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Indigenous people's forest management to support REDD program and Indonesia one map policy

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Abstract. The Constitutional Court Number 35 (MK-35) in 2012 has changed the perspective of the customary forests recognition. Before the MK-35 decision, based on the Forestry Act No. 41 of 1999, customary forests are part of state forests so that the management of the customary forest is still under the state control. After the MK-35 decision, customary forests are revoked from state forests so that indigenous peoples have the right to manage and utilize their own customary forests. Problems arise that the customary forests recognition prior requires the indigenous people's recognition, and this process often takes up the long bureaucracy. The forest management policy in Indonesia itself has not been too siding with indigenous peoples. Tenurial conflicts and overlapped land permits that occur still put the indigenous peoples as victims. This study aims to review forest policy in Indonesia, especially in the concept of REDD+ conservation program and One Map Policy in Indonesia, and to what extent these policies are in favor of the sustainability of indigenous peoples' rights in Indonesia.

1. Introduction

Indonesia as a tropical rainforest country has a forest area of 120.6 million hectares or about 63% of its land area. Forest areas in Indonesia are divided into three main functions, namely Production Forest covering 68.8 million hectares (57%), Conservation Forest covering 22.1 million hectares (18%), and Protection Forest covering 29.7 million hectares (25%) [1]. While according to the Forestry Act Number 41 of 1999, the status of forests consists of two types, namely State Forests, which are forests located on land that do not has land rights, and Right Forests, which are forests that are located on land that has land rights.

Prior to 2012, indigenous peoples in Indonesia felt that their customary rights to indigenous territories were violated by the Forestry Act since it was stated in the Act that customary forests are in state forest areas, which means that forest management and utilization must be authorized by the state. Whereas indigenous peoples feel that the customary land they have lived in for generations should be returned to their rights to manage and utilize the forest so that they can be used for the greatest prosperity of the indigenous people in their region. On this basis, the indigenous people community represented by AMAN (Aliansi Masyarakat Adat Nusantara) conducted a judicial review of several articles in the Forestry Act Number 41 of 1999 to obtain the recognition of the indigenous peoples' rights to customary forests which in the Act considered that customary forests are state-owned forests.



The recognition and stipulation of indigenous peoples' rights are considered very substantial because indigenous peoples have been disadvantaged and marginalized by the provisions in the Forestry Act Number 41/1999, where the Act seemed to confiscate their customary rights over the forest area which they had managed for generations. Indigenous peoples, who are relatively unaware and not keeping up with the progress of modern law, sometimes feels not knowing of when and why their customary lands suddenly become the state's rights and are fully managed by the state. Indigenous peoples who do not know these things will be confronted with various regulations if the state considers that they try to loot the state forests that even indigenous peoples themselves do not know why their land is suddenly considered to be state property.

In addition to the state, indigenous peoples also often confronted with large corporations who seize their customary land rights. The state sometimes issues forest management rights for corporations without deliberating or negotiating with indigenous peoples who have inhabited the forest area for a long time. As a result, their rights over customary land unaware has moved to the corporation. This often leads to conflict because indigenous peoples are often considered to violate corporate forest areas, which sometimes leads to indigenous peoples being considered as the party to be blamed when dealing with the law.

According to data from Indonesian Ministry of Environment and Forestry (KLKH, Kementerian Lingkungan Hidup dan Kehutanan), that from the last three years from 2015 to 2017, tenurial conflicts that have emerged tend to increase. In 2015, tenurial conflicts occurred in 58 cases, increasing to 75 conflicts in 2016, and 79 cases in 2017. From those numbers, most conflicts were between communities and companies/corporation as much as 57.5%, and the second most is a tenurial conflict between the community and ministries/institutions as much as 34.4% [2]. These numbers are tenurial conflicts that are already handled, so that in reality the total number of tenurial conflicts that occur in the field and have not been handled may exceed than those numbers.

From the above statistics, it can be illustrated that many indigenous people confront with corporations and with government institutions. This is the result of the customary rights of indigenous peoples to their ancestral lands that were seized by forest management that are less concerned with the interests of the surrounding communities in the region. Whereas previously in Article 4 paragraph (3) of Act Number 41/1999 it was clearly mandated that forest tenure by the State would continue to pay attention to the rights of indigenous people, as long as they existed and their existence was acknowledged, and not in conflict with national interests.

Tenurial conflicts that occurred will certainly be very detrimental and marginalize indigenous peoples. In order to avoid confrontation with indigenous peoples, forest management in indigenous territories should not be managed by the state but handed over to indigenous peoples who have inhabited these indigenous territories for decades, for the greatest prosperity of indigenous peoples in the region.

2. Research purpose

This study aims to review government policies to recognize the rights of indigenous peoples who inhabit many forest areas in Indonesia. Furthermore, it will be reviewed about the role of indigenous peoples in forest management in Indonesia, especially in REDD+ policies to reduce the rate of deforestation in Indonesia, and how far indigenous territories maps can be included in the One Map Policy that is being intensively initiated by the government to reduce the tenurial conflicts that occur and detrimental indigenous peoples.

3. Research method

This research was conducted using normative legal research methods, where the data obtained is secondary data derived from literature studies and using the relevant legislation approach. The analysis is carried out qualitatively and logically normatively based on the prevailing logic and legislation.

4. Discussion

4.1. *The constitutional court decision number 35 / PUU-X / 2012*

The Constitutional Court Decision Number 35 / PUU-X / 2012 (hereinafter referred to as MK-35), is an important decision that can be the beginning of the struggle for the indigenous peoples' rights. AMAN as the applicant proposed a judicial review of several articles in the Forestry Act Number 41 of 1999, namely Article 1 point (6), Article 4 paragraph (3), Article 5 paragraph (1) paragraph (2), paragraph (3), paragraph (4), and Article 67 paragraph (1), paragraph (2), paragraph (3). From the petition that was filed, there were several articles that were granted in part, and there was also a petition that was rejected by the Constitutional Court.

First, in article 1 point 6, the word 'state' in "Customary forests are 'state' forests that are within the territory of indigenous people", do not have binding legal force so that article 1 point 6 is meant to be "customary forest is a forest that is within indigenous people territory".

Secondly, Article 4 paragraph (3) in the MK-35 decision is interpreted as "the control of forests by the state continues to pay attention to the rights of indigenous people, as long as they are alive and in accordance with the development of society and the principles of the Unitary Republic of Indonesia as regulated in the law".

Third, in Article 5 paragraph (1), Forest based on its status consists of: (a) state forest, and (b) rights forest. The decision of MK-35 state that Article 5 paragraph (1) was interpreted as "state forest as referred to in paragraph (1) letter a, not including customary forest". Whereas in the Elucidation of Article 5 paragraph (1) it is contrary to the 1945 Constitution and does not have binding legal force.

Fourth, in Article 5 paragraph (2), State Forest as referred to in paragraph (1) letter a, can be in the form of customary forest, declared to be contradictory to the 1945 Constitution and not having binding legal force.

Fifth, in Article 5 paragraph (3), namely: "The government determines the status of forests as referred to in paragraph (1) "and paragraph (2)" and customary forests are stipulated as long as in reality the relevant indigenous peoples still exist and recognized for their existence". In its decision, the phrase "and paragraph (2)" in article 5 paragraph (3) are contrary to the 1945 Constitution; The phrase "and paragraph (2)" in article 5 paragraph (3) does not have binding legal force, so article 5 paragraph (3) is intended to be "the Government determines the status of the forest as referred to in paragraph (1); and customary forests are stipulated as long as in reality the indigenous peoples still exist and recognized for their existence".

In addition to the above articles which were partially granted by the Constitutional Court, in Article 5 paragraph (4) according to the Constitutional Court, if in future that the indigenous people are no longer exist, then the customary forests management is appropriate to be returned to the government and the status of customary forests converted into state forests. Whereas in Article 67 paragraph (1), phrases, as stipulated in Article 67 paragraph (1), must be interpreted as "the control of forests by the state continues to pay attention to the rights of indigenous people, as long as they are alive and in accordance with the development of society and the principles of the Unitary Republic of Indonesia as regulated in the Act. Article 67 paragraphs (2) and (3) remain unchanged so that the recognition of the existence of indigenous people still needs to use Local Regulations.

After the customary forest revoked from the state forest, the customary forest is then included as a category of rights forest. Arrangements regarding rights forests, including customary forests, are outlined in Minister of Environment and Forestry Regulation Number P.32/Menlhk-Setjen/2015. In the customary forest as a rights forest, then the indigenous people have the right to manage and utilize the forest in accordance with the local wisdom of the indigenous people and to get protection from environmental damage and pollution. However, to obtain the recognition of customary forests, one of the conditions is the existence of indigenous peoples who inhabit these customary territories and have been recognized by the local government through local legal products.

The need for local regulations for indigenous peoples recognition is quite an obstacle to the customary forests stipulation. The refusal of judicial review of Article 67 paragraphs (2) and (3)

according to the Constitutional Court is the mandate of Article 18B paragraph (2) of the 1945 Constitution which states "The State recognizes and respects the units of indigenous people along with their traditional rights as long as still alive and consistent with the development of society and the principle of the Unitary State of the Republic of Indonesia, which is regulated in the act ". Until now there is no act that regulates the mandate as stated in Article 18B of the 1945 Constitution so that the indigenous people's recognition by using local regulations can be justified.

The initial step after the issuance of the MK-35 decision is to encourage indigenous peoples to immediately get recognition from their respective local governments through local regulations or other local legal products. Recognition of the indigenous people's existence is one of the absolute conditions for a forest area to be established and recognized as customary forest. If there is no indigenous people recognition, the management of the forest area where they inhabited within will become the state authority, so that indigenous peoples cannot optimally manage and utilize their own forests.

4.2. Indigenous people and REDD+ project in Indonesia

In relation to global climate change, indigenous peoples are one of the most vulnerable groups to face negative impacts from climate change. The high rate of deforestation in tropical forest countries also threatens the existence of indigenous peoples who have lived in the forest area for generations. Deforestation that occurs is generally used for large corporations advantage and has been converted to other utilization areas so that the indigenous people's rights are getting marginalized so they can no longer live in their own forests.

The REDD+ concept is a program to reduce the carbon emissions rate through the financial incentives provision for developing countries that are able to reduce the carbon emissions rate caused by deforestation and forest degradation. REDD+ policies are considered as the cheapest and quickest way because the reduction of forest emissions will be cheaper than other mitigation instruments, and can be achieved by conducting policy reforms and other actions that are not dependent on technology innovation [3].

Some efforts made in REDD+ in Indonesia include through conservation and rehabilitation programs, strengthening forest governance, and involving all relevant sectors where one of them is indigenous peoples. The concept of REDD+ in Indonesia was initiated in 2010, where the government cooperated with the Norwegian Government. Indonesia is committed to reducing carbon emissions through institutional strengthening in terms of limiting and monitoring new land clearing, as well as strict law enforcement. Meanwhile, the Norwegian government promised to provide financial incentives of US \$ 1 billion, depending on how the Indonesian government has performed in reducing its deforestation rate.

However, after more than 5 years since the REDD+ agreement was initiated, the REDD+ program was considered less successful in Indonesia. Some of the indicators that REDD+ is considered a failure that the REDD+ Implementing Agency was formed later in 2013 and there are no organization administrator and staff until 2014. This shows the Indonesian government's lack of seriousness in its commitment to reduce carbon emissions through deforestation. In fact, the rate of deforestation precisely increased in 2011 and 2012 [4]. The deforestation rate then decreased in 2013, but bounced back in 2014 and later it was likely to decline until 2017 [1].

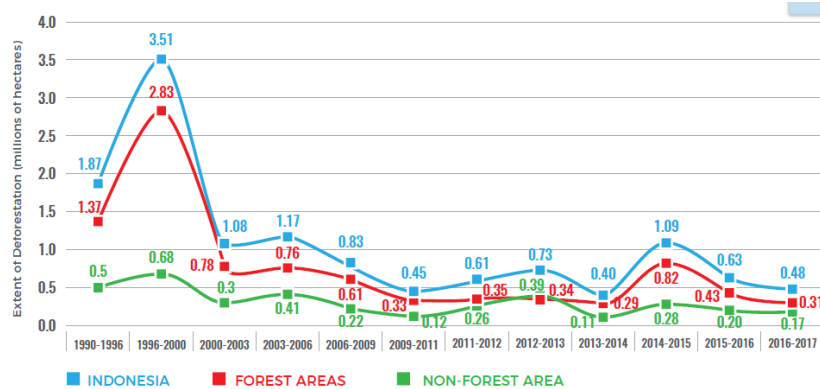


Figure 1. Deforestation rate in Indonesia [1]

The Indonesian government's lack of seriousness might also be shown by the increasing number of Indonesia's palm oil export. Although denied by many parties, it evidences that the opening of oil palm land is one of the contributors to deforestation in Indonesia. The value of palm oil exports which reaches around US\$ 18.9 billion per year is one of the largest foreign exchange reserves for the country. Compared with the value of the financial incentives promised in the REDD+ agreement which is "only" US\$ 1 billion, this value is obviously measly compared to the export value of palm oil in Indonesia [4]. Even according to data from the Indonesian Palm Oil Association (GAPKI), Indonesia's palm oil exports reached a record high of 31.05 million tons with a value of US \$ 22.97 billion in 2017, up from 2016 which reach to 25.11 million tons with value US \$ 18.22 billion.

The failure of REDD+ in Indonesia may also be due to some rejection from indigenous peoples. The rejection was caused by indigenous people were not invited to discuss before determining their territory as an area that became a REDD+ project. For example, indigenous peoples in Kapuas, Central Kalimantan, who did not know that their territory was designated as a REDD project area until the program was socialized in mid-2010. In fact, the Kapuas REDD project agreement funded by the Australian government has been running since in 2008. The community in Kapuas had never been consulted before, even less asked for approval for the REDD project implementation. The consequences are, indigenous peoples are worried about the ownership status and management rights of their customary territories after the existence of REDD projects [5]. This REDD project in South Kalimantan was later also considered a failure by one of the Australian senators, Christine Milne, and the local community was also upset with this ambitious program that had already spent millions of Australian dollars, but nothing was inherited [5].

With a few examples of the REDD project failure, indigenous people communities reject REDD projects, if there is no legal stipulation of the indigenous people's rights. No Rights, No REDD. If there is no prior guarantee of the indigenous people's rights, then they will resist over the REDD projects in their territory. AMAN as a community organization representing indigenous peoples from all over Indonesia will support REDD programs in Indonesia to reduce the impacts of climate change, with several conditions. First, the concept of Free Prior and Informed Consent (FPIC) must be applied, namely free and informed consent from the beginning. The embodiment of this concept is that before a REDD project implementation, there must be legal certainty about the rights of indigenous peoples and indigenous territories recognition. As a recognized entity, if there is a REDD project or other conservation program, the indigenous people should be given information previously and asked for their approval for the project implementation. Secondly, indigenous knowledge and local wisdom become an alternative solution for climate change mitigation and adaptation. So that the mitigation and adaptation policies won't be hostile with the local wisdom. Third, a solid indigenous people community, which means that indigenous peoples have clear organizational capacity being actively involved in conservation projects.

Although REDD project have considered a failure, there are some positive impacts carried from REDD project, including being able to mobilize district heads support and awareness related to carbon emissions reduction; encouraging one map policies for land governance; and in the past few years, REDD and the KPK have succeeded in revealing significant forest crime. According to the KPK Study (2015), from 2003 to 2014, total state losses due to leakage of revenue collection from the Reforestation Fund and Forest Resources Provision reached US\$ 6.47 - 8.98 billion (Rp. 62.8 - 86.9 trillion) or an average of US\$ 539 - 749 million (Rp. 5.24 - 7.24 trillion) per year during the 12-year study period [6].

Since the government transition in 2014, BP (Badan Pelaksana) REDD and the National Council on Climate Change (DNPI-Dewan Nasional Perubahan Iklim) have been merged into the Ministry of Environment and Forestry (KLHK). Since that time, the development of REDD has getting dimmed and less in implementation reverberation. At the end of 2017, KLKH issued Minister of Environment and Forestry Number P.70 of 2017 concerning Procedures for Implementing Reducing Emissions From Deforestation And Forest Degradation, Role Of Conservation, Sustainable Management Of Forest And Enhancement Of Forest Carbon Stocks. This Ministerial regulation is used as a guideline for implementing REDD+ programs in Indonesia by building several REDD+ tools including the National REDD+ Strategy; Forest Reference Emission Level (FREL) which describes emission levels equivalent to REDD+ activities in a certain time frame; Measuring, Reporting and Verification (MRV); Systems Information on REDD+ Safeguards Implementation (SIS) to provide information on safeguards implementation in a transparent, consistent and accessible manner to all parties; and the National Registry System (SRN) for data collection of REDD+ actions and resources.

4.3. Indigenous people in Indonesia's forest policy

Stipulation and recognition of customary forests as indigenous peoples rights will not be implemented if there is no legal recognition from the local regulation on the existence of indigenous peoples in that region. This is what has become a major obstacle in the effort to recognize and protect the indigenous people's rights.

The MK-35 decision which did not grant a petition for a change in Article 67 of the Forestry Act Number 41 of 1999 corroborates that the indigenous people's recognition is indeed required by a Local Regulation. According to Minister of Home Affairs Regulation (Permendagri) No. 52/2014 concerning Guidelines for the Recognition and Protection of Customary Law Communities, in Article 2 it is stated that Governors and regents/mayors recognize and protect indigenous people. Whereas in Article 6 paragraph (2) it is stated that the Regent/mayor stipulates the recognition and protection of indigenous peoples based on the recommendation of the indigenous People Committee by Decree of the District Head.

With these regulations, the bureaucracy to get the customary forests stipulation is quite difficult. In order to be recognized and stipulated as customary forests, indigenous peoples who inhabit these forest areas must be recognized and stipulated prior by Local Regulations. Until the end of 2017, there were only about 40 local legal products related to indigenous peoples, both in the form of Local Regulations, Governor Regulations, Regent/Mayor Regulations, and District Head Decree. From these regulations, there are only two local regulations that have been completely set up with maps of indigenous territories, namely the Lebak District Regulation Number 8/2015, and the Sigi Regent Decree No. 189.1-521 / 2015 [7]. Until the beginning of 2018, there were only 34 regencies/cities and provinces that had local regulations or other local legal products related to the indigenous people's recognition, and there were 15 local regulations that were still under discussion in the provinces and districts/city [8].

In order to get immediate customary forests recognition, indigenous peoples are required to actively participate in registering or proposing indigenous territories mapping to the government. The customary territories proposals from these communities will be verified by the Government and then it can be stipulated and recognized as customary territories and having a fixed legal basis. This can be one of the obstacles in stipulating customary territories because of the lack of active participation from

indigenous peoples, or the lack of communication quality with the government regarding the indigenous territories nomination so that they cannot be stipulated immediately.

The Customary Territory Registration Agency (Badan Registrasi Wilayah Adat - BRWA), is one of the autonomous bodies of AMAN, which was formed to bridge the indigenous peoples needs to propose their customary territories. BRWA consolidated maps of indigenous territories and subsequently communicated and proposed to the Government. Until the end of 2017, BRWA had submitted a total of 777 maps of indigenous territories with an area of approximately 9.3 million hectares to KLHK. From these maps, there are potential for customary forests for about 7.1 million hectares. This mapping of indigenous territories will be a reference and consideration for KLHK in stipulating and recognizing customary forests [8].

According to KLHK data until June 2018, there are 21 stipulated customary forests with a total area of around 11,578 hectares. There are 5 customary forests in the stipulation process with a total area of about 2,174 hectares. While two customary forests with an area of about 10,627 in the North Sumatra and Jambi regions are in the pipeline. If combined, the total area of stipulated and potential customary forests is around 24,379 hectares up to mid-2018 [2].

When compared with the customary forest potential presented by BRWA with the current process of customary forests recognition, the number of stipulated and potential customary forests is very small. In addition to requirements of the local regulations for the indigenous people's stipulation, the problem of overlapped sectoral permits is also one of the main obstacles in the process of customary forests recognition. The problem of these customary forests recognition has getting protracted because of many of the indigenous territories proposed map does not have a legal basis and still overlap with other licensed forest areas. According to the Director General of Sustainable Production Forest Management in Arumingtyas (2018) [7], 55% of the forest area is production forest, and most of the proposed customary forests almost certainly are in production forest areas. From the proposed customary forests identification, 379 customary forest areas are in production forest areas in 24 provinces with an area of approximately 3.2 million hectares. Meanwhile, 275 proposals with a total area of about 1.7 million hectares are in the area of forest product utilization permits. Outside these overlapping areas, there are no other major problems except the needs for indigenous peoples recognition by local regulations, so that these areas can be immediately proposed to the local government to be stipulated as indigenous peoples with their indigenous territories, and then proposed for the customary forests stipulation.

At present, the Indonesian government has issued a policy on social forestry schemes, namely forest management schemes in which the state provides legal access to the community to manage and utilize state forest areas covering 12.7 million hectares. This social forestry policy is marked by the issuance of Minister of Environment Regulation Number P.83 of 2016. The purpose of this social forestry is to economic equality and reduce inequality through three pillars: land, business opportunities, and human resources.

Social forestry is carried out through several access schemes. First, the Village Forest scheme where the management rights are given to village institutions for village welfare. Second, the Community Forestry scheme, where its main use is aimed at empowering local communities. Third, the Community Plantation Forest Scheme is a plantation forest in a production forest built by community groups to increase the potential and quality of production forests. Fourth, the Customary Forest scheme is a forest within the indigenous people territories and is excluded from the state forest. Fifth, the Forestry Partnership scheme, where there is cooperation between the local community and the forest manager, the holder of the business license for forest utilization, forest services, the permit to use the forest area or the holder of the forest product primary industry business license.

Customary forests are now included as one of the schemes in social forestry, which means that the government provides access for indigenous peoples to submit their customary forests recognition so that they can manage and utilize the forests in their own areas. In this scheme, customary forests are included in the rights forest, which is forest located on land that is encumbered with land rights, so that based on the status of their rights, customary forests are not included in the state forest. Customary

forests are indigenous peoples rights who inhabit the customary territories and customary forests. The state has no right to manage or establish management permits to corporations or other parties as long as the indigenous people who inhabit the customary forests still exist and recognized. However, once again that the bureaucracy of the indigenous people's recognition by local governments is not an easy thing. During this time, the making of Local Regulations is very dependent on the local political dynamics, in this case depending on the extent of the local executive and legislative understanding, and their alignments with indigenous peoples. There will also a significant cost in each discussion and drafting of local regulations so that the efforts to make local regulations related to indigenous peoples are often constrained and protracted without results.

4.4. Indigenous people identification in one map policy

The importance of customary forests stipulation to safeguard the rights of indigenous peoples also becomes references for KLHK in formulating customary forest policies. Legalization of customary forests and the establishment of indigenous territories maps will be included in the one map policy (OMP) which is under the coordination of the Coordinating Minister for Economic Affairs. With the inclusion of customary forest maps in the OMP, it is expected that there will be no more tenure conflicts related to forest management by indigenous peoples and preserve the rights of indigenous peoples.

The establishment of OMP by the Geospatial Information Agency (BIG) is based on Act No. 4/2011 concerning Geospatial Information where one of the objectives is to provide accurate and accountable geospatial information. According to the Act, Geospatial Information is Geospatial Data that has been processed so that it can be used as a tool in policy formulation, decision making, and/or the implementation of activities related to the earth space. Geospatial Information must fulfill four things, namely one reference, one standard, one database, and one geoportal [9].

This OMP means that there is only one map as a reference for policy formulation. During this time, the emergence of tenurial conflicts, one of which was due to the absence of a single reference for the geospatial data used. Each institution/ministry has its own thematic maps which sometimes differ from one another so that there is often a difference between institutions/ministries data. Some thematic maps that will be harmonized such as from the Ministry of Environment and Forestry, the Ministry of Energy and Mineral Resources, the Ministry of Manpower and Transmigration, the National Land Agency and the Local Government. The differences in thematic maps also often lead to conflicts between land users because of the overlapped permits issued by these institutions/ministries. From a study conducted by BIG, there are land tenure conflicts potential and overlapping national sectoral permits covering an area of approximately 20.8 million hectares, where the most potential is Kalimantan Island, and subsequent followings are in Sumatra, Papua, Sulawesi, Maluku, Java-Bali, and Nusa Tenggara [9].

Land tenure conflicts and overlapping sectoral permits are expected to be minimized by OMP implementation. With OMP, there is only one single referral map for all decision-making institutions so that there will be no overlapping of land permits which will also protect the indigenous people's rights if indeed it has been recognized by the government.

4.5. Indigenous people and customary forest recognition acceleration

The slow process of indigenous peoples and customary forests recognition by the state has caused the experience of indigenous peoples rights is far from optimal. There are still many tenurial conflicts that make indigenous peoples as victims of the seizure of their customary land rights, making the need for indigenous peoples recognition is getting urgent to be carried out immediately. Some possible efforts that can be made to accelerate the indigenous peoples include recognition are the following.

First, immediately accelerate the ratification of the Bill on Indigenous Peoples. The Bill on Indigenous Peoples is expected to be able to cut down the long bureaucracy of the indigenous people's recognition process who previously had to be determined using Local Regulations. This Bill on Indigenous Peoples was actually discussed in the house of representative for the 2009-2014 period and

has been included in the final stage of the discussion, but until the end of the period, the bill was not yet ratified. In this period, the Bill on Indigenous Peoples was put back into discussions and included in the 2018 National Legislation Priority (Prolegnas). Until April 2018, the Ministry of Home Affairs has issued a Problem Inventory List (DIM) related to the Bill on Indigenous People to the Secretary of State to accelerate the ratification. In this bill, the stipulation of indigenous peoples is carried out through stages of identification, verification by the regency/city committee, verification by the provincial committee, and finally verification by the central committee determined by the minister. In the end, the stipulation of indigenous peoples was made by the District Head Decree. To accelerate the next process in the customary forests stipulation, the indigenous people's stipulation and recognition are also equipped with a complete identification of the customary territory, including customary forests, clear indigenous territorial boundaries, territorial maps, and clear indigenous people institutions.

Second, the need to include the map of recognized customary forest in the OMP. The existence of customary forest map in the OMP will ensure the protection of indigenous peoples' rights because, with OMP as a single reference map, it will clarify the land use map and avoid sectoral permits overlap. Tenurial conflicts that related to land use status and boundaries can be resolved with one single map that is jointly recognized. Until now there are only 24,379 hectares of customary forests that have been and are in the process of recognition. This number may be very small when compared to Indonesia's forest area. However, the customary forest area is still important to be included in the OMP as a first step to recognize and protect the indigenous peoples' rights and avoid conflicts over land use with the state or with other land users.

Third, active involvement of indigenous peoples in forest conservation projects such as in REDD+ projects. Indigenous peoples as one of the most vulnerable groups in climate change will certainly be very supportive if there is a REDD+ project which the main goal is to reduce the rate of deforestation because most indigenous peoples are lived in the forest area. However, the involvement of indigenous peoples is not only an object but must be as a subject that actively participates in REDD+ projects. Before the project initiated, the recognition of indigenous peoples' rights is an absolute requirement to ensure that their rights will not be deprived or negatively affected by the implementation of REDD+ projects. The PFIC concept in REDD+ projects must also be implemented where indigenous peoples are included in consultations and agreements before REDD+ projects begin in their customary territories.

5. Conclusion

In the end, the indigenous peoples' rights recognition and protection requires serious commitment from the government and active participation from the indigenous people themselves. Indigenous peoples are likely in competition for forest land with large corporations that even did not have forest rights at all in their territory previously. The government's outlook conveyed through the Minister of Environment and Forestry, that zero deforestation cannot be applied to administrative management at the regents/cities, provincial and national levels because basically deforestation is still needed to support development such as for the construction of roads, electricity, opening access to remote villages and so on. The government's priority is to determine which land can be given for development permit [10]. This means that if the existence of the indigenous people is not immediately recognized, it is possible that customary areas can be affected by land clearing for development because the state considers that the area is still in the state forest authority. The government actually has provided policies, rules, and access for indigenous people recognition and protection over their customary rights as part of the government's commitment to protecting indigenous peoples. It now depends on the active efforts of indigenous peoples to protect their customary rights in the land that they have inhabited for generations.

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