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EXPLORING REDD+ IMPLEMENTATION IN INDONESIA'S STATE POLICIES FOR INDIGENOUS PEOPLES

By
Aliansi Masyarakat Adat
Nusantara (AMAN)*

* **Author:** Annas Radin Syarif; **Editors:** Abdon Nababan, Bent Hegarty and Mardi Minangsari;
Translated by: Aditya Warman

INTRODUCTION

General Description of Indonesia's Regions

Indonesia is the largest archipelagic country in the world with its 17,504 islands (BPS 2009, 164), and 18,000-km coastlines. Geographically, it lies from 06°08' north latitude to 11°15' south latitude, and from 94°45' to 141°05' east longitude, between two oceans (the Indian Ocean and the Pacific Ocean) and between two continents (Asia and Australia).

In addition to its strategic location, Indonesia is also gifted with exceptionally rich natural resources and diverse cultures. Although the land spans only 191 million hectares, Indonesia is among the richest countries in terms of biodiversity (megabiodiversity country) and cultural diversity (megacultural country). These are shown in the following: 515 kinds of mammals (12% of the world total), 511 kinds of reptiles (7.3% of the world total), 1,531 kinds of birds (17% of the world total), 270 kinds of amphibians, 2,827 kinds of avertebratae, 38,000 kinds of plants (Forestry Department 2006, 74) and some 336 cultural groups (BPN 2003, 150) of thousands of ethnic and sub-ethnic groups dispersed from Sabang (Aceh) up to Merauke (Papua).

Figure 1. Indonesia's geographical conditions



Unfortunately, Indonesia is very vulnerable to climate change due to the fact that the archipelago is made up of only five big islands with the rest being small islands. Climate change has raised the sea level due to the increase in global water volume and the melting of polar ice blocks, and this threatens the existence of the islands and the people living on them. For example, Enggano Island in North Bengkulu, Bengkulu Province, has seen very bad abrasion in the last five years (Nazarudin 2009). In fact, two islands near Enggano (Satu Island and Bangkai Island) were swallowed by the sea in 2003. In North Lombok, West Nusa Tenggara, climate change has been altering the coastline for the last five years, pushing it further into the interior, and causing the disappearance of several fish markets (*Tempat Pelelangan Ikan*) and the destruction of several mosques and wells in coastal areas. A flood devastated the area in early January 2010.¹ Similar occurrences have been threatening Kepulauan Seribu, Madura, Serangan Island, Simelue, Biak Padaido, Flores, Lombok, Haruku, Ambon as well as the Togeian islands and the Banggai islands.²

Climate change has also been affecting indigenous peoples. Unstable and unpredicted weather affects the indigenous peoples' local natural resource management wisdom. The long-established knowledge of determining planting, fishing and ceremonial cycles has been altered. In Haruku, Maluku, the planting season, which used to start in October, now starts in December. The fishing season, which used to last from February to September, has changed. The traditional Sasi Lompa³ ceremony, which used to be held before the "west season" came (precisely in November), cannot be held at this time anymore.⁴

Climate change is a certainty and cannot be avoided. The problem is that it is accelerated by global warming. The latter is caused by human dependency on carbon-based fuel. A high level of carbon emitted and collected in the atmosphere causes what is called the green house effect, which raises the earth's temperature.

Indigenous peoples have been experiencing the impact of global warming such as extreme weather changes, longer droughts, and increasing rainfall, which causes frequent floods. The Meteorology, Climatology and Geophysics Bureau (BMKG)

reported the minimum and maximum temperature changes observed in 33 observation stations during 1980-2002 as follows: the lowest change was observed in Denpasar, Bali (0.087°C annually) and the highest in Polonia, Medan, North Sumatra (0.172°C annually) (Gunte 2010). In the agricultural sector, this has resulted in harvest failures and thus has affected national food security.

Indonesia's Forest Conditions

Forests and climate are closely related. Forests help maintain environmental stability by: maintaining micro climate, eliminating extreme temperature, and maintaining soil conditions. The larger the forest areas, the more stable the climate.

Indonesia's forests are ranked as the third most extensive in the world, and therefore they are strictly important to the global carbon cycle. Indonesia's forests span 98.5 million hectares, which is about 52.4 per cent of the total 187.4 million hect-

Table 1. Indonesia's land cover (in million hectares)

Land Cover	Forest Area		Other Usages Area (APL)		Total	
	Area (mha)	Percent (%)	Area (mha)	Percent (%)	Area (mha)	Percent (%)
Forest	90,135	48.0%	8,325	48.0%	98,460	52.4%
Non Forest	39,276	20.9%	46,491	24.8%	85,767	45.7%
No Data	2,986	1.6%	572	0.3%	3,558	1.9%
Total	132,398	70.5%	55,387	29.5%	187,785	100.0%

Source: Center for Forest Inventory and Mapping, Forestry Planology Bureau, Forestry Department. Recalculation of the 2008 land cover. Note: water bodies (lakes, rivers, sea/waters conservation) are excluded from the calculation. The info was based on the interpretation of the 2005/2006 Landsat 7 ETM+ images.

ares of land cover. According to Food and Agriculture Organization (FAO), the total forest vegetation in Indonesia produced more than 14 billion tonnes of biomass, much higher than the other countries of Asia and equal to 20 per cent of the total biomass produced by the entire African forests. Indonesia's amount of biomass stores are roughly 3.5 billion tonnes of carbon (FWI/GWF 2001,117). Such an enormous carbon stock is important to maintain the climate. Therefore, the quality and the quantity of Indonesia's forests need to be maintained to reduce the impacts of current climate change.

To conserve and maintain Indonesia's forests-, the government has designated forest areas. Currently, the forest areas encompass 132.4 million hectares (70.5% of the total land cover), comprising 90.1 million hectares (48%) of forested land, 39.3 million hectares (20.9%) of non-forested land, and the remaining being unidentified due to an unavailability of data. Based on their basic functions, the government has determined that forest area consists of Conservation Forest; i.e., Forest area with specific characteristics whose basic function is to preserve fauna and flora diversity and ecosystems; Protected Forest, i.e., protection of life supporting systems to regulate water system, prevent floods, control erosions, prevent sea intrusion, and maintain soil fertility; and Production Forest, i.e., forests whose basic function is to produce forest products.⁵

Indigenous Peoples in Indonesia

The total population of Indonesia is now estimated to be 234 million (BPS 2009, 164); however, no official data is available on the number of indigenous peoples. There is the so-called remote customary community (*Komunitas Adat Terpencil/KAT*) totaling 1,192,164 (DSR 2003, 88). The Joshua Project shows that Indonesia has 782 ethnic and sub-ethnic groups totaling 221,860,000 people (Joshua Project.net). *Aliansi Masyarakat Adat Nusantara/AMAN* (Indigenous People Alliance of The Archipelago) estimates Indonesia's indigenous peoples range from 50 to 70 million in number.

Who are the indigenous peoples of Indonesia? Some say that all Indonesians are indigenous people; however, no term-

nology has been identified and agreed upon to identify the indigenous peoples in Indonesia. AMAN, as the only national umbrella organization for indigenous peoples, explicitly defines indigenous peoples as:

*a group of people who, based on ancestral origin, live in a specific geographical area, have a distinct value and sociocultural system, sovereignty over their land and natural resources and control and take care of their survival by means of customary laws and institutions.*⁶

How then does AMAN distinguish indigenous peoples from others? Or how do they identify themselves as indigenous peoples? Indigenous peoples have four (4) ancestral heritages as a means to identify themselves and as the base on which they identify themselves, as follows:

- *A group of people sharing the same cultural identities:* Indigenous peoples have distinct characteristics in terms of language, spiritual values, norms, attitudes and behaviors that distinguish a social group from another;
- *Living area (ancestral territory, ancestral domain, customary territory):* this includes land, forests, sea and other resources, which cover not only goods but also religious and sociocultural systems;
- *Knowledge system:* also called “traditional wisdom” or “local wisdom,” which are not only to be preserved but also enriched/developed in line with the needs to sustain their existence; and
- *A common regulating and governing system:* these include customary laws and institutions to regulate and govern themselves (Nababan 2010).

According to the characteristics explained above, AMAN identifies indigenous peoples in Indonesia through community-based approaches. Such approaches are based on the fact that among the globalized Indonesian groups some identify themselves as indigenous peoples. Examples include groups in Java Islands such as the Orang Kanekes (Baduy), the Kasepuhan of Banten Kidul, the Sedulur Sikep of Pati, the Orang Osing (Sedulur Sikep) and the Tengger of East Java. On Sumatera Island, people

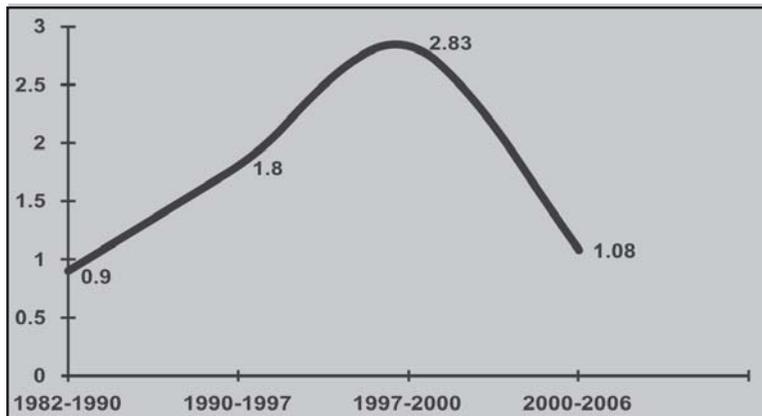
can find some social groups still living under their distinct customary laws such as the Orang Rimba of Jambi and the Orang Talang Mamak of Riau. There are currently 1,163 customary law communities incorporated into AMAN.

DEFORESTATION AND FOREST DEGRADATION IN INDONESIA

Indonesia is the third largest GHG (greenhouse gas) contributor in the world. One of the largest sources of GHG emissions in Indonesia is the forestry sector with emission levels reaching 2,563 MtCO₂e (Peace 2007). These emissions are the result of deforestation and forest degradation.

Simply put, deforestation means the changing of forest areas into non-forest areas; while forest degradation is the reduction of forest areas resulting in declining forest quality. The rate of deforestation and forest degradation in Indonesia is estimated to be approximately two million hectares annually.

Figure 2. Indonesia's deforestation and forest degradation rate



Source: Gelgel, I Made Subadia. 2010. "Kebijakan Pengelolaan Hutan Bagi Kesejahteraan Masyarakat Adat," (Presented in the national seminar on "Bylaw on Recognition and Protection of Indigenous Peoples' Rights as the manifestation of indigenous peoples' rights promotion and fulfilment of FPIC principles," held in YTKI building, Jakarta, on 15 March 2010).

The rate of deforestation and forest degradation increased drastically from 0.9 million hectares in 1982 to its highest point, 2.83 million hectares, in 1997-2000. The rate decreased to 1.08 million hectares in 2006. However, this rate is estimated to be increasing again given pre-existing policies that indirectly support forest conversion, such as oil palm plantations.

Drivers of Deforestation and Forest Degradation in Indonesia

What drives deforestation and forest degradation is still the subject of fierce political debate in Indonesia. The government, researchers, activists and communities still disagree on the subject and tend to blame one another.

Human activity inside and around forests (including those undertaken by indigenous peoples) are often said to cause deforestation and forest degradation. The notion puts the blame on practices such as rotational cultivation, forest burning and logging. Quite a number of people say that deforestation and forest degradation are the result of bad governance (corrupt economic politics).

Severe deforestation and forest degradation occur as a result of overlapping concessions. These conditions confirm the argument that government policies are the most influential force behind deforestation and forest degradation. Examples include Ministry of Forestry's policy on timber industry development to increase the state's revenues, in which supplies come from large scale logging, both legal and illegal; timber utilization permit (*Ijin Usaha Pemanfaatan Hasil Hutan Kayu/IUPHHK*) both on natural forests and plantation forests; conversion to oil palm plantations, mining and transmigration. In addition, forest burning and forest fires contribute to the deforestation and forest degradation.

Timber industry in Indonesia

During the New Order Era (1960s to mid 1990s), the timber industry was adopted as the main driver of the Indonesian economy. At that time, the government believed that timber

production could be used to pay off debts, with a portion used to drive development. Based on such policies, is no wonder that the timber industry has been flourishing since that time.

To date, Indonesia has been a timber supplier for developed countries. Indonesia produces logs, sawn timber, plywood, pulp and paper as well plantation products such as oil palm, rubber and cocoa (FWI/GWF 2001, 117). This production relies on both legal and illegal supply from natural forest and timber plantation. The table below indicates forest production and the realization of industrial capacity.

From Table 2, it can be concluded that the production of sawn timber and plywood (plus veneer) decreased in the period between 2000 and 2005. When compared with the installed capacity of the two industries, it shows that they face a deficit in log supply as raw material, although a scarcity of raw material had started since 1997 (FWI 2007). On the other hand, the pulp industry was developing from 2000 through 2005, in line with increasing deforestation and forest degradation.

Table 2. Forest production and the realization of industrial capacity (the 2007 FWI's analysis)

Type of industry	Production		Installed capacity	
	2000	2005	2000	2005
Sawn timber	6.50 million m ³	4.33 million m ³	58.8%	41.3%
Plywood and + Veneer	8.27 million m ³	4.67 million m ³	87.7%	42.1%
Pulp	4.09 million tonnes	5.47 million tonnes	78.2%	84.8%

Source: Processed from FAO (2006), Indonesia's Department of Forestry (2006), BPS (2006), and APKI (2007). The table excludes data on woodworking, moulding, particle wood and fiber wood.

Timber utilization permit over natural forests (Ijin Usaha Pemanfaatan Hasil Hutan Kayu pada Hutan Alam/IUPHHK-HA)

In line with Indonesia's developing timber industry, the government grants timber utilization permits over natural forests (IUPHHK-HA), previously called the "forest concession permit" (Hak Pengusahaan Hutan/HPH). Forestry Ministry Regulation (Peraturan Menteri Kehutanan/Permenhut) No. P. 12/Menhut-II/2008 regulates the licensing processes for these permits. This regulation stipulates that those entitled to apply for such permits are individuals, cooperatives, state-owned enterprises (BUMN) and private enterprises (either limited liability business entity/PT or CV). Activities regulated by the decree include logging, transporting, planting, maintaining, securing, processing and marketing timber forest products.⁷

As can be understood from Table 3, the size of IUPHHK-HA, among other concessions, were in a state of decline from 1983 through to 2009 because of increasing forest degradation. Many concessions are over-exploited and have violated the mandatory selective cutting system. As a result, about 33.6 million hectares (between 1993 and 2006) and 2.44 million hectares (between 2006 and 2009) of the concessions, which were in fact natural forests, were deforested and degraded.

Table 3. Number of IUPHHK-HA in Indonesia

Year	Unit	Area (million hectares)
1983	575	61.70
2006	303	28.10
2009	308	25.66

Source: Information Sheet, FWI (2007); and Data release by Dirjen Bina Produksi Kehutanan (2009).

Timber utilization permits over plantation forests (Ijin Usaha Pemanfaatan Hasil Hutan Kayu pada Hutan Tanaman/IUPHHK-HT)

IUPHHK-HT, previously known as Industrial Plantation Forests (Hutan Tanaman Industri/HTI), is a permit granted to establish a timber plantation over a production forest in order to increase the potential and the quality of production forests to supply raw material for industrial demands. The licensing processes are regulated by Forestry Minister Decree No. P.11/Minhut-II/2008 concerning the Licensing Procedure of Expansion of Timber Utilization of Plantation Forest on Production Forest.

The number of permits is currently increasing in line with an increased demand for timber. However, the productivity of such plantation forests remains low. The number of permits granted in 2009 fetched 229, with a total land area of 9,972,732 hectares. However, only 275,049 hectares of these were actually planted (Direktorat Bina Produksi Kehutanan 2009). Most of industrial timber plantation permit holders source their raw material by logging within their concessions while neglecting the obligation to plant the trees. It can be said that the operation of industrial timber plantation is responsible for stripping and degrading some nine million hectares of forests.

Oil palm plantations

The conversion of forests into oil palm plantations has been rapidly developing and increasing until now. Oil palm plantations have expanded from 105,808 hectares in 1967 to 2.5 million hectares in 1997, growing to 5.25 million hectares in 2003 and expanding again to 5.59 million hectares in 2005 (FWI 2007).

This rapid development was supported by the Indonesian Government, which sought to make palm oil one of the chief commodities by which to increase the state's foreign currency reserves, besides timber. In 2008 Indonesia became the largest crude palm oil (CPO) producer in the world with 19.2 million tonnes total production (Republica.co. 2007) from approximately seven million hectares of plantations.

Currently, the Government of Indonesia is trying to further increase its CPO production. This will be achieved by an “oil palm for the state’s prosperity” plantation vision through an “Oil Palm-Based Industrial Cluster Development” approach. It is estimated that oil palm plantations will encompass 9.127 million hectares in 2020.

The introduction of biofuel as an effort to mitigate climate change has driven rapid oil palm plantation expansion in Indonesia. The government has designated palm oil as a raw material for biofuel through the issuance of Presidential Instruction (Inpres) No. 1/2006 on the provision and use of biofuel, and Presidential Decree (Keppres) No.10/2006 on the formation of a national biofuel development team (TimNas BBN).

Both policies have indirectly legalized the destruction of forests to establish oil palm plantations. The fact is that oil palm plantations are often established on existing forest areas, causing deforestation and forest degradation. Many plantation companies are more interested in collecting the logs for timber rather than planting oil palms. Some don’t even have any intention establish palm plantations at all – they simply seek a concession to profit from trees felled during the land clearing (FWI 2007). Additionally, of major concern is the use of environmentally destructive practices such as clear-cutting, burning forests and building canals to drain peatland (Saragih 2009).

Table 4. Estimated Composition of Indonesia’s Oil Palm Plantations in 2020

The 2008 position			The estimated 2020 position		
Management type	Area (1,000 ha)	(%)	Management type	Area (1,000 ha)	(%)
Community-based plantations	2,903	41.42	Community-based plantation	4,107	45.00
State’s plantation	608	8.67	State’s plantation	912	10.00
Private plantation	3,497	48.64	Private plantation	4,107	45.00
Total	7,008	100	Total	9,127	100

Source: Directorate General of Plantation, Department of Agriculture (2009).

Mining

Mining, especially open-pit mining, has caused forest destruction in Indonesia. To date, mining operations still run inside protected forests and conservation areas. Of the total 1,830 mineral and coal concessions encompassing 28.27 million hectares, 150 lie inside protected forests and conservation areas, encompassing more than 11 million hectares (data processed by JATAM 2006) (FWI 2007.) These continue despite the fact that there is a policy that prohibits mining operations inside protected forests. The Forestry Law No. 41 of 1999, article (38) paragraph (4) stipulates that “open mining operations are prohibited inside protected forests.” However, prior to the issuance of the law, some companies were already operating inside protected forests.

On 12 May 2004 the government, through Presidential Decree No. 41 of 2004, allowed the 13 mining concessions permits granted prior to Law No. 41 of 1999 to continue with operations until their concessions’ expiry dates. Table 5 which lists the mining permits, reveals that at least 927,648 hectares of protected forests have been destroyed and some of them are likely to be destroyed soon.

Forest and land fires

Forest and land fires in Indonesia have been recorded since the 1980s. The largest ones occurred in 1997 and 1998 destroying more than 9.8 million hectares of forest. The cause of the fires has not yet been identified. Some conjecture that companies converting forests into oil palm plantations and mines intentionally started most of the fires.

To date, forest fires have been occurring in Indonesia due to prolonged drought that makes the forests dry and burn easily. For example, in 2006 and 2009, the fires that occurred on peatland in ex-concession land of PLG Central Kalimantan can be attributed to prolonged drought.

Table 6 shows the total burned forest and land area (6,974.62 hectares and 869.84 hectares respectively). So, the total fires of 2007 encompassed 7,844.46 hectares. The total number of fire

hotspots was 37,909. It means that in 2007, 7000 hectares of Indonesia's forest were deforested in this way.

Transmigration

Since 1960s the Indonesia's government has started a transmigration program to move people from densely-populated areas (Java and Bali) to less densely populated areas (Sumatera, Kalimantan, Papua and other islands). Up to the 1990s the program cleared around two million hectares of forests for agricultural land.

Table 7 shows that the most targeted areas for transmigration sites in 2007 were North Sumatra, Lampung and Irian Jaya. The total forest areas converted for transmigration sites was 120,593.29 hectares in North Sumatra, 134,147.20 hectares in Lampung and 117,194.48 hectares in Irian Jaya. Up to 2001, the deforested area totaled 956,672.82 hectares. The current transmigration program is thought to have something to do with the expansion of plantations. After getting land certificates from the government, the transmigrants can easily sell their land to companies. Rather than managing the land, they then work for the companies. In the last decade the focus of the transmigrated people has shifted from subsistence agriculture to working for oil palm companies and timber plantations (FWI/GWF, 2001).

Table 5. Lists of mining permits allowed to continue until the expire date

No	Govern- ment's approval	Date of approval	Type of per- mit	Company Names	Mineral extrac- ted	Activity phase	Location		Size (Ha)
							Province	District/ City	
1	82/EK/KEP4/1 967 7 April 1967	7 April 1967	KKG-I	Freeport Indonesia Comp	Copper, gold, dmp	Production	Papua	Mimika	10,000
	B392/Pres/12/1 991 26 Dec.1991	30 Dec. 1991	KKG-V	Freeport Indonesia Comp	Copper, gold, dmp	Exploration	Papua	Mimika, Paniai, Jaya Wijaya, Puncak Jaya	202,950
2	B- 121/Pres/9/197 1 22 Sept. 1971	4 Oct. 1971	KKG-II	Karimun Granit	Granite	Production	Kepulauan Riau	Katimun	2,761
3	B- 745/Pres/12/19 95 29 Dec.1995	15 Jan. 1996	KKG-II	INCO Tbk.	Nickel	Production	South Sulawesi, Central Sulawesi, South East Sulawesi	Luwu Utara, Kolaka, Kendari, Morowali	218,528
4	097B/Ji.292/U/ 1990 5 Oct. 1990	5 Oct. 1990	PKP2 B G-I	Indominco Mandiri	Coal	Production	East Kalimantan	Kutai Timur, Kota Bontang	25,121
5	1053.K/20.13/ MPE/ 1997 9 Jul. 1997	9 July 1997	KP	Aneka Tambang Tbk (A)	Nickel	Production	North Maluku	Halimahera Tengah	39,040

6	B-43/Pres/11/1986 6 Nov. 1986	2 Dec. 1986	KK G-IV	Natarang Mining	Gold dmp	Construct'n	Lampung	Lampung Selatan Tanggamus, Lampung Barat	12,790
7	B-143/Pres/3/1997 17 Mar. 1997	28 April 1997	KK G-VI	Nusa Halmahera Minerals	Gold dmp	Production, construction, exploration	North Maluku	Halmahera Utara, Halmahera Barat	29,622
8	B-53/Pres/1/1988 19 Jan. 1988	19 Feb. 1998	KK G-VII	Pelsart Tambang Kencana	Gold dmp	Exploration	South Kalimantan	Kotabaru, Banjar, Tanah Laut	201,000
9	850/A./1 997 20 Nov. 1997	20 Nov. 1997	KPK2 B G-III	Interex Sacra Raya	Coal	Feasibility study	East Kalimantan and South Kalimantan	Pasir Tabalong	15,650
10	B-53/Pres/1/1988 19 Jan. 1988	19 Feb. 1998	KK G-VII	Weda Bay Nickel	Nickel	Exploration (Detail)	North Maluku	Halmahera Tengah	76,280
11	B-53/Pres/1/1988 19 Jan. 1988	19 Feb. 1998	KK G-VII	Gag Nikel	Nickel	Exploration (Detail)	Papua	Sorong	13,136
12	B-53/Pres/1/1988 19 Jan. 1988	19 Feb. 1998	KK G-VII	Sarikmas Mining	Gold dmp	Exploration (Detail)	North Sumatra	Mandailing Natal	66,200
13	1170/20.01/UP G/1999 7 Sept. 1999	7 Sept. 1999	KP	Aneka Tambang Tbk (B)	Nickel	Exploration (Detail)	South East Sulawesi	Kendari	14,570

Source: Annex to Presidential Decree No. 41 of 2004, 12 May 2004.

Table 6. Forest and land fires by province*

No	Province	Forest fires (Ha)	Land fires (Ha)	Number of hot spots detected by the NOAA satellite of the Department of Forestry, Jakarta in 2007*
1	Aceh Darussalam (NAD)	24.00	25.00	261
2	North Sumatera	131.00	22.75	936
3	West Sumatera	16.50	165.50	427
4	Riau	37.75	50.50	4,169
	Kepulauan Riau	-	-	101
5	Jambi	55.00	103.00	3,120
6	Bengkulu	-	-	255
7	South Sumatera	27.00	-	5,182
8	Bangka Belitung	-	-	764
9	Lampung	2,532.25	-	1,639
10	DKI Jakarta	-	-	77
11	Banten	-	-	38
12	West Java	372.00	-	325
13	Central Java	516.50	-	268
14	DI Yogyakarta	-	-	35
15	East Java	1,821.80	2.50	1,503
16	Bali	-	-	57
17	West Nusa Tenggara	-	-	903
18	East Nusa Tenggara	1,415.82	174.90	1,140
19	West Kalimantan	-	125.69	7,561
20	Central Kalimantan	-	200.00	4,800
21	South Kalimantan	25.00	-	928
22	East Kalimantan	-	-	2,082
23	North Sulawesi	-	-	35
24	Gorontalo	-	-	93
25	Central Sulawesi	-	-	182
26	South Sulawesi	-	-	551
27	South East Sulawesi	-	--	288
	West Sulawesi	-	-	145
28	North Maluku	-	-	13
29	Maluku	-	-	26
30	Papua	-	-	5
	Total	6,974.62	869,84	37,909

*Source: Hot Spot data: the NOAA 12, 15 and 16 satellite; Map source: Forest Use Consensus (TGHK) of the Forestry Planology Agency 1999, Indonesia's Administration Map of Bakosurtanal 2006, Basic Forestry Map 2006.

Indigenous People's View of Drivers of Deforestation and Forest Degradation

In general, indigenous peoples reject all kinds of commercial activities and or companies operating on customary forests as such practices not only destroy and degrade forests but also deprive indigenous peoples of their rights to land, forests and access to the natural resources. Indigenous people's rejection of commercial practices in various areas in Indonesia has resulted in conflicts with companies. Below are some examples of such cases.

In January 2009, the indigenous Sedulur Sikep in Pati, Central Java, protested a plan by PT Semen Gresik to construct a cement factory. The plan was rejected by the community because the factory was to be built on customary land which is called "Tanah Bengkok" in local language, around the Kendeng mountain. The people thought that the factory would destroy the water source, causing the farm land to dry up, additionally the community would find it hard to get clean water.

On 25 July 2009, indigenous peoples in two villages (Pandumaan and Sipitu Hula) Pollung sub-district, in the Humbahas district, North Sumatera, filed a complaint to the district and provincial governments about the plundering and felling of local benzoin trees by PT Toba Pulp Lestari (PT. TPL). The company was operating in the 4,100-hectare "Tombak Haminjon" or "benzoin forest," which traditionally belongs to the villages. As a result of the operation, the people lost their rights to the land and lost their source of livelihood, as well as the source of incense used for customary ceremonies. Besides, they were often intimidated by the company.

On 30 January 2009, the people of Labuan Bajo, Manggarai Barat, East Nusa Tenggara, protested against gold mining by PT Grand Nusantara, located on Batu Gosok which traditionally belongs to the people. They said that the land was seized

Table 7. Forest conversion for transmigration sites up to 2001

No	PROVINCE	IMPLEMENTED							TOTAL
		HL (Ha)	HAS (Ha)	HPT (Ha)	HP (Ha)	HPK (Ha)	APL (Ha)		
1	DI. Aceh			10,781.12	3,608.30	23,465.98	1,521.25	39,376.65	
2	North Sumatra	68.00		12,118.00	5,385.00	7,792.00	3,167.44	28,530.44	
3	West Sumatra	495.00			2,149.25	12,804.75	793.25	16,242.25	
4	Riau			7,253.30	1,832.00	55,775.78	9,168.70	74,029.78	
5	Jambi				2,712.00	50,167.53	25,533.00	78,412.53	
6	Bengkulu			2,613.50		3,342.95	8,371.00	14,327.45	
7	South Sumatra		5,775.5	2,400.00	57,397.12	37,590.67	17,480.00	120,593.29	
8	Lampung			623.00	1,085.00	2,206.00	130,233.20	134,147.20	
9	West Nusa Tenggara				625.00	2,325.00		2,950.00	
10	East Nusa Tenggara					1,137.00		1,137.00	
11	West Kalimantan	627.00		2,757.56	2,230.10	5,927.50	37,657.00	49,199.16	
12	Central Kalimantan			7,447.98	24,538.28	34,149.51		66,135.77	
13	East Kalimantan			2,625.64	5,440.50	31,824.95		39,891.09	
14	South Kalimantan		617.00		11,399.50	20,374.50	11,110.50	43,501.50	
15	North Sulawesi			1,593.00		3,496.56		5,089.56	
16	Central Sulawesi	60.00	1,979.	2,960.00	9,885.00	6,251.23	15,164.00	36,299.23	
17	South Sulawesi	1,120		1,510.00		1,138.50	7,624.15	11,392.65	
18	South East Sulawesi		700.00	2,230.00	4,926.64	27,203.85	19,385.72	54,446.21	
19	Maluku	2,062		5,580.00	1,312.00	14,822.58		23,776.58	
20	Irian Jaya	1,997		6,696.30	22,581.60	76,348.58	9,571.00	117,194.48	
Total		6,429	9,071.5	69,189.40	157,107.29	418,145.42	296,730.21	956,672.82	

Source: Forestry Planning Agency, Ministry of Forestry (2001).

by the Manggarai Barat district government for tourism development but was then handed over to PT Grand Nusantara.

On 11-12 December 2009, the indigenous Dayak se-Kualatn Semanakng expressed their rejection to any kind of destruction to their customary forest initiated by a company. The rejection was expressed during the plenary session at the parish hall of St. Martinus Balai Berkuak in Simpang Hulu sub-district, Ketapang, West Kalimantan, which was attended by the community's leaders.

The rejection was not the first from the communities. This was the seventh time that they had imposed customary punishment on companies illegally entering their customary forests (Unjing 2009).

The Impacts of Deforestation and Forest Degradation on Indigenous Peoples

To indigenous peoples who live in and around forests, deforestation and forest degradation affect all aspects (economic, cultural, political and social) of their lives.

Economically, indigenous peoples lose their independence in fulfilling their basic necessities as they lose their sources of livelihood and shelter. For example, the living areas of the indigenous Orang Rimba or Suku Kubu in Jambi, are now smaller as a result of oil palm plantation expansion and the transmigration program. Some are even forced to live in poor temporary shelters inside the plantations. They have difficulty in finding food from the forest and have to rely on food from the outside. "Now it is difficult for us to find food, so we rely on rice and food from outside," said Gilan, a member of the indigenous Orang Rimba living in the transmigration area in Pamenang sub-district (Kompas.com 2009). About 2.3 million hectares of their land has been converted into oil palm and acacia plantations, forest concessions and transmigration sites (Tambunan 2008).

Politically, indigenous peoples lose their identity and sovereignty in determining their lives. The loss of customary forests means that indigenous peoples are unable to independently regu-

**POSITION PAPER
CUSTOMARY LEADERS IN A DAYAKSE-KUALATN
SEMANAKNG'S PLENARY MEETING
SIMPANG HULU SUB-DISTRICT, KETAPANG DISTRICT
WEST KALIMANTAN PROVINCE**

From the 11 to the 12 of December 2009 we, the Dayak se-Kualatn Semanakng customary leaders, held a customary meeting and found out the following problems:

That there have been efforts to persuade the indigenous Dayak se Se-Kualatn Semanakng to hand over/sell their customary land and forest to palm, mining and HTI companies:

- There have been legal and illegal mining operations, which have caused and will cause environmental destruction, particularly of the river and its territories;
- It has come to our attention that illegal narcotics and drugs are circulating in Simpang Hulu sub-district, which harms the people and causes widespread anxiety;
- There has been a large inflow of people from the outside to Simpang Hulu sub-district, which is causing widespread anxiety;
- It has been indicated that customary laws and culture are being undermined as a result of the rapid inflow of outside culture and a lack of cultural education among youth.

Based on the problems above, we the indigenous Dayak se-Kualatn Semanakng, express our position that:

- We reject any oil palm company or the operation of any scheme to be implemented in the entire customary area of the indigenous Kualatn Semanakng, Simpang Hulu sub-district, Ketapang district;
- We reject any mining operation, both legal and illegal, in the customary areas of the indigenous Kualatn Semanakng, Simpang Hulu sub-district,

especially those operations which have destroyed the land and the forests and in fact have polluted the river which is used in the daily lives of the peoples;

- We urge law enforcers (the Police) to terminate any illegal and destructive mining operation;
- We reject HTI companies in the customary areas of the indigenous Kualatn Semanakng, Simpang Hulu sub-district;
- We urge the enforcers (the Police) to arrest those that have been circulating illegal narcotics and drugs in the customary area of the indigenous Kualatn Semanakng, Simpang Hulu sub-district;
- We urge the district government of Ketapang to protect the customary areas of the Kualatn Semanakng, Simpang Hulu sub-district, from investment that disadvantages the people.

Source: Plenary session of the indigenous Dayak se-Kualatn Semanakng, held in St. Martinus Balai Church, Simpang Hulu village sub-district, Ketapang district, West Kalimantan, 12 December 2009.

late their lives. In West Kalimantan, case studies show that the indigenous peoples have lost their customary forests due to oil palm expansion. They become company workers on their own land. Some have to work as paid rubber tappers such as in Pendaun Village, Simpang Hulu sub-district, Ketapang district, West Kalimantan. Currently, many outsiders become paid rubber tappers in the village as they no longer have customary forests that they used to manage (Togan 2009).

Culturally, it becomes more difficult for indigenous peoples to maintain their ancestral cultures. This is because they need their forest resources for their customary ceremonies. For example, the indigenous Suku Saroro in Ugai hamlet, Madobag Village, Siberut Sub-district, Mentawai District, West Sumatera, needs certain leaves and a wild boar for their *Pabetei* ceremony. *Pabetei* is a ceremony conducted to heal diseases conducted by a *sikerei* (traditional healer), who diagnoses a disease by communicating with *sabulungan* (spirit) by means of the forest leaves. A

wild boar is the other requirement. “Wild boars are hard to catch now, even after trying a whole day, making the ritual, which is to be held in the morning, practically impossible” (Rinaldi 2010). The habitat of the wild boar is being destroyed due to deforestation and forest degradation which threatens the exercise of the ritual.

INDONESIAN GOVERNMENT POLICIES AND PROGRAMS RELATED TO INDIGENOUS PEOPLES’ RIGHTS

Forestry Policies and Programs in Indonesia

There are two important laws in Indonesia’s forestry sector, Law No. 41 of 1999 on Forestry and Law No. 5 of 1990 on Conservation of Bio Natural Resources and Their Ecosystems. Both of these laws are the legal base and reference for other forestry and conservation laws. Forestry Law No. 41 of 1999 gives a mandate to the government, in particular the Forestry Minister, to exercise three authorities, namely:

1. To regulate and manage matters related to forests, forest area and forest products;
2. To designate a given area as forest area or non-forest area;
3. To regulate and set the legal relationship between people and forests, and to regulate legal actions on forestry affairs.⁸

Designating these responsibilities to the Forestry department means that an authoritarian and arbitrary attitude towards forest resource management prevails, which simply pushes indigenous peoples’ rights to forests aside. To make things worse, with its high level of authority, the department hands over most customary forests to businesses/investors through concessions such as Timber Utilization Permits (over natural and plantation forests).

Law No. 5 of 1990 puts more emphasis on flora and fauna than on human rights. The law does not recognize indigenous

peoples' rights, and focuses entirely on the conservation of flora and fauna. The law even stipulates that indigenous peoples can be driven out of forests in the name of conservation if they are believed to have destroyed or threatened flora and fauna.

In relation to climate change and REDD, the Department has set out five priority policies through the Forestry Minister's Decree (*SK Menhut*) No. 456/Menhut-VII/2004. These policy priorities have also become the 2005-2009 forestry program. Since late 2009, these five policy priorities have been developed into eight, namely:

1. Reinforcement of sustainably managed forests;
2. Forest rehabilitation and improvement to river basin (DAS) carrying capacity;
3. Forest safety and protection;
4. Conservation of bio natural resources and their ecosystems;
5. Revitalization of forests and forest products;
6. Empowerment of forest people;
7. Climate change mitigation and adaptation in the forestry sector; and,
8. Forestry institutions' capacity building (Departamen Kehutanan 2010).

The policies provide the framework and the legal basis for climate change mitigation and forest peoples' empowerment. In addition, the Forestry Department has issued various regulations related to Protected Area Management (Forestry Minister Decree No. 19 of 2004) Community-based Forest, Community Plantation Forest, and Village Forest (Presidential Regulation No. 6 of 2007).

In fact, the Indonesian government has developed a draft regulation on customary forests. This draft, however, has met severe criticism and has not been endorsed by AMAN because the substance was far from what indigenous peoples expected. Nowhere in the draft is a full recognition of indigenous peoples' rights to customary forests.

Land Tenure in Indonesia

Policies related to land tenure in Indonesia

There are at least four policies related to land tenure in Indonesia. First, the 1945 Constitution, Article 33, paragraph 3 in particular, states that all natural resources including land shall be utilized to the maximum extent for the prosperity of the people. Second, the Decree of the People's Consultative Assembly (TAP MPR) No. IX/MPR/2001 serves as the basis of agrarian reform and natural resource management. Third, Law No. 5 of 1960 on Basic Agrarian Regulation, commonly known as UUPA, specifically regulates natural resource management, including that of land, water and space. And fourth, Law No. 41 of 1999 on Forestry regulates the land rights or titles inside forest area.

Problems with Land Tenure in Indonesia

The problem with land tenure in Indonesia begins with the abuse of the state's controlling power (*Hak Menguasai Negara/HMN*) implied in the 1945 Constitution article 33, in particular point 3, which says "the land and water and all the natural resources contained therein *are controlled* by the state and shall be utilized to the maximum extent for the prosperity of the people." During the New Order regime, this HMN was abused and interpreted as absolute power for the state to control and manage land and the natural resources contained therein. Natural resources were exploited to the maximum and used as a political tool with its inherent partisan interests. Indigenous peoples' rights to land were nullified and taken over by the state, which then passed the management rights of land to businesses, including foreign companies. Besides, the expropriation of customary land was then reinforced by sectoral laws such as the Forestry Law, the Estate Crops Law and the Mining Law.

HMN is reasserted in Law No. 5 of 1960 on Basic Provisions on Basic Agrarian (UUPA), which interprets HMN as three authorities of the state, namely:

1. To regulate and implement designation, use, provision and maintenance of land, water and space;

2. To set and regulate legal relationship between the people and land, water and space;
3. To set and regulate legal relationship between the people and legal actions concerning land, water and space.⁹

In fact, UUPA does recognize indigenous peoples' rights in its statement that "the applicable agrarian law is customary law." However, the government's political willingness to give such recognition is still tenuous, shown by the obligation imposed on indigenous peoples to meet very difficult requirements. Customary land is only recognized after it is backed up by bylaws or decrees from the related district/provincial governments and proved by scientific review.

The issuance of the Forestry Law No. 41 of 1999, which determines which land designated as forest, has added to the confusion. According to the Law, forest area falls into two categories: state forest, where no private land title exists, and privately-owned forest, where the land can be classified as forest but private rights are held over it. Although customary forests (*hutan adat*) are mentioned, they are classified as state forest. In particular, the law states that, "Customary forests are the state's forests lying on customary territories."

Forest area status has become the main driver of conflicts over land tenure in the forestry sector. Conflicts arise when indigenous peoples are said to be encroaching upon the state's forests, which are in fact customary forests. In such conflicts, indigenous peoples have often been criminalized and intimidated. Examples include the indigenous Kasepuhan Banten Kidul, whose *wewengkon* or customary forest is arbitrarily designated part of the Halimun Salak National Park, and who are hence considered to be illegally encroaching on the area. Another example is the incident on 10 March 2004 in Manggarai District, East Nusa Tenggara, where four members of Tangkul-Colol Village were shot and killed by the Police when they were protesting the arrest of some villagers accused of illegally encroaching on the protected area.

Forest-related conflicts arise as indigenous peoples are not involved in the designation process. Forests are designated by the Forestry Minister through his decree on designation of pro-

vincial forest and waters. In the decree, forest designation is based on the result of the integration (*paduserasi*) of the provincial spatial plan (RTRWP) and the forest use consensus (TGHK). In addition, the autonomy law provides the regional governments with some flexibility to manage their respective jurisdictions. Uncertainty in the right to land results in customary forests being classified as state forests and then exploited under concessions granted for development purposes, such as forestry or mining. The status of customary land is not taken into account at all when the government undertakes regional spatial planning.

Law No. 26 of 2007 on Spatial Planning, however, does mention customary land and indigenous peoples. Socially and culturally speaking, customary land is important to be taken into consideration in spatial planning process. According to the explanation of article 7 paragraph 3, indigenous peoples' rights when undertaking spatial planning must be recognized as long as they are in line with existing regulations. Once again, the problem is that there is no recognition of full indigenous peoples' right to land within Indonesia's regulations.

The National Agrarian Program (PRONA) of the National Land Bureau (BPN) gives a clearer indication that the government is intentionally attempting to expropriate customary land by issuing individual land certificates. No communal land title is recognized in such certificates. To accelerate the certification process, on 16 December 2008 at the Prambanan Temple Recreational Park in Klaten, Central Java, President Susilo Bambang Yudhoyono launched a public certification service (*Layanan Rakyat untuk Sertifikasi Tanah/LARASITA*). Larasita is meant to provide a direct service to the public to obtain land certificates. In late 2008, 124 Larasita teams and 248 motorcycles were set to serve in 124 districts/cities and in 2009 another scheme was to be set in 134 districts/cities throughout Indonesia (Yudhuyono 2008).

The most deplorable aspect of government policy is that customary land (including customary forests), under communal ownership, is considered to be abandoned land. According to the government, there are currently 7.3 million hectares of "abandoned" land in Indonesia (Winoto 2010), which will be re-ar-

ranged and used in the national interest. However, in some cases, the land is actually controlled by the military and government officials. For example, in Bengkulu there are 1,200 hectares of customary forest, comprising 700 hectares belonging to the Kaur Nasal indigenous community and 500 hectares belonging to the Kaur Marga Sambat community), which is claimed by the Navy (Sulani 2010).

Conflicts in Indonesia have often been caused by uncertainty about the recognition of indigenous peoples' rights (communal land) and unclear boundaries. In 2009, 5,900 land-related conflicts were reported, 20 per cent of which were related to customary land (Saleh 2010). None of the conflicts have been resolved in a satisfactory manner.

On 14 March 2007, BPN and the National Police signed a Memorandum of Understanding (MoU) concerning land-related conflict management. Some points in the MoU threaten indigenous peoples with regard to their communal right to land. As a result of the MoU:

- Indigenous peoples' rights to communal land have been undermined. One of the provisions of the MoU is to complete certification of land belonging to the police. This means that customary land controlled by the police will be certified or will belong legally to the police;
- Indigenous peoples are criminalized when they defend their communal land. Field research shows that the police have often used their authority beyond the procedures set forth in the criminal code (KUHAP) when arresting, detaining and suing farmers, in complete negligence of the rights of the suspect, the defendant and the convicted person as stipulated in the Criminal Code (IHCS.org).

Policies on Climate Change and REDD in Indonesia

In relation to climate change, President Susilo Bambang Yudhoyono (SBY) has expressed a commitment to reducing Indonesia's carbon emissions by 26 per cent by 2020. This commitment consequently requires the government to set adequate legal regulations and institutions to achieve it.

Policies on Climate Change

In responding to climate change, President SBY formed the National Climate Change Board (DNPI), under Presidential Regulation (Perpres) No. 46 of 2008 on climate change, passed on 4 July 2008. The objective of the Board is to coordinate climate change control and to strengthen Indonesia's position in international climate control forums.

DNPI is headed by the President and assisted by the Coordinating Minister of People's Welfare (*Menko Kesra*) and the Coordinating Minister of Economy (*Menko Perekonomian*). The members comprise governmental officials, namely 17 ministers and the head of the Meteorology and Geophysics Agency. Ir. Rahmat Witoelar is appointed Executing Manager for the day-to-day operations of the Board.

The DNPI is assisted by several working groups, namely: Working Group on Adaptation, Working Group on Mitigation, Working Group on Technology, Working Group on Funding, Working Group on Post Kyoto 2012, and Working Group on Forestry and Land Use Change. In 2007, DNPI published a national action plan to address climate change (RANMAPI) to guide governmental agencies to coordinate and integrate climate change mitigation and adaptation measures in various sectors.

In the forestry sector, the Forestry Department has formed Working Group on Climate Change, through the Minister's Decree (KEPMENHUT) No. SK. 13/Menhut-II/2009, passed on 12 January 2009. The head of the working group is a Ministerial Adviser on partnership. In general, the working group has the duty to provide input to the Forestry Minister regarding policies on, and processes and mechanisms of the mitigation and adaptation measures of the Forestry Department. The department's advisers assist the working group regarding institutional, environmental and safeguard.

In mitigating climate change, the Forestry Department specifically formed Working Group on REDD through the decree of the head of Forestry Research and Development (Balitbanghut) No SK. 5/VII-Set/ 2009 passed on 13 February 2009. The working group has the duty to provide recommendations on the implementation plan of REDD in Indonesia.

Policies on REDD in Indonesia

Currently, there are at least three policies that directly regulate REDD in Indonesia. They are Forestry Minister Decree No. P.68/Menhut-II/2008 on the implementation of Demonstration Activities (REDD), Forestry Minister Decree No. P.30/Menhut-II/2009 on REDD procedures, and Forestry Minister Decree No. P.36/Menhut-II/2009 on the licensing of carbon absorption or carbon storage in production and protected forests (*Tatacara Perijinan Usaha Pemanfaatan Penyerapan dan atau Penyimpanan Karbon pada Hutan Produksi dan Lindung*). Indigenous peoples' participation has been completely excluded from the entire process, from design up to issuance.

1. *Forestry Minister Decree No. P.68/Menhut-II/2008 on implementation of Demonstration Activities - REDD (DA-REDD)*

On 12 December 2008, the Forestry Department issued Forestry Minister Decree No P.68/Menhut-II/2008. Conceptually, the decree regulates "readiness" to implement REDD in Indonesia through Demonstration Activities -Reducing Emission from Deforestation and Forest Degradation (DA-REDD). The demonstration was a pilot implementation of REDD methodology, technology and institutions in Indonesia. There are several critical notes to the policy with regards to the participation of indigenous peoples in this "readiness" process.

Politically, the decree does not address indigenous peoples' rights to the forest. It mostly deals with DA-REDD and does not consider any associated problems which may arise from the designation of forest status. The government doesn't see any problem with designating forest status so that DA-REDD can continue despite the absence of recognition of indigenous peoples' rights to forest. As a matter of fact, the forest status has caused many unresolved conflicts which are noted in the section on "problems with land tenure in Indonesia" above.

Economically, the decree does not guarantee that indigenous peoples will get their fair share of profit derived from DA-REDD. Incentives are determined by the project initiators, and indigenous peoples have no way of determining how much they will get for the economic loss that they suffer from the scheme. If there are indeed incentives for indigenous peoples, they might

trigger inter-communal conflict between those who support the scheme and those who do not.

Both socially and culturally, no democratic measures are in place for indigenous peoples to make a decision on whether to allow DA-REDD over their territory. The policy leaves no room for indigenous peoples to reach a consensus of whether or not to accept the activity. The decision to accept or reject DA-REDD over customary forests is made by the Forestry Minister, without having to obtain indigenous peoples' consent. It is a top-down decision making process, which does not allow indigenous peoples to participate. Indigenous peoples are merely the object of the project and they are completely excluded from the decision-making process.

The decree does not adopt principles of Free, Prior, and Informed Consent (FPIC). Not one single article in the decree mentions indigenous peoples' right to prior information on DA-REDD on their territory. Therefore, they do not have any information about the scheme or decisions on DA-REDD. The decree also does not consider gender issues, thus excluding women from the decision-making process.

2. Forestry Minister Decree No P. 30/Menhut-II/2009 on REDD Procedures

On 1 May 2009, the Forestry Minister issued Forestry Minister Decree No. P. 30/Menhut-II/2009 on REDD procedures. The decree aims at reducing deforestation and forest degradation in order to mitigate climate change. Through the decree, the government attempts to demonstrate its readiness to fully implement REDD in Indonesia (post 2012) with regards to policies. The policy states that REDD will be implemented in areas that have been granted a Timber Utilization Permit (natural forests, plantation forests, community-based forests, community plantation forests and restoration), forest management integration unit (production, protected, conservation forests), conversion forests, customary forest, privately-owned forests and village forests.

It is almost certain that the policy will completely neglect indigenous peoples' rights to the forest as the substance only refers to laws that do not recognize indigenous peoples' rights.

The decree, in line with previous government policy, does not see any conflict between indigenous peoples and the state with regards to the legal status of the forests.

During its development, suggestions were made to recognize indigenous peoples' rights. During the public consultation on the draft, on 25 March 2009 the Secretary General of AMAN, suggested four improvements to the draft, as follows:

1. REDD-related regulations must respect rights enshrined in the 1945 Constitution and international basic human rights standards set forth in the UN Declaration on Rights of Indigenous Peoples (UNDRIP);
2. Indigenous peoples' effective participation must be secured in the entire REDD process;
3. Free, prior and informed consent (FPIC) principles must be applied to any REDD project that takes place on customary territories;
4. Adequate support must be in place for indigenous peoples and customary organizations to map their territories, build their capacities to revitalize their indigenous institutions and uphold customary laws in the management of land, territories and natural resources on them (Huma 2009).

None of these suggestions were accommodated. The July 2008 draft was even issued without any change to accommodate indigenous peoples' rights and concerns. Indigenous peoples' rights to the forest are completely neglected.

The decree does take into account the benefit-sharing between national and international entities. The national entities include IUPHHK holders, the states' forest managers, and owners or managers of privately-owned forests. International entities include financiers of REDD.

Indigenous peoples are not counted as an "important national entity." This classification only applies to those holding certificates, legal documents or decrees (of the Ministry of Forestry or of regional governments) showing that they are legally and officially recognized by the state as REDD managers/implementors. As almost all indigenous peoples have no man-

agement permit, they are not classified as a national entity. They are only the “spectators” or the object of REDD. They are even in danger of being displaced from their customary forests. Ironically it is the license holders, those that suppress indigenous peoples’ rights, who will be the ones to enjoy these incentives.

3. Forestry Minister Decree No. P.36/Menhut-II/2009 on Licensing of Carbon Absorption or Storing in Production and Protected Forests

On 22 May 2009, the Forestry Minister issued Forestry Minister Decree No P.36/Menhut-II/2009, which regulates environmental service utilization (IUPJL type) permit granted over production and protected forests for the storage and absorption of carbon. The activities can be undertaken in the forest with or without permits. Carbon Absorption (RAP-KARBON) through REDD schemes place emphasis on increasing the number of forest stands, whereas Carbon Storing (RAN-KARBON) through the Clean Development Mechanism (CDM) focuses on maintaining, protecting and securing forest area. Annex II of the decree lists benefit sharing (incentives) as follows:

Table 8: Distribution of benefits of REDD programs in Indonesia

No	License holders	Distribution		
		Government	People	Developer
1.	IUPHHK-HA		20%	60%
2.	IUPHHK-HT	20%	20%	60%
3.	IUPHHK-RE	20%	20%	60%
4.	IUPHHK-HTR	20%	50%	30%
5.	Community Forest	10%	70%	20%
6.	Community-based Forest	20%	50%	30%
7.	Customary Forest	10%	70%	20%
8.	Village Forest	20%	50%	30%
9.	KPH	30%	20%	50%
10.	KHDTK	50%	20%	30%
11.	Protected forest	50%	20%	30%

Table 8 indicates that the managers of customary forests (indigenous peoples) will obtain 70 per cent of the benefits. The fact, however, is that it is extremely difficult for indigenous peoples to obtain this concession. Licensing is regulated by the relevant regional government. With increased regional autonomy in Indonesia, regional governments assume full control over their jurisdictions. As a result, almost all forests have had concessions granted over them.

In addition, many concessions over customary forests (IUPHHK, oil palm plantations, etc.) are in a state of conflict with the local indigenous peoples. The new conditions will only serve to make it difficult for indigenous peoples to obtain permits (which are unnecessary) on their own land. This lack of clarity indicates that the 70 per cent share of incentives for indigenous peoples is merely an illusion.

A controversy over carbon emission reductions

On 16 February 2009, via the Minister of Agriculture, the government issued Ministerial Decree No. 14/Permentan/PL. 110/2/2009, which regulates the use of peatland for oil palm cultivation.

In the context of carbon emission reduction, the decree is controversial given the fact that oil palm plantations are among the major contributors to deforestation in Indonesia. Emission reduction should have encouraged the government to avoid land conversion. Instead, the decree provides a legal basis for regional governments to convert peatland into oil palm plantations. It should be noted that peatland contains some of the largest carbon stores in the world, which means that its conversion will release large amounts of carbon into the atmosphere.

This policy reaffirms that REDD schemes in Indonesia will deprive indigenous peoples of their rights to forests and access to natural resources contained within them. In the name of productivity improvement, oil palm plantations will have the legal basis to displace indigenous peoples from their own land.

Women and REDD Policies in Indonesia

Women in Indonesia are among the most marginalized groups regarding REDD policies in Indonesia. Not only are their rights to forests and natural resources neglected, their basic rights to decision-making are also neglected. REDD policies systematically push aside their roles and deny any room for them.

Existing policies do not consider women to be an integral part of those affected by REDD implementation. In actual fact, women collect fruit and vegetables from forests more than men do. For example, the indigenous women of Simpang Hulu Sub-district in Ketapang District go into the forest every day to collect fruit and vegetables to be sold or consumed. Loss of access to forest resources has often forced women to take up work as poorly paid workers for oil palm companies. REDD policies in Indonesia have the potential to eliminate rights to customary forests, which will greatly undermine women's access to forest resources.

On 24 July 1984, the government of Indonesia ratified the Convention on Elimination of any Discrimination Against Women (CEDAW) through Law No. 7 of 1984. However, the lack of implementation of the law leads many to believe that the law does not provide enough protection against discrimination, particularly potential discrimination stemming from REDD processes.

Indigenous Peoples' Position in Indonesia's Law and Policy

For indigenous peoples to fully participate in REDD processes, a clarity of law must be in place, however, the complexity of laws relating to forest use and management, including REDD, negatively affect indigenous peoples' lives in Indonesia in a major way. In this case, what is the legal position of indigenous peoples in Indonesia?

If the state does not recognize us, we will not recognize the state (First AMAN Congress 1999).

This statement is still relevant in helping to answer the question of what the legal position of indigenous peoples in Indonesia is. This statement was the basic perspective of the congress of Indonesia's indigenous peoples held on 17 March 1999. This view is not an exaggeration, given the fact that the very existence of indigenous peoples is still unclear in Indonesia's laws, despite that they are one of the largest populations and a major developing element in the nation. Even today they continue to be marginalized and excluded in the development in their own land.

Oppression of all aspects of indigenous life are commonplace—in the economic, political, legal and sociocultural realms. Almost all decisions concerning national development (in customary territories) have neglected indigenous peoples' rights, and they are even systematically excluded from decision-making and development processes.

Efforts to exclude indigenous peoples can be seen by the application of discriminatory definitions such as "isolated people," "primitive people," "illegal encroachers" and others. This stigma is intentionally created in order to ruin the morale, economy, politics and social and cultural identities of indigenous peoples.

The founding fathers of Indonesia did recognize the existence and the rights of indigenous peoples, which is clearly indicated by the national motto "*Bhinneka Tunggal Ika*," which means "unity in diversity." Constitutionally, the state also recognizes indigenous peoples' rights in article 18B paragraph 2, and article 28I paragraph 3 of the 1945 constitution. In addition, MPR Decree (TAP MPR) No. IX/MPR/2001 regulating agrarian reform and natural resource management also recognizes indigenous peoples' rights.

Within technical and operational laws indigenous peoples' rights are also recognized, for example, in a relatively new law that recognizes the existence of indigenous peoples: Law No. 27 of 2007 on Coastal and Small Island Management and Law No. 32 of 2009 on Environmental Protection and Management. Both

of these laws, however, still are not strong enough to entirely secure indigenous peoples' rights, as they are sectoral in scope.

In relation to REDD, both laws are still weak in securing indigenous peoples' rights because REDD policies and forestry policies neglect or even tend to nullify indigenous peoples' rights.

The nullification of rights to forests can be further seen in laws requiring "recognition." Forestry Law No. 41 of 1999 states that the indigenous communities, as long as they exist and are recognized, shall have the rights to:

- collect forest products for daily needs of concerned communities;
- undertake forest management in accordance with prevailing customary laws which are not in direct contradiction to national laws; and,
- be empowered for improving their welfare;
- The confirmation of indigenous peoples' existence and the abolishment of the customary law community as referred to in paragraph (1) shall be stipulated in Local Regulation; and,
- That further provisions as referred to in paragraph (1) and paragraph (2), shall be regulated by a further government regulation.

Such requirements show that the government does not wholeheartedly recognize indigenous peoples. In fact, proving indigenous rights according to these criteria requires academic involvement and requirements that are hard to meet. Even though it is mentioned in various laws, data on indigenous peoples and their customary territories/forests is not recorded anywhere by the state, particularly by the Forestry Department.

In addition, the sentence "...as long as they exist and are recognized" is continuously reinforced when the state defines indigenous peoples. It suggests that the existence of indigenous peoples may be terminated after a period. (Please see Annex for a listing of policies in which "indigenous peoples" are mentioned (despite the use of different terms indicating "indigenous peoples.")

THE REDD PROCESS AND MECHANISM IN INDONESIA

For a developing country like Indonesia, climate change mitigation refers to a measure to increase forest capacity, particularly to absorb and store carbon. This is related to international schemes to address climate change. In general, there are three climate change mitigation measures to be taken by the government of Indonesia, namely: 1) increasing carbon absorption through planting, 2) increasing the forest ecosystem's resilience to climate change by maintaining carbon stocks through conservation activities, and 3) reducing carbon emission from deforestation and forest degradation through REDD schemes.

What is REDD? REDD or Reducing Emission from Deforestation and forest Degradation is an international (voluntary) incentive scheme in which Annex I parties (industrialized countries such as USA), pay a sum of money to developing countries with vast forest cover, such as Indonesia, for reducing emission from deforestation and forest degradation. The incentive is meant as a "compensation" for the economic loss from not felling trees (deforestation) or avoiding felling trees. The incentive might take the form of funding, technology transfer and or capacity building to maintain forests (REDD initiative).¹⁰

The idea was first discussed in 2005 during the 11th Conference of Parties (COP) of The United Nations Framework Convention on Climate Change (UNFCCC) in Montreal, Canada. In the conference, Papua New Guinea and Costa Rica proposed "paying" someone or a country for not felling trees so that carbon or GHG emission from deforestation could be reduced. The concept was then known as RED or Reducing Emission from Deforestation, and received support from the participating countries, including Indonesia.

Discussions on RED continued during the 13th COP in Bali in 2007, in which many thought that forest degradation should be added to the RED scheme, turning it into REDD. Forest degradation also contributes to carbon emissions.

In addition to REDD, there was a proposition that someone or a country planting trees and maintaining his/its forests should also receive payment because the activities could increase forest

capacity to absorb carbon from the atmosphere and to maintain carbon stock. Hence, the term REDD+ was introduced. However, REDD/REDD+ procedures/methodologies have been unclear and are still being discussed within the UNFCCC.

In 2009, the 15th COP in Copenhagen tried to clarify REDD/REDD+ substance. The substance was not to be decided on then but in the 16th COP in Mexico in December 2010. The Copenhagen meeting only produced a non-binding document popularly known as the “Copenhagen Accord.” The accord contains funding commitment from Annex I parties to REDD activities in developing countries.

REDD Readiness Strategies

Despite unclear substance, the Government of Indonesia has expressed its enthusiasm for REDD due to its financial benefits. Even prior to the 13th COP, the Government of Indonesia had carried out a quick analysis to demonstrate its readiness for REDD, in terms of methodology and policy.

In 2007, the Forestry Department formed the Indonesian Forest Climate Alliance (IFCA), which served as the umbrella organization or a forum for the stakeholders to communicate and coordinate REDD issues, including the progress and the outputs of the on-going study on REDD.

With funding support from the World Bank, and the governments of Britain, Australia and Germany, IFCA carried out a study on REDD under the coordination of the Forestry Department, involving national and international experts. In 2009, the Forestry Department issued a report entitled “IFCA Consolidation Report: REDD in Indonesia.” In general, the IFCA’s study recommends some follow-up actions, as follows:

1. Developing the initial framework set by IFCA;
2. Continuing technical consultations and analyses;
3. Testing and implementing pilot projects in various conditions (DA-REDD);
4. Carrying out capacity building at all levels;

5. Creating a credible national framework for emission reduction that can be verified;
6. Creating concrete GHG emission reduction.

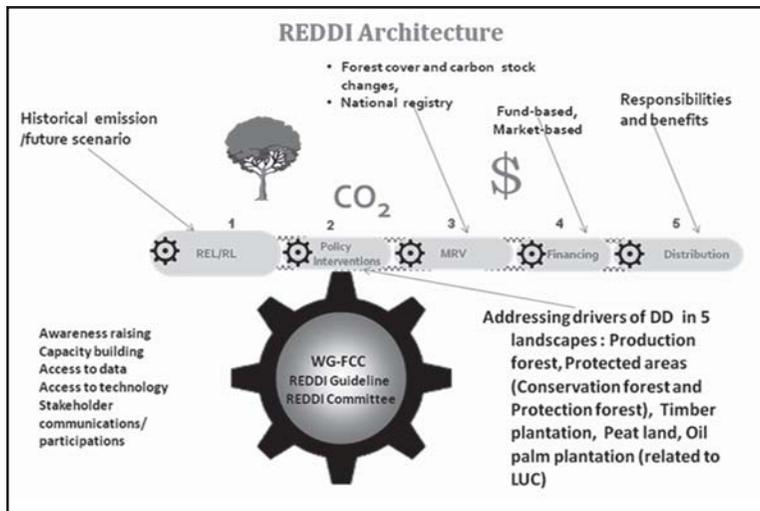
REDD was accepted in the 13th COP as climate change mitigation measure and was incorporated into “Bali Action Plan.” At this occasion, the Government of Indonesia communicated the REDD concept, which was divided into three phases:

- *Phase 1 (Preparation Phase)*: Identification of the status of the technology and science and related policies (2007-2008);
- *Phase 2 (Readiness Phase)*: Preparation of methodological and policy tools for REDD in Indonesia (2009-2012);
- *Phase 3 (Full Implementation)*: Full implementation in accordance with COP’s regulations when REDD becomes part of the UNFCCC’s scheme post 2012 (starting from 2013) (Departemen Kehutanan 2010).

In the preparation phase, IFCA carried out a study and analysis to prepare REDD readiness strategies in Indonesia. One of the IFCA recommendations in 2007 was carbon emission reduction strategies in five types of forests, namely: 1) production forests; 2) protected forests (conservation forests and protected forests); 3) Industrial Timber Plantations (HTI); 4) peatland; and 5) oil palm plantations (related to changes in land use).

Based on the outputs of the study, the Government of Indonesia’s developed REDD Indonesia (REDDI) readiness strategy, i.e., tools (policies, methodologies, institutions, analyses) for full implementation of REDD post 2012. The REDDI readiness strategy can be seen in Figure 4.

REDD readiness strategies are carried out through national approaches and implemented at the sub-national level (Province and District). *At the national level*, there are five main activities, namely: (1) policy intervention to address the drivers of deforestation and forest degradation on five landscapes; (2) issue of REDD-related policies (Permenhut No. P.68/Menhut-II/2008, Permenhut No. P.30/Menhut-II/2009, and Permenhut No. P.36/Menhut-II/2009); (3) Preparation of REDD methodology

Figure 4. REDD Readiness Strategy in Indonesia

Source: Nur masripatin, "Kebijakan dan Program REDD di Indonesia serta Hak Masyarakat Adat," (presented in FPIC Seminar, AMAN, Jakarta 15 March 2010).

(one being a collaboration with Australia), namely: setting Reference Emission Level (REL) and building Measuring, Reporting, and Verification (MRV) system; (4) Institutional preparation, namely national registration, funding, distribution of incentives and responsibilities, capacity building, communication-consultation-coordination with stakeholders; and (5) relevant analysis (REL, MRV, cost benefit analysis, risks, impacts, etc.) in cooperation with the World Bank's funding program, i.e., the Forest Carbon Partnership Fund (FCPF). At the sub-national level, there are three main activities, namely, (1) methodology preparation (setting REL and developing MRV system); (2) Institutional capacity building, namely distribution of incentives and responsibilities, capacity building, communication-consultation-coordination with stakeholders; and (3) development of Demonstration Activities (DA) and Voluntary Carbon Project (VCP)(Departemen Kehutanan 2010). At provincial level, DA REDD will be carried out in cooperation with the Government of Australia (IAFCP), and at district level, with the Government of Germany, ITTO, and TNC. The DA and VCP activities will be further discussed below.

The REDD readiness strategy is a pilot tool to prepare a carbon trade mechanism. The mechanism as it currently stands has a particular weakness in that many are worried it will be nothing other than the continuation of free trade practices that are unfair to Indonesia's indigenous peoples. A free trade in carbon will only increase forests' commercial values and adversely affect indigenous peoples, because carbon will be treated as a commodity, causing new conflicts and enmity between indigenous peoples and the government and the managers as well as among indigenous peoples themselves. Therefore, REDD readiness strategies need to be critically scrutinized from indigenous peoples' perspectives. From indigenous peoples' point of view, REDD will bring adverse impacts if their rights to customary forests are not recognized by the government. What are the reasons for this?

First, indigenous peoples have no rights to carbon under the current legal framework. Carbon is related to forests and soil, so no right to forests means no rights to carbon. In fact, whoever owns forests is entitled to make decisions on their management and use, including that of carbon.

Second, there are no transparency and indigenous peoples' participation in policy-making and decision-making on REDD. Indigenous peoples are completely excluded in the process. They do not know anything about existing policies and its impacts on their daily lives.

Third, indigenous peoples do not know what the goods or services to be produced from the carbon trade are, or how to calculate it. Indigenous peoples know nothing about these complicated and scientific calculations or the mechanism used to facilitate the trade, regardless of whether it is beneficial or disadvantageous. In fact, the carbon trade also means a trade of forest or territory. A wrong decision will mean the indigenous peoples' loss of their customary forest.

Fourth, law enforcement is poor and not on the side of indigenous peoples; it often fails to control the products and services produced. Implementation at a local level and all associated frauds cannot be addressed, and this will suppress indigenous peoples.

Fifth, indigenous peoples as forest owners will not receive fair benefits from REDD. Distribution of the benefits is to be determined by the managers, so that indigenous peoples cannot determine the amount of incentives equal to the loss that they suffer. Although they receive incentives they know nothing of the consequences—that they may lose their customary forests and access to the resources contained in them. In addition, horizontal conflicts may arise if there is disagreement among the members.

If indigenous peoples do not benefit from REDD or carbon trading, then who will? The basic concepts of REDD in Indonesia are planting, maintaining the existing forests and avoiding deforestation and forest degradation. This means that REDD will specifically be implemented on established forests, protected forests, sustainably managed forests, and forests to be cleared. Below are the concepts and their corresponding would-be beneficiaries:

1. The planting concept will benefit plantations. Here, the inclusion of oil palm into REDD schemes would be a mistake. While oil palm stores carbon, it causes deforestation. In addition, the most potential beneficiary is the regional government that initiates the planting program, through the “1 billion trees a year” program;
2. The sustainable management concept will benefit the managers of sustainable forest management such as timber concessions, community-based forests, community plantation forests, and village forests;
3. The conservation concept will benefit the government, BKSDA, National Park Office, conservation NGOs and conservation communities;
4. The deforestation concept will benefit timber utilization permit holders such as IUPHHK holders or timber companies. These groups potentially get the benefits as they allegedly cause deforestation. Considering that one of the objectives of REDD is to reduce the rate of deforestation, loggers or logging companies will be negotiated with to avoid deforestation. In addition, conservation NGOs will potentially benefit from the concept because

they can promote the reduction of deforestation and forest degradation (Steni 2010).

Stakeholders and Key Players in REDD

REDD stakeholders in Indonesia

What is meant by stakeholders here is all parties which have an interest, direct or indirect, in REDD implementation in Indonesia. Lists of the stakeholders can be found in Forestry Minister Decree No. P.38/Menhut-II/2008, Forestry Minister Decree No. P.30/Menhut-II/2009, and Forestry Minister Decree No. P.36/Menhut-II/2009. All three decrees explicitly mention the stakeholders in Demonstration Activities of REDD, REDD implementation, and environmental service utilization permit (IUPJL). Table 9 gives the list of the stakeholders.

As can be seen from the table, indigenous peoples are not considered as the rights holder, or even to be one of the stakeholders who have the right to decide whether to accept or reject REDD schemes involving their customary forests. To be able to participate in REDD, indigenous peoples have to have decrees, certificates or letters of recognition of forest management issued by the Forestry Minister or the relevant regional government. The fact is that so far there have been only two regions that actually issue such letters for indigenous groups, namely Banten (through a by law on the Baduy's customary [*ulayat*] right) and Kampar. This means that in most regions, indigenous peoples are not considered to be the legal owners and managers of customary forests and can only observe REDD implementation in their territories. Customary forests have the same legal position in both REDD policies and the National Law No. 41/1999 on Forestry.

Table 9. Stakeholders in REDD in Indonesia

No	Stakeholder	Note
Demonstration Activities (DA) REDD		
1	Ministers	The minister responsible in the forestry sector. Accepting or rejecting a proposed DA REDD is determined by the Minister without any obligation to conduct consultation with other parties. The Minister commissions the climate change and REDD working group within the Forestry Department to conduct a feasibility study of a proposed DA-REDD.
2	Initiators	Individuals or organizations can apply to the Minister to implement DA REDD. DA REDD initiators in Indonesia are the government (provincial and district), IUPHHK holders, privately-owned forest managers, customary forest managers, and heads of forest management units
3	Partners	The government, international bodies, private entities and individuals capable of funding DA REDD implementation in Indonesia.
REDD Implementation		
1	Ministers	The minister responsible in the forestry sector.
2	REDD Commissions	Commissions formed by the Minister and commissioned to deal with REDD
3	Independent assessors	Institutions entitled to verify REDD's activity report
4	Regional governments	Governors, regents, district heads and or mayors, and regional government's officials
5	National registration	Institution commissioned to register all REDD activities
6	National entities	REDD executing managers, comprising IUPHHK holders, state's forest managers or privately-owned forest managers
7	International entities	Funding partners
8	Focal Points	State's representatives commissioned to communicate with UNFCCC's Secretariat

Environmental service use permit (IUPJL)		
1	Ministers	The minister responsible in the forestry sector.
2	General Director	The General Director of Forest Production Management Agency (Bina Produksi Kehutanan)
3	Provincial and District/City agencies	Provincial and District/City agencies responsible in the forestry sector
4	Executors	IUPHHK holders (on natural forests, restoration forests and production forests)

REDD's key players in Indonesia

In general, the key players involved in REDD in Indonesia are the government, government-formed agencies and international institutions or NGOs assisting the government of Indonesia to implement REDD. Table 10 gives details of the key players in REDD in Indonesia.

The table clearly displays that REDD processes are made up of top-down approaches. Top-down approaches are often criticized for not being transparent and for excluding indigenous peoples' participation in decision and policy-making processes. Such methods do not fully include indigenous peoples in the proposed REDD processes and mechanisms. Indigenous peoples are only involved in limited socialization processes, and are not given room to make decisions. The problem is that this socialization is often used as evidence of indigenous peoples' participation in REDD processes.

The government of Indonesia completely excludes women's participation in climate change mitigation measures, indicated by the exclusion of the Ministry of Women's Empowerment from the National Climate Change Board (DNPI) (Satara 2010).

Table 10. REDD's key players in Indonesia

No.	Institution	Function
The government		
1	The Ministry of Forestry	Responsible for the overall management comprising improvement and management of public access to forestland. Focal Point at UNFCCC for Indonesia. Forming IFCA.
	1.a The National Planning Board (BAPLAN)	Responsible for the forest resource inventory system that will be integrated into the national carbon accounting system to monitor carbon content in forests. The reports will serve as the basis of monitoring, assessment and reporting for REDD with regard to GHGs. BAPLAN is the main player in REDD preparation within the Forestry Department
	1.b FORDA (Forestry Research and Development Agency/Badan LITBANG di Kehutanan)	FORDA is managed by IFCA. Leads the development of REDD methodology and concept. FORDA has carried out a study on various aspects of REDD via working groups.
	1.c Directorate general of Forest Production Management (BPH)	Responsible for the management of production forests and forestlands. Sets the production targets and determining the use of production forests
2.	The Ministry of Environment (KLH)	KLH plays at EIA implementation level and environmental concession service. KLH also serves as a focal point for UNFCCC
3	The Coordinating Ministry of Economy (<i>Menko Perekonomian</i>)	Responsible for mainstreaming climate change into Indonesia's development policies.
4	The National Development and Planning Body (BAPPENAS)	Responsible for coordinating the implementation of bilateral and multilateral aid projects comprised in the REDD pilot project funded by AusAID and BMZ. Responsible for the overall development coordination including managing financial/technical assistance and development partners.

5	The Ministry of Public Works / Directorate General of Spatial Plan	Responsible for spatial planning and monitoring of the implementation of Law No. 26 of 2007 on Spatial Planning.
6	The Ministry of Agriculture	Manages state-owned plantations (PTPN) and responsible for palm production development in Indonesia.
7	The Ministry of Commerce	Responsible for commercial affairs related to pricing and trade volume policies of palm oil, pulp and paper, plywood, and other forest products.
8	The Coordinating Body of the National Survey and Mapping	Responsible for updating and managing spatial data and mapping of all Indonesia's areas.
9	Provincial and district governments with special autonomy (such as Aceh and Papua)	Special autonomy laws give authority to regional governments to control their respective forest management.
Government-formed agencies		
1	Indonesian Forest Climate Alliance (IFCA)	Formed by the Forestry Department as a forum for creating a synergy between REDD-related measures/initiatives and other initiatives positively contributing to the REDD-related measures. Based on IFCA's study, REDD readiness strategy has been developed in Indonesia.
2.	The National Climate Change Board (DNPI)	DNPI consists of six working groups of governmental officials to handle adaptation, mitigation, technology transfers, finance, forestry and post-Kyoto goals. Coordinating the implementation of climate change management and strengthening Indonesia's position in international forums. Currently, DNPI has developed the National Plan to Address Climate Change in Indonesia (RANMAPI)

3.	Climate Change and REDD working groups within the Forestry Ministry	Formed by the Forestry Department and commissioned to provide the Minister with input about policies, strategic plans, program implementation and to facilitate stakeholders' initiatives related to climate change adaptation, mitigation, and technology transfers, as well as the Clean Development Mechanism and REDD.
International Institutions/NGOs		
1	Centre for International Forestry Research (CIFOR)	Conducts in-depth assessment on the causes of deforestation in Indonesia
2	World Agroforestry Centre (ICRAF)	Conducts studies on cultivation development systems and its impact on landscapes.

Source: The World Bank Indonesia REDD Team – Developing a Market for REDD in Indonesia.

REDD Projects in Indonesia

Demonstration activities

On 6 January 2010, the Minister of Forestry, Zulkifli Hasan, officially signed the launch of Demonstration Activities Reducing Emission from Deforestation and forest Degradation (DA-REDD) at the Gedung Manggala Wanabakti, Department of Forestry. The program launched is a collaboration between the government of Indonesia and the governments of Australia and Germany, the International Tropical Timber Organization (ITTO), and The Nature Conservancy (TNC). Below are brief explanations of the four activities of the DA-REDD.

1. Indonesia - Australia Forest Carbon Partnership (IAFCP)

IAFCP is a forest carbon partnership between the government of Indonesia and the government of Australia. On 13 June 2008, the heads of state (Indonesia's President and Australia's Prime Minister) signed the agreement, with the program duration from 2008 to 2012 and the contract value AUD40 million (plus an additional AUD30 million). The cooperation covers three main fields, namely: policy development and capacity building

to support the two countries in international negotiations and future carbon trade; the provision of technical assistance for Indonesia in the development of forest carbon calculation system and its monitoring tool; and the development of demonstration activities and regulations related to support for pilot REDD approaches.

The partnership aims at reducing GHG emission in Indonesia significantly and effectively by reducing deforestation, encouraging reforestation and improving sustainable forest management. These are to be achieved through two different DA REDD programs in two locations, namely:

a. Peatland

The Kalimantan Forest Carbon Partnership (KFCP) is a DA REDD focusing on peatland. The target location is the 120,000-hectare peatland in Kapuas District, Central Kalimantan; to be precise, on the northern Block A and Block E of the ex-peatland development area (PLG), with peats depth of more than three meters. Administratively, the area covers two sub-districts, Mentangai and Timpah.

KFCP is the world's first DA REDD on peatland. The government of Australia disbursed AUD40 million for the program. The target is to reduce GHG emission from peatland through improved forest management, fire prevention, rehabilitation of the hydrology system. Several institutions are involved in KFCP, namely Borneo Orangutan Survival-Mawas Program (BOS-Mawas), Care, Wetsland International Indonesia Program (WI-IP), and the University of Palangkaraya.

b. Mineral-rich forest

The second demonstration activity is focused on mineral-rich (non-peat) forestland in Merangin District in Jambi Province. Through the press release No. S. 125/PIK-I/201, the governments of Indonesia and Australia announced an AUD30 million forest carbon partnership program to be implemented in Jambi Province. DA-REDD specifically aims to tackle the threats to the mineral-rich forests of Jambi.

2. *Indonesia-Germany Forest and Climate Change Programme (FORCLIME)*

FORCLIME is a collaborative program between the governments of Indonesia and Germany focusing on climate change. The program was a result of bilateral negotiations (between Indonesia and Germany) in October 2007, which produced a program which focuses on climate change. Germany was committed to technical assistance for forest climate change and financial support amounting to EUR27 million. The current commitment is focused on DA REDD in Kalimantan with a district-based approach.

This DA-REDD is a forest programme (FORCLIME FC Module) that is part of FORCLIME, taking place over seven years (2010-2016) with financial commitment amounting to EUR20 million (money channel from KfW). The program is implemented in three districts, namely Kapuas Hulu (West Kalimantan), and Malinau and Berau (East Kalimantan). It aims at implementing forest conservation and Sustainable Forest Management (SFM) to reduce GHG emission and improve the conditions of communities living around the forests. Institutions involved in the program are GTZ, CIM, DED, InWent, and KfW.

3. *Indonesia - ITTO (International Tropical Timber Organization) Cooperation*

This DA REDD program is a collaborative tropical forest conservation program to reduce emission from deforestation and forest degradation and to increase carbon stock. The target location is Merubetiri National Park in east Java, which has a total carbon storage of 45 mt CO₂/ha. Lasting for four years (2009-2012), the program aims to reduce emissions, maintain the existing carbon stock and increase carbon sequestration, in an effort to improve the well-being of the people living in and around the Park through involvement of the local people and related governmental agencies in the project. Other institutions involved are Lembaga Alam Tropika Indonesia (LATIN), Merubetiri National Park (TNMB), Research and Development of the forestry Department (LITBANG Kehutanan), and the Forestry Agency.

4. Indonesia - TNC (The Nature Conservation) Cooperation

The program is implemented in Berau District, East Kalimantan. It is designed to support Indonesia REDD readiness at district (sub-national) level as the integral part of the national REDD Readiness. The institutions involved at a national level are the Forestry Department, the Ministry of Environment (KLH), the National Climate Change Board (DNPI), the National Development and Planning Board (BAPPENAS), and the Department of Finance; at a provincial level, the provincial government, the Regional Development and Planning Board (BAPPEDA), Forestry Agency, and other related institutions; at a district level, the district government and other related institutions, Civil Society (Universities, NGOs, CSOs), and Donors (AuSAID, NORAD, GTZ, KfW).

Voluntary Carbon Project

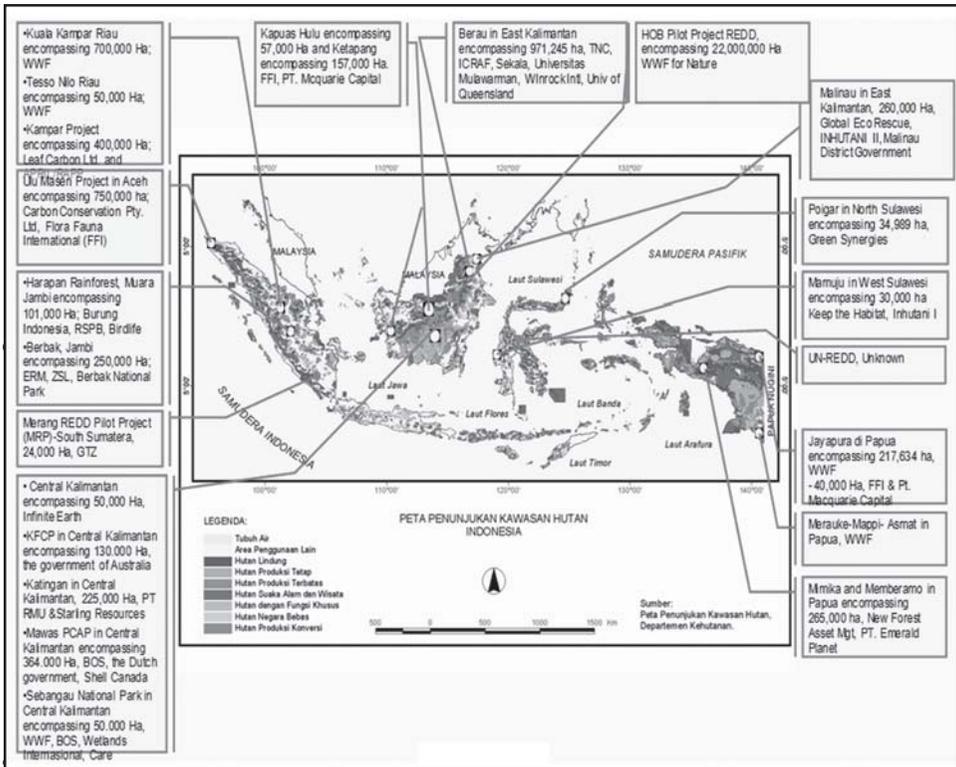
In addition to Demonstration Activities, there are a number of pilot initiatives developed in various regions of Indonesia through Voluntary Carbon Project (VCP) schemes. These are collaborative pilot projects among governments, and between the government and private entities, NGOs or universities. The target is to produce carbon credits to be traded in the carbon market.

Currently, there has been a number of demonstration programs developed throughout Indonesia. More than 20 projects have been identified. These projects are at various stages: many of the projects are still in design stage; some are being assessed; some are waiting for government's approval; and some are in the implementation stage. Some of the VCPs in Indonesia can be seen in Figure 5.

None of these VCP initiatives have come from indigenous peoples. This either indicates that indigenous peoples do not know anything about the current mechanisms related to climate change mitigation, or it is possible that they are intentionally not given the opportunity to implement REDD activities on their own.

Have indigenous peoples been involved in these VCPs? Based on the information from the ground, it can be said that the

Figure 5. REDD Projects in Indonesia



Source: The World Bank Indonesia REDD Team – Developing a Market for REDD in Indonesia; Report on Implementation of learning Workshop “Lokakarya Mengembangkan Pasar REDD di Indonesia,” January 2009; and Compilation from other resources.

projects have not adopted the principles of Free, Prior, and Informed Consent (FPIC). All negotiations have been conducted by regional governments and financiers without the involvement of indigenous peoples or consultation with them.

All the projects from Aceh and Kalimantan Barat have not involved indigenous peoples in the carbon trade. No consultation has even taken place with them. In Ulu Masen, Aceh, no application of the principles of FPIC has taken place in the projects. The community of Aceh Jaya (around Ulu Masen) was unaware about REDD, so they requested for an explanation from FFI and the provincial government on the REDD program in

Ulu-Masen. Furthermore, it is reported that the communities in three large districts, namely Aceh Jaya, Aceh Besar, and Pidie, have little understanding of what REDD actually is (JKPP 2009). In Kapuas Hulu, West Kalimantan, all that the community knows is about is carbon trading, with little knowledge of what REDD projects are about (JKPP/FWI 2009).

In Mantangin, Central Kalimantan, most indigenous peoples do not know anything about the KFCP project in their territory. The socialization process that took place only involved governmental officials and customary elites namely Damang.¹¹ One such elite, Mr. Musie Ijamain (58 years old) a Damang in Mantangin Sub-district, says that he does not know about what REDD/KFCP program is, even though the project has been socialized. Similar opinions have been expressed by several indigenous leaders in Katunjung Village, Mantangin Sub-district, West Kalimantan.

Indigenous Peoples' View of, Action Against and Reaction to REDD

Without clarity about rights to forests, to indigenous peoples REDD is merely a new concession that will further suppress indigenous rights. As with existing concessions, REDD will only limit and even prohibit indigenous peoples from accessing forest resources. They may even be driven out of their customary forests.

Problems indicated above have pressed indigenous peoples to demand for secure rights and the application of FPIC in each REDD initiative to be implemented in their territories. Below are some views of indigenous peoples or customary institutions of REDD programs.

From 5-8 August 2009, AMAN held the National Consultation of the Indigenous Peoples of the Archipelago on Climate Change and REDD. In the consultation, AMAN asserted that indigenous peoples' rights are universally recognized and protected under the UN Declaration on the Rights of Indigenous Peoples, and are nationally recognized and protected in Article 18b and 28i of the 1945 Constitution, in Law No. 27 of 2007 on

Coastal and Small Island Management as well as MPR Decree No. 9 of 2001 on Agrarian Reform and Natural Resource Management. AMAN, as an indigenous people's organization has articulated some views in relation to REDD:

- It asserts that all initiatives to adapt and mitigate climate change must be based on the principles of Free, Prior and Informed Consent (FPIC), must hold consultation processes, and must secure indigenous peoples' participation in decision making processes;
- It states that all REDD initiatives must provide secure recognition and protection of indigenous peoples' rights, including protection of rights to customary land and territories, ecosystems, and must bring maximum benefits to indigenous peoples;
- It agrees and asserts that without guarantees to these rights, indigenous peoples reject all kinds of REDD implementation and other climate change mitigation initiatives;
- Specifically, it urges the World Bank to implement the UN Declaration on the Rights of Indigenous Peoples in its REDD-related policies and to promptly hold consultations with indigenous peoples in Indonesia (See Sinarresmi Declaration, 8 August 2009).

In Port Numbay on 19-21 November 2009, Papua's civil society held the first Papua Forest Congress, attended by more than 200 people comprising NGO activists, religious leaders, customary leaders and Papua women. The congress produced a declaration expressing the Papuan community's view of carbon trade in customary territories. Entitled "Save Papua's People and Forests" the declaration states in point 8 that: "All kinds of activities and initiatives of carbon trade and carbon compensation that do not respect the rights of Papua's indigenous peoples must be terminated."

On 14 December 2009, the writer held a Focus Group Discussion (FGD) with several members of the indigenous Dayak Kualatn, Pendaun Village, Simpakng Hulu Sub-district, West Kalimantan. The FGD was held in Mr. Mario's house (Pendaun

villager) and attended by 18 people comprising the village head, community/indigenous leaders and women. They state:

Whatever activities are offered in our area, the important thing is that our rights are recognized. We are not maintaining our forests for REDD but for our own sake;

The community does not expect much from REDD as the mechanism and regulations are still unclear;

The community is not ready yet, so whatever incentive from REDD could divide our community;

If the incentive is true and we must take it, it must be used to develop our communities in the way that we choose.

In general, the indigenous Adat Dayak Ngaju in Central Kalimantan rejects carbon trading schemes over their territory. The indigenous Dayak Ngaju, who depend on the peatland of Central Kalimantan, reject the carbon trading scheme as a way to conserve their forests and refer to the scheme as a kind of colonialism (Down to Earth 2009). In fact, the community does not agree with such programs in their territories (including KFCP) if their land remains classified as the state's land. The land belongs to the indigenous adat Dayak Ngaju of Mantangin, Central Kalimantan. In addition, the community of Mantangin has little knowledge of the program to be implemented in their area. "The community is confused about the programs because so many programs have been coming to Mantangin" (Karben 2010).

ISSUES AND CHALLENGES FOR INDIGENOUS PEOPLES IN RELATION TO REDD

Traditional Knowledge-based Climate Change Mitigation

One good solution to mitigate climate change is to change current high carbon production and consumption patterns to low carbon ones, such as those practiced by indigenous peoples. With their traditional wisdom, indigenous peoples have proved that they can sustainably maintain their forests and the carbon stock contained in them.

To indigenous peoples, forests are part of their lives. If forests are destroyed, they will suffer. Therefore, climate change mitigation is a must-do practice for indigenous peoples. There are several sound reasons that make climate change mitigation part of their customary obligations.

First, indigenous peoples have a stronger motivation and more incentives to protect their forests than other community groups. To indigenous peoples, forests are not merely a source of economy but a part of their political and cultural identity. To them, forests are inherited from their ancestors and their responsibility to take care to maintain; should they not take care of them, their ancestors will get angry and bad luck will come.

Second, indigenous peoples possess traditional knowledge (commonly referred to as local wisdom) to preserve and use forest resources in a sustainable way. The knowledge is passed down for generations. Among the local wisdom are *Sasi Hutan* in Moluccas, *Awig-awig* in Bali and West Nusa Tenggara, *Hukum Giwu* in Central Sulawesi, *Hukum Rurukan* in Kasepuhan Banten Kidul, *Timawakng / Tembawang* in West Kalimantan, *Pa'h Kudor* and *Do'b* in Enggano, and *Panggale Yopo Nafu* in Togeian to name a few.

Third, indigenous peoples possess their own laws and customary institutions to enable them to take care of and regulate their harmonious interaction with the surrounding environment. In general, indigenous peoples have customary forests so sacred to them that to utilize them they have to hold a ritual asking for permission from the "inhabitant."

Fourth, indigenous peoples have their own system of land tenure, including that of customary forests, which maintains a dynamic balance between individual rights as a member of the community and collective rights as an autonomous customary entity (See boxed article).

Local Wisdom-Based Climate Change Mitigation of the Indigenous Dayak Kualatn of Pendaun Village

1. Motivation to protect forests

To the indigenous Dayak Kualatn of Pendaun Village, Simpakng Hulu Sub-district, Kapuas District, West Kalimantan, forests are a source of livelihood and used not only to fulfill their daily needs but also to practice traditional rituals and to preserve their cultural heritage. They rely on rubber sap and fruit for their daily lives. They also grow fruit-bearing trees, rice and hard crop (crops to be sold) trees.

Based on the functions, forests are classified into four groups, namely:

1. *Torunt*, categorized by size into two: the larger is called *Rimba Magong*, and the smaller is called *Rimba* or *Rimba Biasa*;
2. *Bawas/Jamih*, categorized by age into two: *Bawas Muda/Jamih Mongot*, forests of 1-4 years of age, and *Bawas Tua/Jamih Muntuh*, forests of five years and above of age;
3. *Tembawang*, ex-cropland and ex-housing complexes that are now grown by fruit-bearing trees or other hard crop trees;
4. *Gupongh*; forests not utilized due to their specific functions such as maintaining springs. *Gupongh* usually contains fruit-bearing trees or favorite plants and, according to local spiritual belief, must be preserved.

The indigenous Dayak Kualatn have a customary forest called *Tonah Colab Torunt Pusaka*, where *Tonah*=land, *Colab*=cold, *Torunt*=forest, *Pusaka*=inheritance. The head of the Pendaun Village, Mr. M. Tagon (39 years old) estimates the size of *Tonah Colab* to be 1,400-1,500 hectares located in four locations: *Dorik Bindang* (Bindang Hill), *Dorik Tebelian* (Tebelian Hill), *Dorik Genilau* (Genilau Hill) and *Dorik Mentoa* (Mentoa Hill). To date, only the *dorik Bindang* has been mapped, encompassing 875 hectares.

On *Tonah Colap* lies a ritual site called *Balai Pebantant*. Currently, there are two *Balai Pebantant*: one in *Bukit*

Bindang and the other in *Batu Besi*. There is also a sacred tree in *Balai Pebantant, Batu Besi*. According to local belief, if the tree bears fruit, harvests will be abundant, and vice versa.

2. Local Wisdom

According to the indigenous Dayak Kualatn's belief, the land, roots, logs, rattan and other forest resources each possess a "prophet." Before entering the forest and using the resources, they have to ask for permission first from the "owner" of the forest and the respective "prophet." If they do not do so, they will suffer from a disease called *minau babi*. In addition, they also ask for permission from the sun (at sunrise and sunset) for good luck.

Forests are commonly burned to establish cropland. The burning is done with local wisdom called *Odhi*, i.e., cooperatively clearing the forests. Prior to the burning, ditches are built to prevent the fire from spreading uncontrollably. The activity involves all members of the community: men, women, and youth. Women usually bring water for men to put the fire out.

3. Customary Law

The indigenous Dayak Kualatn of Pendaun Village still adhere to customary laws. Customary laws must be used to resolve any problems or conflicts. Even if a court decision is passed, a case is said to be unsettled if customary laws have not decided it.

To defend the forest, the community took the *Tonah Colab Torunt Pusaka* oath in 1999. The oath specifically aimed to reject any company planning to operate in their forest. To date, they have expelled companies from their forest for the seventh time.

Below are some rituals commonly practiced there:

- *Nukat Bumi*, a ceremony to rehabilitate the environment and hills degraded naturally or by human activities. The ritual requires at least seven wild boars and 14 roosters/hens. The community is not allowed to collect and or kill anything in the forest for a given period determined by the *Borent*. Violation of this will bring bad luck not only to the violator but

also to the entire community;

- *Mokantonah*, a traditional ritual commonly practiced in a smaller area, such as a river with diminishing numbers of fish, to “call” more fish to come. The ritual requires at least five wild boars and seven roosters/hens. According to local belief, the fish will be abundant again after the ritual. Fishing, however, is not allowed for a given period. Violation of this will bring bad luck to the village;
- *Bebantant*, a traditional ceremony invoking the ancestors to fulfill the community’s prayers. Cutting parts of a tree and killing animals is not allowed for three days up to a month, depending on the *Borent*, who leads the ritual. The minimum requirements include one wild boar and five roosters/hens.

4. Land Tenure Concept

In general, forests in Pendaun Village are classified into two, i.e., communal forest and individual forest, both regulated by customary laws. Communal forests such as *Tanah Colap* cannot be cleared for cropland.

The rights holder is the one who first clears or finds the forest. Anyone wanting to use the forest must ask for the owner’s permission first. The owners demarcate their respective forests by growing bamboo and fruit-bearing trees.

Issues Related to REDD

Issues related to REDD include questions such as; Who are the players? How should it be implemented? What benefits will it bring; and most importantly who has the right to the forests? While all these are still unclear, REDD implementation in Indonesia is complicated by the following problems related to the rights of indigenous peoples:

- Economic development mainly still depends on the exploitation of natural resources;
- Overlapping policies (Laws on estate crops, mining, land,

forestry, foreign investment; a bill on customary forests, Permenhut REDD, Governmental Regulation on mining in protected forests) and an absence of laws explicitly recognizing and protecting the rights of indigenous peoples;

- Conflicts of interest among departments, and between central and regional governments;
- An absence of official recognition of the rights of indigenous peoples;
- Absence of specific data on indigenous peoples—the identity of indigenous peoples is still frequently questioned (Setra 2010).

REDD-Related Challenges Faced by Indigenous Peoples

Government policies are the main problem indigenous peoples face when addressing REDD. Almost all policies on natural resource management are unfavorable to indigenous peoples. Meanwhile, to be able to observe their customary obligations, indigenous peoples need full recognition of their rights, and room to implement climate change mitigation measures.

Currently, there are several challenges that indigenous peoples have to address to observe their customary obligations in relation to climate change mitigation or to participate in REDD, namely:

1. National development is driven by policies and sectoral institutions that undermine the indigenous peoples' customary system;
2. The controlling power of the state (as the eminent domain) has stripped indigenous peoples' communal rights to land and natural resources on customary land. This power is implicitly stated in Law No. 41 of 1999 on Forestry Chapter I Article (1) point (f), which reads, "Customary forests are the state's forests lying over the territory of customary law community";

3. Forced standardization of village governance, militarization of customary territories, and misinterpretation have undermined customary laws and governance;
4. Another initiative that has emerged out of climate change mitigation is biofuel. This initiative tries to incorporate plantations (oil palm, sugarcane, soybeans, etc.) into climate change mitigation/REDD (Setra 2010). However, oil palm plantations are among the main causes of deforestation in Indonesia.

ACTIONS AND RESPONSES

In response to climate change and REDD issues, the Indigenous Peoples' Alliance of the Archipelago (AMAN) held a national indigenous peoples' consultation on 4-9 August 2009, which ran parallel to AMAN's National Working Session (*Rapat Kerja Nasional/Rakernas*) and the celebration of the Indigenous People's Day in Kasepuhan Sinarresmi, West Java. The consultation was attended by 139 people comprising local and regional chapters' representatives and the Board's members. Specifically, the event was held to prepare indigenous peoples, particularly AMAN's members, to respond to climate change and REDD issues.

Four speakers presented materials on climate change, REDD and their impacts on indigenous peoples. They are Mina Susana Setra (of PB AMAN), A. Ngaloken Gintings (of the Forestry Department), Tomoyuki Uno (program officer with UN-REDD), and Prasetyayadi (of the Ministry of Environment). Afterwards, indigenous peoples developed work plans to address climate change and REDD.

AMAN's Climate Change and REDD Working Group (POKJA)

AMAN formed a working group (POKJA) on climate change and REDD during the National Working Session (RAKERNAS AMAN) in Kasepuhan Sinarresmi, Sukabumi, West Java, on 4-9 August 2009. The group's members consist of representatives of

indigenous peoples in Indonesia. Specifically, the group was formed to prepare indigenous peoples to address climate change. Activities having been done so far include Training of Trainer, policy advocacy, sharing and dissemination of information on climate change and REDD.

On 28 January 2010, the working group held a dialogue session with the Forestry Ministry's climate change and REDD working group. The special agenda of the dialogue was to build a common perception between AMAN's POKJA and MoF's POKJA and to identify opportunities indigenous peoples could take. On that occasion, the Head of AMAN's POKJA, Ms Mina Susana Setra, put forward some recommendations about REDD and indigenous peoples' participation, as follows:

- Indigenous peoples' right to Free, Prior, Informed and Consent (FPIC) must be secured;
- Law No. 41 of 1999, which has been incorporated into the 2010-2011 National Legislation Program (Prolegnas), must be revised to recognize indigenous peoples' rights;
- The Ministry of Forestry should form a special unit as a special administrative desk for customary territories;
- The Ministry of Forestry should encourage recognition and protection and promote indigenous peoples' forest management models;
- The Ministry of Forestry should form a conflict resolution mechanism to resolve conflicts related to indigenous issues (Setra 2010).

It is most unfortunate that none of these recommendations have been adopted and followed up by MoF's POKJA. The department says that everything needs processes. This statement suggests that the department has no intention to resolve the existing problems, both those related to forest area and those related to REDD.

Policy Advocacy (Urging the Government to Pass a Law on the Recognition and Protection of Indigenous People's Rights and to Revise Law No. 41 of 1999 on Forestry)

One of the obstacles which prevents indigenous peoples from being able to observe their customary obligations in relation to climate change mitigation and REDD is the absence of policies and laws that fully recognize and protect indigenous peoples' rights. Therefore, AMAN urges the government to revise Law No. 41 of 1999 on Forestry and pass a new law that recognizes and protects indigenous peoples' rights. These two agendas have been incorporated into the 2010-2014 National Legislation Program.

Ancestral Domain Registration Agency (BRWA)

AMAN, in cooperation with Forest Watch Indonesia (FWI) and Jaringan Kerja Pemetaan Partisipatif (JKPP),¹² has formed an Ancestral Domain Registration Agency (BRWA) to collect data on indigenous peoples, which have not been consolidated or well-managed in accordance with the needs of governmental and non-governmental institutions. The data will be used in advocacy work to address problems faced by indigenous peoples, including those arising from REDD schemes.

After having been registered, verified and validated, the data will be publicly published on the BRWA's website (www.brwa.or.id) and other media to reach a wide-range of readers. The customary forest already mapped encompasses five million hectares.

Engaging with Government Agencies

On 17 March 2009, AMAN and KOMNASHAM (the National Commission on Basic Human Rights) signed a Memorandum of Understanding (MoU) to resolve cases related to indigenous peoples. Signed in Gedung YTKI Jln. Gatot Subroto No. 44 Jakarta, the MoU aimed to formulate measures needed to

mainstream an indigenous peoples' basic human rights approach in Indonesia. To this end, it was agreed to implement the following measures:

- Socializing UNDRIP;
- Holding regular information sharing;
- Assessing the existence of indigenous peoples in Indonesia and their basic human rights;
- Developing mechanism to address violation of basic human rights;
- Supporting ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

In addition, AMAN is also working with the Ministry of Environment. The MoU was signed on Wednesday, 20 January 2010, in Jakarta, covering cooperative implementation of the following:

- Identification of the existence and the rights of indigenous peoples and of local wisdom management in environmental protection and management;
- Capacity building for environmental cadres;
- Empowerment of indigenous peoples;
- Information sharing on indigenous peoples.

Strengthening FPIC in Various Regions

FPIC in Indonesia is still a subject of discourse and has yet to be adopted in any project in customary territories. Hence, there is a need for capacity building to fully mainstream FPIC principles into policies related to indigenous peoples.

AMAN, in cooperation with Forest People Program (FPP) and JKPP, has conducted activities related to FPIC in various regions. Among the activities which have been completed are institutional development, training and assistance to help indigenous peoples apply principles of FPIC in discussions and nego-

tiations. The activities have been carried out in three locations, namely Lewolema in East Flores, Lusan in East Kalimantan, and Kuntu in Riau.

Training

To increase indigenous peoples' capacity to defend their rights, AMAN has held the following training:

- Training on developing databases in cooperation with FWI;
- Training on participatory mapping in cooperation with JKPP;
- Training of Trainer on REDD and Climate Change for indigenous youth and AMAN's regional chapters;
- Internship program for indigenous youth at PB AMAN.

RECOMMENDATIONS

Effective advocacy to Claim the Rights of Indigenous Peoples

Recommendations for effective advocacy of indigenous peoples' rights are:

- To conduct legal analysis and advocacy to urge the government to revoke or revise laws that do not recognize indigenous peoples' rights, such as Law No. 41 of 1999 on Forestry;
- To extend socialization and to mobilize support to on the enactment of the Bill on Protection and Recognition of Indigenous Peoples' Rights;
- To document and secure indigenous territories through participatory mapping, which depicts rights to land, forests and traditional natural resource management knowledge;

- To revitalize customary institutions and traditional knowledge on natural resource management;
- To understand the principles of FPIC and to pressure companies and the government to adopt them prior to any operation in indigenous territories;
- To produce aware and capable cadres to fight for and protect indigenous peoples' rights.

Measures to be Taken by Organizations and Institutions Supporting Indigenous Movement in Indonesia

Below are recommendations to organizations and institutions in support of indigenous movement:

- To pressure and influence the government or decision makers to revise or revoke policies that prevent indigenous peoples from exercising their rights to managing natural resources;
- Specifically, to extend socialization and mobilize support on the enactment of the Bill on Protection and Recognition of Indigenous Peoples' Rights;
- To establish indigenous peoples information center, plan and map indigenous territories and document traditional knowledge to be used as a negotiation and advocacy tool;
- To pressure the government of Indonesia and international governments to incorporate the principles of FPIC as one of the requirements for development projects and to accelerate resolution to conflict related to indigenous issues;
- To raise awareness about UNDRIP and FPIC principles to wider public.

Ensuring Indigenous Peoples' Participation in REDD Processes

In the absence of law and regulations that fully recognize indigenous peoples' rights, participation and involvement of indigenous peoples in REDD processes is paramount to ensure that REDD schemes to be implemented will safeguard the rights of indigenous peoples. Therefore, recommendations to ensure indigenous peoples' participation and thus secure indigenous people's rights in REDD processes should include the following:

- To lobby international bodies such as UN and donors to pressure the government of Indonesia to involve indigenous peoples in all REDD processes and develop safeguards to ensure protection and recognition of indigenous peoples rights;
- To produce indigenous cadres aware of the impacts of REDD and climate change policies so that they can participate effectively and advocate indigenous peoples' rights in REDD decision-making processes in local, national and international level;
- To socialize and raise awareness about REDD and climate change (disseminating UNDRIP, FPIC, and Manuals for Indigenous Peoples to Address REDD and Climate Change) among indigenous peoples so that they are ready to deal with any REDD initiatives or projects introduced in their territories;
- To identify and document indigenous territories included in REDD projects as one of the basis for advocacy to secure indigenous peoples' rights.

Endnotes

¹ Samsul Muhyidin, a fisherman of North Lombok, interviewed by Annas Radin Syarif, AMAN, 28 October 2009.

² Kolaborasi Bali untuk Perubahan Iklim, "Refleksi Peserta Seminar Nasional; Adaptasi Perubahan Iklim di Kepulauan dan Pesisir dalam kerangka pembangunan berkelanjutan," (The seminar was held at Puri Dalem Hotel, Sanur, Bali, on 27 - 28 October 2009).

³ Buka Sasi Lompa is the Haruku community's traditional ceremony to call lompa fish from the sea.

⁴ Kliff Kissya, an indigenous member of Haruku Island, interviewed by Annas Radin Syarif, AMAN, 28 October 2009.

⁵ Law No. 41 of 1999 on Forestry, Chapter II Article (6) <documentation of AMAN>.

⁶ See AMAN's Statute, Chapter VII Article (10) Paragraph (2).

⁷ See Permenhut P.20/Menhut-II/2007, Chapter I Article (1) paragraph (1).

⁸ See: Law No. 41 of 1999 on Forestry, Article (4) Paragraph (2) (AMAN's Database).

⁹ See Law No. 5 of 1990 on Basic Agrarian Provisions, Article (2) Paragraph (1).

¹⁰ See Permenhut No. P30/Menhut-II/2009, Chapter I Article (1) point (24).

¹¹ Damang is a religious leader appointed by the government through a Regent's Decree.

¹² Participatory Mapping Network.

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Annex

No	Laws/Policy	Point
1	1945 Constitution, Article 18B, Second Amendment, 2000	Paragraph 2. The state shall recognize and respect customary law community units and their traditional rights as long as they do exist and are in accordance with the nation development and the principle of the Unitary State of Republic of Indonesia, which are regulated in the laws.
2	1945 Constitution, article 28I, Second Amendment, 2000	Paragraph 3. Cultural identities and rights of customary peoples are respected in accordance with the development of times and civilization
3	TAP MPR No. XVII/MPR/1998 on Basic Human Rights (Basic Human Rights Charter), 13 November	Article 41. The cultural identities of traditional peoples, including the rights to customary land, are protected in accordance with the developments of the times.
4	TAP MPR No. IX/MPR/2001 on Agrarian Reform and Natural Resource Management, 9 November	Article 5 point j: recognize and respect and the rights of customary law community, and the cultural diversity over agrarian and natural resources
5	Law No. 39 of 1999 on Basic Human Rights, 23 September	<p>Article 6 paragraph 1. In order to uphold basic human rights, the differences and the needs in customary law community shall be taken into consideration and protected by law, the nation and the government.</p> <p>Article 6 paragraph 2. The cultural identities of traditional peoples, including the rights to customary land, are protected in accordance with the development of times</p> <p><i>Explanation to Article 6 paragraph 1: Customary rights that still exist and that are highly upheld among customary law community shall be respected and protected in the context of upholding basic human right within the peoples with consideration of the existing laws and regulations.</i></p>

		<p><i>Explanation to Article 6 paragraph 2: in the context of upholding basic human rights, the national cultural identities of customary law community and the rights that are still strongly upheld shall be respected and protected as long as they are not in direct contradiction to the principles of law state that is based on people's prosperity</i></p>
6	<p>Law No. 5 of 1960 on Basic Provisions on Basic Agrarian, 24 September</p>	<p>Article 2 paragraph 4. The said controlling power of the state can, in its implementation, be delegated to private territories and customary law community, if necessary and not in direct contradiction to the national interests, in accordance with the government's regulations</p> <p>Article 3. Considering the provisions in articles 1 and 2, the exercise of customary rights and similar rights of customary law community, as long as they do exist, shall be done in such a way that it is in accordance with the national and the state's interest, which is based on national unity, and shall not be in direct contradiction to higher laws and regulations.</p> <p>Article 5. The agrarian law is applicable to the land, water and space is the customary laws as long as they is not in direct contradiction to the national and the state's interests, which are based on the nation's unity, Indonesia's socialism and provisions incorporated in this law and other regulations, while considering matters relying on the agrarian law.</p> <p>Article 22 paragraph 1. Ownership rights by customary laws shall be regulated by governmental regulations.</p> <p>Article 56. In case the law concerning ownership right as referred to in Article 50 paragraph 1 has not been set, the applicable laws are the local customary laws and other regulations on land title that give the same authority as or similar authority as that mentioned in Article 20, as long as they are not in direct contradiction to the spirit and provisions of this law.</p>

7	Law No. 41/1999 on Forestry, 30 September	Chapter IX on customary law community. Article 67 paragraph 1. customary law community, as long as they exist and are recognized, shall have the right to collect forest products for daily needs of concerned communities; undertake forest management in accordance with the prevailing customary laws which are not in direct contradiction to the laws; and be empowered for improving their welfare. Article 67 paragraph 2. Confirmation of existence and abolishment of customary law community as referred to in paragraph (1) shall be stipulated in regional regulations
8	Law No. 24/2003 on Constitutional Court, 13 August	Article 51 paragraph 1. The applicant is the party who considers that his/her constitutional rights and or authority are impaired by the enactment of the law, namely individuals of Indonesia citizenship, and customary law community units as long as they exist and are in accordance with the nation development and the principle of the Unitary State of the Republic of Indonesia, regulated by the laws, public or private provisions, or the state's institutions
9	Law No. 7/2004 on Water Resource, 18 March	Article 6 paragraph 2. The management of water resources as referred to in paragraph (1) shall be carried out by the Government and/or regional government by continuing to recognize the traditional right of the local traditional law community and any similar rights, to the extent that it does not contradict the national interest as well as the laws and regulations.
10	Law 32 / 2004 on Regional Government, 18 October	Article 2 paragraph 9: The State shall recognize and respect customary law community units and their traditional laws as long as they exist and are in accordance with the nation development and the principles of the Unitary State of the Republic of Indonesia

11	Law No. 20/2003 on National Education System, 8 July	Article 5 paragraph 3. Isolated or primitive citizens as well as isolated customary community are entitled to education with special treatment.
12	Law No. 7/2007 on Coastal and Small Island Management, 17 July	Article 1 paragraph 33. Customary community is a coastal community having lived for generations in a given geographic area because of ancestral relationship, strong relationship with coastal resources and small islands, and having a value system that determines economic, political, social and legal institutions.
13	Law No. 32/2009 on Environmental Protection and Management, 3 October	Article 1 paragraph 31. Customary law community is a group of people who has been living for generations in a given geographic area because of ancestral relationship, who has a strong relationship with the environment and who has a value system that determines economic, political, social and legal institutions
14	Qanun (Islamic Law) of NAD Province No. 14/2002 on Forestry, 14 October	Article 1 paragraph 31. Customary community is a group of people living in a given area for generations based on geographical similarities and or blood relationship, and having their own customary territory and customary institutions.
15	Law No. 21/2001 on Special Autonomy for Papua, 21 November	Article 1 point p. Customary community is the natives to Papua who live in a given area and are bound and subject to distinct customs with high solidarity among the members; Article 1 point r. Customary law community is the natives to Papua, who have since birth been living in a given area and who are bound and subject to distinct customary laws with high solidarity among the members;
16	Law No. 25/2004 on National Development Planning System, 5 October	Explanation to Article 2 Paragraph 4 Letter d. What is meant by "community" is individuals, groups of people including customary law communities or legal entities that have interests in development activities and results, be it as the financiers, actors, beneficiaries or risk takers.

17	Law No. 23/2006 on Demographic Administration, 29 December	Explanation to Article 6 Letter f. What is meant by “village” is a unit of law community having territory boundaries, who have the right to regulate and take care of the interests of the local community based on origin and local customs, which are recognized and respected within the governmental system of the Unitary State of the Republic of Indonesia.
18	Law No. 52/2009 on Demographic Growth and Family Development, 29 October	Article 5 Point n. Maintaining and developing customary values upheld in the community's lives.
19	Law No. 4/2009 on Mineral and Coal Mining	Article 67 Paragraph 3. The application letter as meant by the provision shall bear sufficient postage stamps on it and be accompanied with recommendation from the village head/customary leader confirming the validity of the applicant's information to be prioritized in obtaining IPR.
20	Law No. 22/2001 on Oil and Gas, 23 November	Article 11 paragraph 3 point p. development of the surrounding communities and secured rights of customary communities;
21	Law 27/2003 on Geothermal, 22 October	Article 16 Paragraph 3. Geothermal mining operations cannot be carried out in (point a.) cemeteries, sacred places, public places, public facilities and infrastructure, reserves and customary land.
22	Law No. 18/2004 on Estate Crops, 11 August	Article 9 Paragraph 1. In case the land needed is customary land of customary law community that does exist, prior to the titling as meant in paragraph (1), the applicant for the right is obliged to meet with the customary community holding the customary right and with the community holding the right to the concerned land, to ask for their consent for the handing-over of the land and for associated compensation.