



The Current Updates of the Progresses and the Challenges of Recognition of Customary Forests in Indonesia

Perkembangan Terkini dari Kemajuan dan Tantangan Pengakuan Hutan Adat di Indonesia

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ABSTRACT

Around 30 million Indonesians are forest-dependent, comprising a large portion of customary communities. For generations, customary communities managed forests using customary arrangements as the normative system. However, the state legal framework required the communities to obtain legal recognition to exercise these traditional forest rights. Over the last seven years, the state has formalized hundreds of thousands of hectares of customary forest, which was unprecedented. Some suggested that the number needed to be increased and far less than the potential customary forest areas. Therefore, this research aimed to examine the primary cause and the subsequent impacts on the low number of recognized customary forests. Relevant data were obtained for analysis from documents and direct interviews. The result showed that customary tenure on forest resources coexisted with the state arrangements. The state recognized those customary arrangements through formalization. However, the ideological and political perception and the state's interests regarding customary communities have brought obstacles to that sound policy regarding recognition. This perception and interest further raised three issues regarding the current legal framework and its implementation: complex regulation, delayed processing time, and ambiguous standards.

INTISARI

Sekitar 30 juta orang Indonesia menggantungkan hidup pada sumber daya hutan. Sebagian besar di antaranya adalah masyarakat adat yang telah mengelola hutan selama beberapa generasi dengan pengaturan adat. Namun, pengelolaan berbasis aturan adat ini menghadapi hambatan karena kerangka hukum formal menghendaki pengakuan negara atas hutan adat agar masyarakat adat dapat melaksanakan hak-hak adatnya. Dalam kurun waktu tujuh tahun terakhir, pemerintah telah menetapkan ratusan ribu hektar hutan adat. Ini merupakan capaian yang tidak ada presenden sebelumnya. Namun, sebagian kalangan menganggap bahwa luas areal hutan adat yang sudah ditetapkan masih jauh dari angka potensial. Tulisan ini menjelaskan faktor-faktor utama yang berpengaruh dan implikasinya pada luasan areal hutan adat yang ditetapkan oleh pemerintah. Tulisan ini menggunakan data yang didapatkan dari penelusuran dokumen dan wawancara. Tulisan ini memperlihatkan bahwa di Indonesia pengelolaan hutan berbasis aturan negara, dan aturan adat, berlangsung bersamaan. Namun, kedua sistem aturan itu melangsungkan interaksi dengan cara Negara memberikan pengakuan formal terhadap hutan adat. Akan tetapi, ideologi, persepsi dan kepentingan para pengelola Negara, telah menjadi faktor penghambat hadirnya kebijakan kehutanan yang baik. Pada gilirannya, faktor-faktor ini melahirkan tiga masalah penting pada kerangka hukum pengakuan hutan adat dan implementasinya, yaitu regulasi yang kompleks, penundaan yang berlarut-larut, dan standar yang ambigu.

Introduction

Many customary (*masyarakat adat*) and local communities live inside or proximate to forestland. The forestland accounts for approximately 63% of Indonesia's landmass. Customary communities have been managing forests for generations using "customary arrangements" as the normative system. According to the Ministry of Environment and Forestry (hereafter MoEF), 30 million live inside or proximate to state forest areas, with a large portion belonging to customary communities and governed by customary arrangements (Riggs et al. 2016).

In Indonesia, the forest is vital to customary communities as it fulfills subsistence, social, cultural, and economic needs. These people rely on timber and non-timber forest products for subsistence and commercial purposes. Customary forests are the site for traditional events, and the terms for 'sacred forest' in local languages include *hutan keramat*, *hutan larangan*, and *hutan inti*. For the majority, customary forests are part of their identities and histories.

The prevailing legal framework on customary forest states that communities are allowed to exercise traditional rights over the forest only after recognition from the government. Some forest-dependent communities have gone through this recognition process and successfully secured customary forest tenure. However, most communities have yet to engage with the process and are still waiting to receive

recognition from the MoEF. The Agency for the Registration of Customary Territories (Badan Registrasi Wilayah Adat), a Jakarta-based NGO organization, identified 13,757,752 ha of potential customary forests across 29 provinces (Chandra 2022). Only 153,327 ha were recognized by MoEF between 2016 and December 2022, managed by 51,459 households in 108 customary communities of 17 Indonesian provinces (Table 1). In addition, MoEF temporarily designated 1,090,754 ha of allocated customary forest (Directorate General of Social Forestry and Environmental Partnership Directorate of Tenurial Conflict Resolution and Customary Forest 2022).

Many governments developed policies and programs concerning the recognition of customary forest arrangements. These arrangements were often suggested as community-based forest management (CBFM) and were carried out through formalizing or legalizing customary forestland tenure. Furthermore, these arrangements aimed to achieve sustainable land and forest management, protection and conservation of land and forest, economic development (Putzel et al. 2015), land productivity, tenure security (Lund 2023), and greater economic value of informal property (Assies 2009). Kusters et al. (2022) concluded that the general premise behind pushing customary forest tenure is the potential to contribute to conservation, livelihood, and self-determination objectives.

Table 1. Progress of recognized customary forest across Indonesia till 31 December 2022

No.	Province	Number of regency	Number of Customary group	Width in hectare	Number of households
1	Jambi	4	9	7,984	10,839
2	West Kalimantan	7	20	50,711	5,970
3	South Sulawesi	2	8	4,637	4,646
4	Bali	3	6	971	4,743
5	Papua	1	6	23,613	715
6	Central Sulawesi	2	6	17,501	2,456
7	North Sumatera	3	6	7,224	1,181
8	Banten	1	8	8,343	11,322
9	West Sumatera	2	5	6,942	1,154
10	Maluku	2	4	342	1,479
11	East Kalimantan	2	2	7,771	218
12	Riau	1	2	408	5,246
13	South Sumatera	2	2	380	578
14	West Java	1	1	31	117
15	Central Java	1	1	64	121
16	Central Kalimantan	1	1	102	455
17	West Papua	1	1	16,299	221
	Total	36	108	153,322	51,459

Source: Yuli Prasetyo Nugroho. 2023. 'Regulasi Proses Penetapan Status dan Pengelolaan Hutan Adat (Regulations on the designation and the management of customary forest)', The Directorate General for Social Forestry and Environmental Partnership of the MoEF.

The national government in many countries failed to achieve the expected impacts of formalizing customary or informal land and forest tenure systems due to various factors (Kusters et al. 2022). Fingleton (1998) stated that the state's stereotypical view of customary groups impedes that effort. The government suggested that the backwardness of customary groups may raise inappropriateness for modern needs and purposes, which is an obstacle to reaching national development goals. In addition, the state suggested that traditional or informal rights are a hindrance due to the "unknown," "illegible," "invisible," and "not regulated characteristics (Putzel et al. 2015). Using the Indonesian government policy on recognizing customary forest tenure as an example, this research aimed to examine further the state's stereotypical view of customary peoples. This research also aimed to understand the impacts of the factor on Indonesian regulation on the recognition of customary forests and its implementation.

This article starts with descriptions of forest tenure arrangements. This section describes Indonesia's plural forest tenure normative system by drawing formal and informal agreements. The account of customary forest arrangements comprises the procedures of land right attainment, responsibilities of land owners, and dispute settlement process. The account of formal arrangements contains the early and current policy and the legal framework of recognizing customary forest tenure, including the primary factor and the impacts that have caused recognition to have low achievements. The following section concerns future challenges to recognizing customary forest tenure. The last section contains some concluding remarks.

Methods

This research described land and forest tenure by drawing formal and informal arrangements. In this context, the research applied the concept of legal pluralism to describe the actual land and forest tenure arrangements. Benda-Beckmann and Turner (2018) suggested legal pluralism as a sensitizing concept that would enable people to recognize the existence of multiple legal systems. This concept explains that people resort to customary and religious laws, often

mixed with part of state law, in social and economic interactions. Food and Agriculture Organization (2002) included legal and customary arrangements to define tenure. In drawing land and forest tenure arrangements at the local level in the southern Aceh province of Sumatera island, McCarthy (2005) found three co-existing arrangements: local customary (*adat*) regimes, de facto district authority system, and the state rules system.

Bank (2003) reported the significance of customary land and forest arrangements for tenure security and environmental protection. The Bank pointed out the flexibility and adaptiveness of customary arrangements in responding to location-specific conditions. Customary group rights, which adjusted to changed circumstances, could significantly reduce the danger of encroachment by outsiders while ensuring sufficient security. Assies (2009) suggested that customary and alternative arrangements often meet particular needs and function effectively in many places in providing tenure security and access to land for the communities.

Food and Agriculture Organization (2002) suggested that complexity may arise from the pluralistic tenure arrangements, particularly when statutory rights are granted in a way that does not consider existing customary rights. Complexity also arises when state recognition of customary arrangements disrupts the Indigenous cultural integrity of the communities and the ability to continue operating according to community-based laws and institutions. This research primarily used secondary data collected from existing documents. Primary data were obtained from discussion meetings and interviews. The Author interviewed the officials of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency and two local NGO activists.

Results and Discussion

Forest Tenure Arrangements

The forestry tenure system of Indonesia was pluralistic, and formal and informal arrangements existed side by side (Riggs et al. 2016). Formal arrangements, which received support from the legal system, dominated after the state appropriated the

forestland of individuals and groups. The arrangements restricted the exercise of customary rights over forests and regulated recognition. The informal or customary arrangements were only partially nonexistent after being dominated by the formal. These arrangements functioned effectively in several regions and regulated individual and group rights to forest resources. Furthermore, these arrangements determined the customary authority of the chiefs to grant tenure rights and dispute settlement (McCarthy 2005). Customary arrangements raised the validity of rights over forest resources. However, formal arrangements would recognize that validity only after the government recognized it through administrative decisions (Simarmata 2019).

Customary Arrangements

Customary arrangements in Indonesia essentially ruled the holding, use, and transfer of tenure. Historically, customary arrangements have constantly changed in response to outside interventions and adapted to broader political, social, economic, and environmental changes. Rule on customary tenure covered several subject matters, including the eligible subject of land rights, procedures of land right attainment and issuance, rights, prohibition, obligation of land right exercise, and dispute settlement mechanism. Customary communities divided territories into three zones, namely residence, business, and reserve zones. The residence zone was used for housing, the business for paddy fields, farming, and agroforestry, while the reserve was used for forest. Previous research found a pattern that reflects the relationship between the zone system and tenure. In terms of ownership, the residence and business zones were mostly owned by individuals, while the reserve zone was mainly owned by a group (Simarmata et al. 2021). This research discussed communal forest tenure arrangements based on this knowledge.

Communities were allowed to use customary forests for agriculture and forest product collection. Members were required to obtain permission from the customary chief to utilize. Minangkabau's group of clans in West Sumatera and Papua's communities required customary chiefs to obtain consent from

group members before granting permission. A member who continuously cultivated a land plot for over three to five years could temporarily or permanently assume ownership. The permanent use could transform into individual ownership when the members inherit the rights of the descendants (Sitorus 2016). In many cases, a member must give 10% of the resources extracted to the customary chief in exchange for permission. The local name for the 'customary tax' arrangements varies in different communities. Customary tax arrangements are called *pantjang alas* in Aceh, *pancang alas* in Jambi and Riau, and *uang serah* or *tanda kusuman* in Jambi (Arianti 2017). Non-locals can access and use customary forests after obtaining permission from the customary chief by paying an agreed amount of recognition money. Payment and use agreements ensured that non-locals adhered to the local customary arrangements. For example, the Kenyah and Kayan Dayak customary groups of East Kalimantan established a customary council led by a chief who has the authority to issue grants to either locals or non-locals and impose penalties on any wrongdoers.

Customary chiefs, as representatives, could negotiate on matters such as fees for non-locals to extract resources from customary forests, settle territorial disputes, and establish local cooperatives. In Papua, customary chiefs (locally known as *ondoafi*, *ondofolo*, or *raja*) could sign contracts with companies to jointly manage a forest through partnerships or allow for the operation of customary forests. Six customary chiefs (*ondoafi*) of the Yapsi customary group of Jayapura district signed a contract with a company to form a partnership (personal communication on 2 April 2020 with NM, a local NGO activist based in Jayapura). In some cases, negotiations between customary chiefs and non-locals occurred surreptitiously because customary chiefs were coerced or bribed to accept or sign predatory agreements or contracts.

Conflict resolution, such as land ownership disputes within customary forests, was carried out step-by-step. When a dispute only includes local community members, a hearing or meeting with the family is held to settle the dispute. The elders of the families usually lead the meeting without the participation of the customary chief. When the

dispute is unresolved, the customary chief can bring it up for settlement. The customary chief is a leader of one or more clans and receives assistance from staff who are responsible for arranging meetings. One of the key roles of the customary chief is to encourage the families to settle the dispute amongst themselves, thereby emphasizing the importance of community involvement in conflict resolution. When the customary chief fails to resolve the dispute, the families involved can request to bring up the case before higher customary councils. Customary communities with stratified social structures, such as Aceh, Minangkabau, and Toraja of South Sulawesi, applied these stages of dispute settlement. There were customary communities that ran more than one dispute settlement. Aceh communities had two customary dispute settlement types: land and marine matters (*laot court*) (Mansur et al. 2020).

The failure of customary arrangements in settling disputes could result in filing the cases to state court. Customary chiefs allow an unsatisfied party to proceed to state court. In the case of the Minangkabau communities of West Sumatera, where the traditional council, *Kerapatan Adat Nagari* (KAN), failed, the KAN advised the parties to proceed with settling the case at state court. The New Order policy of the government (1966-1998) to forcefully uniform local institutions into village government caused a decline in the ability of customary dispute settlement. Consequently, more cases were brought to state court, and village heads participated more in customary case settlements (Kartinen 2014).

The government does not automatically recognize customary forest. The government could see traditional rights as somewhat illegitimate when customary forest management practices had not yet gone through the formal process of obtaining recognition. For example, the government could issue a license to allow private investors to extract resources from forest areas that have been a source of livelihood for local communities. The traditional communities of Laman Kinipan in Kinipan village, Lamandau regency, Central Kalimantan, faced this issue in an attempt to protect 1,242 ha of customary forest from encroachment by an oil palm company, PT Sawit Mandiri Lestari. The MoEF denied the community's claim because the formal process of getting customary

institution and recognition was not followed by the district government of Lamandau and MoEF (Widiangela et al. 2021).

The Formal Arrangements

According to the Indonesian legal framework, customary rights were recognized in Article 18B and 28I, paragraphs 2 and 3 of the 1945 Constitution, respectively, which also served as the basis for recognizing customary communities' claims over forest areas. New laws and regulations have been developed to address issues related to recognizing customary rights. However, the current laws and regulations focus on the procedural aspect of customary rights recognition. Different state departments have developed different procedures to recognize customary rights in natural resource management. The lack of coherence among the different laws and procedures contributes to the ambiguity experienced in recognizing customary rights.

a. Early Policy and Legal Framework

CBFM was applied to the customary forest tenure system and underwent multiple transformations from the Dutch colonial administration in the mid-19th century until the current post-reformation era in 1998. The long-term objective of the current CBFM program was to alleviate poverty and reduce inequality by improving communities' access to forestlands (Fisher et al. 2018). Meanwhile, the midterm objective focused more on forest rehabilitation and conflict resolution. The evolution of CBFM varied significantly between Java and other islands due to a different history of forest ownership. State forestlands across Indonesia were under the jurisdiction of the Dutch colonial government before the independence in 1945. Dutch presence was pronounced explicitly in Java. The nationalization of Dutch companies and the dissolution of the government agencies across post-independence Indonesia resulted in the creation of a state-owned enterprise called Perhutani, which was currently 2.6 Mha forest estate in Java. CBFM in post-independence Java was initially intended as a joint forest management contract between the director of Perhutani and forest associations of the local people. Perhutani was granted rights to jointly manage forest

estates with local communities through a program locally known as *Pengelolaan Hutan Bersama Masyarakat* (PHBM, Community-Based Forest Management). A ministerial regulation replaced the joint management contract with a licensing system in 2017. Local communities now obtain licenses from the MoEF to manage forestlands within Perhutani using an agroforestry system (*wana tani*) where trees intercropped with staple or annual crops (De Royer et al. 2018). Outside of Java, CBFM began in the 1980s as an initiative to reduce the negative impacts of large-scale logging concessions on local communities. The Ministry of Forestry developed a program called Forest Village Community Development (*Pembangunan Masyarakat Desa Hutan*, PMDH) to address this issue. This program required companies to assist with developing public infrastructures and agriculture in surrounding villages or communities (De Royer et al. 2018).

Securing a license from the minister, governor, or regent was the primary option for local communities wishing to gain legal access to forestlands through the communities forestry scheme, as specified in the Ministerial Regulations No. 622/Kpts-II/1995 and No. 677/Kpts-II/1997. License holders had access to timber and non-timber forest products. They could grow annual crops inside forestlands as long as they plant and manage trees to aid reforestation. MoEF advanced the CBFM program in the last decade by developing the five types of tenure arrangements in response to the diverse needs of communities nationwide. However, these goals of social forestry programs were not achieved due to several factors, such as land-use restrictions, weak community participation, the absence of technical and financial support from the government, as well as contradictory and overlapping mandates of different units and agencies (De Royer et al. 2018). To enhance the CBFM program, the MoEF implemented the Constitutional Court's 2013 ruling to amend the Forestry Act of 1999, which categorized customary forests as state forests. The Constitutional Court decided and mandated that customary forests should be recognized as titled or private forests. Following this ruling, the MoEF issued a regulation No. 9/2021 on Social Forestry Management stating that customary forests were no longer part of state forests.

b. *The Current Legal Framework*

The Forestry Act of 1999 mandated that the state should control all forest areas and natural resources and respect the customary rights. Furthermore, the Forestry Act stated that customary communities had the right to collect forest resources, manage forestlands using customary arrangements, and obtain capacity-building training for sustainable forest management. In reality, these rights were only recognized after the communities had gone through the formal process of obtaining recognition from the Government. Another flaw in the Forestry Act was the determination of legislated customary forest as state and not titled forest. In 2013, a Constitutional Court decision No. 35/PUU-X/2012 overturned this rule and classified customary forest as titled forest. This decision allowed customary communities to have more control over customary forests. Several ministries developed regulations to enforce this Constitutional Court decision further. The Ministry of Home Affairs issued a ministerial regulation No. 52/2014 as a guide to recognizing customary communities. The MoEF developed ministerial regulations Regulation No. P.32/Menlhk-Setjen/2015, P.21/MENLHK/SETJEN/KUM.1/4/2019, P.17/MENLHK/SETJEN/KUM.1/8/2020, and 9/2021 as additional guides to recognize customary forest. Some governments at the provincial or lower administrative levels also developed localized guidelines to complement the decision of the Constitutional Court to recognize customary rights (Arizona et al. 2017).

c. *Formal Process to Recognize Customary Forest*

Communities that want their customary forest are recognized by the government had to get recognition on existence that the provincial or district government grant, as stated in MoEF's Regulation No. 17/2020 Article 9 Paragraph 2 and Government Regulation No. 23/2021 Article 234. Based on Regulation No. 52/2004 by the Minister of Home Affairs, the district head should form a team and develop a formal procedure to validate customary communities' history, territory, laws, cultural artifacts, and governing systems. In practice, the communities could only obtain recognition for customary forests once the district government establishes a formal procedure for this validation



Figure 1. The procedure of customary forest recognition

process.

However, some customary communities that have received legal recognition through the formal process from the local government could not exercise traditional rights over forest resources. For example, the management office of Rawa Aopa Watumohai National Park of Southeast Sulawesi reported to the Bombana regency's police office. In the report, the Moronene Hukaea Laea customary communities were accused of illegally logging in the national park Rawa Aopa. Before the report, the Bombana district government enacted regulation No. 4/2015 that the Moronene Hukaea Laea communities were indigenous. However, the national park management office did not see that recognition to have legalized customary forest rights of Hukaea Laea communities. Only recognition that the MoEF awards could raise the validity of those customary rights. Therefore, the action of the Moronene Hukaea Laea communities of entering and collecting forest products from that national park was deemed illegal (Safuiddin 2021). Another example was from Mentawai customary groups in West Sumatra. The MoEF issued a forest utilization license to a Jakarta-based corporation in 2023. Some parts of the license areas were located inside the territories of Mentawai customary groups, who in 2019 obtained recognition from the Mentawai district government. At this moment, the recognized Mentawai customary groups were afraid of not being able to exercise their rights over the forest resources to avoid forest crime accusations (a personal communication with RL, an NGO activist in Padang, West Sumatera, on 20 July 2023).

After the district government successfully

validated the existence of the customary communities, the customary chief representing the communities should request the MoEF to validate the customary forest. The MoEF would form a team to assess the eligibility of the area claimed by the communities as a customary forest (Figure 1). In summary, the validation process ensured the claim was legitimate only when validated by the MoEF. Communities that successfully validated the forest through the MoEF had the right to manage the forests using customary practices, obtain training for sustainable practices, and obtain a legality certificate to sell timber from customary forests to the legal market. The communities were not allowed to alienate or mortgage the customary forest but were responsible for its sustainable management.

d. Prominent Issues in Recognition of Customary Forest Tenure

The government initiated the process of formally recognizing customary forests in 2015 after the MoEF formalized the Ministerial Regulation No 32/2015. The role of handling matters relating to customary forests was then assigned to the Directorate of Conflict Resolution, Tenure, and Customary Forest, a sub-directorate of the Directorate General of Social Forestry and Environmental Partnership. This change coincided with the sudden increase in the rate of customary forest recognition. However, significant issues, such as the complex regulatory framework and delayed verification processes, hampered effective recognition. Those two major issues result from the state's stereotypical view of the customary communities. The state was unwilling to share power

with communities suspected of being unsuitable for modern economic development.

State-community contestation on power sharing and resource allocation

The Ministries of the Indonesian government were reluctant to realize decentralized forest management or share authority with counterparts at lower administration levels, such as local government and communities (De Royer 2011). This action had implications for customary forests because recognition should include transferring forest tenure and management authority from the government to local authorities or communities (De Royer et al. 2018). At a meeting in September 2020 by the House of Representatives regarding traditional communities, several politicians opined that recognition of customary forests constrained state sovereignty (Saputro & Alamsyah 2020). However, some suggested that government ministries were reluctant to issue recognition because converting state forests into customary forests would minimize or eliminate the opportunity for high-level corruption and crony capitalism (Kartodihardjo et al. 2019). The fear of experiencing a decline in political power and failure to protect vested interests led state officials to have less concern for the lives of the customary communities. All these ideological and political reasons eventually caused the issues.

Complex Regulatory Framework

Customary communities should navigate complex bureaucratic hurdles to ensure the government recognition on existence and customary forests. In practice, communities should go through 13-17 stages in the application process, which includes 21 government agencies (Notess et al. 2018). On average, communities' formal recognition of customary forests takes 4 to 15 years (Notess et al. 2018). The complex regulatory framework governing customary forests resulted from different ministries developing independent regulations with little coordination. Regulations could be ambiguous and confusing, specifically when placed side-by-side with other regulations concerning the same subject. For example, the Regulation of the Minister of Home Affairs No. 52/2014 required a decree from the

governor or district head/mayor to recognize the existence of customary groups. This regulation was supposed to be generally applied to all ministries concerned. However, the MoEF applied forestry regulations, which required recognition through district regulation, a higher legislation. The MoEF adopted a formalistic interpretation, contending that the 1999 Forestry Law requires a district regulation.

Another example was concerning the land tenure right of recognized customary forests. Recognition of customary forests originally from non-forest areas or Areal Penggunaan Lain by the MoEF, does not automatically legitimize communities' land rights. The Regulation of the Minister of Agrarian Affairs & Spatial Planning/Head of National Land Agency No. 18/2019 on the Administration of Communal Land grants authority to the Ministry/Agency to register the recognized customary forest lands. However, the Ministry/Agency officials were reluctant to exercise that authority. This was evidenced by the statement of several officials of the Ministry at a workshop organized by Perkumpulan Karsa and the National Forest Council on 25 August 2020. In several discussion meetings by the World Bank on 13 March and 31 August 2023, the Ministry of Agrarian Affairs & Spatial Planning/National Land Agency officials expressed the unwillingness to register the recognized customary forest to provide tenure security. The reluctance and unwillingness came from the officials' fear of being accused of corruption.

Delayed processing time and ambiguous standards

The Ministerial Regulation No. 32/2015 stated that after receiving a request to recognize customary forest, the Ministry has only three days to respond and then must start the validation process. The verification process immediately followed this decision. In practice, the government rarely complies with this rule. For example, in November 2018, 12 communities from the Lebong, Lebak, and Mului districts submitted a request to the MoEF for customary forest recognition. The validation process started at various times for those 12 communities. In the case of customary communities in Lebong, as of 20 May 2021, the MoEF had yet to respond with any plans to start the validation process. The MoEF started the validation

process in July 2019 and January 2020 for the Kasepuhan Cibarani and Mului customary communities, respectively (Hidayati & Yulyandini 2020). MoEF Regulation No. 32/2015 also stated that after successful validation and verification processes, the government has only 90 days to officially recognize customary forests. In practice, recognition was significantly delayed, taking 457 days after the validation and verification processes in the case of Serampas in Maringin (Wibowo 2019). The delayed process became a common issue for communities in the conservation forest category (*Kawasan Konservasi*) because the Forestry Act 41 of 1999 does not apply to conservation areas. All conservation areas were governed by the Natural Resource and Ecosystem Conservation Law No. 5/1990. By this law, the Directorate General of Natural Resource and Ecosystem Conservation was not obliged to recognize customary forests promptly. For example, customary communities of Ngata Marena in the Sigi district were recognized 300 days after the validation and verification process. These communities only received 756 ha of the original validated and verified request for 1,488 ha of customary forest.

At the time of publication, no clear guidelines existed for assessing the amount of requested customary forest areas that should be officially recognized. For customary communities of Tau Taa Wana Posangke in North Morowali, MoEF only recognized 6,212 ha of the 26,000 ha of customary forest initially requested on the basis that the communities had only 93 households. However, Dayak Iban Menua Sungai Utik's customary communities successfully obtained the entire 9,480 ha of customary forest recognized despite having only 83 households. Delayed processing time and unclear standards became the main reasons for the slow increase in the number of officially recognized customary forests.

Challenges For Recognition of Customary Arrangements

Establishing a framework for customary forests that will work across diverse landscapes and contexts is costly and challenging. However, this framework is a worthy pursuit as positive outcomes could include poverty alleviation and sustainable forest

management. A good starting point would be for the government to prioritize understanding diverse cultural or socioeconomic contexts before establishing customary forest policies and programs. In 2015, the MoEF established a directorate in charge of customary forest issues, but the Department needs to be more staffed and funded. Recently, the Department has yet to respond to a request from several Mentawai customary groups to conduct a field visit for verification after obtaining recognition from the District government. The reason for the refusal is budget unavailability for the field visit. On average, the directorate receives approximately USD670,000 annually to fulfill its responsibilities.

The government of Indonesia is concerned that transferring forest management authority to local communities could be a barrier to the nation's ambitious agenda of pursuing economic development. Some stated that the government of Indonesia needs more faith in the ability of customary systems to promote economic growth. The government believes big enterprises with sufficient capital, human resources, and management systems could manage forests efficiently. Customary systems may experience challenges in providing these abilities. In this context, customary practices would slow down economic growth. Currently, 46 Mha of forest have been licensed to state and private enterprises for forest utilization. In contrast, only 153,327 ha of customary forests have been officially recognized. The reluctance of the government to hand forest management authority to customary communities was reflected in the complicated procedures for recognition.

Customary institutions do not necessarily practice democratic decision-making. Minority groups, such as women and strangers, might be excluded and experience discrimination in decision-making processes (Assies 2009). Customary elites could dominate decision-making processes and pursue only personal interests at the expense of the community's aspirations. The male population in communities commonly received more significant benefits from timber sales than females (Siscawati 2020). In ethnically mixed communities, Native groups dominate decision-making regarding land distribution. In some instances, land can be allocated to only dominant ethnic group making migrant

groups who have been residing for generations in that areas, were excluded.

Conclusion

In conclusion, the legal recognition of customary forests in Indonesia primarily aims at protecting and conserving forest resources, while tenure security and livelihood development were less important. The MoEF programs led to the recognition of hundreds of thousands of hectares of customary forests for hundreds of customary groups, resulting in an unprecedented number of recognized customary forest areas before 2016. However, many civil society organizations reported that the number needed to be increased and far less than the potential customary forest areas.

This research has identified several significant challenges in the recognition of customary forests in Indonesia. These include a complex regulatory framework, delayed processing time, and ambiguous standards, all contributing to the low number of recognized customary forests. Furthermore, ideological and political stereotypes of the state and fears about customary communities have exacerbated these issues. The state's perception that customary communities lack the ability to generate economic growth and development and its suspicion that customary forest recognition could undermine state sovereignty and political power over forest resources have further complicated the issue. This situation has led to the government's prioritization of forest protection and conservation in the recognition of customary forests.

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