

EFFORTS OF DAYAK PUNAN ADIU CUSTOMARY COMMUNITY TO PROTECT THEIR LEGACY

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INTRODUCTION

How forest can be utilized?

Act No. 41/1999 on Forestry
(Forestry Act) - replacing Act
No. 5/1967

- State legislation and regulation
- Customary rules and regulation

Forest types:

- Status:
 - State Forest
 - Titled Forest
- Function:
 - Protection
 - Production
 - Conservation Forests

INTRODUCTION (2)

Forest infrastructures as enabling condition of sustainable management of forest.

(Damayanti & Masuda, 2008; Prasetyo & Damayanti, 2010)

- **Soft Infrastructures:**
 - Forest demarcation and mapping.
 - Institution and administration system to manage the forest.
 - Human resources to support and implement the system.
- **Hard Infrastructures:**
 - Roads.
 - Buildings.
 - Equipments.

INTRODUCTION (3)

In Java Island: Forest infrastructures was initially established since Dutch colonial period.

(Damayanti, 2008)

- Forest areas and resources are utilized based on State legislation and regulation.
- Forest areas have been demarcated and mapped during Dutch colonial period, management of teak forest has been established, which later adopted and continued by Perum Perhutani (State Forestry Corporation) whose took over the management after Indonesian independence and provide human resources input including involvement of local communities to implement the system that is acknowledged by communities (Damayanti, 2008; Prasetyo & Damayanti, 2010).
- Clearly understood land property rights acknowledged by both the government and the people also ensured the continuing existence of the forests (Prasetyo, Damayanti & Masuda, 2012).

INTRODUCTION (4)

How about in the islands outside Java?

Based on Act No. 23/2014 on Local Government

- Protection and production forest areas are managed **concurrently** between Central Government and Provincial Government.
 - Conservation forest areas are managed by Central Government, except Grand Forest Parks that are managed by the Local Government (province, district, or city).
- **Conflicts on the ground mostly occurred when customary community exists, manages, and utilizes the forests preceding the forest manager assigned by the State.**

INTRODUCTION (5)

Dayak Punan Adiu Customary Community

- One of eleven customary communities who are still dwelling Malinau forests and surroundings.
- Nomadic lifestyle → semi-sedentary.
- Their “home” has been deforested by logging concessions for some years, now threatened by oil palm plantation and coal mining → hunting and gathering locations become limited.
- Awareness on the sovereignty of their custom and intact boundary of their home have been raised by researchers and NGOs who have been in contact with them since 1980s.
- Just over the last decade, their awareness affirmed and efforts have been made for legalization of their home as customary-managed area and customary forest through the Malinau District Head Decree.

INTRODUCTION (6)

Objectives of this study

- to document and analyze the legalization process of the Dayak Punan Adiu Customary Region and Forest in the context of Indonesian policy and local regulation.
- to identify the impact of this process to the livelihood and legacy of Dayak Punan Adiu people.

METHODOLOGY

- **Study Period**

January – February 2016

- **Location**

Punan Adiu Customary Forest - Punan Long Adiu Village, Malinau Selatan Hilir Sub-District, Malinau District, North Kalimantan

- **Data Collection**

- Literature review: profile of Punan Adiu Customary Community, Forestry Acts and Local Government Acts, journal articles, other relevant literatures
- Key informant interview

- **Data Analysis**

- Policy analysis
- Historical and institutional aspects of Punan Adiu Customary Community

RESEARCH SITE



Customary Managed Area : 17,292.58 ha

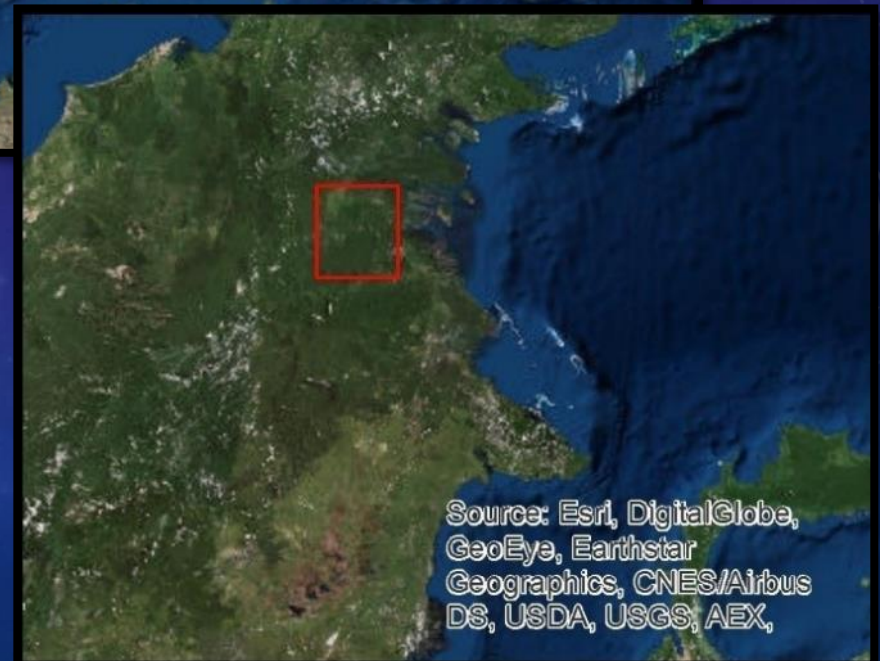
Population : 184 people (27 households)

Ethnicity : Punan, Merap

Religion : Catholic, Protestant, Islam

Education Level :

- Illiterate 8.4%
- Elementary School (ES) 9.3%
- Not finishing ES 20.5%
- Junior High School 49.5%
- Senior High 6.5%
- College/University 5.6%



Source: Esri, DigitalGlobe,
GeoEye, Earthstar
Geographics, CNES/Airbus
DS, USDA, USGS, AEX,

RESULTS AND DISCUSSION

- ❖ Customary forest in Indonesian legislation and regulation.
- ❖ Customary practices in the context of Indonesian legislation and regulation.
- ❖ How a community can legally manage a forest area?
- ❖ Case Study:

Efforts of Dayak Punan Adiu Customary Community to Protect Their Legacy

- Processes have been conducted.
- Customary-managed area.
- Impacts of legalization process.

CUSTOMARY FOREST IN INDONESIAN LEGISLATION AND REGULATION

- Act No. 41/1999 – Customary forest is part of State Forest.
- Act No. 24/2003 – Constitutional Court was established.
 - Judicial Review on Acts against 1945 Constitution.
 - To decide disputes between state institution authorities whose authorities are granted by the 1945 Constitution.
 - Dissolution of political party.
 - To decide disputes on the results of elections.
- 2012 – Judicial Review on Act No. 41/1999 articles related to Customary Forest (Case No. 35/PUU-X/2012) was partly granted.
- 2014 – Local Government Act, particularly the **concurrent** government affairs on the recognition of customary law community (CLC) existence, local wisdom and CLC rights related to environment protection and management.

CUSTOMARY PRACTICES IN THE CONTEXT OF INDONESIAN LEGISLATION AND REGULATION

- Customary law communities and forests have never been represented in the legislation and regulation until the Judicial Review of Forestry Act in 2012 on customary forest.
- Customary communities have been dwelling the forest areas preceded the State existence in the forest areas.
- Customary communities livelihood was disturbed and destroyed by the presence of logging companies that manages the forest areas on behalf of the State.
- Customary communities often labelled as forest areas encroachers, illegal loggers, etc.
- Non-Governmental Organizations (NGOs) and Civil Society Organizations (CSOs) launch campaigns and activities to defend and support customary communities throughout Indonesia
 - Indigenous Peoples' Alliance of the Archipelago (AMAN), Community and Ecological Based Society for Law Reform (HuMa), Nomaden Institute, etc.

HOW A COMMUNITY CAN LEGALLY MANAGE A FOREST AREA?

- There are 5 types of management that community can obtain (Act No. 41/1999 and its sub-legislation & sub-regulation):
 - *Hutan Kemasyarakatan* (HKM)/Community Forest
 - *Hutan Tanaman Rakyat* (HTR)/Community Plantation Forest
 - *Hutan Desa* (HD)/Village Forest
 - *Pengelolaan Sumberdaya Hutan Bersama Masyarakat* (PHBM)/Community-based Forest Resources Management – in Java
 - *Hutan Adat* (HA)/Customary Forest
- Procedures:
 - Application to obtain working area – district → province → Ministry of Forestry
 - Application to obtain business permit (HKM, HTR); management rights (HD) – province

HOW A COMMUNITY CAN LEGALLY MANAGE A FOREST AREA? (2)

- Procedures for HA/Customary Forest (SE MoF 75/2004):
 - Application for recognition as Customary Law Community – community → district head/mayor → research by team → stipulation of Customary Law Community by provincial regulation (*Peraturan Daerah Provinsi/Perda Provinsi*).
 - Application of Customary Forest – district head/mayor supported by Governor recommendation → Ministry of Forestry → stipulation as Customary Forest.
- Procedures for recognition and protection of Customary Law Communities (MIA Regulation No. 52/2014 Article 4):
 - Identification of Customary Law Communities.
 - Verification and validation of Customary Law Communities.
 - Stipulation of Customary Law Communities by district head/mayor.

CASE STUDY: PUNAN ADIU, MALINAU

Malinau District Regulation No. 10/2012 on the Recognition and Protection of Customary Communities Rights in Malinau District:

- Identification of Customary Law Community (self or supported): History of the community, customary area, customary norms, institution/customary governance system, and customary rights.
- Application form submitted to *Badan Pengelola Urusan Masyarakat Adat* (BPUMA) – verification – opinion/claim by adjacent communities – settlement of claim.
- Stipulation by Malinau District Head.

CASE STUDY: PUNAN ADIU, MALINAU (2)

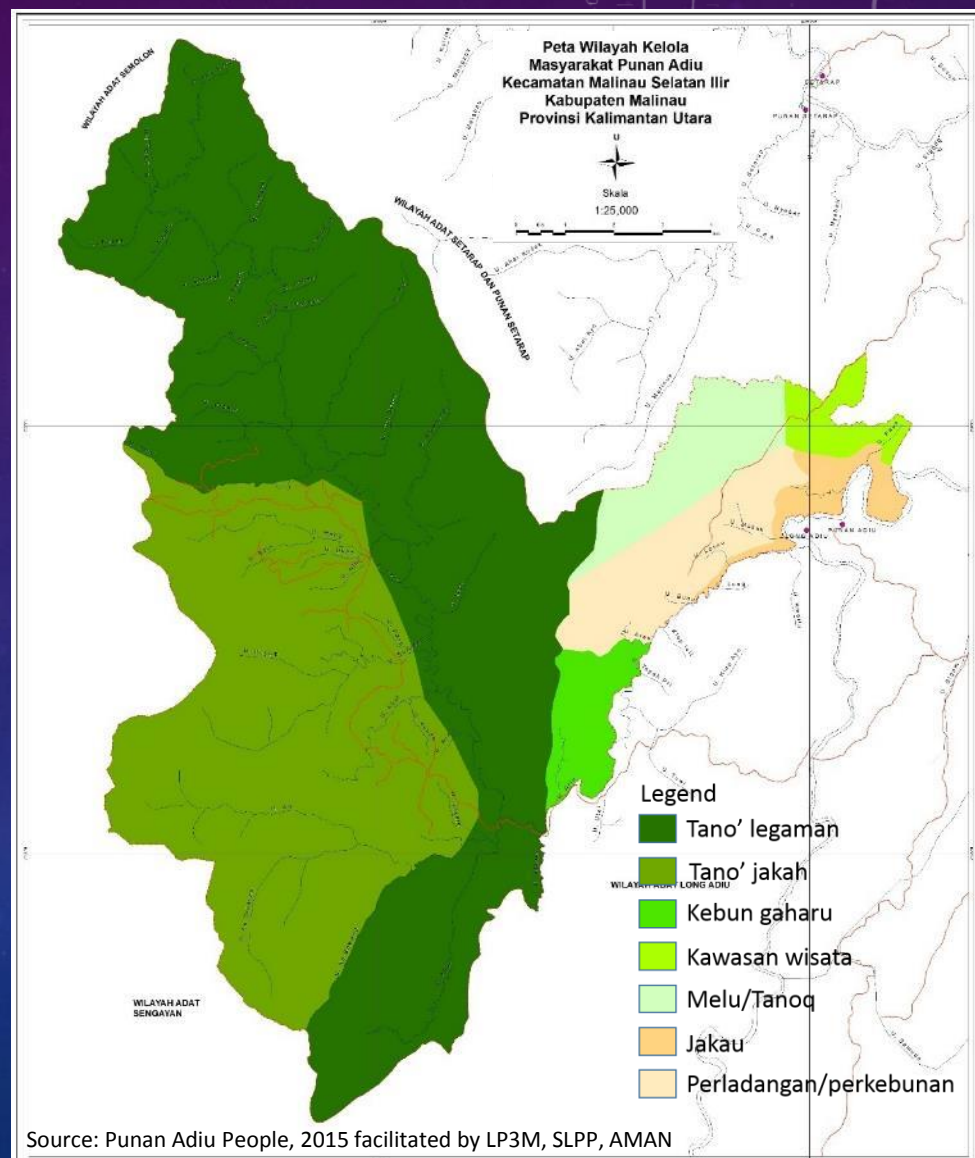
Processes have been conducted:

- Tracking the settlement/hamlet movements, participatory mapping and delineation.
- Writing up the history, customary norms, institution/customary governance system, and customary rights → Profile of Dayak Punan Long Adiu Customary Community (Nikolaus *et al*, 2015).
- Consultation with and recognition by adjacent communities.
- Application for recognition.
- Verification by district team.

Already assigned forest areas according to national regulation, already assigned areas for forestry, agricultural, & mining concessions seemed halted the process

CUSTOMARY MANAGED-AREA

- *Tano' Legaman* — Forests which is protected because of legends, folklore exists.
- *Tano' Jakah* — Forests utilized for hunting, fruit and food gathering.
- *Kebun Gaharu* — Areas for planting gaharu trees.
- *Kawasan Wisata* — Recreation area.
- *Melu/Tanoq* — Forests reserved for subsistence timber supplies.
- *Jakau* — Ex-shifting cultivation (*merimba*) that left and grown as forest.
- *Perladangan/Perkebunan* — Area for food crops cultivation.
- *Merimba* — Opening forest for cultivation area purpose.



PUNAN ADIU AT A GLANCE

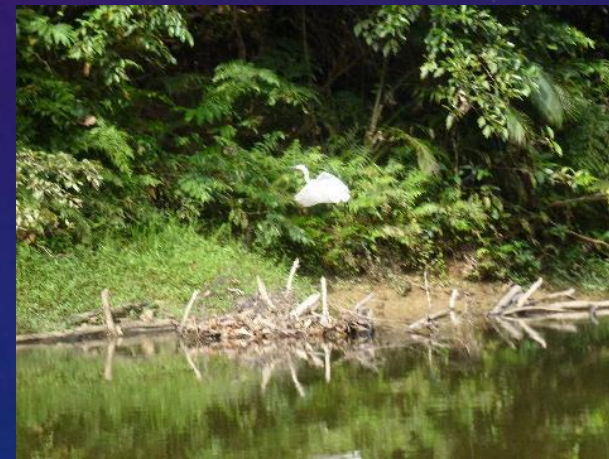


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IMPACTS OF LEGALIZATION PROCESS

- The confidence of planting agarwood-producing trees (*Aquilaria sp.*) for marking their customary boundary.
- Building a quite big wooden house in the forest for patrolling purposes.
- Eagerness to protect their customary region and to use the forests traditionally and sustainably as practiced by their ancestors following the main philosophy of Dayak ethnic “bumi adalah ibu dan hutan adalah air susu ibu”.
- The appreciation and respects from the neighboring customary communities → Dayak Punan Adiu community becomes role model for mapping and establishing the boundary of neighboring customary communities’ regions and forests.

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acknowledgement

Punan Adiu Customary Community



thank you for your attention

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