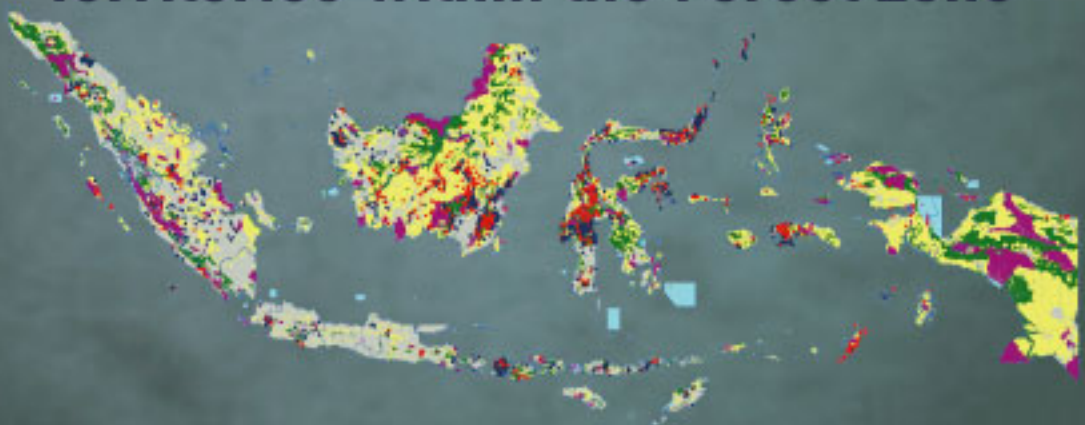
NATIONAL INQUIRY ON THE RIGHT OF INDIGENOUS PEOPLES ON THEIR TERRITORIES IN THE FOREST ZONES

Summary of Findings and Recommendations for Improvement of the Law and Policy Concerning Respect, Protection, Compliance and Remedy Relating to the Human Rights of Indigenous Peoples over their Territories within the Forest Zone




















FOREWORD BY
THE CHAIRMAN OF KOMNAS HAM

The National Commission on Human Rights (Komnas HAM) has four functions: research and assessment, monitoring, mediation, and dissemination (Act 39 of 1999). The four functions of Komnas HAM embody the objectives the Commission is developing to create conducive conditions for the implementation of human rights and improve the protection and enforcement of human rights. The four functions can be grouped into two categories, promotion and enforcement. The task of promotion is realized through education and research, while enforcement is advanced through efforts to resolve cases through monitoring and mediation.

In the last ten years, the National Commission has received thousands of complaints of alleged human rights violations. Komnas HAM uses its functions and authority to contribute to efforts to resolve cases of human rights violations. Resolution case by case has a positive impact for the victims. The Commission also takes up cases that have similar patterns and are consistently received each year, namely, agrarian cases. These types of cases cannot be solved through the completion of a particular case – as when one case is completed, other cases emerge in other locations. Human rights violations persist despite the improvement of legislation and institutions in Indonesia.

The National Inquiry into Indigenous Peoples' Rights on their Territories in the Forest Zone is the first national inquiry held by the Commission, as set out in the Plenary Session of the Commission in April 2014. The National Inquiry is an attempt to contribute to the efforts to resolve violations of human rights. The National Inquiry combines four functions in one activity: investigation, research and study to analyse the roots of the problem and formulation of recommendations for resolution of human rights violations. The investigation was conducted by involving communities, witnesses, institutions, researchers, educators and policy experts in a transparent framework of investigation into systematic patterns of human rights violations. The aim was to identify findings and recommendations.

The format of a National Inquiry was selected because it provided a way to generate more systemic recommendations and was also able to educate the general public. The Inquiry was educational in that both the complainants and the actors and entities complained

about were present. The general public was also able to listen to public testimony during the hearings process.

The theme of the rights of indigenous communities (*Masyarakat Hukum Adat* - MHA) over their territories was chosen because it has a strong human rights dimension. It also has a high educational value and MHA are marginalized in Indonesian society. Inquiring into this theme will help provide a new awareness for the society and the government that human rights violations concerning MHA and their customary areas are complex and are caused by systems and policies. This theme will provide new information for the various parties involved in these issues that have not been realized and known. This issue has not been addressed thoroughly in the past in part because the roots of discrimination and marginalisation are so deep.

In early 2015 the Commission completed its Inquiry activities. The results and recommendations of the National Inquiry are summarized in this publication and are expected to contribute positively to resolution of the identified issues. The model of the National Inquiry into the rights of MHA could be developed to help resolve other cases involving similar systems and policies. The recommendations are expected to provide material that can be useful for further development of academic discourse. For the government it is hoped that the recommendations can be a basis for policy formulation to comprehensively resolve cases concerning customary territories of MHA.

Komnas HAM thanks the Indonesia's National Commission on Violence against Women (Komnas Perempuan), the Witness and Victims Protection Agency (LPSK) and the Ministry of Justice and Human Rights, and the Indigenous Peoples Alliance of the Archipelago (AMAN), Sajogyo Institute, Samdhana Institute, HuMa, Participatory Mapping Network (JKPP), ELSAM, Epistema Institute, INFIS, the Partnership for Governance Reform, Rights and Resources Initiative (RRI), the Ford Foundation, and UNDP. We look forward to further cooperation to oversee the National Inquiry's recommendations.

Amid increased exposure to human rights issues at this time, the Commission remains convinced that Indonesia will continue to evolve into a nation that seriously seeks to respect and protect human rights. The Commission presents the results of this National Inquiry to help remedy the human rights violations that have occurred and for the prevention of such violations in the future. Happy reading.

Jakarta, January 2015

Chairman of the National Human Rights Commission

Nur Kholis

FOREWORD
INQUIRY COMMISSIONERS

Tens of millions of people who are members of indigenous communities (MHA) in Indonesia faces uncertainty over their communal land rights, especially those living in areas designated and / or set by the government as the forest zone. The process of appointment and / or determination of the forest zone started during the colonial reign of the Dutch East Indies, but most of the forest zone was designated during the Suharto era and the process continues to this day. Uncertainty continues in regard to indigenous territories as the government ignores the existence of MHA and violates their rights, to the extent of eviction / forcible removal of MHA from their territories. In the process of asserting their rights, thousands of MHA lose more of their rights, as they often face persecution, loss of livelihoods and women are forced to work outside of their traditional territories.

The Report of the National Inquiry documents the voices of victims who are rarely heard. This booklet is summary of Book I of four books published by the National Human Rights Commission (NHRC) based on the results of the implementation of the "NHRC National Inquiry on the Rights of Indigenous Peoples on their Territories in the Forest Zone". The National Inquiry has successfully organized a series of ethnographic research and policy studies, conducted public hearings at the regional and national level, as well as conducted a public education campaign through various media outlets from August 2014 to January 2015. Also there have been several follow-up activities, among others, discussions of case resolution with the Ministry of Environment and Forestry as well as discussions of the draft Presidential Decree on the MHA Respect and Protection Task Force.

Forty MHA cases were selected to be studied and heard in public hearings spread across seven regions: Sumatra, Java, Kalimantan, Sulawesi, Bali - Nusa Tenggara, Maluku and Papua. The cases were selected based on region and typology of forestry problems (i.e. conservation, forest production, conversion of forests for non-forestry production, and land for mine operations).

The NHRC, Indonesia's National Commission on Violence against Women (Komnas Perempuan) and many civil society organizations supporting the National Inquiry felt the need to document the implementation of the results of national inquiry, not just a matter

of the findings, analysis and policy recommendations, but also aspects of experience in the conduct of the inquiry, data, and facts that were revealed in this national inquiry. The four books produced by the Commission of Inquiry include:

1. Book I titled "NHRC National Inquiry Report on the Rights of Indigenous Peoples in the Forest Zone", which contains information on the National Inquiry as an approach, MHA issues, Land Policy, Forestry and human rights in Indonesia, Findings, Analysis, and Recommendations;
2. Book II titled "Indigenous Women's Rights Violations in the Forest Management", includes General and Special Findings, Analysis of human rights violations suffered by indigenous women, Conclusions and Recommendations;
3. Book III is titled "Agrarian Conflict and Indigenous Peoples in the Forest Zone". This book includes a narrative ethnography of MHA cases selected for investigation and testimonies in the public hearings. This book became an important document on the results of the disclosure in narrative form of forty cases of MHA in the forest zone and the "former" forest zone. It is divided into chapters based on the regions where public hearings were held; namely Sumatra, Java, Nusa Tenggara, Kalimantan, Sulawesi, Maluku and Papua;
4. Book IV is titled "National Inquiry Learning Experiences Blazing the Trail for Resolution of Human Rights Violations". This book contains a description of the National Inquiry as a breakthrough method, the Implementation Measures and contains an excerpt of the Lessons Learned, and Closing.

This booklet entitled "Summary of Findings and Recommendations for Improvement of Law and Policy" section of the booklet contains the first "National Inquiry Report of the National Commission on Human Rights on the Rights of Indigenous Peoples in the Forest Zone of Indonesia". This booklet summarizes the background, findings and recommendations.

The NHRC National Inquiry was carried out in cooperation with the National Commission for Women and supported by civil society organizations, namely: Indigenous Peoples Alliance of the Archipelago (AMAN), Sayogyo Institute, Samdhana Institute, HuMa, Participatory Mapping Network (JKPP), ELSAM, Epistema Institute, INFIS , the Partnership for Governance Reform, Ford Foundation, the Rights and Resources Initiative (RRI) and UNDP. The involvement of these organizations was aimed at strengthening the understanding of the issue from various perspectives and mobilization of resources and networks for the successful implementation of the National Inquiry. In the public hearings process, the NHRC also received support from the Witness and Victim Protection Agency (Agency) and the Ministry of Justice and Human Rights.

The national inquiry is the way the NHRC developed efforts for resolution of human rights violations that are widespread and systematic. National inquiry explored the issues and heard testimony from various parties with an adequate and proportionate amount of

representation from each of the parties. The goal was to get to the true data, facts and information via the public hearings, research, and analysis.

The National Inquiry is a method that has been used by several countries in Asia-Pacific. This method is more comprehensive because it is not only aimed towards resolution but also public education efforts to prevent similar violations recurring and provide recovery for victims. The general public was involved in this inquiry. In fact, people who have been 'unreachable' in terms of lacking access to state mechanisms could be present and involved. The presence of the MHA community in the public hearings was also a mechanism for recovery from the human rights violations that they had experienced.

The National Inquiry is a breakthrough methodology for approaching the issue of human rights violations and formulating policy recommendations in a participatory manner. The national inquiry heard testimony, experiences and the need for protection of the MHA community. Implementation of the national inquiry on the rights of MHA is very important because it becomes a way to approach and contribute to the resolution of the issue of MHA rights violations in Indonesia.

The lack of legal recognition of MHA and the reality of the takeover of indigenous areas is a major issue in the findings of the National Inquiry. The national inquiry found the practice of MHA access restrictions on their customary lands is a result of the issuance of permits of forest management to the management of the corporation and the determination of these areas by government institutions.

For MHA, the forest is part of their living space; the forest is the source of life and the determinant of their existence. In the forest there lives and grows a variety of plants, animals that are the source of their livelihood and contains the essential elements of their spirituality and the source of their traditional medicines. Thus the loss and destruction of forests is equivalent to the loss and destruction of their way of life.

MHA rights violations occur because the governance and policies of the State towards MHA and their territories and natural resources tend to be seen in capitalistic economic terms that count human beings and forests as an economic resource only. The planning process of forest governance since the Dutch East Indies colonial period until now afforded minimal participation of affected communities, including indigenous women. The process of the transfer of rights and functions of forests that have occurred since the beginning of the 19th century not only impaired the functioning of the forest, but led to the development of vertical and horizontal conflicts; conflicts between settlers or companies and MHA and MHA conflicts among themselves. The reform process is expected to correct the mistakes of the past in the land and forestry sectors that have not yet been addressed comprehensively.

The problems become more complicated when government officials, including police, are involved in a conflict but do not remain neutral. They often rely solely on written

substantiation for any claims of rights to a plot of land. However, the government has never issued written evidence to MHA on their ownership so that people do not have official recognition but only recognition between neighbouring MHA and the evidence of nature. When the conflict is not balanced, violence on the part of MHA and the state apparatus is often resorted to as a means of conflict resolution.

The NHRC Commission of Inquiry applauds the spirit of President Joko Widodo and Vice President Jusuf Kalla in their stated commitment for realization of respect and protection of the rights of MHA. When the National Inquiry was first underway, the NHRC delivered a recommendation to the House Transition Team requesting as a priority the establishment of the Task Force on MHA Affairs. While the NHRC appreciates the spirit and goodwill of the Joko Widodo and Jusuf Kalla Government, we lament that the Task Force was not established as of the writing of this report. Conflicts on indigenous territories are widespread and are increasingly complex and cannot be resolved by the Ministry and / or through the existing state mechanisms because of conflicts of interest, so the presence of the MHA Task Force is absolutely necessary.

The development process with an emphasis on infrastructure development and natural resource management and environmental preservation requires certainty of tenure to land and other natural resources. Implementation of development without the settlement of MHA overlapping land rights issues first will certainly complicate the problem. The state as a major stakeholder has an obligation to respect, give protection and ensure fulfillment of human rights and the resolution of this issue must be given priority before any further development affecting MHA is allowed.

Completion of MHA rights issues on their territories in the forest zone is an important agenda that should be prioritized appropriately in line with the promises of the President and Vice President in their statement "Nawacita". Indonesia's ability to address human rights problems that result from the policies of previous governments is being tested. The road to the settlement of human rights violations has been embarked upon with the National Inquiry. The next step in the process is in the hands of the Government. The state must step forward to resolve the problems that have lasted over a century. Indigenous peoples are entitled to justice.

Indonesia is the homeland of all of us. Let us realize justice in Indonesia.

Jakarta, December 2015.
Inquiry Commissioners,

Sandrayati Moniaga — *Coordinator*
Enny Soeprapto — *Member*
Hariadi Kartodihardjo — *Member*
Saur Tumiur Situmorang — *Member*

Background

The National Human Rights Commission (Komnas HAM) chose to launch an inquiry into the issues of indigenous peoples related to their rights to their territories in the forest zone due to the following reasons:

- the problem is widespread across Indonesia, from Aceh to Papua
- the issues are complex and multi-faceted
- recent laws and regulations are conducive to remediation and strengthening rights on behalf of indigenous peoples

While this inquiry is being conducted in an encouraging institutional and legislation climate, human rights violations continue to happen. Violations revealed in the course of this inquiry are often of a structural nature, not readily apparent or frequently overlooked.

Nearly 70% of Indonesian land was designated as the forest zone by the Ministry of Environment and Forestry (previously Department of Forestry) and assumed to be State Forests, without any due process of law between the early 1970s and the early 1980s. In some areas the division of lands into forest and non-forest as well as designated use of the lands is a vestige of the Dutch Colonial period. The Indonesian Government further divided the state forests into specific zones; conservation areas, protected forests, and production forests.

With the implementation of these zonal designations, the Government gave little recognition as to the status and existence of indigenous peoples and their territorial rights, resulting in the arbitrary inclusion of areas traditionally inhabited and used by indigenous peoples into the various designated zones. Furthermore, the Government issued licenses on production forest areas for logging concessions, timber plantations, released permits in the forests zone for mining operations and also converted the forest to non-forest areas and allocated areas for large scale plantation and other commercial ventures.

The number of land disputes cases, including indigenous forest lands, continues to grow. The National Human Rights Commission notes that 20% of the complaints submitted to the Commission are related to land disputes. In 2012 there were 1213 complaint files concerning on land disputes, 1,123 complaints in 2013 and 2,483 complaints in 2014.

Data from civil society organizations shows a similar tendency. The Alliance of Indigenous Peoples of the Archipelago (AMAN) noted that land and natural resources conflicts are

greater in number than conflicts related to other issues. Among those cases, more than 140 involve indigenous peoples, and undoubtedly the number of cases is under reported. In 2014, the Working Network for Participatory Mapping (JKPP), tasked with mapping traditional indigenous territories, found that when the map of indigenous territories was overlaid on a map of the State forest zone, 81 % of forest zone designations occurred in the traditional territories of indigenous peoples.

During the 1990's, utilization of production forests through the establishment of Forest Logging Concessions Permits (HPH) and Timber Estate (HTI) covered about 60 million hectares. With the State forest policy deemed to comply with the principle of legality, the Government (The Ministry of Forestry) has unilaterally granted concessions to large-scale companies over the territories of indigenous peoples. This pattern occurred in a systematic and "legal" way through the various policies, resulting in conflicts with human victims.

According to the Commission, conflicts involving indigenous peoples' territories in the forest zone claimed as State forests have a high intensity and tend not to be resolved. The potential for conflict will continue to increase, especially considering data from the Ministry of Forestry and National Statistics Agency BPS (2007, 2009) which showed 31,957 villages are located in and around these forest zones. Approximately 71.06% of the villages are dependent on the forest resources. Ironically, until 2014 only 0.5 million hectares of forest zone could be legally accessed by a few dozen communities for a limited time after going through long and complicated administrative procedures.

Based on Law No. 39 of 1999 on Human Rights Article 75, the Commission aims to:

a. Develop conditions conducive to the execution of human rights in accordance with Pancasila, the 1945 Constitution, the United Nations Charter, and the Universal Declaration of Human Rights; and,

b. Improve the protection and upholding of human rights in the interests of the personal development of Indonesian people as a whole and their ability to participate in several aspects of life.

To achieve these aims, the National Commission on Human Rights functions to study, research, disseminate, monitor and mediate human rights issues.

This inquiry was launched by the National Commission on Human Rights (Komnas HAM) in response to the Decision of the Constitutional Court (Mahkamah Konstitusi) No. 35 / PUU-X / 2012, in the case of judicial review of Law No. 41/1999 on Forestry. The Commission argued that the Constitutional Court decision No. 35 / PUU-X / 2012 on judicial review of Law No. 41/1999 on Forestry is an important legal breakthrough in the process of legal reform related to issues of indigenous peoples (Masyarakat Adat). The

decision marks a significant point of State recognition regarding the existence of indigenous peoples and their rights, especially their rights to indigenous territories, which is in line with the principle of human rights.

The Court's decision creates momentum to recover the status of indigenous peoples' rights to traditional territories. Earlier, the forest zone was designated and / or stipulated unilaterally by the Government c.q The Ministry of Forestry as 'State owned forests' creating conflicts as indigenous forest areas were included in designated forest zones. This Constitutional Court decision should bring improvement in all policies related to indigenous peoples and their territories in forest zones. However, the Government has not yet taken substantive steps towards implementation of the Court Decision, including a legal corrective mandate at the time of writing this report. This inquiry aims to contribute to the implementation of the Constitutional Court decision as a settlement effort of disputes related to indigenous peoples' rights over their traditional territory in the forest zone.

This inquiry also became part of the action plan in the Memorandum of Understanding (*Nota Kesepakatan Bersama*) between 12 ministries and state agencies on the acceleration of the Gazettement of Indonesia's Forest Zone, signed March 11, 2013. Komnas HAM is one of the parties involved in the MoU. The inquiry is in line with the agenda of this agreement, which is for:

- Harmonization of policies and legislation
- Technical and procedural coordination
- Conflict resolution based on justice and human rights respect and promotion in accordance with the national legislations.

Why did Komnas HAM initiate a National Inquiry



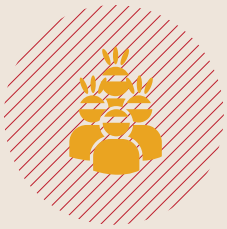
01 DEPENDENCY UPON FOREST RESOURCES

31,957 villages are located in and around the forest zone and 71% of those villages are dependent upon forest resources for their livelihoods.

02 CONFLICTS OVER INDIGENOUS LANDS



03 THE NEED TO IDENTIFY THE ACTORS ALLEGEDLY COMMITTING VIOLATIONS



04 TO PUSH THE ACCELERATION OF THE RECOGNITION OF THE LEGAL STATUS OF INDIGENOUS COMMUNITIES AND THEIR COMMUNAL RIGHTS

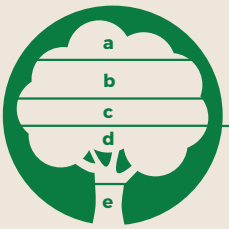


05 THE ISSUE OF UNCERTAINTY AND OBSCURITY WITH LAWS AND REGULATIONS RELATED TO PROTECTION OF INDIGENOUS COMMUNITIES

a. Law No.41 / 1999 on Forestry Law

b. No. 4/2009 on Mineral and Coal

c. PMA / KBPN N.5 / 1999 on the Guidelines for dispute settlement on the problems of customary rights: it is applied only to land that is controlled by government agencies, legal entities or individuals



06 OVERLAPPING CLAIMS OF INDIGENOUS PEOPLES IN THE FOREST ZONE

126.8 MILLION HECTARES OF FOREST ZONE, MADE UP OF;

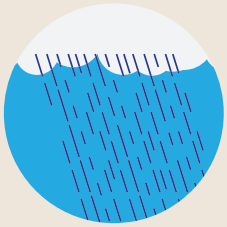
26.8 million hectares of forest zone, made up of;

- **a.** conservation forest (23.2 million)
- **b.** protected forest (32.4 million)
- **c.** limited production forest (21.6 million)
- **d.** production forests (35.6 million)
- **e.** convertible production forest (14 million)



07 RELEASE OF FORESTRY PERMITS IMPACTING INDIGENOUS PEOPLES

- **a.** Expropriation of indigenous territories with unilateral claims designating these areas as national forest zones
- **b.** Issuance of permits to third-parties in "state forest" that is still ungazetted
- **c.** Article 50 of Law No.41 / 1999 prohibition of some agricultural activities in the forest zone



08 THE IMPORTANCE OF PROTECTING THE RIGHTS OF INDIGENOUS PEOPLES AND THEIR CUSTOMARY TERRITORIES

- **a.** The right to life (Article 9)
- **b.** Right to welfare (Articles 36 and 38)
- **c.** The right to security (article 29, 33)

09 DUTIES AND RESPONSIBILITIES OF THE STATE

- **a.** Article 2.6, 71 and 71 of Law 39/1999 on Human Rights
- **b.** TAP MPR No. XI / MPR / 2001 on the land reform and natural resource management



10 THE CONSTITUTIONAL COURT BREAKTHROUGH DECISION

- **a.** Law No.32 / 2009 on the Protection and Environmental Management (UU PPLH)
- **b.** The Court's decision No. 35 / PUU-X / 2012 on judicial review of Law No. 41/1999 on Forestry

01 MHA Desa Pandumaan dan Desa Sipituhuta, Kecamatan Polung, Kabupaten Humbang Hasundutan, Provinsi Sumatera Utara.

02 MHA Semende, Dusun Lame Banding Agung, Kecamatan Ulu Nasal, Kabupaten Kaur, Provinsi Bengkulu.

03 MHA Talang Mamak, Kecamatan Bukit Kulim, Kabupaten Indragiri Hulu, Provinsi Riau;

04 MHA Suku Anak Dalam Batin Bahar, Desa Bungku, Kecamatan Bajubang, Kabupaten Batang Hari, Provinsi Jambi;

05 MHA Mukim Lango, Kecamatan Pante Ceureumen, Kabupaten Aceh Barat, Propinsi Nanggroe Aceh Darussalam;

06 MHA Margo Belimbing, Pekon Pengekahan, Kecamatan Bengkunat, Kabupaten Pesisir Barat, Propinsi Lampung.

01 MHA Dayak Iban Semunying Jaya, Desa Semunying Jaya, Kecamatan Jagoi Babang, Kabupaten Bengkayang, Provinsi Kalimantan Barat.

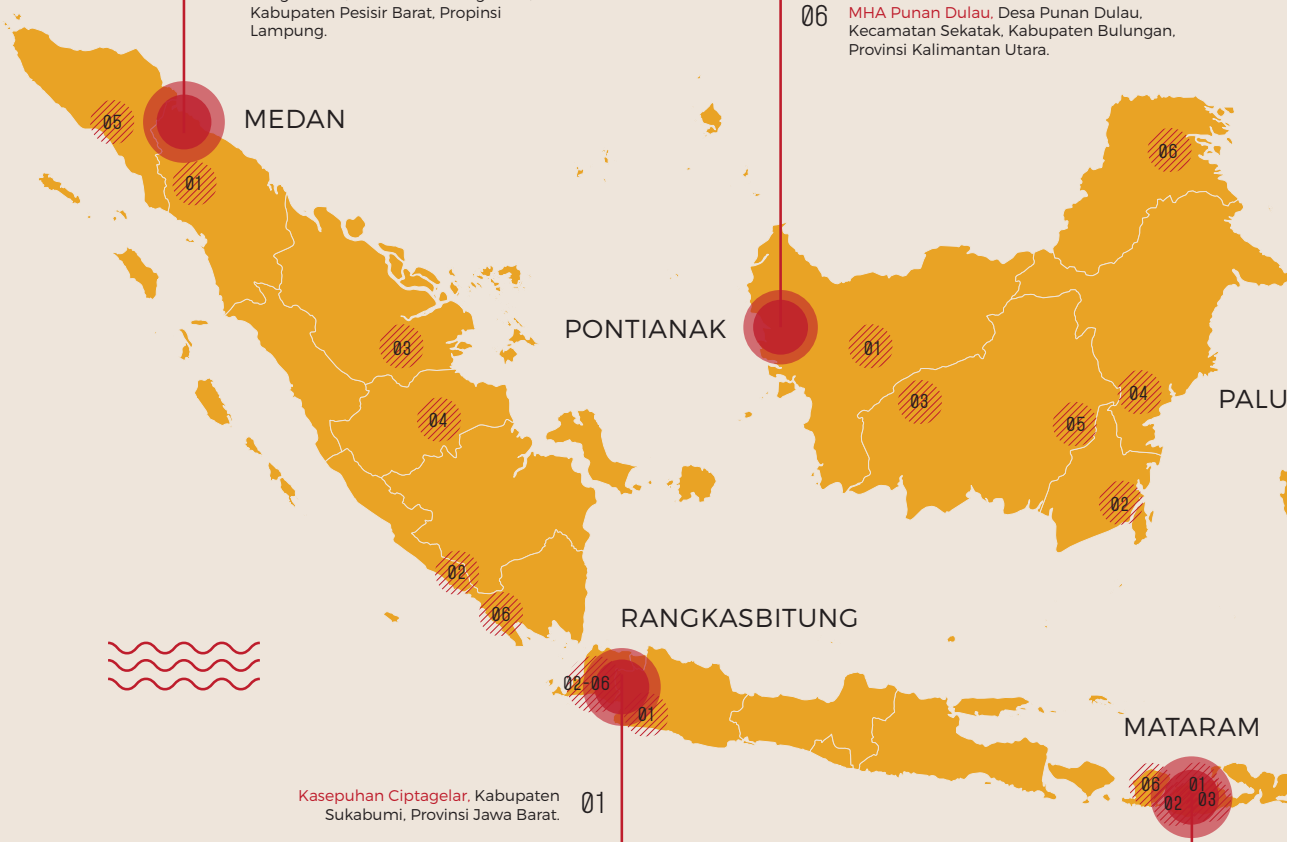
02 MHA Masyarakat Hukum Adat Batulasung (Suku Dayak Meratus), Desa Mentawapan Mculia, Kecamatan Menteweh, Kabupaten Tanah Bumbu, Provinsi Kalimantan Selatan.

03 MHA Masyarakat Adat Ketemenggungan Nanga Siyai, Desa Belaban Ella dan Desa Nanga Siyai, Kecamatan Menukung, Kabupaten Melawi, Provinsi Kalimantan Barat.

04 MHA Dayak Benuaq-Kampung Muara Tae Desa Muara Tae, Kecamatan Jempang, Kabupaten Kutai Barat, Provinsi Kalimantan Timur.

05 MHA Janah Jari (Dayak Maanyan), Desa Janah Jari, Kecamatan Awang, Kabupaten Barito Timur, Provinsi Kalimantan Tengah.

06 MHA Punan Dulau, Desa Punan Dulau, Kecamatan Sekatak, Kabupaten Bulungan, Provinsi Kalimantan Utara.



01 Kasepuhan Ciptagelar, Kabupaten Sukabumi, Provinsi Jawa Barat.

02 Kasepuhan Citorek, Kecamatan Cibeber, Kabupaten Lebak, Provinsi Banten.

03 Kasepuhan Cibedug, Desa Citorek Barat, Kecamatan Cibeber, Kabupaten Lebak, Provinsi Banten.

04 Kasepuhan Cisitu, Desa Kujangsari, Kecamatan Cibeber, Kabupaten Lebak, Provinsi Banten.

05 Kasepuhan Cirompong, Kabupaten Lebak, Provinsi Banten.

06 Kasepuhan Karang, Desa Jagaraksa, Kecamatan Muncang, Kabupaten Lebak, Provinsi Banten

01 MHA Pekasa di Desa Jamu, Kecamatan Lunyuk, Kabupaten Sumbawa, Provinsi Nusa Tenggara Barat;

02 MHA Talonang di Desa Talonang, Kecamatan Sekongkang, Kabupaten Sumbawa Barat, Provinsi Nusa Tenggara Barat;

03 MHA Berco (Cek Bocek Selesek Reen Sury) di Desa Lawin, Kecamatan Ropang Kabupaten Sumbawa, Provinsi Nusa Tenggara Barat;

04 MH Kec Mar Ten

05 MH Ren Beja Kab Ten

MAP DISTRIBUTION OF INDIGENOUS PEOPLES THAT PROVIDES INFORMATION IN THE PUBLIC HEARING ON 7 REGIONS IN INDONESIA

01 MHA Matteko, Desa Erelembang, Kecamatan Tombolopao, Kabupaten Gowa, Sulawesi Selatan;

02 MHA Tau Taa Wana, Posangke, Kecamatan Bungku Utara, Kabupaten Morowali, Sulawesi Tengah;

03 MHA Karunsi'e Dongi, Kampung Dongi, Desa Magani Kecamatan Nuha, Kecamatan Nuha, Kabupaten Luwu Timur, Sulawesi Selatan;

04 MHA Barambang Katute, Desa Barambang, Kecamatan Bonto Katute, Kabupaten Sinjai, Sulawesi Selatan;

05 MHA Sedoa, Kecamatan Lore Utara, Kabupaten Poso, Sulawesi Tengah

01 MHA Kepulauan Aru, Kabupaten Kepulauan Aru, Provinsi Maluku.

02 MHA Tananahu, Desa Tananahu, Kecamatan Teluk Elpaputih, Kabupaten Maluku Tengah, Provinsi Maluku.

03 MHA Pulau Romang, Negeri Jaruhu, Kecamatan Pulau-Pulau Terselatan, Kabupaten Maluku Barat Daya, Provinsi Maluku.

04 MHA Sawai, Desa Lelilef Sawai, Desa Sawai Itepo, Desa Kove Gunung, Desa Woejerana (Kecamatan Weda Tengah) dan Desa Gemaf, Desa Sage (Kecamatan Weda Utara), Kabupaten Halmahera Tengah, Provinsi Maluku Utara.

05 MHA Pagu, Desa Sosol, Desa Balisosang, Desa Gayok, Desa Wangeotak (Kecamatan Malifut), Desa Dumdum (Kecamatan Kao Teluk), Kabupaten Halmahera Utara, Provinsi Maluku Utara.

06 MHA Tobelo Dalam, Desa Dodaga, Kecamatan Wasilei, Kabupaten Halmahera Timur, Provinsi Maluku Utara



04 MHA Golo Lebo di Desa Legur Lai, Kecamatan Elar, Kabupaten Manggarai Timur, Provinsi Nusa Tenggara Timur;

05 MHA Colol di Desa Uluwae, Desa Rendenao, Desa Colol dan Desa Bejang Mali, Kecamatan Pocoranaka, Kabupaten Manggarai, Provinsi Nusa Tenggara Timur;

06 MHA Kemangkuan Tanah Sembalun di Desa Sembalun, Sembalun Simbagading, dan Sembalun Lawang, Kecamatan Sembalun, Kabupaten Lombok Timur, Provinsi Nusa Tenggara Barat;

01 MHA Daiget (Arso), Kabupaten Keerom, Provinsi Papua;

02 MHA Wolani, Mei dan Moni, Kabupaten Paniai, Provinsi Papua;

03 MHA Yerisiam, Kampung Sima, Distrik Yaur Nabire, Kabupaten Nabire, Provinsi Papua;

04 MHA Malind, Kampung Onggari, Distrik Malind, Kabupaten Merauke, Provinsi Papua;

05 MHA Wondama, Distrik Wondiboi dan Naikere, Kabupaten Teluk Wondama Provinsi Papua Barat;

ROOT CAUSE OF HUMAN RIGHTS VIOLATIONS AGAINST INDIGENOUS PEOPLES

Following the completion of public hearings in seven regions, the Commission of Inquiry found several root causations of human rights violations related to indigenous peoples that began in the colonial period and continue until the present, as described in the following:

1. Lack of legal recognition/status as indigenous people, which makes their legal rights/claims unclear or uncertain.

The absence of such recognition resulted in the absence of boundaries of indigenous territories and security of tenure. The problem is not only related to the non-recognition of control and ownership of indigenous peoples' territories, but also to the absence of a legal system provided by the state to protect indigenous territories. This encourages the blurring of boundaries which de facto confers the determination of the state regarding the interpretation of security of tenure. Indigenous peoples' knowledge regarding the location of boundaries of their communal forest is based on oral tradition (unwritten), which is not recognized by the Government, and so it arbitrarily treats any "forest" as "state forest". Very few indigenous peoples have gained official recognition. In practice, local governments do not give recognition and some even expressly deny the existence of certain indigenous peoples. On the island of Sumbawa, the Talonang Cek Bocek people are not recognized as an indigenous people by the government. This uncertainty of the status of their adat territories requires them to deal with unilateral claims by the State and corporations that have economic and political interests over the territories.

2. Simplification, where the problems for indigenous peoples concerning their rights over adat territories and forest resources is seen by government as nothing more than an administrative or legal problem.

Simplification of issues concerning MHA results in the neglect of the rights of indigenous peoples over their territories in the forest zone. It directly or indirectly encourages the Ministry of Forestry and companies to dominate over indigenous forest areas. Authorization by the government in the form of permits gives legality to the corporations to dominate all management of indigenous forests and to ignore their territorial claims. As a result conflicts continue to arise in all regions. Settlements of these conflicts are usually detrimental to indigenous peoples because of formal law enforcement priorities. If problems are addressed at all they are considered on a case by case basis, not as relating to a broader policy issue. This can be seen in the case faced by Kasepuhan Lebak community in West Java who has lived in the region since 1860. Since that time, they began farming and built a system of spatial planning and management of indigenous territories. In 1930 the region was classified by the Dutch authorities as a state forest, which subsequently became the Gunung Halimun National Park.

3. Development policy promoting economic growth has given priority to granting exploitation permits to large-scale economic enterprises over indigenous territories, with the state apparatus and / or the security forces providing protection to the corporate interests (also in forest areas zoned for conservation).

State officials / security only act as law enforcement, not as a patron and protector of society to ensure the fulfillment of justice. Presidential Decree 63/2004 allows the use of the army and police as security for Vital National Industries (OVIN). Feuding over the legitimacy and legality of indigenous peoples' claims to their territories has caused indigenous people to deal with Government and corporate license holders. This surfaced in public hearings in the case against Merauke Integrated Food and Energy Estate (MIFEE) in Papua. Almost all MIFEE activities are based on the exploitation of natural resources, while human rights impacts and environmental carrying capacity have not major considerations. We have already started to see tensions as a result of the implementation of the MIFEE project. The scale of neglect of public policy is demonstrated by Law 27/2007 and Law 1/2014 on the Management of Coastal Areas and Small Islands, which guarantee the existence and protection of indigenous peoples. The granting of licenses in forestry, farming, and mining in coastal areas and small islands did not consider the provisions on the indigenous peoples protection as intended by the 1945 Constitution, Law 39 of 1999 on Human Rights, Law 27 of 2007 and Law 1 of 2014 as well as relevant international instruments.

4. Inequity regarding the rights of indigenous women

Indigenous women not only face a lack or absence of recognition as members of indigenous peoples, but also a lack of concern about women's issues within the context of a patriarchy and local customs. Thus, they experience a heavy burden in conflicts over natural resources and in the need to contribute to the family economy through the traditional forest territory economic activities as well as becoming day or seasonal laborers in dehumanizing occupations, for example rock mining. As women they face violations of their right to security, freedom from harassment, stigma, expulsion, persecution and criminalization, lack of access to information and the right to participate in making decisions within traditional patriarchal societies.

5. Vacancies in institutions with the authority to resolve agrarian conflicts and the mandate to resolve conflicts given to license holders, in which they have a conflict of interest.

Many forest tenure conflicts and human rights violations over the indigenous peoples' territories in the forest zone have not been resolved due to lack of venues and under staffed agencies. No independent ministerial level agencies have been created with the authority and sufficient funding to resolve conflicts and human rights violations against indigenous peoples. Institutions that do exist to fulfil this role are limited in availability and accessibility. Access to claim settlement is through the District Courts, which for some people, especially villagers, has many barriers. Even where using the District Courts is possible, this is difficult administratively as the Ministry of Forestry is reluctant to release forest areas to communities. As has been demonstrated, many tenurial conflicts cannot be resolved by settlement schemes through institutions such as the National Human Rights Commission, Conflict Task Force Handling Forestry, and others. In 2004, Komnas HAM together with civil society proposed the establishment of a National Commission for Agrarian Conflict Resolution (KNuPKA), which was then approved by President Megawati but was not continued in the era President Susilo Bambang Yudhoyono, while its role was relegated to existing agencies. As a result conflict and human rights abuses continue to occur, especially based on the agrarian land and forests. These conflicts lead to many forms of discrimination, stigmatization and criminalization of indigenous peoples.

ROOT CAUSE

OF HUMAN RIGHTS VIOLATIONS AGAINST INDIGENOUS PEOPLES

Following the completion of public hearings in seven regions, the Commission of Inquiry found several root causations of human rights violations related to indigenous peoples that began in the colonial period and continue until the present, as described in the following:



01 Lack of legal recognition/status as indigenous people, which makes their legal rights/claims unclear or uncertain.



02 Simplification, where the problems for indigenous peoples concerning their rights over adat territories and forest resources is seen by government as nothing more than an administrative or legal problem.



03 Development policy promoting economic growth has given priority to granting exploitation permits to large-scale economic enterprises over indigenous territories, with the state apparatus and / or the security forces providing protection to the corporate interests (also in forest areas zoned for conservation).



04 Inequity regarding the rights of indigenous women



05 Vacancies in institutions with the authority to resolve agrarian conflicts and the mandate to resolve conflicts given to license holders, in which they have a conflict of interest.

Table 1 Forms of acts, resulting conditions, and rights of MHA that are violated –

TABLE 1

Forms of acts, resulting conditions, and rights of MHA that are violated

No.	TYPE OF ACT	CONSEQUENTIAL CONDITIONS FOR MHA	RIGHTS AFFECTED
01.	Lack of government recognition of MHA	Uncertainty for MHA community as to their customary rights.	• The right to recognition as a MHA • Traditional Rights of MHA
02.	Arbitrary takeover of indigenous forest areas through the determination of the forest zone, the designation of conservation functions and through issuing licenses for utilization to other parties including concessions for logging, plantations, mining and transmigration	Loss of source of livelihoods	• The right to ownership • The right not to be deprived arbitrarily • The right to survival and improved living standards
		The loss of forest resources / sources of clean and sufficient water	• Right to clean and healthy environment
		Loss of places of worship, spiritual places	• The right to free exercise of worship and belief
		Loss of places for traditional cultural activities	• Right to practice and take part in traditional cultural activities
		Loss of ability to educate children (due to loss of resources and livelihoods)	• Right to education
		The scarcity of herbs for traditional medicine	• Right to enjoy a high standard of health. • Right to traditional knowledge
		Difficulties to sustain life in the village therefore indigenous women forced to work in urban areas as domestic assistants and / or labor or as migrant workers abroad	• The right of children to be raised, nurtured, cared for, educated, directed and guided by a parent or family guardian



		The conflict between indigenous peoples and the government and / or corporations throughout Indonesia over rights to territory in forest areas	• The right to feel safe and secure • The right to protection from threats to do or not to do something
		The impact of changing patterns of forest resource management on MHA systems for production, conservation and control of agrarian resources, thereby reducing MHA agricultural and conservation practices in their communal areas	• Right to traditional knowledge • The right to enjoy the benefits of scientific progress and its applications;
03.	Takeover of traditional indigenous forests / forest sections without prior consultation/notification as to the purpose and implications of its use and without the full agreement (FPIC) of the MHA concerned	The community is unaware that their communal land has been determined (claimed) by the State to be state forest with certain prescribed functions and uses. The community is unaware that their right to management over their traditional territory has been given to other parties (corporations, etc.).	• Right to information • The right to participate in decision-making (including women) affecting MHA • The right of MHA to prior consultation and the right to accept or reject a proposed development that will affect them, based on clear information concerning the impacts on MHA
04.	Corporate insensitivity to the community on the part of corporations and / or government tending to exacerbate tension with the community and create dissent	Horizontal conflict between and/or within community groups.	• Right to feeling safe and secure • Right to obtain information • The right to participate in decisions concerning MHA
05.	Intimidation	Stigmatization as "PKI/ DI-TII/OPM" etc. against citizens and members of MHA who defend and fight for their rights. Citizens are afraid to petition and defend rights over their traditional territory	• Right to feel safe and secure • Right to protection from threats to do or not do something
06.	Persecution	Citizens who are persecuted for their rights	• The right to freedom from torture or cruel, inhuman, or degrading treatment • The right to the protection of honor and dignity
07.	Discriminatory behavior by the police, military and government officials against MHA	Limited access for MHA in the forest area is inversely proportional to the benefits corporations take through permits	• The right to obtain legal certainty and equal treatment before the law

08.	Arrest / detention without warrant of arrest / detention without notice of the reason for arrest / detention without compensation	Citizens arrested / detained without understanding the reasons and legal basis for the arrest / detention The family of a citizen who is arrested or detained is often not informed when their family member was detained	• The right not to be arbitrarily arrested or detained • The right to compensation because of errors in the arrest / arbitrary detention
09.	Law enforcement officials deliberately allow MHA to be subject to legal processes without legal counsel.	The absence of assistance by legal counsel for MHA members who undergo legal processes, due to the lack of communication about their human rights	• The right to recognition, security, protection, and fair legal treatment • The right to obtain legal certainty and equal treatment before the law • Right to legal counsel • The right to be informed about the right of every person to undergo trial and to be accompanied by legal counsel • The right to the protection of human rights and human freedoms without discrimination
10.	The shooting of demonstrators that resulted in deaths and injuries (including permanent disability)	The killing of members of MHA during protest demonstrations MHA members fearful and did not continue peaceful protest activities	• Right to life • The right to freedom of expression in public • The right to assemble for peaceful purposes
11.	The supervisor of the shooters who indiscriminately wounded and killed protestors was freed by the court while the shooters were subjected to internal review without further legal action	Lack of equal treatment before the law (Impunity)	• No violation of human rights of the victims per se, however the court decision obviously did not fulfill the sense of justice.
12.	Demolition / arson of dwellings and destruction of personal possessions of members of MHA	MHA homes and possessions destroyed, damaged and lost	• The right to protection of self, family, honor, dignity, and property
13.	Alleged evictions and forced displacement	Displacement of a number of indigenous communities from traditional areas	• The right to freely move and reside within the territory of the Republic of Indonesia • The right to reside as well as a right to a decent life • Right not to be forcibly displaced

RECOMMENDATIONS

A. House of Representatives

As soon as possible, ratification of the Bill on the Recognition and Protection of Indigenous Peoples Rights (Bill on Indigenous peoples – *RUU PPMHA*). This is due to the need for the recognition of the existence and protection of the rights of indigenous peoples, and is mandated by the constitution.

B. President of the Republic of Indonesia

(1) Create an independent institution under the President with a mandate to:

a) Prepare various policies and institutions that deal with the recognition, respect, protection and promotion of the rights of Indigenous Peoples;
b) Resolve conflicts over Indigenous Peoples' land tenure, both horizontal and vertical, in forest zone;
c) Formulate and implement remedies for Indigenous Peoples and citizens who have become victims of human rights violations and prevention of recurrence of human rights violations;
d) Review permits and policies related to the forest zone and former forest zone areas, including small islands and coastal areas, mines and plantations overlapping with Indigenous Peoples territories;
e) Examine the existence of sultanates in various areas that have the potential to increase complexities related to the recognition of Indigenous Peoples and their territory rights.

2) Facilitate acceleration of formulation of the Law on the Recognition and Protection of Indigenous Peoples' Rights;

3) Develop and take real, measurable and scheduled remedies for Indigenous Peoples rights violations and without delay fulfil the right to justice inherent to Indigenous Peoples.

4) Resolution of cases of human rights violations and forestry tenure conflicts involving Indigenous Peoples in a comprehensive and cross-sectoral way across the nation. In this case, the President needs to explicitly restore the authority of the Ministry of

Agrarian and Spatial Planning throughout the territory of the Republic of Indonesia and reposition the authority of the Ministry of Environment and Forestry on the environment and the management of forest resources;

5) Implement Constitutional Court Decision No. 35 / PUU-X / 2012 by the review and improvement of various laws and regulations that are non-compliant with the court's Decision;

6) Improvement of the licensing system and policy determination of forest management for the prevention of corruption, as part of the Action Plan Memorandum of Understanding with 12 K / L on "Acceleration of Gazettement of the Forest Zone " coordinated by Corruption Eradication Commission or KPK (since March 19, 2015 is referred to the National Movement for Saving Natural Resources, and includes 29 Ministries and Agencies).

7) Improve the licensing system for utilization of natural resources based on the principles of transparency, participation and accountability, including the principle of free, prior and informed consent (FPIC).

8) Accelerate the development of an information system for natural resources and the environment, including a single map to support implementation and development of natural resource management and environment policies.

9) Ensure the disclosure of information on public documents, including: the Minutes Boundary Forest Zone Delineation (*BATB* – Berita Acara Tata Batas) with attachment maps, map designation and establishment of the forest zone (*Penunjukkan dan Penetapan Kawasan Hutan*); maps of Land Utilization Rights (*HGU – Hak Guna Usaha*); Mining Contract of Works (*KK, Kontrak Karya*); district/provincial spatial plans in a format which can be used for spatial analysis; Environment Impact Analysis (*Amdal – Analisis Dampak Lingkungan*) study reports; and any assessments by ministries and agencies on overlaps in licenses and designations with indigenous peoples territories.

10) Conduct a review of national government development plans for the Special Area of Papua based on the principles of respect and protection of human rights, using the spirit of the Act No. 21, 2001 on Papua Special Autonomy as a point of reference. Governments, churches and indigenous peoples need to work together to formulate a model of development in Papua that will resolve conflicts and respect the natural resources management rights of indigenous peoples, and eliminate the stigmatisation of Papuans who defend and fight for their human rights as political separatists.

C. Ministry of Environment and Forestry

Forestry Planning

1) Conduct an open consultation with indigenous peoples using a mutually agreed process, prior to the issuance or renewal of permits with an evaluation of the corporation's activities affecting the territory indigenous peoples in the forest zone.
2) Ensure the completion of a review and resolution of overlapping land rights before the issuance of any new permits to third parties;
3) Redefine the "external" boundaries of the forest zone through the release of the residential areas, rice fields and other agricultural lands to non-forest status.
4) Assign "internal" forest delineation based on the function of forests and reinforce the boundaries between state forest and private forest, which includes indigenous/adat forests, according to the Constitutional Court Decision 34 / PUU - IX / 2011, No.45 / PUU - X / 2011, and No. 35 / PUU - X / 2012 ;
5) Redefine the process for determination of the forest zone, so that the creation of forest zone boundaries and provincial spatial planning are conducted jointly by the central government and local governments together with indigenous peoples, and take into account the human rights of indigenous peoples and environmental carrying capacity, as well as designating "rural areas" (*Kawasan Perdesaan*) in accordance with the District Spatial Planning, mandated by Law No. 26/2007 on Spatial Planning.
6) Review the concept of Nature Reserve Areas/Nature Conservation Areas (KSA-KPA) together with indigenous peoples, in order to develop community-based Conservation Area policies, as has been long discussed within Indonesia, and applied in many countries. .
7) Ensure review and enact moratorium on forestry, mining and plantation permits that are problematic, illegal and/or ignore the rights of MHA in forest areas.
8) Review and apply a model of cooperation between the government and the private sector in public service, management and securing forest areas by placing the main functions and roles with the government, while respecting the self-reliance of indigenous peoples.
9) Ensure the participation of indigenous women in the formulation of public policy related to management of indigenous peoples territories in forest areas;

In Forest Management

10) Apply a moratorium of the issuance of forest utilization, conservation and management permits that overlap with indigenous peoples territories, and prioritize on resolve existing boundary conflicts between MHA and concession holders in a peaceful and equitable manner.

11) Perform law enforcement efforts against companies suspected of violating the law and at the same time suspend all related company activities until identified violations are resolved.

12) Establish a moratorium on new licenses and community activities, except traditional activities, until the completion of issues of overlapping land rights in the forest zone.

13) Revise Government Regulation 44 of 2004 on Forestry Planning, Ministry Forestry (MoF) Regulation No. P.44/Menhut-II/ 2012 on Forest Zone Establishment and MoF Regulation No. P.62/Menhut-II/2013 on Amendment to the MoF Regulation Number P.44 / Menhut-II / 2012 on Forest Zone Establishment, based on the principles of respect and protection of human rights. Maps indicating indigenous peoples' territories must be used as a reference to resolve overlapping land rights in the forest zone.

14) Working closely with the Ministry of ATR (currently Ministry of Agrarian and Spatial Planning/*Kemen ATR*), Ministry of Public Works and Ministry of Home Affairs to accelerate the establishment and operation of Tim IP4T throughout the districts, referring to PP 44 of 2004 on Forestry Planning and Joint Regulation of the Minister of Home Affairs, Minister of Forestry of Indonesia, the Minister of Public Works and Head National Land Agency in 2014 about Land Tenure Conflict of Local Communities In the Forest Zone.

D. Ministry of Home Affairs

1) Working closely with the Ministry of LHK, Ministry of ATR, and Ministry of Public Works to accelerate the formation and work of Tim IP4T throughout the districts, referring to PP 44 Year 2004 on Forestry Planning and Joint Regulation Minister of Home Affairs, the Minister of Forestry, Minister of Home Affairs, the National Land Agency in 2014 about Land Tenure Conflict of Local Communities in the Forest Zone.

2) Publish a circular letter on the increase public services available by promoting the differences and needs of indigenous peoples, including indigenous women without discrimination.

3) Revise Regulation No. 52/2014 concerning Guidelines on Recognition and Protection of Indigenous Peoples by considering religion of indigenous peoples, the position of indigenous women, and the principle of the special rights indigenous peoples.

4) Ensure the main role and function of government in the areas of cooperation between the government and the private sector in the management and protection of the forest zone with orientation to the development of the Indigenous Peoples' self-sufficiency.

E. Ministry of Maritime Affairs and Fisheries

1) Revise Ministry of Marine and Fisheries Regulation No. 40 / Permen-KP / 2014 on Participation and Empowerment in the Management of Coastal Areas and Small Islands by integrating the principles of respect, protection and the fulfilment of the rights of Indigenous Peoples.
2) Develop empowerment programs on Indigenous Peoples in small islands with reference to the principles of respect, protection and the fulfilment of rights of Indigenous Peoples.
3) Ensure that the preparation of a Zoning Plan for Coastal and Small Islands is based on Indigenous Peoples rights approach and the preservation of ecosystems.

F. Ministry of Agriculture and Spatial Planning

1) Revise Regulation No. 9/ 2015 concerning Procedures for Determination of Communal Land Rights of Indigenous Peoples and Local Communities in Specific Regions, with reference to the principles of respect, protection and fulfilment of indigenous peoples rights including the customary rights of indigenous peoples.
.
2) Review the various licenses providing land rights, especially HGU, which overlap with indigenous peoples territories.
3) Take resolute action, including revocation of licenses, against actors abusing the rights of indigenous peoples to their customary territories.
4) Issue rules on "Rural Areas" (*Kawasan Perdesaan*) to accommodate territories of indigenous peoples in the District Spatial Planning (*RTRWKab*) both within and outside the forest zone in accordance with the mandate of Law No. 26/2007 on Spatial Planning.
5) Working closely with the Ministry of LHK, Ministry of Home Affairs, and the Ministry of PU (currently Ministry of ATR) to accelerate the establishment and operation of Tim IP4T throughout the district, referring to PP 44 of 2004 on Forestry Planning and Joint Regulation of the Minister of the Interior RI, Minister of Forestry of Indonesia, the Minister of Public Works and Head National Land Agency in 2014 about Land Tenure Conflict of Local Communities in the Forest Zone.
6) Encourage local governments to accelerate their recognition indigenous peoples and their territories.

G. Ministry of Energy and Mineral Resources

1) Review and revision of the regulations at the district, provincial, and the national levels regarding mining activities that overlap with indigenous peoples territories.
2) Encourage the development of resource management technology policies for energy and minerals to preserve the environment and respect Indigenous Peoples' territories.
3) Ensure the review of permits for problematic and illegal/non-compliant mining and those that ignore the rights of Indigenous Peoples in the forest zone and / or on small islands and moratorium for new permits.

H. Ministry of Agriculture

1) Review and revision of the rules and policies concerning large scale agriculture and plantations, including MIFEE, resulting in infringement of indigenous peoples rights..
2) Revise the regulations and policies for agriculture and plantations by integrating the principle of gender equality.
3) Review plantation licenses and enforce a moratorium on operations for problematic concessions including those that break the rules and ignore the rights of Indigenous Peoples in the forest zone and its surroundings.

I. Ministry of State-owned Enterprises (BUMN)

Create guidelines for State Owned Enterprises on respect and protection of Indigenous Peoples rights in accordance with the 1945 Constitution, the Law on Human Rights and other human rights instruments, including UNDRIP, as the basis for land-based State Owned-Enterprises (*PTPN, Perum Perhutani, INHUTANI, ANTAM* etc.)

J. Ministry of Law and Human Rights

1) Review and harmonization of regulations and policies related to control and management of natural resources based on the principle of respect for and protection of the rights of indigenous peoples including to their territories in forest zone.
2) Revise PP 47 of 2012 on Social and Environmental Responsibility of Limited Liability Company to incorporate human rights principles and gender perspective, among others and promote the development and enhancement indigenous peoples' capacity in participatory ways.

K. Ministry of Social Affairs

1) Conduct an audit of human rights and settlement of arrears problems as a result of the resettlement programs (*Respen*) and the remote indigenous communities program (*KAT – Komunitas Adat Terpencil*).
2) Ensure implementation of Presidential Decree No. 186 of 2014 on Social Empowerment of Remote Indigenous Communities (KAT) with reference to Law No. 39 of 1999 on Human Rights and the UN Declaration on the Rights of Indigenous Peoples.

L. Ministry of Village, Development of Disadvantaged Regions and Transmigration

1) Conduct an inventory and settlement of arrears of land issues between the government and Indigenous Peoples;
2) Redesign the transmigration program to ensure that the allocation of areas for transmigration is free from land rights conflicts, forcible displacement of indigenous peoples, and does not result in disruption of culture roots of indigenous peoples.

M. Ministry of Women Empowerment and Child Protection

Coordinate and ensure implementation of the recommendations for respect and protection of the rights of women in the various sectors related to Indigenous Peoples in the forest zone.

N. Ministry of Health

Ensure the realization of health care, especially regarding the rights to maternal and child health in areas where there are Indigenous Peoples.

O. District/Provincial Government and Parliament

1) Conduct an in-depth study of the existence of Indigenous Peoples and their traditional territories by involving competent academics and other experts.
2) Accelerate the establishment of local regulations on the recognition of Indigenous Peoples and their rights over their territory.
3) Determine regional policy on indigenous people's participation, including indigenous women, in the process of spatial planning and forest areas boundary delineation so that the living space of indigenous peoples and their mobility is guaranteed.
4) Review and revise the District Spatial Planning (*RTRW – Kabupaten*) to include "Rural Areas" (*kawasan perdesaan*).

5) Establish a special mechanism at the provincial and district levels for natural resource conflict resolution.
6) Immediately review all permits that have been issued related to forestry, mining, plantations and others given to corporations in the forest zone.

P. The Investment Coordinating Board (BKPM)

1) Integrate the principle of respect, protection and fulfilment of the rights of the indigenous peoples including the Free, Prior and Informed Consent (FPIC) in defining investment areas in the forest zone.
2) Ensure that corporations carry out programs of corporate social responsibility (CSR) in order to support the fulfilment of human rights and the traditional rights of Indigenous Peoples in forest zone.
3) Ensure respect for the rights of indigenous peoples in corporate activities that intersect with the territories and/or activities of Indigenous Peoples.

Q. National Police

1) Establish a Police Chief Regulations on guidelines for handling disputes and conflicts over natural resources between indigenous peoples, the government and corporations, from a human rights and gender perspective.
2) Take forward the process of law enforcement that is accountable and without discrimination, namely prioritizing formally evidentiary material and substantive proof in handling conflicts involving natural resources indigenous peoples.
3) Increase the capacity of the Police to understand and respect the rights of indigenous peoples, their existence and legal pluralism, especially to police members tasked in relation to Vital National Objects or other areas of conflict over natural resources.
4) Avoid heavy-handed security approaches and instead promote dialogue with attention to the rights of indigenous peoples in environmental and forestry conflict resolution.
5) Withdrawal of police forces from security details at corporations active in the territories of Indigenous Peoples.

R. Indonesian National Military

1) The Indonesian National Military (TNI) Commander must follow up without discrimination on the reports about alleged acts by TNI members of intimidation and / or violence against indigenous peoples.
2) The withdrawal of military forces from the security details at corporations in the MHA areas.




PENGUMUMAN
HUTAN INI MILIK KOMUNITAS
ADAT CEBOCEK SELESEK
(SUKU BERCO)
BUKAN HUTAN NEGARA







Summary of Findings and Recommendations for Improvement of the Law and Policy Concerning Respect, Protection, Compliance and Remedy Relating to the Human Rights of Indigenous Peoples over their Territories within the Forest Zone

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Cetakan Kedua, Maret 2016

Photos :
Documentation Team of the National Inquiry and INFIS Collection

Info graphics :
Gery Paul Andhika

Contents and Cover Design by Satoejari

Book size: 17 x25 cm.

Published by Komnas HAM
(The National Commission on Human Rights of the Republic of Indonesia)
Jl. Latuharhary No. 4B, Menteng, Jakarta Pusat 10310
Telp. 62-021-3925230, Fax. 62-021-3925227
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