

Land and forest-tenure reforms are key to implementing a climate-change-sensitive development agenda in Indonesia

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Ready to talk: Indonesian communities want more say in forest management. Photo: Tetra Yanuariadi

I am indeed honoured to participate in a conference of this magnitude, which brings us together to discuss an important topic: land tenure.

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

One of those commitments is to reduce emissions by 26% from business-as-usual by 2020 by our own resources, and by 41% with the support of the international community. More than 60% of Indonesia's emissions come from the land-use and forestry sectors, which are projected to continue to be the largest emissions contributors to 2020. That is why responsible natural resource management and land use will play a vital part in achieving the President's emissions reduction targets.

This commitment by the President was welcomed by the Government of Norway, which has signed a Letter of Intent with Indonesia to reduce emissions from deforestation and forest degradation (so-called 'REDD+'). Through the Letter of Intent, the Government of Norway has agreed to make contributions to the amount of US\$1 billion based on Indonesia's performance.

Indonesia has also set a target of 7% annual economic growth. To achieve this, the government has launched an ambitious economic master plan to create six economic corridors across the archipelago.

The commitments to 26% emissions reductions and 7% growth are not mutually exclusive; it is not about a choice of one or the other. Indonesia is committed to striking a balance between emissions reductions and economic growth.

The issue of land tenure undoubtedly influences how we manage our natural resources nationwide. Improving forest governance and land tenure is in line with our efforts to reduce poverty—at least 10 million forest-dependent people live below the poverty line. We cannot address the sustainable use of our natural resources if we do not address the complexities of land tenure—that is, determining how access is granted to the rights to use, control and transfer land and defining the associated responsibilities and constraints.

Taking steps toward sustainability is a relatively recent development in Indonesia. However, the issues of land rights and ownership have been discussed for over a century. The first forestry law came into effect in 1865, followed by the first agrarian regulation in 1870. This provided a legal basis for the state to own land through 'domain declaration'. The *adat*—or customary—tenure system was respected only for areas not under the state's domain.

After Indonesia's independence, the Basic Agrarian Law was signed in 1960, almost 100 years after the first agrarian regulation, whereby *adat* territories were recognized. A new forestry law followed in 1967, during the early years of the New Order. It was 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, remote



Photo: Hwan Ok Ma

sensing techniques available at the time, and the application of biophysical criteria. No customary considerations were accounted for.

The Basic Forestry Law was issued in 1999, providing the Ministry of Forestry with the legal basis for defining and managing the forest estate. Authority to issue ownership rights, which is regulated by the Agrarian Law, 1960, was not addressed. The Basic Forestry Law, 1999, governs our forests today.

Indonesia consists of 190 million hectares of land with a population of more than 220 million people. One hundred and thirty-three million hectares, or 70% of our land, is classified as forest estate and managed by the Ministry of Forestry. The remaining land is called 'other land use' and is managed by the National Land Agency. This division is the result of the long history that I've just outlined for you, a history that has deep implications for our current status.

What we confront now in Indonesia is the result of a journey spanning more than a century. We face two pressing challenges. The first is the dualism of forests—the contradiction between administrative boundaries and biophysical reality. 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 are 26 million hectares of non-forested land *inside* the forest estate. This puts some forests at risk of non-sustainable usage and restricts management options on deforested land inside the forest estate.

The second challenge is unrecognized private rights, including *adat* communal land, within the forest estate. Thirty-three thousand villages are currently located within or around the forest estate. It can be argued that these villages are illegal because they are on state land, but the people who live in them will claim that they have lived there for generations.

Land tenure is not a sector-bound issue—it is multi-dimensional. 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 other things, illegal logging, conflict resulting from overlapping land permits, and the exploitation of natural resources, women and vulnerable groups.

One example is Riau, a province in Sumatra known for its biodiversity and vast area 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. Further, a pulp-and-paper producer has been in conflict with Lubuk Jering village over a 1627-hectare area. An agreement was reached in 2008 but has not been fully implemented because of internal conflict in the community.

Another example is the conflict between 17 villages and at least six companies in Kampar Peninsula. Conflicts can arise due to differing development agendas at the national, provincial and district levels. Since the establishment of Riau's forest estate in 1986 there have been at least 65 function changes and re-allocations, but the provincial government still uses the original 1986 map as a reference.

In Central Kalimantan, a province that has been selected by President Yudhoyono as the pilot for REDD+ implementation, four million hectares of forest estate, or 25% of the province, have overlapping land-use certificates. Some 3.1 million hectares of forest estate have overlapping regional government permits, including 560 000 hectares that also have licences from the Ministry of Forestry on top of regional permits.

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, it is the result of an accumulation of decisions, regulations and paradigms that our forefathers considered relevant in the past.

Having said that, we have reached a juncture in our journey where it is not too late to change course and rectify past mistakes. We cannot let fear of making another mistake prevent us from taking bold steps forward. This is our chance to untangle our convoluted past and to 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 recently issued an instruction to suspend the issuance of new forest and peatland licences for two years, widely known as 'the moratorium'. As mandated by this Presidential Instruction, actions must be taken in the framework of improving forest and peatland governance. We must carry out two immediate actions, and I strongly recommend them.

The first is to create 'one map'. This 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 definitions and apply the 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 to now. The enactment of forest estate will identify private rights and it should be done in parallel with the registry of *adat* land. Forest land use can only be done after enactment to guarantee that *adat* rights are recognized. We may at this juncture 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 forests, but also on peatland. Indonesia has 32.6 million hectares of peatland hydrological ecosystems. Peatland can continue to emit large quantities of greenhouse gases even after deforestation, which is why it is emphasized in the Presidential Instruction on the moratorium.

In his opening remarks at this conference (page 4), 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-tenure 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 the Forestry Law, 1999, and the operational regulations of the Basic Agrarian Law, 1960.

The People's Consultative Assembly Decree also instructs us to conduct land reform with considerations of conflict resolution and resolving land inequality for landless peasants; to develop an inventory and registry of land tenure comprehensively and systematically; and to resolve and anticipate land-tenure and natural resource management conflicts. All these should be implemented based on the principle of recognizing, respecting and protecting *adat* rights.

The Ministry of Forestry announced yesterday (see page 4) that 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.

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 is what we call delivery.

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

Providing licences to the land allocated for community-managed forests is critical for ensuring access. The formal state administration for land rights,

access and security must accommodate the informal rights and practices accepted under local customs.

Our approach needs to be parallel, holistic, thematic, multi-stakeholder and action-oriented to meet the daunting challenges of climate change and beyond. While land should have clear boundaries, knowledge and experience should not. The issue of land rights and reform will also affect our food and energy security, so this is a cross-sectoral issue. Provinces and districts will play important roles as actors on the ground. A paradigm shift is imperative, from exploitation to the sustainable and responsible use of natural resources.

I am pro-growth. I am not against development. Land-tenure and forest-tenure reform is about increasing people's welfare and living standards, reducing poverty by providing jobs, and living in harmony with the environment. Now is the time to put things into action.

This is an edited version of the speech delivered at the conference by Kuntoro Mangkusubroto on 12 July 2011.

Joint statement by United States and Indonesia notes importance of commitments made at Lombok conference

Indonesian Foreign Minister Dr R. M. Marty M. Natalegawa and United States Secretary of State Hillary Rodham Clinton met in Bali on 24 July 2011 to co-chair the second meeting of the US–Indonesia Joint Commission. They discussed, among other things, the Indonesian government's recent pledge on forest-tenure reform made at the Lombok conference. According to a statement issued by the US Department of State, the co-chairs of the Joint Commission's Working Group on Climate and Environment reported on accomplishments in priority areas, including intensified consultations on global climate-change action, tropical forests, environmental management and governance, and biodiversity and ecosystems conservation. Noting Dr Mangkusubroto's speech on land tenure at the Lombok conference as a major step forward for forest-dependent communities, and recognizing the importance of an accurate forest mapping system, the Working Group identified the following key challenges and actions: piloting REDD+ programs; strengthening climate-change measurement, reporting and verification systems; advancing the establishment of a climate-change centre; protecting biodiversity, including habitats that are critical to the survival of orangutans and tigers; combating illegal logging; and promoting the sustainable management of forest and marine ecosystems.