

Plate 9-2: A house (with accompanying clothing line) now resides on the foundation of a home that was destroyed during the 1988 Sather village fire.

Source: Author’s photograph.
Ironically the destruction of Sather Village did not stop the ‘war’, as it is commonly called. Spears, stones and curses are still exchanged between the people of these villagers. For example, during a year-long research excursion in the Kei Islands from February 1996 until March 1997, I heard that four fights broke out between the two villages, all of them triggered by fishing activities conducted by either party in the disputed area.

Several attempts have been made to settle this conflict. On 20 February 1936, the Dutch representative arranged a meeting of the committee consisting of the Dutch representatives and prominent kings in the Kei Islands. The meeting, held in Weduar Village (Figure 9-1), discussed the conflict between Sather and Tutrean. At the end of the meeting, a conclusion concerning the boundaries of the two villages was reached and a legal decision was then issued.\(^3\) However, at least one of the parties was not satisfied with this decision and the conflict continued.

A second attempt was made in 1939 when the Dutch cancelled the 1936 ruling and signed another decision establishing the boundaries between the two villages. As with the first decision, the second ruling was not strong enough to restrain both parties from violent behaviour. Another attempt was initiated by the Maluku Tenggara head of regency in 1990, two years after the village of Sather was burned to ashes. The head of regency—a Keiese—arranged a customary court in Elat on Kei Besar Island. After his attempt to resolve the conflict between the two villages failed, the head of regency urged the Sather villagers to bring the case to the Maluku Tenggara regency court in 1993.\(^4\) This was the third attempt to solve the conflict. The Sather villagers brought the case to the court in Tual in 1995 who decided that Sather villagers and the descendants of Kapitan Liberth Rahantoknam both shared use right over various territories. However, all parties were not satisfied and they appealed the case to the provincial high court. In 1997, just before I finished my fieldwork, the decision from the high court was handed down in the regency court. I do not know how the villagers responded to this decision but judging from the distribution of the disputed sea territory in the decision, the Sather and Tutrean villagers will appeal to the Supreme Court and the conflict will continue.

The following discussions will examine the nature of the conflict by looking at its development over time. I will start by looking at the narratives of origin that describe relations between these two villages. As we will see, the narratives of origin were the starting point for conflict between the two villages. I will then discuss the conflict during the Dutch period examining the interventions of

\(^3\) Unfortunately, this legal decision was not available and no one knows what the outcome was.

\(^4\) Actually the head of sub-regency at Kei Besar had urged both villagers to bring the case to court before Sather village was burned.
Selling the Sea, Fishing for Power

the Dutch and the reactions of the Sather and Tutrean villagers toward these interventions. Finally, I will discuss the controversy surrounding the customary court that took place in 1990, the Maluku Tenggara Regency court hearing, and the Maluku provincial court hearing.

**Narratives of Origin and the Conflict**

Conflict between the Sather and Tutrean villages was present even in the narratives of origin. This is very obvious if we listen to the narratives told by the noble of Tutrean and the free people of Sather. Although the narratives from both parties address the same issue—the ‘history’ of the current Sather domain—the two versions are very different. The narrative told by the Tutrean villagers goes as follows:

In the ancient time, Sather and Tutrean were two separate villages. Each was autonomous: each controlling its own territory and governing its own domain. At a particular time, conflict broke out between these two villagers. The conflict led to a war. Many people from Sather village were killed. Fearing for their lives, the rest of the Sather villagers fled to the island of Dullah in the Kei Kecil Archipelago. So, the Tutrean villagers won the war and, since there was no one left in Sather Village, [the] Tutrean claimed ownership over the territory. They called this territory as the ‘land of victory’ (*tanah kemenangan*).

This particular segment of the Tutrean narrative was used as the basic reference of their argument that the Tutrean territory covered two units of territory. The first unit was their own while the other unit was the ‘land of victory’—the former Sather village territory. When they were asked about their sea territory boundaries, the Tutrean villagers would point to Yewukil which marked their coastal boundary to the north. This was the boundary between Tutrean and Weduar villages. In defining their boundary to the south, the Tutrean villagers would point to Wautkowar. This was the coastal boundary between the current Sather and Kilwat villages.

The Tutrean narrative also recounts the followings:

Some time later, two groups of people came to the former Sather territory. These groups were seen by Yayat Rahabeat who reported their arrival to Tabal Tanlain, the leader of Tutrean village. Tabal Tanlain met them at the shore where they had landed. He asked these people who they were and their intentions. These people answered that they were *ren* Waer
Waw and *ren* Waer Rat, from Waer,\(^5\) a village on the northern coast of Kei Besar. Their intention was to find a place where they could live. When these meeting[s] were concluded, Tabal Tanlain decided to allow them to live in a place named Ohoi Twu. In return these people were asked to take care of the ‘land of victory’ (*tanah kemenangan*). These people were the ancestors of the present Sather villagers.

In the course of their life, members of the Waer groups and their descendants often committed serious mistakes that were subject to severe punishment. For example, one of the mistakes involved some people from Ohoirenan who were taking a rest and having a meal on their way to Elar. Six people of the Waer, who were collecting seashells and fish in the coastal area, called them *suanggi*.\(^6\) The people of Ohoirenan got angry and brought these six people to Ohoirenan. They reported to the head of their village that the six people had humiliated them. The head of Ohoirenan Village held a customary court that decided that these people had violated the customary rules. They were fined in the form of traditional wealth.\(^7\) The head of Ohoirenan Village sent a courier to Tutrean to inform them about the case. Having been informed of what had happened; Tabal Tanlain paid the fine in the form of a gong, an antique cannon (*lela*), and an elephant tusk. When the fine was paid, the six persons were sent back to their houses. Similar events directed to people from different villages occurred again and again. And the noble of Tutrean were forced to pay the fines.

For the noble of Tutrean, the above narrative fragment clearly shows that the current population of Sather is descended from free outsider people. The narrative implies that the *ren* of Sather are ‘bought people’ whereas the original meaning of *ren* means free people (see Chapter Four). This is because, according to the narrative, the ancestors of these people were those who were bailed out when the Tutrean noble paid their fines. It was a common belief that those who were bailed out became dependant or were ‘owned’ by the person who paid for them. Therefore, although the noble of Tutrean have never referred to the Sather villagers as the *iri*, they treated them as such because they believed that their ancestors bought them like slaves. These descriptions were used as the basic argument of the *mel* at Tutrean when they said that the *ren* of Sather had no political rights on their domain. According to the *mel*, it was clear that by definition, the *ren* were excluded from taking part in the political life of the

\(^5\) This narrative assumes that these people were free people driven away from their homeland. Thus, this narrative is not the same as the narrative that explains the history of social rank formation (see Chapter Four).

\(^6\) Van Hoëvell (1890: 127) noted that *suanggi* was a bad spirit in the shape a person who had magical power to cause disease and illness. Those who were proven to be *suanggi* were killed and their corpses thrown into the sea. Therefore, the accusation of being a *suanggi* was the worst accusation that could be made.

\(^7\) The traditional wealth consists of gong, antique cannon and plate, and gold ornaments of different kinds.
domain (see Chapter Four). In fact, the ren of Sather as dependant ren, were considered to be almost equivalent to the iri. Therefore at the very least, the Sather villagers had no right to have a village head from among their own people.

Regarding territory, the narrative also notes that the ren of Sather are very different to the ren who sprung from the land or from animals living on the land—that is, the ren who hold the title of lord of the land. Thus from the mel point of view, the ren of Sather have no special attachment to the place where they live. Therefore they are not entitled to posses the land and sea. They only live there because Tabal Tanlain was generous enough to allow their ancestors to live at Sather.

The ren of Sather reject this narrative, of course, and propose their own version instead. Their narrative says that their territory was part of a large kingdom called Tabab Yam Lim. The kingdom was led by Tabal Tamangil, who lived at the current Tamangil Nuhuten Village and divided his territory into five distinct territories. These are the current Tamangil, Kilwat, Sather, Tutrean, and Weduar Village territories. The first, the territory of the current Tamangil Village, was given to Rahanar, Ohoiner, and Badmuar. The second, the current Weduar village territory, was given to Wowoa and Rahawarin. The third, the current Sather village territory, was given to Jamco and Jamlaai. The fourth, the Tutrean territory, was given to Safik. The last, Weduar territory, was handed over to Rahajaan, Limduan, and Rafo. Each of these people then became the lord of the land in each territory.

This narrative was used by the ren of Sather in opposition to the narrative of the mel of Tutrean. It was the basic reference point for their claim that their village was a separate territory from that of Tutrean and the other three villages of Tabab Yam Lim. Therefore, they argued that the Tureans’ claim over Sather territory had no ‘historical’ basis. The owners of Sather territory, Jamco and Jamlai, were the lords of the land (see Plate 9-3).

Concerning the immigrants Waer Waw and Waer Rat, the Sather narrative states that they were accepted by the lord of the land of Sather, not by the Tabal Tanlain in Tutrean. Therefore their arrival had nothing to do with the mel in Tutrean. From the point of view of the ren in Sather, this again is proof that any claims that the Waer groups were the dependants of the Tutrean mel were false.

---

8 All the names mentioned as those who received the distribution of the territory were considered to be the original inhabitants of the villages.
Plate 9-3: An elder of Yamko *fam* showing an antique betel nut container which serves as proof of his authenticity as land lord of the Sather village.

Source: Author’s photograph.
In brief, the narratives told by the Sather villagers justify two claims: first, that their village is a distinct domain and is independent from Tutrean, except that they were once both within the domain of Tabab Yamlim. Second, that the people of Sather are independent *ren* who do not belong to or under the control of another group of people. For the *ren* of Sather, these two claims demonstrate that they hold full rights over their territory as well as the right to govern their own domain.

The Dutch and the Conflict

The people of Maluku have experienced many changes since their first contact with the VOC and the Dutch colonisers back in 1605. The changes mostly arose from attempts by the VOC and the Dutch colonisers to achieve the economic and political goals of their occupation, such as the incorporation of local traditional social organisations into the Dutch political organisation. This was the colonisers’ way of creating connections to the local people without making new structures that could be economically expensive and perhaps ineffective.

This strategy was designed not to change the local political structure, given that such changes could have created disturbances in the community which would have caused problems for the Dutch. However, this incorporation did lead to noticeable changes in the community. First, the Dutch government became involved in appointing traditional leaders and their treatment of these leaders was based on Dutch political assumptions rather than on the principles of traditional social organisation. Second, local people used the incorporation of their traditional structures into the Dutch political organisation in order to pursue their own political needs in the community. In Chapter Two, I discussed a case where a leader in Faan village used the Dutch government and the Catholic mission to appoint him as a king in opposition to the King of Tual. The following case concerning conflict between Sather and Tutrean villages is another example and in examining it, we will see that both villages manipulated Dutch involvement in their struggle.

The beginning of the conflict between Tutrean and Sather villagers, as people remember it, dates back to some time between 1910 and 1920 when the people of Sather began to demand that they be able to govern their own domain. The people of Tutrean refused their proposal and it was decided that one of the leaders in Tutrean, Kapitan Liberth Rahantoknam, would be sent to live in Sather and be appointed leader of this village. Thus, although Sather became a separate village, they were still controlled by the noble of Tutrean.

---

9 It seems that prior to this period, Tutrean and Sather were organised as a single village with a single leader based in Tutrean. Thus, the narrative of ownership by the Tutrean nobles might hold some historical truth.
Sather villagers felt cheated by the decision. At that time, the leaders of Sather were divided into two groups. At a meeting which was mediated by nobles from Weduar and Ohoinangan villages, the leaders were asked to discuss whether they would accept the appointment of Kapitan Liberth Rahantoknam as their village leader. Each of these groups was told that the other group had accepted the proposal. Understanding that their fellow villagers in the other group had agreed, the Sather village leaders in both groups accepted the proposal.

The Dutch government issued a letter of appointment for Kapitan Liberth Rahantoknam as the traditional village head of Sather in 1917. This was good news for the Tutrean villagers because this appointment meant that the Dutch government accepted the 'truth' of their narrative of origin. This also led to the belief that the Tutrean nobles had won the contestation about the village leadership.

From the point of view of the people of Sather, Kapitan Liberth Rahatoknam's appointment was disadvantageous. First, it signalled that they had lost their contestation on the issue of the village leadership, and second, this appointment brought about a new notion regarding the position of traditional village head. Traditionally, at least from the noble's point of view, there was a distribution of power between the village leader or traditional village leader and the lord of the land. The former held power on political issues in the village, while the latter controlled issues of territory. The Dutch notion of village leadership did not distinguish between these two issues. In the Dutch conception, a traditional village head controlled both political and territorial issues. For example, the traditional village head was appointed as tax collector on land use and harvest—a position previously controlled by the lord of the land. This was interpreted by the Sather villagers as loss on the second battleground of their contestation, which was control over village territory.

Having been discredited by this new arrangement, the people of Sather moved to reject it. In 1927, they killed Kapitan Liberth Rahantoknam. This incident was even more controversial and profound because it was conducted by the Sather war commander who was considered to be representing the entire village. The killing was also carried out in Tual, the capital city of the region just as a big festival to welcome a Dutch official arriving from Ambon was occurring.

It is not clear whether the killing of the traditional village leader represented only a rejection of his appointment or whether it was a well-planned effort to remove the connection between Sather and Tutrean. Either way, the action was effective. The death of Kapitan Liberth Rahantoknam left the position of the traditional village head vacant which led to the appointment of the former traditional settlement head as the acting traditional village head. The dream of the Sather villagers came true. The former traditional settlement head was
Constantinus Domakubun, a Sather villager. With Constantinus Domakubun in the position of traditional village head, Sather was free from the domination of the noble in Tutrean. Sather became a distinct village with its own political domain. Half of the contestation had been won.

Figure 9-1: Tutrean and Sather coastal boundaries and sea territories, 1939.

Source: Adapted from Dutch Resumé (1939).
In 1935, the Sather villagers pursued the other half of their dispute with the Tutrean village by contesting the village’s coastal boundaries. The dispute led to an open conflict resulting in the second Dutch involvement in 1936.\(^\text{10}\)

In 1939, the Dutch again became involved in attempting to resolve the conflict. The 1936 legal decision was cancelled and a new one dated 11 September 1939 was issued. This legal decision stated that before the two villages reached an agreement on both the land and sea boundaries of their villages, they should comply with the following arrangement (Figure 9-1):

The area marked Zone A on the map,\(^\text{11}\) an area on the southern side of Mathur is for Sather. Zone C, the area on the northern side of Nurnar is for Tutrean. Zone B is a shared territory for both Sather and Tutrean with the following conditions. All private property in the house gardens and cultivated fields in Zone A and C that have been acknowledged should be considered as they are. The use of uncultivated land in Zone B is only permitted after the approval of the Dutch representative in Elat who will consider the matter based on the information from the village functionaries of both villages.

Rights over meti Taat\(^\text{12}\) are taken from the two villages. A special committee consisted of the Dutch Domestic Administrator of Kei Islands, the Dutch representative in Elat, and a representative of the King of Fer who were responsible for arranging the use of this zone. The benefits taken from meti Taat will be distributed to both villages proportionally based on the size of population. Since the population of Tutrean is 473 and Sather has 346 people, the proportion will be 57.75 per cent and 42.25 per cent for Tutrean and Sather respectively. If both villages comply with this arrangement, an official will measure Zone B to identify the existing ownership over the garden. The committee will decide the ownership of the garden.

It is not permitted for Sather to choose a traditional village head of their own, if they do not follow this arrangement seriously.

It should be emphasised that these arrangements should be considered as a temporary settlement. It will be invalid once both villages reach a new agreement of their land and sea boundaries. The new agreement

\(^\text{10}\) Due to the Japanese invasion in World War II, the struggle for Indonesian independence, inclimate weather and other factors, many legal and historical documents have been lost or destroyed. I was unable to locate the 1936 legal decision so I can not explain what exactly the decision was, but neither party agreed with the decision and conflict between the two villagers continued.

\(^\text{11}\) I did not find the original map related to the legal decision. Therefore, the map produced to clarify this legal decision was based on the contemporary information.

\(^\text{12}\) The location of meti Taat is disputed. Sather villagers refer to zone B, while Tutrean villagers point to the coastal area between Sarwarin and Lestar.
can be strengthened with a legal formal decision by the *Grooten van Hoofden* (translated and adapted from the Indonesian translation of the legal decision, legalised by the Maluku Tenggara Regency Court).

It is interesting that this legal decision not only concerns the boundaries of the two villages, but also the internal politics of Sather village. In terms of sea boundaries, the decision verified the assumption that as a distinct village, Sather had its own territory. Regarding the village leadership however, the legal decision reverted to the environment that existed prior to the killing of Kapitan Liberth Rahantoknam in 1927. Although the legal decision does not explicitly state that if Sather did not comply with the new arrangement it would be under the leadership of the noble of Tutrean, this is the clear implication. Indeed, this became the reality when Gotlief Rahantoknam, a son of Kapitan Liberth Rahantoknam, was installed as traditional village leader in Sather in 1942.

As with previous interventions by the Dutch, this one did not satisfy the Sather villagers either. In fact, they considered the legal decision to be that of the Tutrean noble and legalised by the Dutch government. All of the decisions were made by prominent leaders in Kei Kecil and Kei Besar who were noble and who probably had affinal relationships with the noble of Tutrean. Thus, from the perspective of the Sather noble, the decision was unlikely to be fair.

**The Indonesian State and the Conflict**

The incorporation of the Kei Islands and all of Southeast Maluku into the modern Indonesian state also led to many changes in rural communities. However, the most rapid changes occurred during the New Order Regime (1966–98) when former President Soeharto carried out various economic development projects based on centralisation and homogenisation. Centralisation refers to government policies that were mostly crafted by central government agencies based in Jakarta. Homogenisation refers to government policies that were applied indiscriminately in all regions of Indonesia and paid little attention to the heterogeneity of Indonesian communities.

These policies introduced new structures to local communities. For example, state policy introduced the concept that every citizen is the same before the law. For those communities that have relatively strict systems of social stratification—such as in the Kei Islands—this is new and contrary to their traditional norms. The Indonesian government also formally replaced the traditional village with the modern village, and state courts with traditional courts.\(^\text{13}\)

---

\(^{13}\) See Chapters Two and Six where the relationships between traditional and modern structures are discussed in detail.
The policies also provided an additional new context to the conflict between Sather and Tutrean. For the Sather villagers, the history of the conflict had taught them that tradition had almost always marginalised them given that traditional institutions were mostly considered to be the privilege of the noble. The involvement of the Dutch was also seen to favour the noble because the Dutch relied on traditional institutions to pursue their interests and actively made use of the influence of the noble, adopting them as collaborators. So for the Sather villagers, the application of modern state norms and institutions that did not discriminate between the noble and free people created the hope that a new door had opened which might lead to victory in their conflict with Tutrean.

Interestingly, the noble did not view the introduction of these new norms and institutions as a threat. For the noble, the new arrangements were not regarded as replacing tradition but enriching it. Since newly introduced state ‘traditions’ mostly dealt with power and resource distribution, they believed that this ‘new tradition’ would operate to their advantage.

I mentioned earlier that Gotlief Rahantoknam, son of the first traditional village head Kapitan Liberth Rahantoknam, was appointed the traditional village leader of Sather in 1942. Interestingly, during his leadership Gotlief Rahantoknam seemed to distance himself from the noble of Tutrean. In fact, according to some Tutrean informants, Gotlief’s acts were in accordance with the will of Sather villagers. For example, he allowed some Sather villagers to open new gardens and cut trees in the disputed territory without any consultations with Tutrean. For the noble of Tutrean, these actions amounted to Gotlief’s betrayal of his position as a representative of Tutrean nobility. This period was the beginning of the split between the Tutrean noble and the descendants of Kapitan Liberth Rahantoknam.

The Sather villagers were happy with what Gotlief did as traditional village leader. This was the behavior they had been hoping for since Kapitan Liberth Rahantoknam’s leadership. A descendant of Sather’s war commander even told me that if Kapitan Liberth Rahantoknam had governed as his son did, he would not have been murdered. In the beginning the villagers resisted Gotlief’s appointment, but when he began to serve the people well, they changed their mind and supported his leadership.\footnote{The people of Sather believed that Gotlief Rahantoknam’s actions indicated he had adopted the mel’s perspective of his leadership. This understanding was explicitly mentioned in their legal debate at a session in the Southeastern Maluku Regency Court. They argued that the appointment of Rahantoknam as traditional village leader of Sather not only meant that Rahantoknam lived at Sather, but also that he socialised as a mel.}

Gotlief was the first traditional village head in the period of the Indonesian government. In 1957, the Indonesian official in Elat issued a letter appointing him the traditional village head of Sather Village. Sather villagers supported
his appointment and in fact, wrote a letter to an Indonesian official at a similar level to the subdistrict head in Elat that nominated Gotlief for the position. The letter stated that Gotlief Rahantoknam was the descendant of the first traditional village head, thus the proper candidate from the perspective of tradition. Gotlief was also considered to be a man who had good relations with villagers and others, was capable of leading people in development programs, and was prepared to take responsibility for dealing with the problems of land and sea boundaries between Sather and Tutrean.

This time, it was the Tutrean villagers who protested. In 1959, a petition signed by 13 noble leaders in Tutrean was sent to the Indonesian government representative in Elat. The petition explained their objections to the appointment of Gotlief Rahantoknam and demanded that the Indonesian government freeze the position of the traditional village head in Sather until they had settled the boundaries between the two villages as per the Dutch legal decision of 1939. The letter also said:

The position of Gotlief Rahantoknam as the traditional village head of Sather does not mean that he is an original Sather villager, he only fills the vacuum of Sather village organisation, replacing his dead father who was a living historical fact [that the village organisation of Sather] is from, by and for Tutrean [the traditional village head] represents the right of Tutrean over the Sather village and its people for both internal and external matters. [This explanation] means that [the people of Tutrean] cancel their mandate to Gotlief Rahantoknam to represent their interest at Sather. (translated from a letter signed by 13 members of the committee of leaders in a village (saniri) 10 July 1959).

According to the statement above, the noble of Tutrean considered Gotlief Rahantoknam to have acted more as a Sather villager than a Tutrean noble. Therefore, he did not represent the interests of Tutrean any more.

These circumstances might lead us to conclude that conflict between the noble and the free people was not relevant anymore because Rahantoknam and his descendants who are noble joined the free people of Sather. However, this is not the case and this becomes evident if we follow the development of the conflict. In fact what happened is that the conflict became even more complex because this situation marked the beginning of the split within the noble group. Previously, the conflict was only between the free people of Sather and the noble of Tutrean but at this stage the noble came to be divided into two groups—the noble of Tutrean and the descendants of Kapitan Liberth Rahantoknam.15

15 There were Rahantoknam fam members at Tutrean as well, but they were on the side of the Tutrean noble.
Therefore, the conflict eventually came to be between three parties, and while the conflict between the two noble factions was significant, the longstanding conflict between the noble and the free people continued.

Since Gotlief Rahantoknam retired in the early-1960s, no one among his descendants was interested in taking his position, but neither did they allow any of the other Sather villagers to take the position. Interestingly, the Maluku Tenggara regency leaders supported their objections most of the time. Therefore, from Gotlief’s retirement until I finished my fieldwork in 1997, Sather Village was for the most part without a formal leader. I was unable to locate any information on who organised the village from the 1960s until the implementation of the Village Law No. 5, 1979, but after the village law was implemented, the village was mostly led by an administrative caretaker from the Kei Besar sub-regency office.

The above account indicates that despite the popularity of Gotlief’s leadership, the Rahantoknam fam was not on the side of the Sather villagers. Their actions in preventing Sather villagers from taking over the leadership was made easier because Gotlief’s son (Mr FL) was the leader of the ‘village government’ division at Maluku Tenggara Regency Office, which was responsible for village head elections. He told me that in the course of his leadership in the division, he had cancelled the village head election at Sather twice. The reason was that no Sather villagers had consulted him on the matter as they should have because he was a descendant of the first traditional village head. This is one example that illustrates the amount of control the nobles had over the local bureaucracy.

Furthermore, if we check the leading positions in the local regency and sub-regency government offices, we find that these positions are in the hands of the noble or outsiders who because of their positions, become colleagues of the noble. This has not happened by chance and in fact there has been a continuous effort by the noble to maintain the status quo. To give an example, in the 1980s, the governor of Maluku appointed the sub-regency head of Kei Besar, who happened to be a free person. As a newly appointed official, the sub-regency head arranged a meeting in his office to introduce himself to all of the village heads under his control. When the time came, not one of the village heads turned up. The reason for their absence was, as some informants told me, because he was a free person. ‘How can a free person lead nobles?’ an informant told me, quoting the reason uttered by a village head. Another informant explained, ‘If he needs us, it is him that should come, not expecting us to see him. That is not the way it should be’. This incident was repeated several times before the

---

16 I could not verify whether his retirement was because of the petition of the mel of Tutrean or for other reasons.
sub-regency head gave up. Within six months of his appointment, he’d signed a letter of resignation and sent it to the Governor of Maluku Province. The Governor transferred him to another place outside the Kei Islands.

In light of the political circumstances discussed, I will now examine the issue of sea boundaries. From the petition signed by the Tutrean leaders, it was evident that conflict over sea boundaries was still an issue in the 1950s, and conflicts in the decades that followed resulted in the intervention of the sub-regency head of Kei Besar in 1987. On 20 July 1987, the sub-regency head invited the leaders of the two villages to discuss a possible solution to the dispute. The group agreed that the conflict would be brought before the court. Sather villagers would lay claim to the territory while the Tutrean villagers would be the defendants. However, this agreement was not implemented due to the burning of Sather Village in April 1988 which was detailed in the first page of this monograph.

As the conflict developed into a ‘war’, the regency head of Maluku Tenggara regency was prompted to intervene. Interestingly, he still tried to deal with the conflict in terms of tradition. The regency head via the head of the social and political division in his office, requested the head of the sub-regency in Elat to arrange a customary court which was held from 22 to 27 January 1990. The customary court was led by a committee consisting of prominent leaders from both the nine group and the five group, most of whom were kings (see Chapter Two). Several hearings were held to question the representatives from both villages and examine evidence. Finally, on 27 January 1990, after several hearings and a field trip to the disputed coastal region, the committee reached the following decisions (detailed in Figure 9-2): 17

1. The boundary between Tutrean and Weduar up to Sarwarin is controlled by Tutrean.

2. From Lestar to the boundary between Sather and Kilwat is controlled by descendants of Kapitan Liberth Rahantoknam and Sather.

3. From Sarwarin up to Lestar is controlled by descendants of Kapitan Liberth Rahantoknam (Customary Court Decision, Elat, 27 January 1990).

17 The regency head who initiated the customary court strengthened the previous customary court decision with his decree No. 116/KDS/1990, dated 5 April 1990.
Figure 9-2: Tutrean and Sather coastal boundaries and sea territories, 1990.

Source: Adapted from Customary Court Decision (27 January 1990).
These decisions were based on the following considerations:\textsuperscript{18}

1. That the main issue of the conflict was the location of \textit{meti Taat}. According to Sather representatives, the location of \textit{meti Taat} was from Nurnar to Lestar while Sather representatives pointed to a location from Sarwarin to Lestar.

2. Tutrean representatives recognised the right of Kapitan Liberth Rahantoknam’s descendants by explaining that when leaders of Tutrean requested Kapitan Liberth Rahantoknam to live and lead Sather village, they gave him an area from a point called Year Karwin to Lestar within \textit{meti Taat}. Therefore, they believed that Kapitan Liberth Rahantoknam’s descendants owned this area.

3. Since both villagers acknowledged that Kapitan Liberth Rahantoknam was the traditional village head of Sather,\textsuperscript{19} the Tutrean sea territory boundaries that formerly bordered with Weduar on the north side and Kilwat on the south side changed. [This was taken to mean that because Sather village had a traditional village head, they had their own territory.]

The decision by the customary court was disputed. Sather villagers were the most upset with the decision and if we examine the basic arguments of the decision, it is possible to understand why. The last two arguments were consistent with the Tutrean narrative that Sather Village was once under their control. From the perspective of the Sather villagers, the acceptance of the Tutrean version misled the committee in deciding the boundaries between the two villages as well as the location of \textit{Meti Taat}. The effect of the decision was that Sather Village was not given control of any part of the territory.

In reality, Sather villagers had refused to attend the customary court. When the regency head of Kei Besar Island informed them of his plan to organise a customary court, they objected. In a letter dated 18 February 1990 and directed to the head of the Maluku Tenggara regency, the leaders of Sather explained that their objections were based on their desire to see those who burned their houses brought to justice.\textsuperscript{20} They also informed the regency head that soldiers were pressuring them to attend the customary court by coming to their homes on the morning of the first day of the court sitting. In accordance with their agreement with the Tutrean villagers which had been arranged by the sub-regency head before the incident, the Sather villagers appointed a lawyer to

\textsuperscript{18} The considerations were not expressed in the exact way as done in this list, but because I am attempting to analyse the issues, I have paraphrased what is stated in the decision letter.

\textsuperscript{19} The committee of customary court had arranged for both villages to sign a letter stating that they accepted that Kapitan Liberth Rahantoknam was the traditional village head of Sather.

\textsuperscript{20} The burning of the village was brought to a criminal court. The regency court judge who handled the case sentenced 16 out of the 21 suspects to two years in jail. However, they appealed to the high court in Ambon and the Supreme Court in Jakarta. They were freed on appeal until the Supreme Court on 13 February 1996 decided to support the criminal court’s decision.
bring their boundary dispute case to the regency court. I believe they must have known that the outcome of the customary court would be in favour of the Tutrean noble.

Before I continue discussing the regency head’s response to the Sather villager’s objection, I will discuss the links between the customary court and the political circumstances of the conflict. I mentioned earlier that the appointment of Gotlief Rahantoknam marked the beginning of the split between the noble of Tutrean and the descendants of the traditional village head. The decision of the customary court—led by a good friend of Gotlief’s son—to allocate a section of sea territory to Kapitan Liberto Rahantoknam’s descendants illustrates the split. In fact, the customary court’s decision was used to gain an even greater portion of the disputed sea territory when Rahantoknam’s descendants brought the case to court.

The case was brought to Maluku Tenggara Regency Court in October 1993. Sather villagers initiated the case claiming that Tutrean villagers had violated their sea territory. Later on, the descendant of Kapitan Liberto Rahantoknam lodged another claim that as the descendants of the first traditional village head, they had the right to the disputed sea territory. Origin narratives, written documents, and witness evidence were discussed in the various hearings of the case. Finally after almost 18 months, the judges handed down their decision on 19 April 1995. As illustrated in Figure 9-3, it was ruled that:

1. Tutrean villagers have the right over the sea territory between Ohoimel and the boundaries with Weduar sea territory.

2. The descendants of Kapitan Liberto Rahantoknam controlled the territory between Sarwarin and Lestar.

3. Sather villagers and the descendants of Kapitan Liberto Rahantoknam shared use right over the territory between Ohomel and Sarwarin as well as from Lestar to the village sea boundary with Kilwat (translated from Maluku Tenggara Regency Court Decision, 19 April 1995, No.20/pdt.G/1993/PN.TL).

---

21 Actually, some other parties were mentioned in the legal document prepared by Sather villagers but in the court hearings they were not discussed.
Figure 9-3: Tutrean and Sather coastal boundaries and sea territories, 1995.

Source: Adapted from Regency Court Decision (15 April 1995).

Like the previous decisions, this court decision was also rejected. The three parties appealed the case to the high court in Ambon on May of the same year. In August 1996, the High Court in Ambon cancelled the regency court decisions and stated the following (see Figure 9-4):
That Sather villagers owned the sea territory from Lestar to the sea border with Kilwat, and

That meti Taat (from Nurnar to Matbur) was owned by Kapitan Liberth Rahantoknam’s descendants as an inheritance (author translation from Maluku Province High Court Decision 5 September 1996).
I do not know how the three parties responded to this decision because when I finished my fieldwork, the regency court had just received the decision. None of the parties involved were aware of it. However, judging from the distribution of the territory, my guess is that Sather and Tutrean villagers would not be satisfied. This is because from their perspective, the distribution of the sea territory was worse than that of the disputed Dutch legal decision in 1939. The legal decision of 1939 decided that Zone B was under the control of a special committee with the harvest distributed proportionally to both villages, but the High Court decision ruled that the territory called Zone B belonged to the Rahantoknam descendants. Therefore, it was likely that the Sather free people and the Tutrean noble would appeal to the Supreme Court. The conflict, both in terms of legal pursuit and practical resource use on the disputed sea territory, was likely to continue.

**Conclusion**

The conflict between Tutrean and Sather villages demonstrates that the concepts and practice of marine tenure are embedded in the social structure of the community. The question of who owned what had a lot to do with the perceived owner’s position in the community. In particular, the ‘who’ being referred to here are the social entities—the noble and free people. If the question of communal ownership was directed to the noble, they would respond that the free people were excluded from ownership. The free people had a different perspective of communal property and would argue that it was the free people who were the lord of the land of their territory. We would also likely find different definitions of communal ownership if we asked different factions within the noble, which is demonstrated by the conflict between Kapitan Liberth Rahantoknam’s descendants and the noble of Tutrean (see also Chapter Six).

In addition, the embeddedness of marine tenure in the social structure of the community is also illustrated by its inseparability from the political issues of the domain. If the political domain was not in the hands of the noble, questions about control of the territory would be answered differently. I believe that was why the first movement of the free people at Sather was towards gaining a traditional village head of their own. This movement was their political strategy to demonstrate that their village was a distinct and independent domain. If they had succeeded in removing the connection with the noble of Tutrean, their ability to pursue their own approach to communal property would have been enhanced.

---

22 I should note that parts of a territory are distributed to fam or families for ownership. Therefore, the term communal property refers to areas that are not subject to fam or family ownership.
In conclusion, I should also say that communal sea and land territory, as well as control over political domains were fields of contestation between the noble and the free people over precedence. On one hand, the noble insisted on defining their relationship with the free people as hierarchical, which was why they insisted on control over both the political and communal property domains. On the other hand, the free people assumed that their relationship with the nobles was a form of precedence—the noble controlled the domain of politics and the free people controlled the territorial domain. Even if they were both in the same domain, from the free people’s point of view, there should have been a distribution of power. Given that they were actually in different domains, the free people should have been completely independent from the noble.

Finally, these conflicts revolve around tradition. The division of the Kei people into three social strata is a tradition. It is tradition that puts territorial and political domains as indexes of social status. And it is tradition that is the root of the Kei people’s belief that no discussion of tradition is valid unless it concerns the narrative of origin. Adherence to tradition will perpetuate the conflict between Tutrean and Sather because of their conflicting narrative of origin.