



## Getting community forest reforms right

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The eyes of the world are once again on Indonesia. The nation currently faces the challenge of how to better address indigenous land and forest use rights, and to sustainably manage some of the world's most biodiverse and iconic forests. Many overseas observers will closely follow the processes and outcomes in Indonesia and use the lessons learned to inform policy in their own countries.

The eyes might also be on Indonesia because recent policy changes with regard to natural resource management have not always worked out as planned. Indonesia has had some rather unfortunate experiences with new laws that looked good in principle, but had unexpected negative consequences when rapidly implemented. For example, regional autonomy laws enacted after 1998 authorized the country's districts to manage most government services, including those related to logging and mining licenses. The government enabled community cooperatives to be involved in logging and governors and district heads were given

the authority to issue licenses for small logging concessions. Thousands of such permits were issued, resulting in a rapid increase in deforestation, and the government had to backtrack and rescind the policy.

**H**ow do we prevent similar mishaps with regard to indigenous land and forest use rights? Since the early years of Indonesia's independence, commercial forest use rights were exclusively for companies, and indigenous forest rights were largely ignored. The Indonesian Constitution, adopted in 1945, assigned all forest use rights to the state, with the added note that the government is responsible for managing these forests for the benefit of Indonesian society.

The Basic Agrarian Law of 1960 reinforced supremacy of the state in land matters and converted most customary rights into a series of weaker titles that made indigenous land ownership and use subordinate to the national interest. Sovereign rights to forests were leased to companies, which were the main beneficiaries of the exploitation of Indonesia's vast natural resource wealth.

These laws on forest use rights affected a lot of people, especially indigenous communities living in close proximity to forests, with their livelihoods depending on forest use. According to a recent Asian Development Bank report, the Indonesian government recognizes 365 ethnic and subethnic groups, which, according to the Indigenous Peoples Alliance of the Archipelago, encompass between 50 million and 70 million indigenous people in Indonesia, or some 20 percent to 30 percent of the country's total population.

Possible new ways to accommodate the forest rights of local communities and indigenous people were found in recent years through the replacement of the Basic Forestry Law of 1967 with the post-*reformasi* laws of 1999, in the spirit of decentralization and community participation. Under these new regulations, forest management by local communities became possible in state forests (*kawasan hutan*) through various institutional frameworks, such as *hutan kemasyarakatan*, or community forests, and *hutan desa*, or village forests, with the forest remaining under the control of the Ministry of Environment and Forestry (ie, without a transfer of ownership).

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In several rulings in 2012 and 2013, Indonesia's Constitutional Court determined the rights of indigenous groups to control their traditional land through customary forest lands (*hutan adat*). Decision 35/PUU-X/2012 stated that *hutan adat* cannot be state forest land, implying that there will be a transfer of ownership if the customary forest is in a state forest.

Thus, the Indonesian government was forced to take action. While these issues were largely ignored during previous presidencies, political support for social forestry policy is now gaining momentum in President Joko Widodo's administration as part of his Nine Priorities campaign.

Government initiatives to recognize community forest use and ownership rights could potentially affect large areas of forest. In March 2016, the Directorate General of Social Forestry and Partnership, within the Ministry of Environment and Forestry, indicated that an area of 12.7 million hectares (about the size of the island of Java) could be allocated to various forms of community management. The area of *hutan adat* appears to be smaller, although it is unclear to what extent it overlaps with the above area of 12.7 million hectares. The Indigenous Peoples Alliance and the Network for Participatory Mapping have submitted maps of ancestral domains covering some 2.4 million hectares across the archipelago to Indonesia's Geospatial Information Agency.

Despite government promises, the actual implementation of social forestry projects and indigenous forest titles has been slow. For example, the Indigenous Peoples Task Force, announced by President Joko in June 2015, has still not been formed. The Ministry of Environment and Forestry and its Directorate General of Social Forestry and Partnership, tasked with the program's implementation, are firmly committed to implementing their social forestry objectives by 2019. The political processes for recognizing customary forest land

claims are, however, taking more time.

While we believe that the idea of social forestry and indigenous land rights is good from the perspective of social justice and equity, democracy and human rights, a slow and careful, rather than rapid, implementation of fundamental changes in forest rights and uses is also good, if we are to learn from past experiences with the decentralization policy

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as mentioned earlier. Discussions about ownership and use rights only, without due consideration of responsibilities, governance and management capacity, could in the long run actually harm the indigenous and local people who are supposed to benefit from these changes.

A careful approach is needed in the consideration of several key, but potentially conflicting, objectives of the forest rights discussion. Giving forest ownership and use rights to indigenous communities is meant to fulfill the legal obligations of the government and stimulate economic development, while also reducing local deforestation rates and rural poverty. As such, new policies are



expected to contribute to Indonesia's economic development plan for 2011-25, and the national action plan to reduce greenhouse gas emissions and Indonesia's REDD+ (United Nations initiative to reduce emissions from deforestation and forest degradation in developing countries) strategy. The underlying assumption, as expressed in a range of documents and reports about forest rights, is that the greater involvement of communities in decision-making on natural resource use will result in a sustained increase in household incomes. Lower poverty rates are in turn expected to prevent further exploitation of forest areas.

The basic assumptions of these programs – forest use and ownership rights will reduce

poverty and deforestation – remain largely untested, however. During the past few years, the government and its nongovernmental partners have trialed a number of social forestry programs. For example, under a range of different policy settings, village forest, community forest and community plantation programs have been implemented. There has, however, been very little analysis of how these different solutions have impacted poverty and forest preservation in a large-scale analysis using unbiased samples.

Of course, when asked, most organizations that are trialing these programs will point at their most successful examples and say: "See, it works. Local people are protecting their forest." What often does not get mentioned

are the projects that failed during the implementation phase or the communities that rejected the idea in the first place, because they preferred nonforest development to the protection of forests. And here lies a danger.

**T**o what extent could rapid implementation of laws that give forest use or ownership rights to communities lead to adverse outcomes? For example, is it plausible that once communities are given full rights to their land, many will decide to sell the land to the private sector for plantation development? Whether or not that happens depends on the context of each community, such as the biophysical value of the land, its potential for agricultural development or the presence of high-value resources. A community in a Papua mountain valley may have much lower private sector demand for its land than one on the forest frontier in Kalimantan, for example. Also, the internal structure within communities is important. If strong democratic and equal rights principles are valued within a community, the will of the majority will prevail. But if community decisions are monopolized by the community elite (for example, the village leader or richest businesspeople), then decisions about community land may go against the will of the majority.

There is thus a risk that the most marginalized indigenous people could be negatively affected by poor governance and rapid implementation of laws. Our group is currently researching this under a new program funded by the British government's Darwin Initiative and Woodspring Trust. What we

want to know is how implementation of community forest projects affects the key measures of poverty and deforestation. We also want to know what determines the success and failure of such projects; how much money is invested in each; can this easily be scaled up to achieve 12.7 million hectares; what funding and information would be required for good outcomes; and what roles do leadership and institutional and social structures or networks have to play?

Our early findings indicate that, with regard to deforestation, the outcomes of

### **With regard to deforestation, the outcomes of community forests are a mixed bag.**

community forests are a mixed bag, at least in Sumatra and Kalimantan, where much of the country's frontier forest is located. Here, village forests located in old-growth forest areas and on mineral soil generally perform well in avoiding deforestation. However, those located on degraded forest or on peat soil face great challenges to prevent deforestation and continuing land degradation. This is most likely related to pressure for agricultural expansion and wildfires that occur during drought years – forces that are difficult for individual communities to control. Identifying the challenges faced in different community forest types can inform suitable adaptation strategies for local communities and help

external organizations working on the ground to achieve the best outcomes.

**R**ecognizing indigenous community rights for forest use and ownership is very important, but there is a need to carefully consider how new policies for this are developed and how fast they are implemented. Successful implementation is likely to require good regional technical capacity, a local environmental constituency and high levels of accountability and transparency of regional governance. One way for the central government to avoid adverse outcomes is to link regional budget allocations to

environmental and social performance. This will require accurate and transparent baseline measures and monitoring.

At the village level the technical capacity of natural resource management and village planning need to be substantially strengthened. Such improvements do not happen overnight and the Indonesian central government needs to develop long-term plans for step-by-step implementation.

The eyes of the world are once again on Indonesia. The issue of indigenous forest rights is crucial. Let's make sure the outcomes are good, making Indonesia the shining example of environmental and social progress and justice. 🌍