

# **THE ROLE OF LOCAL GOVERNMENT IN THE LOCAL AUTONOMY FRAMEWORK IN THE IMPLEMENTATION OF REDD+ IN INDONESIA**

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## **ABSTRACT**

The world is racing to fight deforestation and forest degradation amidst the effort to reduce emission to mitigate climate change. REDD+ offers a new and more effective approach because it provides financial incentives for forest carbon storage. This approach is evidently different from the conventional forest conservation efforts. Simple, it might look. However, the practical implementation of REDD+ has proven to be cumbersome. In the context of Indonesia and its local autonomy policy, REDD+ presents both prospects and challenges. This study attempts to analyse the role of local government in the local autonomy framework in the implementation of REDD+. This study is a normative-juridical research using literature review to dissect secondary data. Among the secondary data that this study has dissected are statutory regulations, various legal documents, past studies, and other references which are relevant with the role of local government in the implementation of REDD+ in Indonesia, under the context of local autonomy. Indonesia has seen the implementation of REDD+ inherently laden with prospects and challenges. On the one hand, REDD+ can empower communities living in and surrounding forests and can provide simultaneous forest preservation. On another hand, problem in sectoral regulations present considerable challenges. Consequently, a working strategy and design to adjust REDD+ implementation to Indonesia's nature as a decentralized unitary state is needed.

**Keywords:** local autonomy, local government, REDD+.

## **INTRODUCTION**

Climate change is a global phenomenon triggered by people's activities especially those related to the use of fuel and land. Climate change and global warming became the most-discussed issue since it was brought to international and global political agenda in the end of 1980s. The rising concerns on global warming issue are triggered by the rise on global greenhouse gas emissions with an increase of 70% between 1970 and 2004 (24% between 1990 and 2004) and the potential consequences of it. The potential consequences of global warming include the rise in sea level, changes in weather pattern, impacts on human health (flood, drought and problem on water management system), and decline in overall biodiversity and implications for agriculture and food security.

Obviously, adaptation will play a key role in determining the economic and social costs of climate change. The adaptation scheme brought by the UNFCCC (United Nations Framework Convention on Climate Change) regime, intentionally made a brand new level of negotiating the climate change problem. The inclusion of “flexibility” mechanisms in the Kyoto Protocol as the implementing rules of UNFCCC provides another advancement of the regime. Three flexibility mechanisms have been included in the Protocol. Emission Trading (ET) is only possible between Annex B countries and does not involve any projects. It consists just of a transfer of a part of the emissions budget (Assigned Amount Units – AAUs) of one country to another. Joint Implementation (JI) refers to the investment of an Annex B country for a specific project in another Annex B country that leads to reduction of emissions. The emission reductions achieved by the project are credited to the investing country. Finally there is the Clean Development Mechanism (CDM), the only Kyoto mechanism requiring developing countries (non-Annex B countries) to participate.

The operating rules of CDM have evolved and developed in many stages. Eventually, the 7<sup>th</sup> CoP (COP-7) held in Marrakech delivered Marrakech Accord that reached the final agreement on the rules and regulations for the CDM. With the guidance established by the Marrakech Accord, the CDM was starting to be a cost effective mean of promoting sustainable development in developing countries. Indeed, the effective implementation of CDM can also achieve global climate change mitigation through market-based instruments.

However, along the evolving negotiation on the climate change, these flexible mechanisms are considered as not effective enough for best and suitable way on reducing CO<sub>2</sub> emission while keeping the production burn oil in the other side. After several meeting of parties and post Bali Road Map 2007, a proposed activities so called REDD+ (REDD Plus) is initiated. Indonesian Government coordinate with the UN-REDD Programme to assist the implementation of REDD+ nationally.

Assisting Indonesia REDD + readiness efforts, in order to establish and organize a fair, equitable and transparent REDD+ architecture in the country, UN-REDD initiates the Indonesian UN-REDD Programme. Moreover, one of the important aims for the Programme is to support the Government of Indonesia to build consensus on key issues for national REDD+ policy development. In this regard, UN-REDD Indonesia aims to contribute to an inclusive process where multi-stakeholder participation and empowerment of local stakeholders are central in the REDD+ National Strategy.

As the initiation of REDD+ concept involves multiple actors with different authorities and interests, REDD+ could be said as an evidence in the dynamic of UNFCCC negotiations. It is now a national challenge, and also local ones, to preparing the policy and grand design of REDD+. Indeed, it would not only be the policy on forestry that implied with REDD+ implementation, but it would be broader policy change well beyond that. Thus, under the regional autonomy condition in Indonesia, it became a distinct challenge to be maintain to.

Constitutionally speaking, reflecting on the Indonesian national plan on REDD+, the policy making process and legal frame working of the REDD+ process is inherent with the spirit to up stand environmental issues in the constitution, which already started during the third amendment. Constituting environmental issues is a milestone in the achievement of equality of men and nature (*panpsychism*) (Whitehead, 1929). Indonesian constitution of UUD (*Undang-Undang Dasar*) 1945 firmly acknowledge the equivalence of men and nature, as environment is impartially element of human being. It is stated under Article 28H verse (1) dan Article 33 verse (4) UUD 1945. Article 28H verse (1) states that “every people has right to live prosperously both physically and spiritually, settled in healthy and sound environment, and the right for health services”. While article 33 verse (4) states that “National economy

managed democratically based on the principle of communality, fair and efficient, sustainable, environmental friendly, autonomy, and taken into account the balance of development and state unity". Accordingly, it is proofing that Indonesia has adopting what so called *the green constitution* (Asshiddiqie, 2009).

Meanwhile, within the regional autonomy context, REDD+ implementation offers both prospect and challenges for provincial and municipal government. REDD+ can be used to build the capacity of forest surrounding community both on forest utilizing and forest conservation simultaneously at one side. At the other side, however, problems from sectoral based regulation are the generic challenges in the REDD+ implementation in Indonesia. Thus, proper strategy and design, particularly suitable for nation characters and decentralization mechanism are needed.

## RESEARCH METHODS

This research aims to analyse the role of local government in the upcoming REDD+ implementation. As the research objective basically is on-going stage, this research is conducted with a normative legal research, focussing on the document and literature study. The research approaches used are including statute approach, case approach, historical approach, comparative approach, and conceptual approach. (Marzuki, 2005). The data collected from this study is secondary data. While primary data obtained from field research in Central Kalimantan. Central Kalimantan being the specific objective taken is based on the fact that this province is elected as pilot-province for REDD+ implementation. However, the field research limited to the regional institution related to REDD+ program. This limitation is intended to elaborate the constitutional concept of decentralization and the actual – bureaucratic side– of the upcoming REDD+ preparation in the region.

The data analysed with qualitative-descriptive approach, with three basic aspect of analysis: classifying, comparing, and connecting (Suriasumantri, 1986). Deductive reasoning is used to understand the problem statements and eventually to organizing the facts in order concluding the research. (Martosoewignjo, 1987). Aside that, interpretation is used to understand the law integrated in the implementation of REDD+ (Mertokusumo, 1986).

## DISCUSSION

### Designing Regional Autonomy

Indonesia as archipelagic nation is choosing republic as its government system. The consequence of course that the governance is held by central government who have supreme power and authority which is dominant on the positioning the power of nation (Soehino, 2004). Thus, it is natural that centralistic atmosphere is so strong in Indonesian governance. Later, the dominance of central government was influencing the initiation of regional autonomy in its preliminary stage: the euphoria of the power transferred to the regional, though this condition has been altered ploddingly.

The choice of nation form (*staat vormen*) circulated among: (a) unitary state form (*eenheidsstaat*); (b) federal state form (*bonds-staat*); or (c) confederation state form (*staten-*

*bond*) (Asshiddiqie, 2006). In Indonesia, discourse between unitary form or federal form was a classic debate living in the community. According to the proceeding of the second meeting of BPUPKI (Indonesian Independence Preparation Committee) on 11th July 1945, Moh. Yamin had asserted that unitary state form is the best choice for Indonesia. (Bahar, *et al.*, 1995).

The principle existed in unitary state form is that the supreme authority of power is the central government, without any interference of delegation of power to local government; and there is strict separation between central government affairs and local government affairs. Thus, governance affairs is unanimity (*eenheid*) for central government as the supreme authority (Istanto, 1971). Indeed, this highly centralized governance created a debate on whether it was better with “federal system” or “decentralized system”.

Within the context of geographically vast nation, to ensure the ease of public services, exceptional mechanism via the concept of deconcentration and decentralization are implemented by delegating some of the “central government affairs” to regional governments. The extent of this exception definitely depend on the politic of law implemented at that time, shown on the existing regulation. (Juniarto, 1967). In Indonesian context, this delegation of power divided into three basic issues: (1) delegating part of central government affairs to regional government; (2) proportionality of state's finance between central government and regional government; and (3) shifting the delegating affairs into regional's domestic affairs according to the region's competences. (Soehino, 2004). One of the clear example is the delegation of environmental and several natural resources management for the regional government under Government Regulation Nr. 38 of 2007.

Indeed, the delegation of power is blind copy in the implementation. Supposedly, decentralization means that as some of the “used to be” central government shifted to the regional government, the regional government could fully in charge with the affairs filled the specific characteristic and need. But then, the political development in Indonesia, decentralization is directed to create uniformity on answering the diversity of Indonesia. The idea of *uniformity in diversity* indeed ruled out the substance that decentralization has actually delegating some of governance affairs to the regional government, in which regional government can held the affairs concord with regional potential and need, *mutatis mutandis*.

The option of decentralization is merely made to optimize the public services for the people. Unfortunately it is not consequently affected the prosperity of each region. Decentralization is strictly referred to the transfer of authority (on several aspects) from the central government to the regional government. Under this interpretation, the regional government should be firmly able to get full access of authority of its region. However, the grand design is set under *the uniformity in diversity* logic. So that, any specific characteristic and problems from the regions is belated responded by the central government. As well as, only a slice of pie on authority given. Indeed, the euphoria occurred at first term on regional autonomy implementation affected the half-hearted authority given.

Decentralization which simultaneously create regional autonomy deservedly not only interpreted as a strategy to manage the relationship between central government and regional government. But rather incorporated with the authority of regional government as the basis of governance affairs implementation. (Ratnawati, *et al.*, 2003). Today, progressively, regional autonomy has been interpreted as a principle in order to respect the region based on the history, adat, and other specific character distinct with another region.

## Designing the REDD+ in Indonesia

At this junction, concurrently, world is raced against deforestation and forest degradation with emission reduction effort inherent with the climate change mitigation. Yet, we still need a new approach that more conservation-friendly and more effective. Thus, the REDD+ mechanism rise as new alternative. Differentiated with the common and conventional forest conservation efforts, REDD offers financial incentives for promoting forest as massive carbon sink. REDD+ cannot be detached with Indonesian effort on COP-13 Bali 2007. Among the debate on post-Kyoto mechanism to apply the climate change regime, Indonesia propose the implementation of REDD mechanism which already exist with addition of three basic components: conservation and sustainable forest management, restoration and reforestation, also increasing forest carbon reserve. These addition then known as REDD+.

REDD+ mechanism follows *Principle 7 of the Rio Declaration on Environment and Development* (1992): “common but differentiated responsibility”, in which developed country produced emission will provide funds and technology for developing country as their emission reduction commitment. It is look like that simple, but not in the implementation. Challenges within this mechanism include the how to measure carbon accurately; how to ensure that the fund is transparent and efficiently deliberate for the people; and who will take responsible if the public participation do not prevent forest destruction.

In the last meeting of UNFCCC (Cancun 2010), the world has agreed to include REDD+ in the future mechanism post-Kyoto. CoP Cancun was also resulting on the agreement on the significant elements needed to achieve more integrated deal among parties, particularly on measurement, reporting, and verification (MRV) from emission reduction and on the funding support. (Ardiansyah, 2012). MRV aspect is becoming the important criteria and benchmark to have a precise emission reduction, as well as calculating the compensation fund for supporting the mechanism. In Cancun, REDD+ was agreed as an integral part of climate change mitigation, and the agreement on REDD+ provide firm core for the developing country, like Indonesia which have tropical forest, to support the credible REDD+ program.

However, it was an anti-climax, the discussion and enthusiasm of REDD+, as in *Conference of the Parties 17 (COP 17)* held in Durban, even though resulting the *Durban Platform for Enhanced Action*, the commitment shown on the draft was vague (Senna, 2012). *Cancun Agreement*, designed to slow up and withhold deforestation with socially responsible methods, is opposite with the decision adopted in Durban, which is potential to rising the social and environmental risk. In Indonesian specific context, *Durban Platform* is relatively contra-productive with the REDD mechanism, as the burden to reduce the emission is not only bear by the developed country, but also developing country.

Preparing the national legal framework to implement REDD+ is the main key on the REDD+ achievements. As to date, the implementation of REDD+ in Indonesia is in the second phase, of all three phases planned. The first phase is the preparedness (2007 – 2008), second phase is readiness (2009 – 2012), and the last phase is implementation (post 2013). In this second phase, activities focussed on the REDD+ implementation consist of four main agenda which are: 1) preparing of National Strategic Plan of REDD+; 2) Establishing of National Commission on REDD+; 3) Establishing MRV Institution and Capacity Building of MRV for REDD+; 4) Regulation on the Funding Mechanisms on REDD+. (Sukadri, 2011).

Within the context of regional autonomy stated previously, it is a benefit to involve the regional government from the beginning on the REDD+ implementation. Choosing Central Kalimantan Province as the pilot-province for REDD+ surely not an unrefined decision from

the government. There are several candidate for the pilot-province, namely Aceh, Jambi, Riau, South Sumatera, West Kalimantan, East Kalimantan, West Papua, and Papua, the final assessment end up in Central Kalimantan with the highest feasibility on REDD+ success. The assessment is based on several aspects: (1) assessment on the quality of the proposal, including management aspect, social and economy, data availability, and MRV; and (2) assessment on the quantity of forest or peat-land, and the deforestation threats. (Irawan, 2012). It was decided on the presidential plenary meeting on Desember 23rd, 2010 by President Susilo Bambang Yudhoyono.

Aside the assessment, Central Kalimantan Province hal also claimed that the selection for pilot-province is integral with the commitment of the Central Kalimantan government on protecting and conserving the forest. Before the REDD+ initiation, several policy and action have been taken by the government of Central Kalimantan on conserving the forest within governance; economy, social, and cultural; and also environmental aspect. (Narang, 2011). From the governance aspect, Central Kalimantan consistent on implementing the green province policy long before the selection of REDD+ pilot-province is started. This policy proved with Governor Decree Nr. 188.44/152/2010 on the Establishment of the Regional Commission on REDD+ of Central Kalimantan Province, dated 11<sup>th</sup> April 2011. It was eight month earlier from the decision on pilot-province.

As in economic, social, and culture aspect, Central Kalimantan is quite sensitive to understand the people situation. With several existing adat law community, potency of land right conflict is anticipated with the Regional Regulation Nr. 16 of 2008 on the Adat Institutional (later revised with the Regional Regulation Nr. 1 of 2010) and the Regional Regulation Nr. 13 of 2009 on the Adat Land Provision. This two government regulation provide legal protection for adat community, thus minimize the contiguity between *green government policy* with the existence of the adat community in Central Kalimantan. These efforts shown that it is worthy that Central Kalimantan is chosen for the pilot-province on REDD+ initiative.

### **The Role of Regional Government in the REDD+ Implementation**

Following the pilot-province status up, the Government of Central Kalimantan during 2011 has initiated several activities, in local-national-international plane, to support REDD+ discussion. Consequently, either Governor Climate and Forest Meeting, Public Discussion with stakeholders, or discussion with the community, all are emphasizing on the need to clarify on the right of land status and the need of attention for adat community right for natural resources.

The population of Central Kalimantan is 2,5 million people, with 2% of growth per annum. Mostly live in rural area with main activities and occupations are from agriculture or fishery sector. From this data we could describe several role of the regional government related to the REDD+ initiative in Indonesia.

**First**, related to the forest moratorium. Under President Instruction No. 10/2011, Governor and Bupati (Municipal Leader) or Major, are asked to postpone any recommendation and new location permit on forest and peat-land area. Under this policy, the position of the Governor of Central Kalimantan is supporting the policy. In his view, forest moratorium is not enemy for investation, as it is not to postpone all activities, but only to postpone any new permit. Thus, the President Instruction interpreted as first kick for administrative ordering of better forest management.

Indeed, the success of an order is depend on the executor. The perspective of the Governor, fortunately, is fully backed-up by the related instrument. For example, the forestry

agency in Central Kalimantan also supported the moratorium policy. Even they stated that the moratorium defined as permit-postpone was out-of-date issue, as they have already implemented that, particularly for the northern part of Central Kalimantan, the area of Muller-Schwaner mountain which is functioned as conservation area, thus improper to be given any forest utilization permit. However, the main problem is existed in the Provincial Spatial Planning which haven't legalised yet.

Consequently, the most problematic forest-related policy existed now is the Forestry Ministerial Decree Nr. 292/Menhut-II/2011 on the "land-use change of forest area to non-forest area of expanse  $\pm 1.168.656$  acre", "functional change of forest area of expanse  $\pm 689.666$  acre, and the appoint of non-forest area into forest area of expanse  $\pm 29.672$  acre in Central Kalimantan. This decree resulted from the problem on spatial planning, which is impacted in the decrease of forest area for approximately 17% (from 15.300.000 acre proposed into 12.652.822 acre).

**Second**, on community forest policy. There is one permit on community forest approved by the Minister of Forestry. It is located in Petuk Bukit Village, Rangkupit, Palangka raya, ranged 3450 acre. Another proposed area for community forest is located in Bahupalawa village, Banamatinjang, Kabupaten Pulang Pisau. This policy, however, is not popular for the people, usually the people in Central Kalimantan is more interested to chop-off first before planting. It is quite challenging approach to get the people planting before utilizing the forest. But, as the focus of community forest policy is to give utilizing permit on non-wood product, the mentioned reason is not quite reasonable. Perhaps it is more on the "economic reason" on the choice of tree planted in the forest rehabilitation program. The people prefer planting rubber tree rather than common forestry tree. Another possible reason is the reluctant of people to form a group and propose the permit first.

**Third**, on the Ecosystem Restoration. As other related policy, the community based forest management, the local government stand in neutral position (neither reluctant nor actively support), since mostly the local government still supporting for palm oil plantation rather than given to the proposer of ecosystem restoration activity. There are two proposer, but still haven't granted a permit from the local government.

**Fourth**, the demonstration activities. On January 6th, 2010, the Minister of Forestry officially launched the Demonstration Activities on REDD (DA-REDD) in Indonesia. This project initiated by the joint-cooperation between the Ministry of Forestry and the Government of Australia, the Government of Germany, ITTO and the Nature Conservation (TNC). One of the activities lies in Central Kalimantan and called KFCP (Kalimantan Forest Climate Project). KFCP maintained under the Indonesia-Australia Forest Carbon Partnership (IAFCP). The total budget for the project is around \$30 million to be manage between 2008 to 2013.

KFCP in Central Kalimantan is the first demonstration plot area in Indonesia. The purposes of KFCP are: 1) doing a credible, fair, and effective method testing on REDD+ mechanism; 2) as a contribution of Indonesia-Australia for global climate change regime post 2012; and 3) allowing Indonesian real participation in international carbon market in the future (Affif, 2009: 68).

Previously, the location of this demonstration activity is the working area of consortium of several NGOs collaborate for peat-land management. This consortium called Central Kalimantan Peat-lands Project (CKPP), involving WWF, CARE, BOSF (Borneo Orang-utan Survival Foundation), dan Wetland International. But this consortium last for only couple years (2006-2008). Indeed, way before CKPP initiated, WALHI and its network has been entering in and organizing the community surrounding ex "1 million acre of rice field" program area.

## **Conclusion**

Based on the proposed review above, it is proper and significant to said that the eagerness and willingness of local government and community is positive enough to support the REDD+ implementation in Indonesia. As example given by the government of Central Kalimantan as pilot-province on REDD+, the local government and community in Central Kalimantan is hoping that they can take a role in the REDD+ activities. There is a strong assumption in part of government and community in Central Kalimantan, and Indonesia, that REDD+ will only beneficial for “external” parties, only a million dollar project, nothing more. Many basic knowledge on REDD+, or even climate change, is still beyond common perspective in the community. Thus, initiative for mitigation and adaptation of climate change in the community needed to be driven with capacity building of stakeholders.

To achieve effective result in the REDD+ implementation in Indonesia, particularly in Central Kalimantan as the pilot-province, several activities could be proposed, in order to facilitate stakeholders in Central Kalimantan to develop a suitable mechanism which gives the right to the community either accept or reluctant with the REDD+ mechanism (free and prior informed consent/FPIC).

Another efforts could be proposed are: 1) facilitating the initiation of mechanism and institutional for dispute settlement between regional government on natural resources management; 2) exploring the opportunities to develop pilot-strategy on community-based REDD+ implementation; and 3) promoting more on the REDD+ project.

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