

Indonesia

Indigenous Peoples in Protected Areas in Indonesia: The case of Gunung Halimun Salak National Park

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Note: In Indonesia, indigenous communities are referred to as *adat* (meaning “customary”). Throughout this case study, the two terms are used interchangeably.

Historical problem: unilateral establishment of state forest areas

Indigenous forests are sources of life and livelihoods for Indigenous Peoples, providing food, shelter, and medicines, and forming the basis of their existence and identities as unique cultures with shared histories, spirituality, and experiences. Indigenous-managed forests are passed down from generation to generation and conserved for the wider society.

During Indonesia's National Inquiry into the Rights of Indigenous Peoples over their Territories in Forest Areas (hereafter the "National Inquiry"), the National Human Rights Commission observed that, in the 40 cases reviewed, evictions of Indigenous Peoples from their sources of life in forest zones were carried out in a continuous, structured, and massive way. This includes the establishment of national parks, reserves, and other conservation areas in customary forests through unilateral decision-making processes.

The Dutch East Indies colonial government unilaterally established state forest areas in customary territories without considering the existence of communities of Indigenous Peoples. Under colonial Dutch rule, the government established the first regulatory system for forests in Java and Madura. In 1870, all forestland was declared as state-owned except land under private ownership. The Colonial Forestry Service (Boschwezen) then delimited boundaries between "forest" and "non-forest" (e.g. agriculture, plantations and settlements) and classified forest areas based on different functions. This has led to the determination of legality or illegality with respect to access to and the use of forests. Those who have a license (permit) are declared to have legal access, while the access of other people is declared illegal because they lack formal permission. Although the laws have changed since then, there has been one constant: those who traditionally depend on forests have struggled for the recognition of their rights.

The policy, which the Ministry of Forestry later endorsed and extended to national parks and other protected forests and conservation areas without any consultation process, weakened the relationship between Indigenous Peoples and their forests and territories. This is what happened in the Gunung Halimun Salak National Park.

Another phenomenon has been the privatization of conservation areas, illustrated by an example in Lampung Province in Sumatra. The National Inquiry's public hearing there heard that Margo Belimbing, an indigenous community in Pekon Pengekahan, lives in a conservation area, Tambling Wildlife Nature Conservation (TWNC). The area is 48,153 hectares (ha) in size, set aside for conservation as part of the Bukit Barisan Selatan National Park, and managed by the private sector. The designation of TWNC for conservation has blocked the Margo Belimbing community's access to the area and thereby prevented them from pursuing their livelihoods. The state's lack of recognition of the Margo Belimbing community, the takeover of their traditional territories for the national park, and the neglect by the state of its responsibility for the settlement of claims, have led to conflict between communities and the private-sector

managers of Bukit Barisan Selatan National Park and to numerous human rights abuses against the Margo Belimbing community. Conflicts sometimes escalate to violence with the involvement of the military and the Brimob (Police Mobile Brigade Riot Control)—the primary function of which (in this case) is to protect corporate and national interests in forest areas.

The case of Gunung Halimun Salak National Park

The Kasepuhan is a forest-dwelling Indigenous Peoples in Halimun-Salak in Lebak District, Banten Province, in Java. Fifty-seven Kasepuhan groups—totaling around 50,000 people—are scattered throughout the largest tract of relatively pristine rainforest on the island, with an estimated 60,000 ha of forest in the Halimun-Salak area. The Dutch colonial government designated the forest as a protected forest in 1924.

The ancestors (*karuhun*) of those who form the Kasepuhan community were the leaders of the army of the Kingdom of Padjadjaran, who retreated to the south when their kingdom was taken over by the Sultanate of Banten in the 16th century. The Kasepuhan community has settled in the Lebak district area since the 17th century and their daily sociocultural behavior refers to the characteristics of Sundanese culture; “Kasepuhan” translates as “the keeper of ancestral land,” and they follow customary practices in their interactions with nature. Natural resource management in the area includes paddy fields (the main type of farming); mixed gardens; large plantations of tea, coconut, and rubber (managed by state enterprises and private companies); plantations (managed by the State Forest Enterprise, *Perum Perhutani*); conservation forests (managed by the Gunung Halimun Salak National Park Office - GHSNP); community forest (managed communally); and mining for gold, rocks and bentonite (managed by state enterprises, private companies, and groups of people). The Kasepuhan community mainly obtains its daily subsistence from a combination of forest resource management and traditional agriculture (rice fields and gardens).

The Kasepuhan people felt alienated in their own land when the Dutch colonial government established the area as a protected forest and effectively seized the community’s natural resources. In 1963, with Indonesia now an independent country, the area was established as a nature reserve and, in 1978, part of the area was turned into production forest under the control of *Perum Perhutani*. Through Minister of Forestry Decree No. 282/Kpts-II/1992, an area of about 40,000 ha in the Lebak, Bogor, and Sukabumi districts was designated as a national park and managed by *UPT Balai Taman Nasional*. The area was expanded to 113,357 ha in 2003 through Decree No. 175/Kpts-II/2003 of the Minister of Forestry, creating the GHSNP.

The designation of the forest as a national park was traumatic for the Kasepuhan. The opening of a road connecting the Sobang and Cijaku sub-districts in 2008 posed another threat, with timber businesses targeting the forest in Cibedug in the Lebak District. The Cibedug community’s leader (“*oyok*”) lacked the means to counter this threat. Illegal loggers are never

caught, and they often know when timber control operations will be conducted. Cibedug residents became frightened of police and the impunity with which the loggers acted. The residents of Citorek faced a similar threat from law enforcement officers; they were not allowed to undertake any activity and were threatened with eviction from the conservation area.

“Every time I see police in uniform or hear the gunfire, my heart feels like it will stop. We were traumatized after the police opened fire right over my head. This national park in addition to having imprisoned our child also forbids us to cut the wood we have planted in our forest.”

— Mrs En, a member of Kasepuhan community

GHSNP rangers have also carried out various intimidatory actions. In 2013, for example, they chased a woman who was herding buffalo and destroyed her livestock shelter (“stale”). In 2014, GHSNP rangers seized 130 bags of ready-to-sell charcoal belonging to a resident of Kasepuhan Karang “because the raw material of charcoal was taken from GHSNP area.” In fact, the charcoal had been produced from wood left over after logging carried out illegally by GHSNP rangers. The rangers required the charcoal seller to pay IDR 1,000,000, even though the net profit that could have been obtained from the sale of 130 sacks would have been only IDR 260,000.

The prohibition on the use of timber by the Kasepuhan includes a ban on cutting trees planted by community members themselves. This had led to the arrest of many people when “caught in the act” by the GHSNP rangers—of cutting down their own trees. “Now there is no hope of survival because we are not allowed to cut down our own timber,” said Ibu Koy, member of the Ciptagelar community.

The ban on timber harvesting has prevented the women of Ciptagelar from obtaining wood with which to repair their homes or burn as firewood, with consequent impacts on the welfare of their families. “The most painful experience is to be considered thieves in our own land,” explained a Kasepuhan community member.

Another effect of the ban on forest use is the progressive disappearance of traditional practices in the Kasepuhan Karang and Kasepuhan Cirompong communities, such as swidden agriculture, which had previously helped maintain soil fertility. The loss of traditional plants has a major impact on the health of Kasepuhan women and that of other indigenous women (see Box 1). It is also disrupting the transfer of women’s knowledge from the older to younger generations on how to prepare medicines from these plants. “We will not recognize the state, if the state does not recognize us,” said a Kasepuhan community member.

The National Inquiry findings

According to the National Inquiry, the following six indigenous communities live in the GHSNP:

1. Kasepuhan Ciptagelar, Sukabumi District, West Java
2. Kasepuhan Citorek, Lebak District, Banten Province
3. Kasepuhan Cibedug, Lebak District, Banten Province
4. Kasepuhan Cisitu, Lebak District, Banten Province
5. Kasepuhan Cirompong, Lebak District, Banten Province
6. Kasepuhan Karang, Lebak District, Banten Province (with a customary territory of 1,081 ha).

From the public hearings, the National Inquiry commissioners concluded the following:

- The six community groups all fulfilled the conditions to be recognized as indigenous communities. Moreover, the Citorek, Cibedug, Cisitu, and Karang communities have obtained written recognition through Lebak Regent Decree Number 430/Kep.298/Disdikbud/2013 on the Recognition of the Existence of Indigenous Peoples in the Banten Area. The Ciptagelar community is recognized in Local Regulation No. 22 of 2012, issued by the Sukabumi District.
- Indigenous forests in the Kasepuhan territories are sources of life and livelihoods, producing food and medicines that are conserved, passed on from generation to generation, and maintained for the broader community.
- Most of the customary territories, including the six customary forests, overlap with the GHSNP.
- The state—in this case, the Ministry of Forestry through its Decree No. 175/Kpts-II/2003 on the expansion of the GHSNP—has contributed to worsening the conditions of the Kasepuhan.
- Changes in forest governance and the status and function of customary territories have caused a lack of control of, and access to, forests; the depletion of living resources and livelihoods; the decline of cultural order; and a decreased quality of life for the indigenous communities.
- These changes in forest governance have resulted in the violation of Indigenous Peoples' rights to: sustain life; security; property rights to ancestral land; obtain justice; a decent living; food; and housing. The rights of women have also been violated.
- Overlapping claims on territories between Indigenous Peoples, the GHSNP, and the government have impeded the Kasepuhan people from defending their customary rights, and the lack of legal certainty has led to their arrest and detention.
- The restrictions on access to land, land tenure, and the management of productive agriculture imposed by the government (through the Ministry of Forestry) has

disrupted the farming systems of the Kasepuhan, which are closely linked to their food security and livelihoods.

- The Kasepuhan women's right to security has been abused due to intimidation and stigma. Moreover, the task of meeting the food needs of their families has led several women to become urban laborers or domestic workers.
- Women have lost the right to participate in decision-making on changes in the function of land and customary forest (Box 1 discusses gender dimensions of the loss of Indigenous Peoples' rights in Indonesia, as concluded by the National Inquiry on rights abuses suffered by indigenous women).

Box 1: Gender dimensions of the loss of Indigenous Peoples' rights in Indonesia

In indigenous communities in Indonesia, the collection of forest products is a typical method of procuring food for the family. The women and children in a family usually go together to the forest to collect fallen fruit and plants growing on the forest floor. Dietary needs are quickly met, so they have time to go home and prepare and cook the food. This practice is increasingly difficult, however, with access to the forest prohibited and the forest area continually shrinking. Food gathering in state-controlled conservation forests is prohibited, even for Indigenous Peoples; thus, there is no protection for this traditional activity, and those engaged in gathering frequently face criminalization.

If food is unavailable in accessible forest, indigenous women must use money to buy groceries and to pay the cost of travel to the nearest markets; such travel may take half a day by motorcycle if trails are passable. Thus, Indigenous Peoples are trapped in a cycle that eventually leads to dependence on markets and the money-based system to meet the daily needs of their families.

In addition, indigenous women must deal with the "multiple burden" effect when there is a conflict over natural resources: they experience a lack of security due to threats, harassment, stigma, expulsion, persecution, and criminalization; they have limited access to information and participation in decision-making; they have little or no training for work in the market-based economy and so are forced to take rough work as day or seasonal laborers in plantations or quarries; and the loss of access to forests means the reduced availability of medicinal plants, such as herbs used by indigenous women to control hemorrhaging in childbirth. Also lost are the materials needed for teaching about their culture and traditional way of life, resulting in a disruption in the transfer of indigenous knowledge to younger generations and, ultimately, in the irreparable loss of traditions and heritage.

Kasepuhan and other indigenous women have a distinctive function in maintaining harmonious relationships among community members, taking decisive actions to **peacefully settle conflicts**. The loss of forests can have unexpected consequences that lead to the weakening of social cohesion between neighbors and communities. In Kalimantan, for example, it is traditional for indigenous peoples to bring a gift of durian, a highly prized fruit, when entering negotiations to settle local disputes; without access to forests, would-be peacekeepers must arrive empty-handed—which is culturally awkward and can affect negotiations.

From the testimony of indigenous peoples, it is clear that indigenous women play an important role in the process of conducting **indigenous peoples' religious and belief rituals**, such as in identifying, locating, and gathering special herbs and preparing these for rituals in various ceremonies.

The key findings and conclusions of the National Inquiry on women's rights can be summarized as follows:

- Indigenous women experience discrimination and multiple layers of abuse—in their traditional communities, from society in general, and from the government.
- Violations of the rights of indigenous women have occurred in the process of converting the functions of indigenous lands and forests. Rights that have been violated include the right to security, the right to life, the right to a clean environment, the right to development, the right to education, the right to health, the right to culture, the right to freedom to organize, the right to information, and the right to participate in decision-making.
- Indigenous women of all ages experience marginalization from, and subordination by, the outside world and within their own traditional societies. Addressing the violation of their rights, therefore, begins in their own communities. Rather than protecting the interests of Indigenous Peoples, especially women, however, government agencies and institutions are concerned with development and the protection of commercial interests and national parks. Effectively, they are leaving Indigenous Peoples to perish slowly amidst the great store of natural and cultural wealth in their own backyards.
- The conversion of indigenous forests results in the loss of traditional livelihoods for indigenous women. Families are forced to use money to provide the necessities of life; many families cannot afford the cost of schooling for their children, and children feel pressured to work rather than attend school. Forest conversion thereby decreases opportunities for indigenous children, particularly girls, thus increasing their vulnerability to abuse and exploitation. As securing the necessities of life becomes increasingly difficult, many young women sacrifice their future success through education to meet the immediate needs of their families, or they fall into the snares of

unscrupulous labor brokers and human traffickers. Labor brokers go from village to village promising work for girls as housekeepers, babysitters, or factory workers, usually in areas far from home villages and even overseas. In such employment, girls and women become isolated from their traditional communal support systems, thus increasing the risk of exploitation, victimization, and the abuse of their human rights, including physical and sexual abuse and even loss of life.

- Indigenous women in traditional villages have lower rates of general health, including lower reproductive health. This is directly related to reduced forest-use rights through the loss of a diverse diet, the loss of access to traditional medicinal herbs, and the loss of knowledge on finding and using such herbs. Ironically, those districts that are richest in natural resources are those with the highest rates of poverty, lowest rates of education, and highest rates of infant and maternal mortality. Not all government health data have been released, particularly on HIV/AIDS.¹ From the statistics that are available, however, there is evidence of higher-than-average maternal mortality rates in forest zones under state control, and these rates have remained high for a long period. This phenomenon is seen in remote areas such as Papua and Aru but also in more accessible areas, such as the West Java region of Banten, which is adjacent to Jakarta. It is clear, therefore, that the problem is not just logistical; primarily, it is institutional.
- The loss of Indigenous Peoples' living space creates feelings of dehumanization for both women and men. The loss is felt most by indigenous women, however: women traditionally have held multiple roles as keepers of traditional religious rituals, keepers of the natural balance, agents of peace, and keepers of family nutritional needs and the wellbeing and health of families and the community. These roles are being lost at an increasing rate due to the loss of traditional forest lands.

Commitment from the government: between hope and disappointment

Following the National Inquiry, the GHSNP Office committed to accommodating customary use in the national park's zoning system. They also committed to implementing a moratorium on law enforcement against Indigenous Peoples practicing agriculture in accordance with their traditions.

According to the Forestry Law, the Kasepuhan communities living inside the GHSNP have no ownership rights. In practice, however, they are able to exercise certain rights after negotiating de facto management rights with the GHSNP management, who had realized it was unrealistic to adhere to the law too strictly. The GHSNP management accepted that the Kasepuhan had the right to use forestlands and resources in certain designated areas and to live within park boundaries. The GHSNP management also designated a special-use zone to acknowledge the fact that people live and farm inside the boundaries of the park. These

arrangements are informal, but they provide the Kasepuhan with a certain sense of land-tenure security.

In 2014, with support from a number of non-governmental organizations, the Kasepuhan intensively—and, ultimately, successfully—lobbied the regional parliament to issue a new regional regulation officially recognizing the Kasepuhan community and their customary (*adat*) territories. This is a key goal in the Kasepuhan’s struggle to receive state recognition of their customary rights.

In 2016, Kasepuhan Karang was among nine indigenous communities granted recognition of their customary forest (*hutan adat*) by Ministry of Environment and Forestry (MoEF)² Decree SK. 6748/MENLHK-PSKL/KUM.1/12/2016. Kasepuhan Karang obtained recognition of their rights to 462 ha of forest (in a claimed customary territory of 1,081 ha).

Talking about the situation after this recognition, the leader of Kasepuhan Karang said:

“Before we were not considered as human being! Now the door is open for us to define what we want to do with our forest. But conservation has different meanings for people with or without education. For local people, we are doing conservation, we are taking responsibility for what is alive and what has died. But for people with education, conservation means that we do not do anything: when forest is green, people can only look at it.”

For this leader, there is a need to unify language and understanding between conservation advocates, indigenous communities, and government—to the lowest level of civil servant in the MoEF. There is also a need to increase awareness among the police because local police know neither about MoEF Decree SK. 6748/MENLHK-PSKL/KUM.1/12/2016 nor about the Constitutional Court Decision No. 35/2012³ (stating that *adat* forests are no longer part of state forests). In response to the latter, the National Director for Conservation, Pak Wiratno, said it is time for the government to adopt the zonation systems of indigenous communities in conservation areas—thus, when issuing recognition decrees for *adat* forests, the MoEF must adopt the *adat* system for assigning management blocks (based on functions) and design a plan for cooperation among communities, local government, and assisting civil-society organizations. According to Pak Wiratno, “the new zonation system will be based on the *adat* zones. For this to happen, the government has to sit together and listen to communities. The government is not used to this. It is used to giving order; listening makes their ears hot! But we have to ...”

This change will allow the piloting of a community-based economy in national parks and other conservation areas. It has been proposed to test this approach in the GHSNP with Kasepuhan Karang—60 percent of whose *adat* territory overlaps with the park—and also involving *Perum Perhutani* in this process. Pak Wiratno concluded by saying that: “All problems can be solved. If not, it is not a problem but a disaster.”

In Indonesia, 5,860 villages are located in officially designated conservation areas covering 221,000 km². Among these are 129 *adat* communities—about 1 million Indigenous Peoples live on 16,400 km² in official conservation areas. Most of these communities depend on natural resources for their existence and, as such, have been taking care of the environment for at least hundreds of years.

During the MoEF National Coordination Meeting held in January 2018, Pak Wiratno revealed his approach to the establishment of pilot co-management partnerships with local and *adat* communities in national parks and conservation areas. **Such partnerships will be created for the management of 250 km² of conservation area by the end of 2018.** Technical guidelines are being drafted, and the Rights and Resources Initiative recently approved an initiative under its Strategic Response Mechanism (SRM) proposed by Rakata⁴ to support the piloting of such partnership agreements in three locations, one of which is the GHSNP.

Co-management partnerships will grant rights to *adat* and local communities and allow farming activities on designated areas for subsistence purposes. Where *adat* communities are involved, such partnership agreements will help fast-track the recognition of customary forests (*hutan adat*). The move announced by Pak Wiratno, however, contradicts a recent Presidential decree emphasizing enforcement measures such as the resettlement of communities outside national parks and the prosecution of encroachment.

One hundred and thirty-four claims have been submitted to the government for recognition of *hutan adat* in forests officially designated for conservation, covering an area of 1.646 million ha throughout the country. In February 2018, the Directorate in charge of Social Forestry and Environmental Partnership revised its target for *hutan adat* recognition to only 20,000 ha in 2018 and 6,190 ha in 2019, thus falling dismally short of the total area claimed.

The slow recognition process of the *adat* forests—despite renewed commitments from the highest level—is often justified by doubts regarding the ability of *adat* communities to adequately conserve their forests. But is it true that state conserves forests better than *adat* communities? In a four-year study, the Auriga Foundation (an Indonesian civil-society organization) recorded 800,000 hectares of oil palm plantations in protected areas, protected forests, and conservation forests. There was even greater overlap between coal-mining concessions and protected forest areas, reaching 6.3 million hectares.

In Indonesia, laws facilitate the management of forest areas by business entities. When an investor or company is interested in using a natural resource or accessing a forest area, the government releases the area from its designation as state forest or grants permission to use it, citing national development and economic growth.

The massive release of forests is a political means to provide a legal format for the process by which forest function is diverted, so that the land can be used for natural resource exploitation and large-scale plantations. It also provides the appearance of legality, so that companies can exploit the forest in conformity with commitments to “zero deforestation.” In the field, however, such releases mean massive deforestation by business interests.

The Auriga Foundation study found that, in 1984–2016, the government released 6.79 million ha of forest for oil palm plantations—more than half of all palm oil concessions in Indonesia (11 million hectares).

There is a close relationship between indigenous rights and forest sustainability. The recognition of their rights enables indigenous peoples to continue to act as guardians of ecosystems and species. Weak legal protection for their rights, on the other hand, encourages deforestation and has serious implications for climate change. It is time for the government to entrust *adat* communities with conserving their forests and to restore the rights of these communities in accordance with the mandate of the Constitutional Court.

¹ HIV is the human immunodeficiency virus and AIDS is the acquired immune deficiency syndrome.

² The Ministry of Environment and the Ministry of Forestry merged in 2014 to create the Ministry of Environment and Forestry.

³ This decision recognizes two types of forests with respect to rights: “forest subject to rights” and “state forest.” Customary forest is one of the categories of “forest subject to rights”; therefore, including customary forests as part of state forests is contrary to the Constitution.

⁴ Rakata is a private Indonesian company working on nature and conservation.