



Strategy to Side with Indigenous People

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To deal with rampant land disputes involving indigenous communities, the Environment and Forestry Ministry of Indonesia has set a target of redistributing 12.7 million hectares of social forests (2015-2019). The majority, 6.8 million ha, would be taken from concession forests — totaling 30 million ha, from which around 10 million ha are under industrial forest permits (HTI) and around 12 million ha are natural production forest concessions (HPH) — in the form of partnership forests, Hutan Kemitraan (HK).

The remaining 5.9 million ha will come from open-access production forests with no existing permits (unmanaged production forests) in the form of village forests or Hutan Desa (HD), community forests or Hutan Kemasyarakatan (HKM) and customary forests or Hutan Adat (HD).

The administration of the President Joko “Jokowi” Widodo has put great emphasis on overcoming the long and unequal control over state forest areas, to have a better management of space for local communities; however, evil is always in its implementation. Mainly because of indeterminate entitlements to land, the lack of a comprehensive land registry and the related geospatial information, lack of formal methods to protect and recognize customary rights to land, unclear state forest boundaries and a lack of government facilitators dealing with dispute resolution at the field level.

The latter could ideally be tackled by forest management agencies at the regency level, but due to some structural problems most of them do not yet operate effectively.

Considering the limited capacity of the former forestry ministry to execute the program, it will be really hard to achieve 12.7 million ha of social forests within the coming four years. Learning from the past, while most of the available schemes are still obscure and full of uncertainty, it is understandable that the Environment and Forestry Ministry took a short-cut strategy by sharing the risk of its target with forest concessionaires.

The implementation of HD and HKM has been very slow. The previous government managed to implement only 646,000 ha out of the 2.5 million ha. The challenges lay on the lack of support from district administrations and long procedures at the forestry ministry.

The latter has been shortened by the Environment and Forestry Ministry but another challenge has arisen as a consequence of the issuance of Law No. 23/2014 on regional governance which changed from district to provincial level. Regent permits should follow up the stipulation of community forestry working areas as defined by the Environment and Forestry Ministry. The withdrawal of regents' authority to provincial governments has disconnected the mechanism.

After two years, there have not been significant follow-ups to Constitutional Court ruling No. 35/2012. Where it is defined that the land of indigenous communities has been recognized by a district regulation is no longer within the state forest

area. The challenge lies in formulating the legal framework, at national and regional levels, to integrate the legal recognition of their existence and rights over land and other natural resources.

So far, no regulations have been issued by the district government to recognize the HA system, as the interest of the district government is still in arranging permits for large-scale business rather than managing land tenure for indigenous peoples. It is also hard to claim open-access state production forests that are in the hands of powerful interests, so again this will demand big resources and a long process to settle.

Among the available options, HK is likely the cheapest, simplest and quickest approach to execute. The challenges are: only 39 percent of HPH (115 out of 294) and 45 percent of HTI (106 out of 235 HTI) are actively operated; they have been subjected to chronic land disputes resulting from overlapping permits; the potential business orientation differences between local communities (mostly oil palm plantations) and HTI/HPH could lead to difficulties in building solid partnerships; the additional obligation will burden forest concessions which have been suffering various fundamental problems; and, in the case of HTI, comprehensive evaluation of the current best practices (in allocating 5 percent of their concession areas as life-supporting plantations) is required before raising the allocation to 20 percent.

The new ruling has raised unfair perceptions among forest concessionaires that the Environment and Forestry Ministry tends to add burdens to legal concessionaires, rather than taking serious action against illegal actors that occupy unmanaged (open-access) production forest. The government should consider the sharply declining number and survival rate of forest concessionaires during the last decade as important lessons learned.

Other realistic options, however, are still available. First, distributing state forest areas held by in-active forest concessionaires (around 10 million ha) to local communities. Second, considering about 12 percent of terrestrial conservation areas (around 2.5 million ha) have been seriously encroached, highly degraded and are hard to restore, rather than continuously spending precious resources for ineffective forced evictions, it might be worth allocating the land for social forestry.

Both can be considered short-cut strategies. Interestingly, the total figure (around 12.5 million ha) approximately matches the government's target.



This infosheet is part of communication tools for the project of Tropenbos International Indonesia Programme in Mainstreaming Landscape Approach, which is aimed, among others, to address landscape based development, landscape conservation planning, sustainable livelihoods for forest community and the enhancement of community based landscape restoration.

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