

**THE FIGHT FOR FOREST CONTROL AND THE STRUGGLE OF INDIGENOUS WOMEN**

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**ABSTRACT**

This paper examines the gender dimensions of control over customary forests and territories through state policy support, markets, and various forms of coercive power and legitimacy. The involved parties are not limited to state institutions and market actors, but also elites at the community level, and close relatives. This paper shows that the whole process relies on gender-based power relations, entangled with class and other variables. This process has significant impacts for indigenous women and other marginalized groups. The paper also shows that indigenous women have limited representation and involvement in the struggles of indigenous peoples in reclaiming their rights, including the rights over customary land and territories. In a period when Constitutional Court Ruling No. 35/PUU-X/2012 is referred to as a state policy that recognizes indigenous peoples as rights bearers, and as legal subjects of customary territory, indigenous women are still not receiving full recognition and attention.

**INTRODUCTION**

The fight for the forests of the archipelago have continued since precolonial times until today. This fight has taken place in various domains and included a range of actors and interests. The fight for control of forests between communities and the highest authorities in the areas they live in, including the state in the colonial and postcolonial era, is a result of differences between forest tenure systems, among other things. In the colonial era, various tenure systems applied by indigenous communities in various parts of Indonesia came into conflict with legal frameworks that supported state control over forested land and the territorialization of forest control.<sup>1</sup> These legal frameworks gave the state control over forested lands and designated certain territories as “forest areas”. Most territories that have been designated as “forest areas” are those governed by tenure systems applied by certain communities. The fight for forest control does not only happen between communities and authorities at the state level. It also happens between different communities and within communities themselves, both between social groups within those communities and between groups within those social groups. The fight for control over forested lands even happens within families and clans. At every level, gender-based power relations make a significant contribution.

This paper focuses on new arenas in the fight for forest control, which have emerged with respect to a Constitutional Court ruling on Case No. 35/PUU-X/2012 (from here on referred to as Ruling 35), on gender dimensions related to these new arenas, and the position of indigenous women. The fight for forest control post-Ruling 35 has continued via various sites of conflict that include various actors, contexts and other new dynamics. New arenas in the fight for forest control do not only include sites where development concepts and practices, as well as market-based logging, come into conflict with indigenous communities who are trying to protect their living environments. New mechanisms for forest control also do not only take the form of land grabs by outside parties. New arenas and new mechanisms for forest control today proceed through the presence of new goals and activities on the part of internal indigenous social groups. Furthermore, new mechanisms for forest control have also

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<sup>1</sup> Territorialization of forest control is where state control over forest areas applies within boundaries that have been politically determined by the state (Vandergeest and Peluso 1995).

appeared via new actors, supported by new legal instruments that have been employed to override or oppose old practices in forest governance. These mechanisms work via various forms of power relations based on gender, social class, and other social-cultural factors.

By using the terminology “forest control”, the author is referring to the concept of “land control” coined by Peluso and Lund (2011), that is, practices that regulate or consolidate various forms of access and claims over forests, as well as various forms of exclusion faced by certain social groups at certain times. Land control can be carried out by fencing off or enclosure of land, territorialization, legalization, as well as via force and violence (including threats of violence). In this paper, the author employs the concept of “forest control” that was developed by Peluso and Lund (2011) while using a feminist lens. In particular, the author uses a combination of concepts from feminist political ecology and applies a feminist lens to theories about exclusion of access and power in the management of agrarian resources.

Discourse on the fight for forest control in Indonesia until now has focused more on processes of contestation between the state and society, especially indigenous societies and other local communities. “Society” is often seen as a homogeneous entity. There is still limited attention paid to the heterogeneity of “society”, where gender, social class, and various other socio-cultural aspects make an important contribution to the formation of sub-groups within “communities” and the various identities of members of those sub-groups. Aside from that, aspects of gender and various forms of gender inequality brought about by forms of control over forests – in particular the inequality experienced by most women in various social positions in their communities – have not yet become important aspects of the discourse.

This paper explores how gender, both as a cultural construct and as an analytical concept, together with class and other variables, is an important aspect in examining various problems brought about by forms of control over forests in Indonesia and the range of responses to this control. This paper explores the road to Ruling 35 from a feminist perspective. Furthermore, the paper discusses the position of indigenous women in the new arenas of the fight for forest control post-Ruling 35, by posing some critical questions.

The structure of this paper is as follows: first, the author will explain the conceptual approach, namely to understand the fight for forest control using a feminist lens. This section will be followed by a narration of the socio-cultural dynamics of forest control by looking at a case study. The author will then discuss several important notes on gender inequality in forest tenure and forest governance that arise from the case study. In the framework of understanding how gender inequality occurs at various levels, the author will investigate the dimensions of gender in the genealogical control of forests in Indonesia. After that, the author will explore gender dimensions in the process of the fight for forest control in Indonesia, including within efforts to reclaim control over indigenous-owned forests as initiated by the Indigenous Peoples’ Alliance of the Archipelago (*Aliansi Masyarakat Adat Nusantara*, AMAN) and by supporters of the indigenous social movement in Indonesia. In the final section of the paper, the author will discuss the position of indigenous women in the indigenous social movement and explore steps to create the type of situation that the feminist philosopher Nancy Fraser calls “parity of participation to bring about change” (Fraser 2005).

#### **UNDERSTANDING THE FIGHT FOR FOREST CONTROL VIA A FEMINIST LENS**

The approach used in this paper is a combination of feminist political ecological concepts and the application of a feminist lens to theories of exclusion of access and power in agrarian resource management. This combination of various conceptual approaches is useful for investigating how gender dimensions in the web of power relations operate in new arenas of the battle for forest control in Indonesia, and especially in new arenas that are still emerging post-Ruling 35.

The concept of feminist political ecology was developed based on approaches to political ecology. As an analytical framework, political ecology is often applied to identify political, economic and social power, based on a series of processes in the degradation of natural resources (Blaikie and Brookfield 1987). The concept of political ecology is also applied to investigate how the context of practical land use at the local level, as well as broader social, economic and political systems, have important roles to play in the decision-making process by land users (Peet dan Watts 1996). Aside from that, political ecology is also used to explore inequality of access and control over resources and to investigate the complexities of association, both in the analytical realm and at a practical level,

between environmental politics and civil society institutions, where knowledge and practices of resource management are developed, negotiated and contested (Peet and Watts 1996).

Feminist political ecology places gender as an important variable – together with other variables such as class, caste, race, culture, ethnicity and others – in shaping various processes related to the access to and control over resources, ecological change, and the actions of local men and women in sustaining the sources of their livelihoods (Rocheleau, Thomas-Slayter, and Wangari 1996). Aside from that, the analysis avoids looking at “gender” via a categorized or descriptive approach. Feminist political ecology discourse adopts a contemporary framework that places “gender” as an analytical concept to investigate how power relations work (Butler 2004; Cornwall 2007).

Feminist political ecology is used to introduce, research and translate “various local experiences in the context of the process of economic and environmental change at the global level”. Feminist political ecology brings together three major themes: (1) that knowledge is gender-based; (2) that rights to resources are gender-based, including property, natural resources, space and various mechanisms related to rights, both by using a legal approach as well as traditional systems that contain dimensions of gender; and (3) that environmental politics and grassroots movements are gender-based (Rocheleau, Thomas-Slayter, and Wangari 1996). Various studies have been carried out under the theory of feminist political ecology to explore how the struggle to maintain access to and control over forests and other natural resources that have become sources of livelihoods is closely related to the formation of a community’s identity (Elmhirst 2011; Harris 2006; Nightingale 2006; Li 2000; Li 2001).

The theory of access (to land and other resources) places central attention on who benefits from what resources and via which processes they benefit from those resources. This theory relies on “an empirical focus on various situations regarding *who* can (and cannot) benefit from *what* resources, *how* and *when* (that is, under which circumstances)” (Neale 1998:48 — italics in original, as quoted by Ribot and Peluso 2003). Furthermore, this theory advises its proponents to explore networks of power that enable certain stakeholders to obtain, control, and defend access to certain resources. Different individuals and institutions can have and apply different networks and centres of power. For this reason, certain individuals, social groups and institutions can obtain power over access to resources (directly), while other stakeholders (starting from the individual level, up to groups and institutions) must defend their access via those in power.

According to the theory of access as developed by Ribot and Peluso (2003), there are several important mechanisms to obtain, control, defend and maintain access, one being the mechanism to gaining access via rights, or what is known as rights-based access. Other mechanisms are categorized as structural or relational access mechanisms, for example, access to authority, access to knowledge, access based on social relations, and access via social identity (Ribot and Peluso 2003).

Application of the theory of access by using a feminist lens can help us to understand how women and other marginalized groups in communities obtain, control, defend and maintain access to forests. In many places, women from various social groups must negotiate with people close to them to obtain control over forest land and resources. They must also negotiate with other external parties, starting from businesses that hold forest concession permits, to government stakeholders that control authority over the designation of protected or conservation areas. These stakeholders apply their power over forests via various mechanisms, processes and social relations.

The theory of access helps to explore explanations about situations where not all parties hold rights pertaining to power over forests, including those supported by legal instruments, and can automatically obtain access to forests. Constitutional Court Ruling No. 35 is a new legal instrument that acknowledges the rights of indigenous communities to hold authority over customary forest land. However, the varied responses that have emerged from various state institutions other than the Constitutional Court have shown that simply acknowledging rights to control over forests does not automatically give indigenous communities access to forests. Meanwhile, unequal power relations at the internal level of indigenous communities mean that indigenous women and other marginalized groups in their communities must continue their struggle to obtain, control and maintain their access to forests.

A combination of the approaches described above, namely the concept of forest control and the theory of access with a feminist lens as well as a feminist political ecology lens, is used by the author

to examine the extent to which the legal support granted by Constitutional Court Ruling No. 35 has implications for women and other marginalized groups in indigeneous communities.

Efforts to investigate the position of indigenous women and other marginalized groups in the context of the battle for forest control must also be supported by an examination of the extent to which exclusive power circles operate.

A series of processes related to control over access to forests and processes to obtain and maintain access for indigenous communities, and especially indigeneous women and other marginalized groups within their communities, occur via various mechanisms and involve various actors, who all work within power networks that exclude certain individuals, certain social groups and certain institutions.

Exclusive power to work via various processes and with various actors, both via the state and corporations, is based on excavating natural resources, via policymaking related to development and other strategic policies that are related to market forces, via violence and threats of violence to communities in the process of dispossession of land, as well as via various forms of legitimacy, including legitimacy that comes from within and/or is closely related to communities themselves, or what is known as “intimate exclusion” (Hall *et al.* 2011).

### **EXPLORING FOREST CONTROL THROUGH WOMEN’S WORDS**

To understand gender aspects in the dynamics of forest control, the author will present a case study on the lives of indigenous women in facing issues of forest control. By unearthing and shedding light on fragments of stories that will serve as a case study in this paper, the author will consciously work from a feminist approach. The narration of women in the stories below constitute experiences and knowledge that are partial and are tied to the backgrounds of those telling the stories. Efforts have been made to explore stories that are linked to the position of women in developing various responses to social and political processes that occur in various sectors in order to give a feminist perspective.

A feminist perspective is one that is heavily coloured by a “commitment to the empowerment of women and other marginalized groups” (Sprague and Zimmerman 1993 in Hesse-Biber, Leavy, and Yaiser 2004:15). This approach enables women from various groups (with different social backgrounds) as well as other marginalized groups to have space to share their experiences and knowledge. A feminist approach aims to understand the situations and problems faced by women and other marginalized groups by placing them not as objects of study, but as subjects. Furthermore, a study conducted using a feminist approach is deliberately biased toward and involving of women and other marginalized groups, or what is known as “engaged research” (Hesse-Biber, Leavy, and Yaiser 2004).

One method using a feminist approach that can give significant space to women to share their experiences and knowledge is called “women’s stories”. This method follows a process of unearthing, listening, recording and shedding light on the stories of women who are related to the greater narrative of a certain event. The stories that are told are strongly influenced by the personal experiences and social backgrounds of the individual storytellers. The series of stories collected not only complete the greater narrative of a certain event, but can in fact become their own narrative that can illustrate a trajectory of social change in a certain area. This method also enables women and other marginalized groups as subjects to find their own space in the area of study. The stories that they tell not only provide supporting data for further analysis, but can also form a major part of a separate study.

### **IBU ASIH’S STORY<sup>2</sup> AND FENCED CUSTOMARY TERRITORIES WITH A CONSERVATION FUNCTION**

Ibu Asih is a middle-aged woman who was born and raised in a village in the highlands of western Java. Administratively, her village is located in the province of Banten. Ibu Asih’s village is part of a unit of 15 sub-groups of an indigenous community that calls itself Kasepuhan Banten Kidul. The residents of Ibu Asih’s village are split into two, that is, as followers of two sub-groups of Kasepuhan Banten Kidul. Each sub-group has its own institutional structure and center of governance,

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<sup>2</sup> A concise version of Ibu Asih’s story is presented in Siscawati and Mahaningtyas (2012). The story was uncovered by the author over a long period of interaction with Ibu Asih herself as well as with her community at various times since 1998, including while conducting field research using a feminist approach for a multi-sited ethnography project initiated by the author from 2007-2010 for a dissertation.

with each located in a different village. Ibu Asih is a member of only one of the sub-groups in Kasepuhan Banten Kidul.

The territory of the indigenous communities of Kasepuhan Banten Kidul is located in the highlands of the western part of the island of Java. Administratively, the territory straddles three districts and two provinces, Banten and West Java. The customary territory of Kasepuhan Banten Kidul is one of the few locations in Java still covered by tropical rainforest. Since the push for conservation in the early 1990s, this area came to be known as part of the Halimun ecosystem (Hanafi, Ramdhaniaty and Nurzaman 2004). The forests of the Halimun ecosystem are part of the remaining mountainous forest ecosystem on the island of Java. The Halimun ecosystem contains three types of forest ecosystems: lowland rainforest, sub-mountainous forest, and mountainous forest. The combination of a hilly terrain that rises and falls into valleys, blanketed in vegetation in gradating shades of green formed by strata of trees and other plants, and overlaid with a layer of fog that creates a mystical atmosphere, strikes a stunning image for visitors seeing the area for the first time. However, behind this natural beauty rages a series of agrarian conflicts with a very long history.

While studying oral history and legends, Adimihardja (1992) said that the history of the people of Kasepuhan Banten Kidul bears several connections to the fall of the last Sundanese Hindu Kingdom, called Padjadjaran Raya, the center of which was located in the Padjadjaran Princedom in Bogor, in around 1579. Oral history regarding the battle of the Banten Islamic Sultanate in 1579 that was said to have caused the fall of the Padjadjaran Hindu Kingdom, was recorded in written history by Tubagus Roesjan in 1954. Based on these oral and written histories, Adimihardja (1992) said that 800 members of the Padjadjaran Kingdom managed to escape. The majority of these escapees were members of various hierarchies within the special forces of the Padjadjaran Kingdom. They managed to run away and hide in various remote areas in the highlands of Banten, and since then have separately formed the various social groups that later became known as Kasepuhan Banten Kidul.<sup>3</sup>

The society of Kasepuhan Banten Kidul applies a customary system of forest management and control. Part of the customary territory of Kasepuhan Banten Kidul is managed communally. Meanwhile, in other parts of the Kasepuhan Banten Kidul territory, land is managed individually (usually by families). Lands that are managed communally are those in areas designated as protected forest (known as *leuwung tutupan*), reserve forest (known as *leuwung titipan*), and forest that can be used (known as *leuwung garapan*). Areas designated as *leuwung tutupan* are kept as protected areas to maintain the ecological, social, cultural and spiritual functions of the forests. Areas set aside as *leuwung titipan* or reserve forest can be used at certain times (and their management is carried out via a special access mechanism) to fulfill basic needs including for food, medicine and building materials. *Leuwung garapan* are forests that can be cleared by members of the Kasepuhan Banten Kidul community and are conserved to become dry farmland or mixed gardens. Managing access to these lands as mentioned above is in the hands of the *Abah* as the traditional leader.

Until today, there has never been a female customary leader of Kasepuhan Banten Kidul. Based on direct observation by the author on various occasions between 1998 and 2003, women's involvement as participants in customary fora has been very limited. In the majority of communities in Kasepuhan Banten Kidul, women have close relations with customary leaders, both via family relations and marriage, as well as other close relationships, and are usually responsible for carrying out tasks related to provisions and other supporting logistics. Although they are not present as participants in customary fora, these women from elite groups still have the opportunity to listen in on discussions from behind bamboo walls and/or from areas adjacent to the discussion space and other gathering places. This is made possible because these women are assisted by women from common circles (they call themselves "followers") who do all the work of providing food and drink, and arranging the provision of raw materials. This work is done inside the kitchen of the *Abah*'s house.

The customary traditions of Kasepuhan Banten Kidul enable women to have inheritance rights over land and other property, such as houses and livestock. However, some families give greater access to men because, they say, men have a greater need for land to support their traditional role as the head of the household. In several areas, men from families with a high social status, such as families of customary leaders and other officials, have even greater access. This is because customary

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<sup>3</sup> Various other groups are included in the Kanekes community, also known as the Badui, a social group whose territory is located in the Banten highlands (Adimihardja 1992: 21–22).

leaders and officials have access and control over various resources that can support the process of expansion of clearing and controlling land. But women in Kasepuhan Banten Kidul, and especially those from non-elite circles, are persistent in obtaining and maintaining access and control over land. Ibu Asih, who calls herself a *jeulma leutik* (one of the little people) because she is not related to a customary leader, is one of these women.

Ibu Asih has access to five small plots of *leuwung garapan* land. The area of each plot of land is around 200 meters squared. Although she does not have a certificate for any of the land, the plots are considered as “her land”. The first plot she inherited from her parents. At first, this plot only produced a very limited rice harvest because of issues related to water. Ibu Asih thought long and hard about a way to direct water to her land. She began to look for a source of water from the mountain and created a channel of water to her land. After adding more water, Ibu Asih began to expand her land. The area in which the land was located was an area controlled by the Kasepuhan (which is what Ibu Asih and many women in her circles call the leaders of Kasepuhan Banten Kidul). In accordance with tradition, Ibu Asih gives a portion of the rice harvest from her land to the Abah (the Kasepuhan leader), which is then included in the Kasepuhan rice storage barn.

Ibu Asih said that in the mid-1980s, she began to be regularly chased by people who many of her neighbours called “forest keepers”. These forest keepers said that the territory in which her land was located was state forest land. According to Ibu Asih, the forest keepers “controlled people’s land by wearing uniforms and carrying bags and documents”. In fact, these forest keepers were local residents. They also owned cultivated land and would pay what Ibu Asih called the “yearly harvest tax” to the neighborhood chief and to the Kasepuhan. Although Ibu Asih knew that the forest keepers were local residents, she was continually haunted by the fear that she would be reported to the police and imprisoned. Nonetheless, she continued to cultivate her land. Several times she was arrested by the forest keepers and forced to give over a portion of her harvest. Ibu Asih called this “forest keepers’ tax”.

Similar experiences are found among many *jeulma leutik* (non-elite) women in her village.

Ibu Asih’s second plot of land, also with an area of about 200 meters squared, was bought by Ibu Asih as a result of her hard work after she ended her second marriage. Ibu Asih worked hard as a laborer for her relatives and neighbors, and saved for more than 10 years to buy the plot of land. Although Ibu Asih “bought” the land from her neighbors, when examined from the concept of formal property regimes, the land did not “belong” to Ibu Asih, even though her neighbors had “sold” it to her. Control over this plot was in the hands of one of the customary leaders. Other people outside of Ibu Asih’s community would easily refer to this land as “customary land”. In order for her to “own” the plot, Ibu Asih paid an amount of money to gain access to manage the land. In other words, Ibu Asih paid those who previously held access to the land to direct access to one portion into her hands. While Ibu Asih refers to the plots as “her land”, she is aware that the control over both plots of land is in the hands of male customary leaders in her village. According to Ibu Asih, based on the tradition of her village, customary leaders who had control over the land gave permission to her parents and neighbors to transfer access to her to use it via a process of inheritance and monetary transactions, under the condition that the customary leader would receive a certain portion of the harvest from the land. Ibu Asih manages both plots as fields or dry farmland. She makes use of the two plots of land by planting a local variety of field rice and other plants to meet the subsistence needs of her family.

The third and fourth plots of land managed by Ibu Asih are “her husband’s land”, that is, they belong to her third husband. The fifth plot of land is “joint land”, or land that was “bought” by Ibu Asih and her husband. Again, the object “bought” in this instance is access to use the land. As with the first and second plots of land managed by Ibu Asih, access to manage the three other plots (that is, the third, fourth and fifth plots) are controlled by the male customary leaders of her village. Because of this, Ibu Asih and her husband must direct a portion of their harvest from each plot of land to the customary leader. Ibu Asih says that this is done by herself and her husband as part of the tradition of their village. She says that this tradition is part of the regulations of the Kasepuhan to manage the use of certain areas that are already regulated by the Kasepuhan to be handled, so that there are no overlapping claims over plots of land in that area. This area is usually referred to by the elite as *leuweung garapan*. Ibu Asih says that she and other women from her circles do not fully understand the meaning of the term and the mechanisms for its regulation. Nonetheless, Ibu Asih and the other women still continue the tradition of transferring access to land (by way of inheritance, selling and

buying), the control of which is in the hands of customary leaders. The tradition of submitting what they call “harvest tax” also continues.

Sharing a portion of the harvest as a way to maintain access to use of land has turned out to become a problem for Ibu Asih and her family. The remainder of the harvest from the plots of land controlled by Ibu Asih is not enough to meet the basic needs of her family. Ibu Asih has adopted a way to survive, including by marrying off her daughters at a relatively young age and sending two of her daughters to big cities to work as household help. All of Ibu Asih’s daughters have only completed a primary school (SD) education. This situation is not unique to Ibu Asih’s family. Early mapping of violence against women in the management of natural resources as initiated by the National Commission on Violence Against Women (Komnas Perempuan) in the period of 2008-2010 found a similar situation among several groups belonging to the Kasepuhan Banten Kidul (Komnas Perempuan 2010).<sup>4</sup>

All of the mechanisms mentioned above operate in a context in which since the end of the 1970s the Indonesian government has claimed that all land in the customary territory of the Kasepuhan, including several types of customary forest land, mixed gardens, farmland fields and wet rice paddies, are to be defined as state forest and state land for other purposes. The policy referenced by the government in defining the majority of Halimun area as state forest is Law No. 5 on the Basic Provisions of Forestry, passed in 1967 (later revised as Law No. 41 of 1999 on Forestry). This law was adopted from a colonial policy that claimed that all unowned forest land was to be considered as state land. At the beginning of the New Order, the Indonesian government, via the Ministry of Forestry, began to divide up the Halimun area into several zones: production forest land managed by Perhutani as the state-owned forestry company; conservation land managed as nature reserve and managed directly by the Directorate-General of Forestry; and farming/agriculture and mining land managed by companies, both state-owned and private. With permits issued by the central government, state-owned and private companies managed mining lands (including for gold-mining under the management of PT Aneka Tambang) and farmlands managed by state-owned and private companies for producing commercial commodities such as tea and rubber.

In 1993, nature reserve areas of the Halimun area were developed to become the Mount Halimun National Park. In 2003, the Forestry Department decided to expand the national park, by changing the status of forests previously designated as production forests and controlled by Perhutani to become conservation forests. Since this change, almost all of the Halimun area has been designated as conservation forest and has come under the management of the Mount Halimun National Park, which is a technical unit of the central government under the Forestry Department. The designation of the Mount Halimun National Park in 1993 and its expansion in 2003 has already created more limitations for the people of Kasepuhan Banten Kidul.

The expansion of the area of the Mount Halimun National Park has meant that all of the plots of land controlled by Ibu Asih and her family, as well as those controlled by other residents of Kasepuhan Banten Kidul, are now part of the national park. Government stakeholders did not communicate the expansion of the national park with the common residents and women, especially not those from lower social classes like Ibu Asih. She and some of the other women in the same social class from the same village received the information on the expansion of the national part from a non-governmental organization (NGO) that was already working together with the people of Kasepuhan Banten Kidul in the framework of advocating recognition of their rights. This NGO also provided information on how the steps taken by the government as well as other relevant regulations impacted on their area. Ibu Asih said that although the NGO had already worked in her village for some time, most of the activists involved had worked with the customary leaders and other informal leaders from the village who were mostly men from elite families. Ibu Asih said that she eventually began to interact more with the organization when it began to recruit female field workers and began to develop activities especially for women, so that she and other Kasepuhan women, and particularly those from similar backgrounds, had space to fully participate.

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<sup>4</sup> The initial mapping was conducted by Komnas Perempuan in cooperation with Bina Desa, Walhi, RMI-Indonesian Institute for Forest & Environment, Debt Watch Indonesia, the Institute of Dayakology, and the Semarang Legal Aid Foundation (LBH Semarang). The author worked as a member of the steering committee for the initial mapping project.

The NGO that assisted Ibu Asih's community no longer works intensively with her village. There are several reasons for this, from institutional problems to weak funding within the organization.

Various sources of new information, including those related to the framework of the new policy, cannot be accessed by women, including those from non-elite groups like Ibu Asih. Ibu Asih's community has actually already registered with AMAN, but most of the newest information is still only circulated among male customary leaders and other elite men in Ibu Asih's community.

Several lessons can be taken from Ibu Asih's story and those of other women in the same social group. Within an area managed by a traditional community, women from various backgrounds have important roles to play in managing land and natural resources, and have various forms of connections with land and natural resources. A woman with various forms of access to plots of land with different statuses, from land owned by the woman herself (both as inheritance from her parents or land bought before the woman was married), land owned by her husband (which is inherited from the husband's parents), or land bought together with her husband once they were married. This situation exists for women from certain social classes where they have inherited land and/or have managed to buy land for themselves. For women from poor families, especially those from landless families, their access to land is in the form of access to land that is owned by their relatives or neighbors, where they become field workers on the land. In certain regions, one form of access to land for landless women is access to land that has been claimed as state land, where women are hired as workers. These mechanisms mentioned above are in line with the argument of Ribot and Peluso (2003) on understanding access as a network of relations of control made possible by an individual or group to gain and maintain access to land and natural resources.

In everyday life, to obtain and maintain access to land and natural resources, women must negotiate with stakeholders close to them who have control over land and natural resources. In several areas, women from the middle classes of indigenous societies must negotiate with members of their families who have control over land, from their own husbands to their elder brothers, and other close male relatives. For poor indigenous women, especially for those from landless families, in the framework of obtaining and maintaining access to the land that they work on, both as assisting or full-time laborers, they must negotiate with customary leaders and informal leaders in their village who have control over certain areas of customary land. If these landless women work on land that is claimed as state land and is managed by certain government institutions (including state-owned enterprises like Perhutani and Inhutani, as well as private companies with concession permits for natural resources such as permits for forestry companies, industrial crops, oil palm plantations, mining, and so on), then the women must negotiate with those stakeholders as well. The stakeholders mentioned so far apply control over land and natural resources via various mechanisms, processes and social relations. Landless men, and men from other marginalized groups face a similar situation. However, women face a range of additional problems when they enter the negotiation process with stakeholders who have control over land. Several studies have found that many women face a range of forms of discrimination when they come face-to-face with other stakeholders in the negotiation process (Heroepoetri *et al.* 2012; Siscawati and Mahaningtyas 2012).

The processes mentioned above occur via various mechanisms and involve various actors who all work within networks of power that exclude indigenous communities, both women and men, from accessing land and their customary territories that were previously in their hands. Exclusion of power works via various processes and actors, including on the part of the state, corporations and other stakeholders involved in the extraction of natural resources, via the creation of development policies and other strategic policies that are related to market forces, and are enforced via violence and threats of violence toward communities in the process of dispossession of land as well as various forms of legitimacy, including legitimacy that stems from the community itself and/or close relatives, known as "intimate exclusion" (Hall *et al.* 2011).

Exclusion of power, which has occurred over a long period of time, has placed indigenous women and other marginalized groups in indigenous societies in various regions of the archipelago in a very low position.

The process of exclusion as experienced by Ibu Asih and many other indigenous women in various regions throughout the archipelago are not removed from policies related to forest governance. To understand how policies related to forest governance exclude indigenous women, in the next section the author will examine the genealogy of forest control in Indonesia.

## GENEALOGY OF FOREST CONTROL IN INDONESIA

Since the New Order regime seized power, on the basis of Law No. 5 of 1967, the government re-designated various areas that were actually the living spaces of various communities to become “forest areas”. The terminology of “forest areas” was first used in Law No. 5 of 1967 and became one of the jurisdiction limits of the Forestry Department as contained in Law No. 41 of 1999. The terminology of “forest areas” bears no relation to the actual condition of forest coverage.

Designating forest areas as a form of forest control first occurred during Dutch colonial times, when a large area of the island of Java and a small area of the southern part of the island of Sumatra were designated as “state forest” by the Dutch colonial government. At that time, the Dutch colonial government had not yet used the term “forest area”. To control forest, the colonial government adopted a legal system that became the basis for an administrative approach to state forests and placed exclusive power over forest resources in the hands of the government (Contreras-Hermosilla and Fay 2005).

Areas that were designated by the colonial government as state forests are referred to by Peluso and Vandergeest (2001) as “political forests”. In colonial times, the Dutch Forestry Agency (*Dient van het Boschwezen*) designated “political forest” via colonial forestry laws by placing boundaries between agricultural and forest land and claiming that all forest land came under state domain (Peluso and Vandergeest 2001; Peluso 1992). The institutionalization of “political forests” throughout the colonial era (Peluso and Vandergeest 2001) contributed to the formulation of forest control and governance in Indonesia.

In managing “political forests” on the island of Java, and especially teak forests, the colonial government adopted a German structure and ideology of “scientific” forest governance (Peluso 1992; Simon 2001). The application of industrial forestry in the teak forests of Java played an important role in developing the commercialization and industrialization of agricultural products in Java in the colonial era, such as rubber, tobacco, coffee, sugar and indigo. A lot of teak wood was used to develop the state rail system and industrial shipping, which supported the commercialization and industrialization of agricultural products (Peluso and Vandergeest 2001; Peluso 1992). The shipping industry later changed to another, more profitable, business model. This made the teak forests of Java one of the biggest economic resources for the colonial government at that time (Simon 2001; Soepardi 1974).

The process of developing “political forests” and plantations in the colonial era (including the “teak wood plantations” of Java) were colored by the politics of race, class and gender. The process of developing “scientific” forests by using an industrial approach in “political forest” areas was carried out by male foresters from the Netherlands, Germany and other parts of Europe. These male colonial foresters had a background in forestry studies at higher education institutions in Germany, the Netherlands and other European countries. Furthermore, white-skinned men from the middle to upper classes who had a stake in forest governance and plantations, both from the colonial government and from the private sector, worked together with indigenous men from elite circles (including kings, sultans and other male aristocrats) to obtain access and various forms of power over territories where they would extract resources from the forest or replace the forest with industrial-scale plantations. Meanwhile, those who were recruited as the main field supervisors were white-skinned men from the middle classes; while those recruited as laborers to extract resources from the forest were poor indigenous men from the villages. For plantations, those recruited as laborers were mainly poor indigenous men from the villages, who would then involve female members of their families. Several types of plantations recruited more female laborers than men, such as tea plantations. In North Sumatra, plantations in the colonial era recruited male laborers from the Chinese ethnic group before they brought native workers from Java (Stoler 1995).

The legacy of the concept of political forests and forest control via a legal system and an approach of controlling forest resources in a masculine and exploitative way is still reflected in the control of forest resources today. Indonesia’s postcolonial government, and especially under Suharto’s New Order regime, adopted industrial forestry as the main tool in managing land and forest resources. In particular, this approach was applied in the context of maximizing profit from timber. To secure this process, Suharto’s regime passed Law No. 5 of 1967, which carried over the colonial government’s claim that all forest land without legal ownership belonged to the state and was therefore to be

managed under government control. In preparing “political forests” and applying state control over forest management systems, the regime did not improve the situation for indigenous communities and other local communities in those territories. Via this process, the regime developed an official licensing system for forest land to benefit private development companies and state-owned enterprises, as well as industrial plantation companies in all islands of Indonesia, and especially in Java. The framework of political forests and industrial forestry adopted by the New Order regime ignored the existence of communities and systems of forest resource management that had been developed by indigenous and other local communities across Indonesia. This framework also ignored the presence of women in forest resource management.

In the 1980s, the New Order government focused on efforts to change forest areas to become large-scale colonized project areas, under a program known as transmigration. Then in the 1990s, Indonesia began to change logging zones and farmlands in Sumatra and Kalimantan into oil palm and timber plantations (known as industrial forest plantations [HTI]), supported by the discourse of development that advocated for increased profit from non-oil-and-gas exports and diversification of work opportunities. In the early 2000s, in line with the development of a discourse on reducing emissions from deforestation and forest degradation, payment for environmental services and the absorption of carbon by forests, taking control of forests was done in the name of saving the environment. Researchers have called this process “green appropriation” (McCarthy, Vel, Afiff 2012) or “green grabbing” (Fairhead, Leach, and Scoones 2012).

In all of the periods of forest control described above, there has been a strong dimension of gender. Plans to expand HTI or oil palm plantations largely brought various impacts not only for indigenous communities in general, but in particular for women and other marginalized groups. Women have been more exposed to the risks of these developments than men. One example that illustrates this is the impact of the expansion of oil palm on indigenous women in West Kalimantan. The majority of Dayak Hibun women in various villages in the sub-district of Bonti in the district of Sanggau in West Kalimantan, whose areas were converted into oil palm plantations, were not included in the decision-making process to hand over their land – this was done by their husbands, fathers, or other adult men in their families with the aim of developing oil palm plantations (Siscawati 2013). Women were also not fully involved in the decision to join the core plasma scheme in managing oil palm plantations. After male members of their families (and especially their husbands) had signed an agreement to join the scheme, wives and/or daughters began to work hard to help their husbands or fathers (who worked as laborers paid on a daily basis). The task of women in these areas were, among other things, to clear and prepare land as well as to spray fertilizers and pesticides. They did not receive a wage for this work (Siscawati 2013). Research conducted by Julia and White (2012) in the same district showed how the expansion of oil palm plantations contributed to the weakened position of indigenous women who lived in communities that mainly followed a patriarchal system.

Responding to the various impacts arising from forest control by the state and big business, civil society organizations began to voice the needs for a change to Law No. 5 of 1967, from the end of the 1980s until the mid-1990s. At the end of the New Order era (1997-1998), civil society organizations and a small group of social-minded forestry academicians put together an academic paper calling for a change to Law No. 5 of 1967. When the New Order fell, this academic paper was developed to become draft proposal for a forestry law and was officially submitted to the executive and legislative components of the government.

This draft proposal put forward by a civil society group contained demands that the state recognize the existence of indigenous communities and their rights to manage forest resources in their areas as well as to remove their forests from the areas considered to be state forest. The proposal suggested three categories for forest status: (1) state forest, (2) customary forest, and (3) private forest (owned by individuals, groups or private parties). However, this proposal did not yet give attention to the rights of women, including indigenous women and other local women, over forests, forest areas and the resources that are essential to their livelihoods.

The civil society version of the academic paper was met with resistance by the government (which prepared its own academic paper), the private sector (which also prepared a separate academic paper with the assistance of corporate-sponsored forestry academicians), and the People’s Consultative Assembly (DPR), especially from members connected to the military. As with the civil society proposal, the academic papers prepared by the government and by the private sector did not

give attention to the rights of women over forests and forest resources. Eventually, the law that replaced Law No. 5 of 1967, namely Law No. 41 of 1999, still maintained state control over forest areas that have no official proprietary.

Although Law No. 41 of 1999 and the related regulations that came after it were regarded by the government as part of a policy to give access to forest village communities to use and manage state forests, in reality centralist state control was still the main approach used. Aside from this, the new law did not acknowledge the rights of indigenous communities. Furthermore, the law in fact ignored the existence and rights of indigenous women.

#### INDIGENOUS WOMEN AND THE STRUGGLE TO BE SEEN AND INCLUDED

The expansion of forest extraction by industrial forestry networks, as well as other industries based on the commodification of forests in various part of Indonesia, were supported by forestry laws, including Law No. 5 of 1967 and Forestry Law No. 41 of 1999, and caused many women from indigenous communities, particularly women from poor or otherwise marginalized groups, to lose ownership of their living spaces and access to essential resources for their livelihoods. Ibu Asih, whose story was told in the beginning of this paper, is one of these women.

In several areas, indigenous women have an important role to play in rallying resistance at the grassroots level. In Tanah Molo, East Nusa Tenggara, a woman called Aleta Baun from the village of Netpala, in the North Molo sub-district, South-Central Timor district, has been leading a resistance movement against marble mining in her home area since 1996. Marble mining companies, which obtain mining permits from the government, control the territory of the Molo community, including places they consider to be sacred. For Aleta Baun and the Molo people, the stone that is considered as a source of revenue by companies with mining permits has a very different meaning. For them, stones, water, trees and stone hills are their homeland, and are believed to be the origins of their ancestors. Every stone (*fatu-kanaf*), water source (*oe-kanaf*), and big tree (*hau-kanaf*) has its own name and is related to the clan names of the Meto people. The state's seizure of control over this territory, and the subsequent issuance of marble mining permits, has resulted in various ecological, social and cultural impacts.

Aleta Baun, better known as Mama Leta, leads resistance to marble-mining in various ways, from building critical awareness to organizing people to gather and negotiate on steps that need to be taken together, encouraging male elders to join the resistance of the Molo people, leading the population to return to the stone hills, halting mining operations by companies, and leading protests against the government's issuance of mining permits. Many Molo women have joined Mama Leta's cause. They have also participated in the movement to return to the stone hills. They accompany Mama Leta when she camps in the forests where business operations are taking place, some bringing their children and leaving their husbands and homes behind. With these kinds of actions, Molo women play a very important role. Aside from providing food for people involved in the protests and those active in the processes of negotiation with mining companies, Molo women also take various actions to make themselves seen, including by bringing weaving equipment to the locations where they camp and conducting weaving rituals that relate to their daily lives.

On 15 April 2013, Mama Leta received an international award, the Goldman Environmental Prize, for her leadership of the movement to protect the land, water and natural wealth of the place of her birth. Appreciation for Mama Leta is part of the grassroots resistance movement led by women leaders. In 2001, Mama Yosepha, a female leader of an indigenous resistance movement by the Amungme people in Papua against the biggest mining company in Indonesia, PT Freeport, also received a Goldman Environmental Prize. Aside from the female leaders who receive appreciation and recognition for their hard work to promote the rights of women and other groups within their communities, there are still many other female leaders in remote parts of Indonesia who struggle on behalf of their communities in response to the process of the destruction of natural wealth in their homelands (see Siscawati 2013). Most of them have never been publicized, but their continued struggles are hugely significant for environmental justice and indigenous communities across Indonesia.

Previously, at the end of the 1980s, a woman from the village of Sugapa, Silaen, North Sumatra, named Nai Sinta, led a resistance movement of the women of Sugapa to maintain their rights over land that was taken over by PT Inti Indorayon Utama, a pulp and paper company (Simbolon 1998).

This company obtained two types of permits from the central government, namely a permit to develop a pulp and paper industry in the area and a permit to develop industrial forest plantations. The territory for which the company obtained permits to develop industrial forest plantations was not unoccupied. Within this area were villages, fields, orchards, and trees used for timber and resin (such as for incense), as well as old gardens that had already begun to develop into primary forest. Nai Sinta together with the people of Sugapa and residents of nearby villages started a resistance movement against PT Inti Indorayon Utama to protect their fields, gardens and villages.

The emergence of several indigenous women as leaders of resistance movements for indigenous communities, including resistance specifically carried out by indigenous women, has not yet been accompanied by social recognition of the role of indigenous women in resistance movements regarding forest control. Social movements do not automatically place indigenous women as important actors and participants. In the early period of environmental movements and agrarian movements, that is, in the late 1980s, what was put at the forefront of the struggles was “justice for the people”, with the general understanding that “the people” as a homogeneous entity was male. In the period when Nai Sinta led a resistance movement of women from Sugapa, environmental activists began to intensively launch a campaign against the destruction of the forest. The main message of this campaign was that destruction of the forest occurred because of the actions of timber companies, including those in HPH and HTI areas. The content of the campaign also intended to pose resistance to the discourse constructed by the government and businesses, where the two sides argued that the destruction of the forests was because of local communities that practiced rotational planting. This discourse on the destruction of the forest by the local community was also developed by the government at the time of developing policies on forest conservation. Aside from posing resistance via various campaigns, environmental activists also began to organize community groups that were marginalized as the result of their homes being taken by the state via forest extraction policies (in the form of HPH and HTI) as well as forest conservation policies (in the form of national parks, protected forests and other conservation areas).

In May 1993, environmental activists and leaders of grassroots people’s movements held a meeting in Tana Toraja. One of the organizers of the meeting was the Indonesian Forum for the Environment (Walhi). Nai Sinta was one of the few female leaders of grassroots people’s movements that attended the meeting. The meeting was conducted in the home of a married couple who were both local-level leaders, namely Pak Sombolinggi and Ibu Den Upa. About 20 years after the meeting, Ibu Den Upa told the author: “Pak Sombolinggi and I were prepared to become the hosts of the meeting because conducting such a meeting in Jakarta, or even Makassar, would have been impossible at the time. The political situation at that time posed a great risk to the safety of the participants who attended the meeting.” The meeting resulted in an agreement on the term “indigenous community” and its definition, that is, “a group in a society that has inherited (over generations) a certain geographic area, and holds a system of values, ideology, politics, economics, and social and cultural systems that are tied to that area” (Moniaga 2010; Sangaji 2010). Although several indigenous women who were leaders of grassroots movements attended the meeting in Toraja, the issue of indigenous women did not receive special attention at the meeting. The main focus was on views to promote the rights of “indigenous communities”. To support the recognition of indigenous communities, the participants of the Toraja meeting agreed to form the Indigenous People’s Rights Advocacy Network (Japhama).

Together with activists from various other non-governmental organizations that had joined other social movements in Indonesia, Japhama supported the process of organizing indigenous communities in various parts of the archipelago. Indigenous communities in various regions who had been persistent in posing resistance to the state and big business to reclaim their customary lands and other natural resources welcomed these efforts. The result of such cooperation was seen in the first meeting of the Indigenous People’s Congress in March 1999, which also resulted in the establishment of AMAN.

The first indigenous people’s congress was opened by the strike of an *alu* (a traditional rice grinding tool made of wood) on an old *lesung* mortar that was brought from a village in Kasepuhan Sirnaresmi, one of the 15 communities that make up Kasepuhan Banten Kidul. It was not a government official or leader of a social movement who struck the *lesung*, but indigenous women

from Kasepuhan Sirnaresmi. But Ibu Asih did not attend the opening event. She also did not attend as a participant at the indigenous people's congress held at Hotel Indonesia in Jakarta.

The majority of participants at the congress were men, and most of them were leaders, either formal or informal. Indigenous women were also present at the meeting. A group of activists, made up of representatives from agrarian, environmental and women's movements with a focus on indigenous women's issues joined the congress committee and continually strove to ensure that indigenous women would be present and able to actively participate in the meeting. In the congress, indigenous women that did attend articulated various issues that they faced in the takeover of control over land in their area. The presence and voices of this small group of indigenous women in the congress formed part of the struggle for indigenous women to be seen and included in the indigenous people's movement. They joined in formulating the following paragraph that became part of the manifesto of the Indigenous People's Congress in 1999:

“Women in indigenous societies are the group that suffer most from the effects of political, economic, social and cultural oppression. Indigenous women ensure worse suffering, such as an increase in the burden of their work, from the loss of land and natural wealth, as well as from direct violence in the form of abuse and rape.”

Since AMAN was established at the Indigenous People's Congress in 1999, indigenous people's movements have begun to struggle openly to achieve recognition and protection of their rights as indigenous people and for the realization of social justice. AMAN also carries forward the struggle for citizenship rights for indigenous people in the Republic of Indonesia (Rachman 2012, 2013). The combination of these struggles for social justice and citizenship are closely related to the territorialization of the state, which is carried out via the denial of the existence of indigenous communities and the dispossession of their rights over land, natural wealth and the areas that they inhabit and manage.

In the framework of achieving recognition and protection of indigenous communities' rights in Indonesia, AMAN conducts various advocacy activities. AMAN has prepared a Constitution of the Recognition and Protection of Indigenous Peoples (RUU PPMA) and officially submitted this document to the head of the DPR, Marzuki Alie, at AMAN's fourth National Congress in Tobelo, North Maluku, in May 2012.

Since then, AMAN has continued to intensively monitor the discussion process regarding a draft law in parliament as well as carrying out a range of advocacy activities to rally political support from various parties. However, all of the efforts to achieve recognition and protection of indigenous peoples' rights as initiated by AMAN and described above have not yet optimally integrated the issues faced by indigenous women and other marginalized groups. The majority of the discourse developed by AMAN has yet to give sufficient attention to indigenous women and marginalized groups. Aside from that, the involvement of indigenous women in all aspects of action on this front is still limited.

Since it was established in 1999, AMAN has begun to take steps to promote the participation of indigenous women in the indigenous peoples' movement. AMAN has also made efforts to apply various mechanisms that require the participation of indigenous women in the management of AMAN at the provincial and district levels. The AMAN Secretariat has also facilitated a process of capacity-building for indigenous women at all levels, and especially at the level of advocates and leaders. Volunteers have supported this process to encourage indigenous women to participate in an organization that has become a vessel for them to empower themselves and their struggle for the rights of indigenous women in all domains, from households to the extended family, the community, indigenous peoples' organizations (like AMAN), and up to the state level. After a long and complicated process, representatives of indigenous women from communities that belong to AMAN and participated in AMAN's 4th National Congress declared the establishment of AMAN Women (Perempuan AMAN). This organization is based on individual membership and is open to all indigenous women from members communities of AMAN. Together with the AMAN Youth Front (Barisan Pemuda AMAN), AMAN Women is now an official “wing” of AMAN.

### CONSTITUTIONAL COURT RULING NO. 35 AND THE POSITION OF INDIGENOUS WOMEN

Fully aware that key laws and regulations such as Law No. 41 of 1999 can become a reference for legalizing claims over customary land and territories as state forest land, AMAN has submitted a request for reconsideration of the law. On 19 March 2012, this request was sent by AMAN together with members of two indigenous communities, namely the communities of Kasepuhan Cisitu, which is one of the 15 communities that make up Kasepuhan Banten Kidul, and the Kenegerian Kuntu community of Riau. No indigenous women were involved in the process of submitting the request for reconsideration. All of the witnesses presented by AMAN were men. The male witnesses who represented various indigenous communities did not speak about the various forms of inequality faced by indigenous women and other marginalized groups in their communities. The stories of women, such as the story of Ibu Asih, did not appear in any of the material included in the Constitutional Court trial regarding the claim for reconsideration made by AMAN. No expert female witnesses were asked by AMAN to attend the trial. The narrative and arguments put forward by all expert witnesses tended to place indigenous communities as homogeneous entities without gender.

On 16 May 2013, in Ruling No. 35, the Constitutional Court stated that customary forests would no longer be classified as state forests. This ruling became a legal reference for indigenous communities and, at the same time, opened a Pandora's box. The ruling gave legal recognition to customary forests that were previously claimed by the state. For AMAN and supporters of the indigenous peoples' movement, the ruling was a victory.

However, the battle for control over forests is not over yet. The Ministry of Forestry has already allocated customary forests in different categories of forest governance, from production forest to conservation forest and conversion forest (that can be converted for other uses, including oil palm plantations).

At the same time, Ruling 35 has in fact opened several new arenas in the battle for control over forests. These arenas among others have come in the form of sites where decision-makers and state authorities, big business executives who have various types of forestry concession licenses (including logging concessions, industrial plantation forest concessions, and ecological restoration concessions), and large-scale plantation and mining concessions, as well as various non-indigenous social groups who have already obtained various forms of concessions for community forestry (community forests, people's plantation forests, village forests, and so on) and various community groups already involved in people's plantations and people's mining are faced with indigenous community groups and other related actors using various new approaches to oppose various forms of control over forests. One of these new approaches that has begun to be used by indigenous communities in facing policymakers and state authorities is a legal approach using Ruling 35 as its basis. In several regions, local indigenous community groups are supporting the preparation of regional regulations that recognize the existence of indigenous communities and protect their rights. Aside from this, indigenous youth in various indigenous territories have taken the initiative of installing signs, known as *plang*, on which are written "Based on Ruling No. 35 on Case No. 35/PUU-X/2012, our customary forest is no longer state forest". AMAN activists have called this action *plangisasi*, or "plankization".

So what about the position of indigenous women and other marginalized groups in these new arenas in the battle for control over forests after Ruling 35? Until now, the actions that have been initiated by various groups representing indigenous communities have still prioritized the importance of "indigenous communities" in general and have not yet put priority on the interests of indigenous women. Aside from this, the involvement of indigenous women in the abovementioned actions in several regions has been limited. Some indigenous women, including activists in AMAN who have joined AMAN Women, told the author that they do not yet have a clear enough understanding of Ruling 35. Meanwhile, several female indigenous activists who do have a sufficient understanding of the ruling told the author that they were concerned about the movement toward "plankization". They are worried that if action is taken without communication with neighbouring indigenous communities about the boundaries of the territory belonging to each, then this action could "open old wounds of horizontal conflict between indigenous communities".<sup>5</sup> At the community level, information on developments such as Ruling 35 has not yet reached the hands of Ibu Asih and other indigenous women from the same social group.

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<sup>5</sup> Related to the author in the AMAN Women's Working Meeting held in Bogor, 6–7 September 2013.

Various critical questions about the position of indigenous women after Constitutional Court Ruling No. 35 must be articulated. What will come next in the story of Ibu Asih and other indigenous women with similar fates as well as other marginalized groups in indigenous communities in various parts of Indonesia? Will Ibu Asih and the indigenous women of various social backgrounds in the 15 communities that make up Kasepuhan Banten Kidul be involved by male elders in their communities in discussing steps to be taken by the community in a collective manner? Will life improve for Ibu Asih and other indigenous women in her village from the same social class? Can the gender inequality experienced by Ibu Asih's daughters and other young women in her village and other indigenous territories be overcome? To understand in more detail the response of Ibu Asih and indigenous women from various circles in her village and in other indigenous territories to Constitutional Court Ruling No. 35, a separate field study is required from an ethnographic and feminist perspective.

### CONCLUSION

The control of customary forests and territories by the state continues via the support of policies, the market, force and other forms of power and legitimacy. These processes are carried out by denying access by indigenous communities, including indigenous women and other marginalized groups, to their land and natural resources. Furthermore, this process of domination and extraction denies the existence of indigenous people, and especially women and other marginalized groups, essentially rendering them invisible. Parties involved in the dispossession of access to land and natural resources are not limited to institutions and government or market actors, but also include their own relatives. All of these processes rest on concepts of gender and gender-based power relations.

In the book titled *Powers of Exclusion: Land Dilemmas in Southeast Asia*, Hall *et al* (2011) articulates four factors of power that contribute to the process of excluding other parties from accessing land in Southeast Asia. The four factors are: (1) regulation, especially in relation to laws and regulations enacted by the state; (2) force and violence, both by state and non-state actors; (3) the market, which supports the elimination or limitation of access to land via mechanisms of pricing and incentivizing individualist claims over land; and (4) legitimacy, from state claims to regulations, from an economic rationalist or political perspective, or in the form of various moral justifications that operate at the community level, including from customary leaders.

The fourth aspect of exclusion of power marginalizes women and their communities from access to their own land, or that of their families. For Ibu Asih and other indigenous women in various parts of the archipelago, land does not only function as a resource, but also plays an important role in their community's territory and the greater landscape where their community lives (see Borrás and Franco 2012). Furthermore, land is also an important component of a woman's living environment. Doreen Massey, a feminist geographer, articulates the term "space" to be a domain that accommodates coexistence of social, economic and political relations among various actors, including people, both as individuals or in groups, other living creatures, abiotic environments and dead objects, and says that "space" and "place" form an important part of a woman's life (Massey 1994). When a woman's living space is taken and/or destroyed, she faces various forms of injustice, including gender inequality.

Aside from becoming marginalized parties via the processes of exclusion as described above, indigenous women have also not yet obtained a proper place in the struggle to resist outside control over customary forests and territories. In a time when Constitutional Court Ruling No. 35 is accepted as a state policy that recognizes indigenous peoples as "rights bearers" and as legal subjects over customary lands as well as full citizens (Rachman 2013), indigenous women have still not yet obtained full recognition as bearers of additional rights, namely the basic rights of women and other rights that relate to indigenous women in particular.

Because of this, indigenous women must continue to struggle for recognition of their existence and to ensure that their rights are recognized and protected. Indigenous women must struggle in various domains, from the "mattress to the kitchen, the well, and additional duties" or from the household to the extended family, community, organizations, the state and in the market. In other words, the struggle of indigenous women to ensure that they are seen, that their existence is recognized, that their rights are recognized and protected, and that they are fully included in decision-making at all levels, starts from the level of the family, moving up to the community, the organization and the state.

The struggle of indigenous women to achieve justice, including gender equality, requires two steps that cannot be separated. These two steps are political redistribution and political recognition. The two cannot operate on their own. Nancy Fraser, a feminist philosopher who developed the concepts of political redistribution and political recognition, put forward the motto that there can be “no redistribution without recognition, and no recognition without redistribution”(Fraser 2005). This motto is in fact in line with the claims of indigenous women, both those who are leaders and those who call themselves “little people” like Ibu Asih. In light of Constitutional Court Ruling No. 35, strategic steps must be taken not only to focus on efforts to realize the ruling as part of a process of redistribution (in this case in the redistribution of customary lands). Steps must also be taken to recognize the existence and roles of indigenous women, and the importance of protecting their rights, including their rights to be fully involved decision-making at all levels, from the level of the family to the community, organization and state. In this way, indigenous women from various social groups can have equal space and opportunity to take part in the process of achieving recognition and protection of the rights of indigenous peoples in Indonesia. Steps to create this situation, referred to as “parity of participation” (Fraser 2005), can no longer be ignored by the indigenous peoples’ movement in Indonesia.

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