

EXERCISING CUSTOMARY
FOREST POLICIES: INSIGHTS
AND THE WAY FORWARD
ASIA PACIFIC FORESTRY WEEK 2016

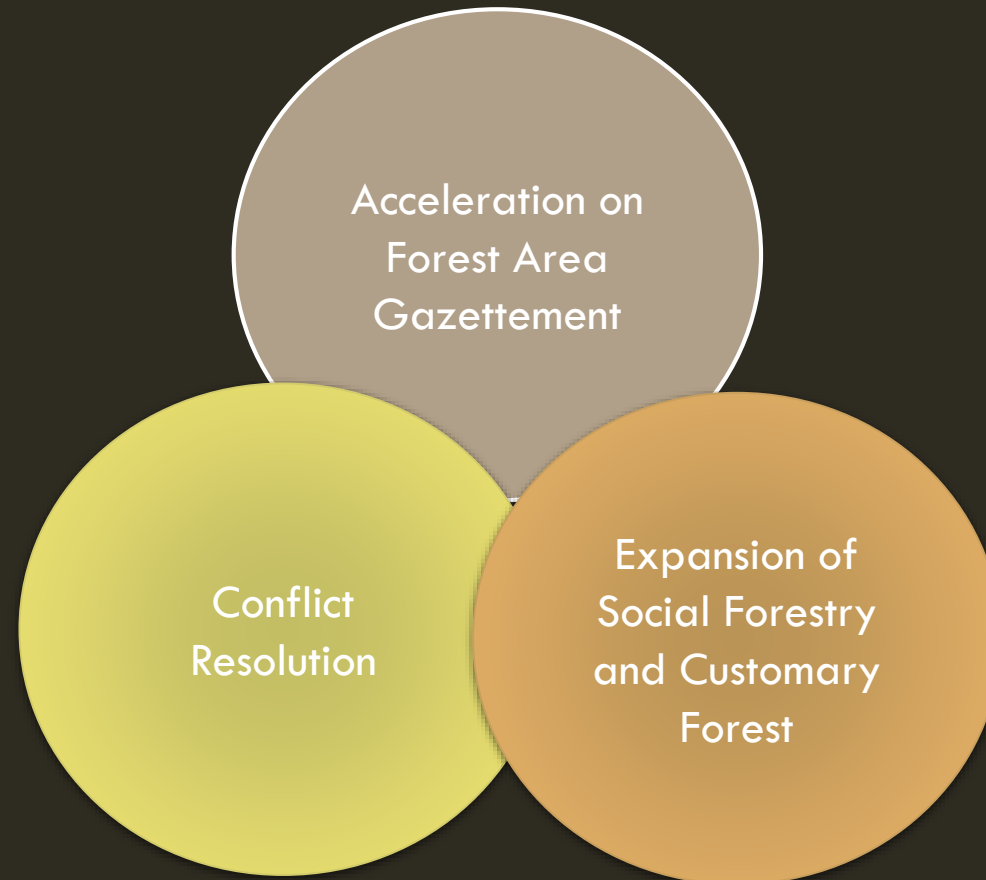
HuMa

Sisilia Nurmala Dewi
Head of Advocacy and
Campaign Division

ROAD MAP OF FOREST TENURE REFORM 2011

SYNERGIC

CERTAINTY



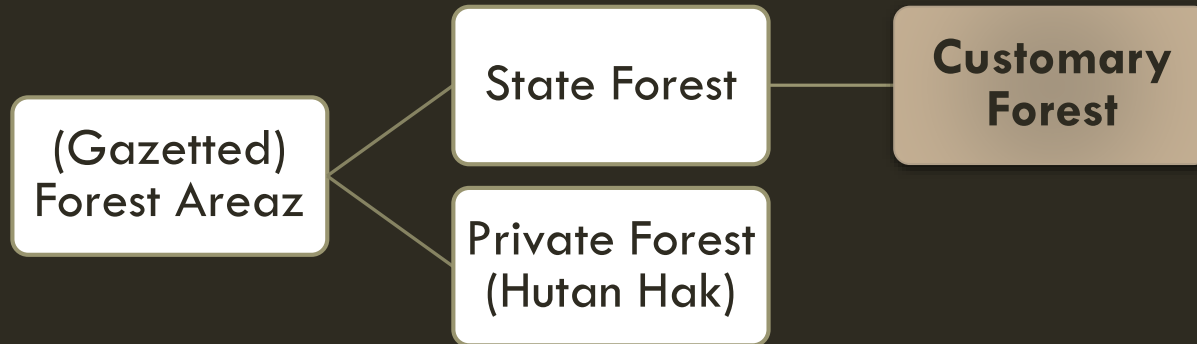
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SIMULTANEOUS

JUSTICE

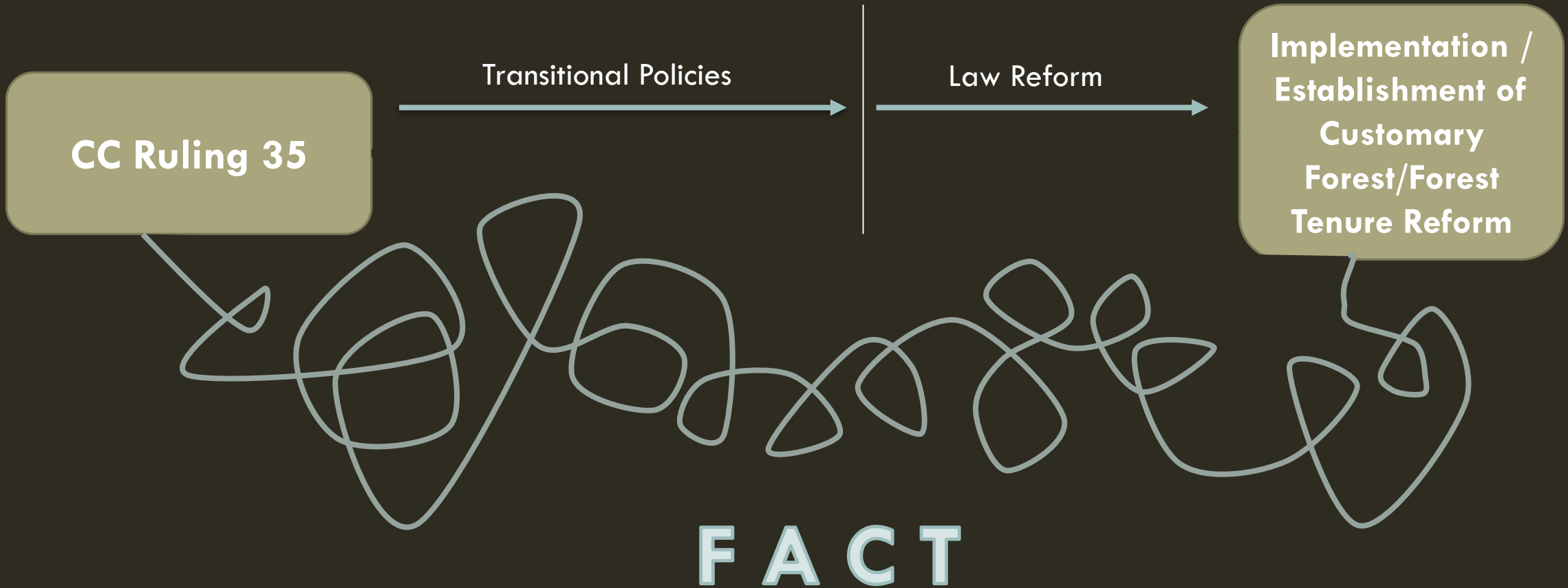
CONSTITUTIONAL COURT RULING NO. 35 YEAR 2012 RE. CUSTOMARY FOREST

Before CC Ruling 35



After CC Ruling 35





SOME FACTS

3 years of Constitutional Court Ruling No. 35

6 pertinent policies are established

12,7 million ha social forestry as five years national development target; there should be at least 2,5 million ha this year.

NOT single customary forest had been declared by the government to be the property of the indigenous community following the landmark ruling.

VARIOUS POLICY RESPONDS

Circulated Letter MoF No. 1/2013

- Forest status:
 - State Forest
 - Rights Forest
 - Customary Forest
- Art 67 – Local

MoF Regulation No. 62/2013

- Customary Forest will be excluded from Forest Area
- Implicit understanding : Forest Area = State Forest

Ministry of Domestic Affairs No 52/ 2014

- Committee of Ips (Panitia MHA)
- Recognition of IPs through Decree of District Head

Joint 4 Ministerial Decree 2014

- Solving dualism of land administration
- IP4T (Team for Inventory of Power, Ownership, Usage, Utilization over Land)

Communal Land Rights Ministerial Regulation

- Misconception of communal rights as *hak ulayat* (customary rights)
- Private dimension Only

MoEF Decree No. 32/2015 on Private Forest

- Requirement of Customary Forest Establishment Request
- Verification and Validation Process
- Local Government will facilitate area mapping process
- National Government facilitate the Local Govt. to regulate IPs recognition

PROCEDURE ON CUSTOMARY RIGHTS ESTABLISHMENT

District Head Decree

VS

Local Government
Regulation

Recognition and Establishment of IPs

- Ministerial Regulation of MoDA No. 52 Year 2014
- Article 67, Forestry Law No. 41/1999

Relinquishment of Customary Area from State Forest

- Joint 4 Ministerial Decree
- Communal Rights Ministerial Decree No. 9/2015

Recognition of Rights on land and Customary Forest

MoEF Regulation on Rights Forest No 32/2015

IMPLEMENTATION PROJECT



Jakarta, October 5th, 2015



Success Stories

Marga Serampas – Jambi

- Has a District Head Decree – Customary Forest oh Rantau Kermas Village's Customary Forest Area
- 135 hectares
- Strong community organizer – KKI WARSI – Long established relation with local government

Ammatoa Kajang – South Sulawesi

- Proactive Forestry Local Agency
- Advanced Participatory Mapping Capacity
- Chairman of Special Task Force of Local Government Regulation concerning Ips recognition
- 300 hectares – Limited Production Forest
- Strong Community Organizer – AMAN South Sulawesi

Slow Progress

Karang – West Java

- IPs recognition already established in Local Government Regulation
- Delayed verification process – no explanation
- National Park Gunung Halimun Salak

Tau Taa Wana Posangke – Central Sulawesi

- Has the Local Government Regulation on Wana Posangke Adat Communities – No attached map.
- Nature Conservation (Cagar Alam) Lore Lindu
- 26,000 hectares
- Local Government vs MoEF Perspective

CHALLENGES

Competing multiple
sector Policies

Bureaucracy
Nightmare

Lack of Political will

Weak monitoring
mechanism

Interdependence
with local politics

Gap between
capacity on
participatory making
and policy advocacy

LEGAL OPPORTUNITIES



CONCLUSION



Protect forest and the people



Fill the Policy Gap



Execute!



Forest Monitoring

CSOs



Participatory Mapping



Intensive multisectoral Policy Dialogue



MARAMING SALAMAT

Thank you. Terima kasih.