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INTRODUCTION

It is already 15 years since the concepts of the 12-mile territorial sea and the 200-mile exclusive economic zone were supported by many nations at the Third United Nations Conference on the Law of the Sea (UNCLOS 3). The negotiations on sea rights and sea territoriality among the nations have advanced, thanks to the efforts of UNCLOS 3. But small-scale fishermen have never been protagonists in the series of UNCLOS. Their sea rights will not be placed on the agenda [CORDELL 1984: 303]. Small-scale fisheries are said to be carried out under various kinds of informal, exclusive, communal, restricted or even private tenure arrangements, but few papers about such sea tenure have been written. Little is known concerning sea rights in the Third World [CORDELL 1988: 5].

Before 1960, virtually no field work specifically on sea tenure had been carried out by anthropologists. Recognition of sea tenure was slow and the early reports were regarded as curiosities [CORDELL 1988: 15]. Reports and articles on sea tenure and sea rights have almost never been published. Recently, interests about the ways in which fishermen perceive, define, delimit, "own" and defend their rights to inshore fishing grounds have emerged from research in maritime anthropology [RUDDLE and AKIMICHI 1984: 1] and geography of fisheries. Field studies in Maine in United States of America [ACHESON 1972, 1975, 1979, 1988], Northeast Brazil [CORDELL 1973, 1974, 1978] and Newfoundland [ANDERSEN 1979; ANDERSEN and STILES 1973] constitute the first substantive ethnographic challenges to common property models. A recent maritime anthropology survey [ACHESON 1981] contains much about fishermen's property institutions, revealing the scope of recent work in this area [CORDELL 1988: 15].

Most studies on the ownership of productive resources in Oceania have described land tenure and land use. There is almost nothing in print dealing with specifically sea tenure and use. It is at least curious that studies of land tenure generally have ignored the sea [CARRIER and CARRIER 1988: 94-95]. Little has been written about traditional patterns of marine resource use, sea tenure and sea rights in the territorial sea and contiguous zones in Papua New Guinea, with the exception of Nietschmann's fieldwork on the island of Mabuiag in the Torres Strait, between 1966 and 1980 [NIETSCHMANN 1980, 1988], Carrier's fieldwork on Ponam Island, Manus Province, between 1978 and 1983 [CARRIER 1987, CARRIER

and CARRIER 1988] and Johannes's work and Johannes and MacFarlane's work in the Torres Strait [JOHANNES 1982, JOHANNES and MACFARLANE 1984].

It is important to consider how the territorial concepts of fishermen develop from culturally idiosyncratic ways of constituting, appropriating, regulating and transmitting marine property [CORDELL 1984: 304]. And it is necessary to know who fishes, how to fish and what customs and ideas the fishermen have. Furthermore, in the absence of firm evidence concerning the original functions of traditional sea rights, we are forced to speculate on the matter [JOHANNES and MACFARLANE 1984: 216]. In this context, Nietschmann's work on the Mabuiag Island is suggestive [NIETSCHMANN 1988]. He states that sea territories are not just bound sea space but areas named, known, used, claimed and sometimes defended. Places used are places named. People conceptually reproduce the environment they use, delimit and defend. A social group's familiarity with an area creates a territory. A territory is a social and cultural space as much as it is a resource or subsistence space [NIETSCHMANN 1988: 60]. While the harvesters cannot control the common property resources themselves, they occasionally can control certain production-related information which governs access to these resources. Thus, production-related knowledge, such as the specific location of fish and the most effective tactics for catching them, becomes scarce capital goods. The harvester cannot control the resource, but can control knowledge about it. Given the intensive competition among boats and the efforts to guard one's own information while trying to discover the information of others, a social climate life with secretiveness, lying, avoidance, and general suspicion is generated [JOHNSON 1979: 246].

Nietschmann says that the environmental knowledge helps Mabuiag Islanders efficiently use the ecologically complicated and biologically diverse sea territories [NIETSCHMANN 1988: 66]. Many conceptualized local terms about marine environments (*e.g.*, depth, tidal current speed, tidal conditions, seasonal wind, etc.) have traditionally been used. It is important to analyze the terms to understand the sea tenure and sea territoriality. But new concepts have emerged through the innovation and modernization of fishing technology. Islander sea knowledge and marine science are continually improved through firsthand experience and intellectual elaboration. From the 1860's on, islanders have expanded their understanding and description of sea conditions and sea life through new economic pursuits, such as diving for pearl shell, trochus shell, sea cucumber and crayfish. Already accomplished sea-surface naturalists, islanders have now accumulated 120 years of direct underwater observations and description of currents, biota, reefs, bottom topography, relationships between moon phase and water clarity and much more. This knowledge, their long-term and continuing occupation and use of the islands and the surrounding sea, are what islanders say represent their credentials of ownership [NIETSCHMANN 1988: 65].

In the following pages, the author describes the sea tenure and the resource use on the reefs of Western Province in Papua New Guinea.

1. THE COAST OF WESTERN PROVINCE

1) Official Sea Tenure

No sooner had researchers begun to seriously record and study maritime property systems than they encountered a basic incongruity between official tenure policies and the local fishermen's own law of the sea [CORDELL 1984: 302].

Although traditional trading and fishing activities flourished between the lowland Papua and Torres Strait Islands, a national border between Papua New Guinea and Australia has been drawn close to the Papuan coast. Boigu, Saibai and Dauan Islands are within Australian territory. The 1870's brought demands on Great Britain by the Eastern colonies of Australia for the annexation of Eastern New Guinea, but it was hoped without the colonies having to take any financial responsibility. Great Britain may well have intended to dampen this fervor for annexation as well as extend Queensland's control over the Strait by passing the Queensland Coastal Islands Act of 1879. This established the present border within less than a bowshot of the Papuan Coast [GRIFFIN 1976: 14]. It is impossible to sail from one part of the Papuan coast to another without passing through Australian territorial waters [PRESCOTT 1976: 11].

The government of Papua New Guinea recognized the present border in 1978. In return for this recognition, the Australian government permitted Papuans the fishing rights in the northern part of the Torres Strait. The Papuans are free to access the reefs located in Australian territorial waters.

2) The World of *Oromo Haarubi*

The people speak a language called Kiwai, from the Parama Island to Mabuduan. They call themselves *Oromo Haarubi*. It means the people who live on the sea. Only *Oromo Haarubi* are allowed to fish in the sea. It is because they own the land near the shore. Bine-, Gizra- and Gidra-speaking Papuans living in the inland area are not allowed to fish in the sea.

2. REEF UTILIZATION

1) Auwomaza Reef and Warrior Reef

Auwomaza Reef and Warrior Reef are the largest reefs in the Torres Strait. Although these reefs are in Australian territory, access from Papua New Guinea is permitted by the Australian government, because these reefs have been Papuan traditional hunting grounds. *Oromo Haarubi* usually come to these waters to hunt dugong and sea turtle. Several trips are made in the hunting season on a double-outrigger canoe. Papuans and Torres Strait Islanders share the hunting and fishing ground.

The Auwomaza Reef is located in the north of the Warrior Reef. Auwo

means big and maza means reef. Recently, this reef has mainly been used as a gathering ground for sea cucumber by Papuans.

2) Wapa Reef

Wapa Reef is shared by many coastal villages: Katatai, Kadawa, Parama, Old Mawata, Tureture and Dorogori. Dorogori villagers, who belong to the Gidra-speaking Papuan, are not the *Oromo haarubi*. When they want to access this reef, they have to seek permission from the other villages or join the members of fishing groups in other villages.

Torres Strait Islanders are able to use three-fourths of total area, namely, the southern part. Papuans are able to use only the northern part, one fourth of the total area. The government of Papua New Guinea holds the negotiation rights against the Australian government to settle disputes over utilization rights.

3) Wamero Reef

Wamero Reef is located off-shore of Katatai Village. It has been utilized exclusively by Katatai and Kadawa people for mainly crayfish fishing. They call this reef "home reef." Fishing can be categorized into two methods. One is diving in the daytime, and the other is spearing in the night. Both are done during low tide.

Four sand banks (namely, One Plate, Two Plate, Three Plate and Four Plate) lay between the village and the reef. It is important for villagers to recognize the exact location to reach the reef. The reef is U-shaped. A creek called Weaturi River is formed in the center. The east side of the reef is called Isoahiae, and the west side, Kanuwea.

When the villagers identify the reef, they anchor their boat (canoe or dinghy) at the edge of the reef, and each diver dives into the water, holding a modern spear. After divers return to the boat, the boat is gathered searching for the next diving point. The captain decides the course of action, according to the direction of the current and transparency of water. The same space use patterns are used in the night fishing. It seems that this use pattern started after the introduction of commercial crayfish fishing.

4) Otamabu Reef

Mawata villagers usually use Otamabu Reef, which is 15 kilometers to the south of the village. But sea rights to this reef are shared with Tureture, the neighboring village of Mawata. Suda Kazuhiro, a member of our project team, concluded that the equal distance from each village of the reef led to the recognition of the reef as common property between Mawata and Tureture.

Sea cucumber collection started at Otamabu in July, 1990. As both villages gathered sea cucumber competitively, over-exploitation occurred. During Suda's stay in Mawata, from August to September 1990, sea cucumber collection at Otamabu Reef was already difficult to continue.

5) Podo Reef

Podo Reef is located to the south of Parama Island, where Parama villagers and Katatai villagers share a fishing ground. This use pattern has continued in accordance with the traditional law of the sea. But commercialized sea cucumber collection was introduced in this area in February, 1990. The two groups started to gather sea cucumbers at the Podo Reef.

The Parama villagers proclaimed territorial rights over this reef to gather sea cucumbers exclusively. But Katatai villagers asserted their right to sea cucumber to confront the Parama claim. The dispute was brought before the local court at Daru. In July 1990, a judgement held that the use of the Podo Reef belonged exclusively to the Parama villagers. Katatai villagers could no longer use the Podo Reef. As a counter-measure, they attempted to exclude the Parama villagers from all coastal navigation except occasional visits to other villages for church ceremonies.

As this case shows, a new resource has prompted the emergence of a new conception of sea tenure among the local inhabitants.

3. CONCLUSION

It seems that the ownership of reefs near the shore is linked to land tenure. Wamero Reef is an example. As Katatai villagers call it their home reef, it is a kind of defended perimeter [ACHESON 1988]. The reef which is located at equal distance from two villages has shared ownership. Otamabu Reef is a good example. Katatai and Parama villagers have continued joint ownership until very recently. As the southwestern part of Parama Island, called Gaziro, is land belonging to Katatai, Katatai villagers could claim ownership of Wamero Reef. A change in ownership through the introduction of commercial fishing is occurring. On the other hand, large reefs far from coastal villages, like the Auwomaza Reef and the Warrior Reef, are common property.

The history that led to these regulations and the details of the fishing activities need be investigated.

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