

## Tenure Facility Pilot in Indonesia

### Before Tenure Facility Support

- Indigenous Peoples and local communities in Indonesia have been managing forestlands and resources under customary systems for generations. These lands form the basis of their livelihoods, cultures, and spiritualities, and their sustainable management often prevents fires, contributes to food security, and mitigates climate change.
- Indigenous Peoples' rights are enshrined in the country's constitution, yet they have suffered continued injustice as the government found excuses for denying these rights at every turn. Legal instruments to operationalize the recognition of rights are still lacking, and much of the customary territory of Indigenous Peoples has been handed over to companies. 30 percent of the country is under industrial concession, resulting in massive forest fires and causing significant conflict. Because of these investments, Indonesia has some of the most unequal land distribution in the world. The Indonesian government's plans to grow its economy rely heavily on foreign direct investment, making it all the more crucial to close the gap in recognizing indigenous land rights.
- A recent analysis from RRI and the consultancy TMP Systems examined conflicts between companies and local communities in Indonesia and found that three quarters of the conflicts in Indonesia were caused by the displacement of communities from their homes, often because of palm oil plantations. The study also found that community-company conflicts are particularly intractable in the region and highly likely to be costly for investors.
- Decades of advocacy resulted in significant legal breakthroughs in recent years, opening a window of opportunity to secure rights on the ground. A May 2013 Constitutional Court Ruling declared that the state had wrongly appropriated customary forests and must return them to indigenous communities, reaffirming Indigenous Peoples' constitutional rights. Current President Joko Widodo included commitments on indigenous rights in his Presidential Candidate pledge, and the government subsequently committed to transfer management of 12.7 million hectares of forestland to indigenous communities.
- However, many of these pledges have yet to be translated into action, and Indigenous Peoples contend with a failure to recognize their rights in practice. Many communities experience displacement, intimidation, criminalization, and violence when their territories are appropriated for industrial or conservation purposes.

### Tenure Facility Success

- **The Tenure Facility pilot took advantage of momentum toward recognizing indigenous rights in the country and targeted the gap between the Constitution and progress on the ground.** Regrettably, government ministers have showed little commitment to implementing collective titling tenure instruments and the Jokowi agrarian reform program has been slow to get off the ground. In addition to national level advocacy to pressure the government to move, the pilot focused on achieving district level recognition through the development of a scalable model that supports indigenous rights on the ground and creates bottom-up momentum toward national recognition of indigenous territories.

- **With technical and financial assistance from the Facility, AMAN assisted local governments in the drafting and adoption of local regulations that respect the land and forest rights of Indigenous Peoples. In total, AMAN assisted in the drafting of 32 district-level regulations. Once passed, these will lead to recognition at the local level of over 1.5 million hectares belonging to 450 indigenous communities, establishing significant momentum toward recognizing indigenous rights on a larger scale.**
- **In an innovative new approach, these regulations not only established the regulatory procedures for recognizing indigenous communities but also included recognition of specific indigenous territories by embedding community maps directly in the legislation.**
- **Three of these local regulations have been approved, and another four could be enacted before the end of 2017. One of those approved—in Lebak—includes legal recognition at the local level for six community territories covering 66,300 hectares. The four draft regulations, if approved with their current text, would recognize an additional 26 territories covering nearly 93,000 hectares.** The text of the regulations do not necessarily recognize all territories that might be eligible in a given district, but they open the window for recognition of additional territories, and the territories that are recognized represent a significant and innovative step toward achieving full national recognition of these lands.
- AMAN achieved this victory by building understanding of indigenous tenure rights in participating district government institutions, supporting community mapping (in 41 community territories covering more than 125,000 hectares), and supporting the drafting and adoption of the regulations. AMAN has also trained over 220 district-level government officials, indigenous communities, Indigenous Peoples Organizations, and civil society organizations in regulatory processes and legal pathways.
- Community mapping is vital for securing rights recognition and safeguarding indigenous livelihoods and identity. The processes are inclusive, including the voices of women, youth, and marginalized communities. In particular, AMAN focused on ensuring the meaningful participation of women in the territorial mapping process, both to support their personal agency and to integrate their extensive knowledge of their communities into the mapping process. This approach directly benefits the lives of indigenous women in the immediate and long-term future.
- By achieving district-level rights recognition, the Tenure Facility pilot project directly benefits Indigenous Peoples whose rights are recognized while improving livelihoods, reducing conflicts, and strengthening natural resources management, thereby contributing to global goals on climate and development.

### **Scaling-up**

- The project has been catalytic at the district level. AMAN organized peer-to-peer exchanges to share these experiences, igniting a movement that is spreading from district to district on its own as local authorities adopt the approach of using local legislation to secure Indigenous Peoples' land and forest rights.

- The project also demonstrates how district legislation can fill policy gaps at the national level and build momentum for tenure reform, contributing to a bottom-up push for a national level law and approach to securing of rights.
- The project has already contributed directly to national recognition of indigenous lands. In December 2016, the Ministry of Environment and Forestry formally recognized the first nine indigenous forests. The pilot project enabled AMAN to participate in the process leading to these decrees and ensure recognition of three indigenous forests covering 6,000 hectares located in districts where AMAN had supported the enactment of local legislation (Lebak, Bulukumba, Humbang Hasundutan). This is significant given that the Ministry of Environment and Forestry has only agreed to formalize indigenous forests located inside indigenous territories already recognized by local or national legislation.
- The project complemented these efforts with national-level advocacy. AMAN engaged with the national legislative and executive bodies to advance the draft Bill on the Recognition and Protection of Indigenous Peoples, accelerate the establishment of the Presidential Task Force on Indigenous Peoples, and successfully establish an Indigenous Peoples' caucus. The caucus includes indigenous politicians and those concerned with indigenous rights; it has already been active in pushing the importance of legal recognition of indigenous territories and advocating for the draft law on Indigenous Peoples.

### **Spotlight on Lebak**

- The Lebak indigenous community has faced threats from an industrial mining concession as well as a national park. With the support of the Tenure Facility, Lebak was the first district to use local legislation as a tool for securing indigenous land rights. The legislation, which was approved in December 2015, included recognition of three indigenous territories covering 66,300 hectares of land. This was also the first district where AMAN implemented new procedures to ensure that the voices of women were included in the mapping process. Finally, local level recognition led to official recognition of one of the first community forests under the Ministry of Environment and Forestry.
- Lebak held a dialogue for local parliament members from other districts, and became a source of inspiration and information for many other local legislation processes. With support from AMAN, Junaedi Ibnu Jarta (Chairman of Lebak Parliament) became a champion of local rights recognition. He and other local indigenous parliament members have visited or received visits from several other districts, during which they shared their experience and facilitated high-level dialogue on local legislation processes.