

IMPORTANCE OF LAND AND FOREST TENURE REFORMS IN IMPLEMENTING A CLIMATE CHANGE SENSITIVE DEVELOPMENT AGENDA

Kuntoro Mangkusubroto

International Conference on Forest Tenure, Governance and Enterprise

Lombok, Tuesday, 12 July 2011

What I will share with you today is the compilation of ideas that come from different individuals. I can not claim that these ideas are mine alone. I'd like to thank Chip Fay; my best friend, the king of Sontoloyo, Abdon Nababan (if you don't know him, he's the Secretary General of AMAN); Patrick Andersen; Myrna Safitri; Martua Sirait; Heru Prasetyo, and the members of my core team. This was truly a collaborative effort.

Distinguished guests, Ladies and Gentlemen, Dear friends,

I would like to thank the Minister of Forestry, ITTO and RRI for putting together this important event. I am indeed very honored to participate in a conference of this magnitude that brings us together to discuss an important topic: land tenure.

Before I get to that, I would like to share a bit about my role in the President's Delivery Unit for Development Monitoring and Oversight, or UKP4. Just like the one you have in Great Britain. My role has required me to look at issues from a cross sector perspective, to go beyond the bureaucratic walls, literally and figuratively speaking, to make sure things happen on the ground. I have been assigned, to ensure that the government, as the name of the unit conveys, President's Delivery Unit, delivers public service in accordance to President Yudhoyono's commitment.

One of the President's commitment is to reduce emissions by 26% from business as usual by 2020 using our own resources, and by 41% with the support of international community. Now, more than sixty percent of Indonesia's emissions comes from land use and forestry sectors. These sectors are projected to continue to be the largest emissions contributor by 2020. This is why responsible natural resource management and land use play a vital part in achieving the President's emissions reduction targets.

This commitment from the President was welcomed by the Government of Norway who has signed an agreement with Indonesia to reduce emissions from deforestation and forest degradation (the so called REDD+). And through this agreement, better known as the Letter of Intent, or LoI, the Government of Norway has agreed to make contributions to the amount of US\$ 1 billion based on Indonesia's performance.

In conjunction with this commitment, Indonesia also has set its target to achieve 7% economic growth. To achieve this economic growth, the Government of Indonesia has just launched an ambitious economic master plan to create six economic corridors across the archipelago.

The commitments to 26% emissions reduction and 7% growth should not be juxtaposed in contradiction with one another; it is not about a choice between one or the other. Indonesia is committed to strike a balance between emissions reduction and economic growth. We are dedicated to a more sustainable economic development and management of our natural assets.

Plantation and forestry-related sectors contribute to 0.1% of GDP growth in 2010. 0.1%. Although these sectors are not the major growth contributors, millions of people depend on the forest and forest commodities for their livelihood. This most importantly includes the stewards of our land, the indigenous communities with their customary way of life.

Our land encompasses our natural resources. The issue of land tenure undoubtedly influences how we manage our natural resources nation-wide as a response to the climate change challenge and for the benefit of the communities living in and around the forests. Improving forest governance and land tenure is in line with our effort to reduce poverty, as there are at least 10 million forest-dependent people who live under poverty line.

Hence, we can not address the sustainable use of our natural resources if we do not appropriately address the complexities of land tenure – that is, how access is granted to the rights to use, control, and transfer land, as well as define associated responsibilities and constraints.

As such, finding the appropriate land tenure arrangement is a pre-requisite for sustainable development and livelihood. The issue of land tenure and its linkage to development and people's welfare is what I would like to talk to you about today.

Dear friends,

Undertaking steps toward sustainability is a relatively recent development in Indonesia's history. However, the issue of land rights and ownership have been discussed for over a century in Indonesia.

Here's a bit of a narrative for all of you. The first Forestry Law was in effect in 1865 followed by the first Agrarian Regulation 5 years later in 1870. This provided a legal basis for the state to own land through Domain Declaration. The word "*adat*" – or customary – tenure system was respected only for areas not under the state's domain. Let me reiterate this, "*adat*" tenure system was respected only for areas not under the state's domain.

After Indonesia's independence, Basic Agrarian Law was signed in 1960, almost 100 years later, whereby *adat* territories were recognized. Forestry Law followed soon in 1967, during the early years of the New Order, heavily influenced by the Dutch Forestry Law, under which *adat* forests were claimed as state land.

In the 1980s, the newly established Ministry of Forestry defined 141 million hectares as Forest Estate. The area classified as Forest Estate was based on a survey and remote sensing techniques available in that era, and through the application of biophysical criteria – no customary considerations were accounted for.

In 1999, the Basic Forestry Law was issued providing the Ministry of Forestry with legal basis to define and manage Forest Estate. Authority to issue ownership rights, which is regulated in the 1960 Agrarian Law, was not addressed. The 1999 Basic Forestry Law is the most recent legal basis that governs our forests today.

Indonesia consists of 190 million hectares of land with a population of more than 220 million. And as we heard yesterday, 133 million hectares, or 70% of our land is classified as Forest Estate and managed by Ministry of Forestry. The remaining is called Other Land Use, or APL, and managed by National Land Agency. This division is the result of long history that I've outlined for you. A history that has deep implications on our current status.

Ladies and Gentlemen,

What we confront now in Indonesia is the result of a journey spanning over a century. The long chronicle of forest and land tenure has brought this country to a point with two pressing challenges. Firstly, the dualism of forest as defined by its biophysical and administrative categories. Indonesia has vast forests, even primary forests, to the amount of 15 million hectares outside the area classified as Forest Estate. At the same time, there is 26 million hectares of non-forested land inside Forest Estate. This situation leaves some forests at risk of non-sustainable usage and restricts access to manage land for its highest and best use.

Secondly, unrecognized private rights, including *adat* communal land, within Forest Estate. There are 33,000 villages which are currently located within or around Forest Estate. This statement is the first statement I heard and I will use this figure as a reference. This is based on the Minister of Forestry's statement yesterday. Hence it can be argued as illegal because they live on state land. However people from these villages will claim that they have lived there for generations. Because of this, land tenure conflicts happen and can possibly create uncertainty for development purpose.

Land tenure is not a sector-bound issue – it is multi-dimensional in nature. Land tenure relationships are a convergence of social, cultural, technical, institutional, legal, and political forces that push and pull creating absolute tension. We recognize this tension when we observe, among others, illegal logging, conflict resulting from overlapping land permits, and exploitation of natural resources, women and vulnerable groups.

One example is Riau, a province in Sumatera island known for its biodiversity and vast amount of peat land. The Pangean community and an oil palm plantation group have had a conflict over a 583-hectare area since 1999, and mediation is still in progress until now.

Further, a pulp and paper producer has been in conflict over 1,627-hectare land with Lubuk Jering village. An agreement was reached in 2008, yet not all resolutions have been implemented because of internal conflict within the community.

Another example is the conflict between 17 villages and at least 6 companies in Kampar Peninsula. Conflicts can arise due to different development agenda on national, provincial, and district levels. Since establishment of Riau's Forest Estate in 1986, there have been at least 65

function changes and re-allocations, but provincial government still uses the original 1986 map as a reference.

One last case in point is in Central Kalimantan, a province that has been selected by President Yudhoyono as the pilot for REDD+ implementation. There are overlaps of licenses within Forest Estate in Central Kalimantan. Four million hectares of Forest Estate, or 25% of the province has overlapping land use certificates that are in-process or have been issued. Some 3.1 million hectares of Forest Estate has overlapping regional government permits, with 560,000 hectares that also have licenses from Ministry of Forestry on top of its regional permits.

Dear friends,

I believe this is not the first time you are hearing about these conflicts. This is not the work of one person or a single institution, or something that took place overnight. Rather, this is the result of an accumulation of decisions, regulations and paradigm that our forefathers considered relevant in the past.

Having said that, we have reached a junction in our journey where it is not too late to change course and rectify past mistakes. We can not let fear of making another mistake prevent us from taking bold steps forward. This is our chance to untangle our convoluted past and make a lasting difference. Given the momentous task at hand, I will concede that it will not be easy. Still, we have to start somewhere. And that time is now, here in Lombok.

President Yudhoyono has recently issued an instruction to suspend issuance of new forest and peat land licenses for two years, widely known as the moratorium. As mandated by this Presidential Instruction, actions must be taken in the framework of improvement of forest and peat land governance. Ladies and Gentlemen, there are two immediate actions that we must carry out, and I strongly recommend these actions:

First is to create One Map. This One Map will be the one and only map used by all ministries and government institutions as the basis for decision-making. This integrated map should have robust definition and apply latest methods and techniques to identify the position and size of our forests, wall-to-wall, across Indonesia. Stakeholders, including indigenous communities, will be encouraged to provide input through a transparent and participative process.

Second, we must accelerate the enactment of Forest Estate, in Bahasa, the term is *pengukuhan kawasan hutan*, including through community-based participatory mapping. Most Forest Estate is still in the designation phase, and only 14.2 million hectares or 12% has been enacted until now. Enactment of Forest Estate will identify private rights and it should be done in parallel with registry of *adat* customary land. Forest land use can only be done after enactment to guarantee *adat* customary rights are recognized. We may at this junction start hearing the term Community-Managed Forest which is a more comprehensive concept than *Hutan Tanaman Rakyat* (HTR).

It is imperative that these actions are taken not only in the forests, but also peat land. Indonesia has 32.6 million hectares of peat land hydrological ecosystem. Peat land can continue to emit high carbon emissions even after deforestation happens. This is why an emphasis on peat land is put into the Presidential Instruction on moratorium.

In his opening remarks, the Vice President stated that technology and improved institutional arrangements provide us with opportunities to overcome the challenges of development. The development of one map and the enactment of the Forest Estate provide a stage to once more showcase how we can use state-of-the-art technology dovetailed with institutional reform to immediately overcome the challenges of land tenure and deliver to the people.

Further, Indonesia is committed to longer-term forest and land tenure reform. The People's Consultative Assembly Decree (Tap MPR) No. 9/2001 on Land Reform and Natural Resources Management – which is the highest Law – has mandated the review and revision of all land tenure regulations for multi-sector synchronization. This can include Forestry Law 1999 and operational regulations of Basic Agrarian Law 1960.

The People's Consultative Assembly Decree also instructs to conduct land reform with considerations on conflict resolutions and resolve land inequality for land-less peasants; to develop inventory and registry of land tenure comprehensively and systematically; to resolve and anticipate land tenure and natural resources management conflicts; and all should be implemented based on the principle to recognize, to respect, and to protect *adat* customary rights.

Further to the next steps I just mentioned, the Ministry of Forestry announced yesterday it will allocate 89,000 hectares to districts for community-managed forest areas. Some say that we need more land allocation for this purpose. I see this as a step in the right direction.

Distinguished guests,
Ladies and Gentlemen,

We have started on the right track but what matters most is what happens on the ground. We must focus on three aspects: implementation, implementation, and implementation. That's what we call delivery. Pizza Delivery. You don't get it in 15 minutes. You get it for 50% discount, right?

It is important that we distill policies and regulations to develop practical rules and instruments to make land tenure operational. Also, we will need to support the local communities with the appropriate means so they can obtain access through an easily digestible process.

Providing licenses to the land allocated for community-managed forest areas is critical to ensure access. The formal state administration for land rights, access and security must make accommodations for informal rights and practices accepted by local customs.

While land should have clear boundaries, knowledge and experience should not. I hope the discussions taking place in this conference breaks down territorial borders and generate concrete actions that progress the global dialogue on land tenure while promoting local actions. I have full faith that with the impressive line up of panelists and experts in this room we can begin to untangle the complexities ahead of us.

Our approach needs to be parallel, holistic, thematic, multi-stakeholder and action-oriented to meet the daunting challenges of climate change and beyond. The issue of land rights and reform

will also affect our food and energy security. This is not only a forestry issue, but it is a cross-sector one. Provinces and districts will play an important role as actors on the ground. Paradigm shift is imperative, from exploitation to sustainable and responsible use of natural resources.

I am pro-growth. I am not against development. At the utmost land and forest tenure reform is about increasing people's welfare and living standard, reducing poverty by providing jobs, and living in harmony with the environment. I humbly ask you all as the experts: now is the time to put things into action.

I thank you so much.