

**THE ROLES OF NGOS WORKING ON INDIGENOUS' LAND  
RIGHTS ISSUES IN INDONESIA: A CASE STUDY OF THE  
INDIGENOUS PEOPLES' ALLIANCE OF THE ARCHIPELAGO  
(AMAN)**

**NUMFON JAIWONG**

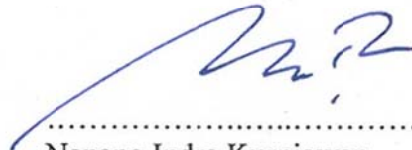
**A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE  
REQUIREMENTS FOR THE DEGREE OF MASTER OF ARTS  
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.....  
Ms. Numfon Jaiwong  
Candidate



.....  
Nanang Indra Kurniawan,  
Ph.D. (Asian Studies)  
Major advisor



.....  
Yanuar Sumarlan,  
Ph.D. (Social Science)  
Co-advisor



.....  
Prof. Patcharee Lertrit,  
M.D., Ph.D. (Biochemistry)  
Dean  
Faculty of Graduate Studies  
Mahidol University



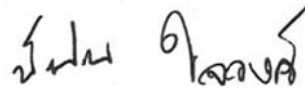
.....  
Michael George Hayes,  
Ph.D. (Communications and Cultural  
Studies)  
Program Director  
Master of Arts Program in Human Rights  
and Democratisation  
Project for the Establishment of the Institute  
of Human Rights and Peace Studies  
Mahidol University

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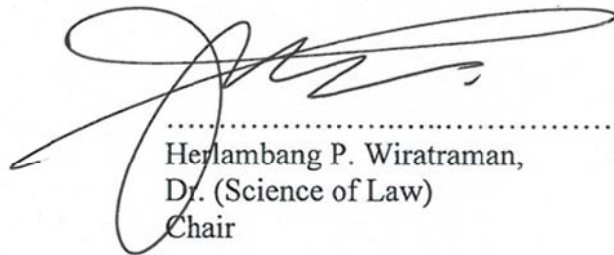
was submitted to the Faculty of Graduate Studies, Mahidol University  
for the degree of Master of Arts (Human Rights and Democratisation)

on

August 9, 2019



.....  
Ms. Numfon Jaiwong  
Candidate



.....  
Herlambang P. Wiratraman,  
Dr. (Science of Law)  
Chair



.....  
Nanang Indra Kurniawan,  
Ph.D. (Asian Studies)  
Member



.....  
Yanuar Sumarlan  
Ph.D. (Social Science)  
Member



.....  
Prof. Patcharee Lertrit,  
M.D., Ph.D. (Biochemistry)  
Dean  
Faculty of Graduate Studies  
Mahidol University



.....  
Eakpant Pindavanija,  
Ph.D. (Peace, Conflict and Development)  
Director  
Project for the Establishment of the Institute  
of Human Rights and Peace Studies  
Mahidol University

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Numfon Jaiwong

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NUMFON JAIWONG 6137367 HPRD/M

M.A. (HUMAN RIGHTS AND DEMOCRATISATION)

THESIS ADVISORY COMMITTEE: NANANG INDRA KURNIAWAN, Ph.D., YANUAR  
SUMARLAN, Ph.D.

ABSTRACT

In Indonesia, one of the serious national issues is indigenous peoples' rights on land and the problem of the tenure system. Over centuries of being under colonial power, land laws became combined use between western land laws and traditional land laws. In the areas where western land laws applied, land registration was completely supported with agrarian maps and surveys. While on the other hand, many Indonesian kingdoms imposed their own regulations. Many Non-governmental organizations (NGOs) are working to mobilize those indigenous peoples and recall the rights for them. The land conflicts keep rising in many areas, especially for vulnerable indigenous communities. This case study explores the role of the Indigenous Peoples' Alliance of the Archipelago (AMAN), a non-government organization (NGO) that has been working on this issue for more than twenty years. Though they have been facing many challenges, they can have successfully put pressure on the government as well as worked to support indigenous communities. This research was conducted based on a qualitative case study approach. The literature reviews together with the primary data from an in-depth interview with AMAN's staffs, have shown NGOs' roles on land rights issue, have been changing from a political opposition in the New Order regime to development and political engagement in a democratizing state. Adapting their roles and strategies accorded to the political situation, help Indonesian NGOs to deliver more effective works and regain thousands of hectares of land back to indigenous communities. In addition, relating indigenous land rights issue with recent global issues such as climate change may assist NGOs to expand their networks and raise indigenous people's voices globally. Thus, Indonesian NGOs have proved crucial roles in involving to solve the land conflicts issues, as it is part of political and social development of the democratization of Indonesia.

KEY WORDS: NGOS' ROLES / INDIGENOUS' LAND RIGHTS / AMAN / INDONESIA

64 pages

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## LIST OF ABBREVIATIONS

AGRA	The Alliance for Agrarian Reform Movement
AIPP	The Asia Indigenous Peoples Pact
AMAN	The Indigenous Peoples' Alliance of the Archipelago
API	The Indonesian Peasant Alliance
BAL	The Basic Agrarian Law
BRWA	The Indigenous Territory Registration Agency
CERD	The Committee on the Elimination of Racial Discrimination
EIA	The Environmental Impact Assessment
EMRIP	The Expert Mechanism on the Rights of Indigenous Peoples
FCPF	The Forest Carbon Partnership Facility
FIP	The Forest Investment Program
FITRA	The Indonesian Forum on Budget Transparency
GCF	The Governors' Climate and Forest Task Force
GEF	The Global Environment Facility
IIPFCC	The International Indigenous Peoples Forum on Climate Change
IHCS	The Indonesian Human Rights Committee for Social Justice
ILO	The International Labour Organization
INGO	International Non-Governmental Organization
IP	Indigenous People
JAPHAMA	The Indigenous Peoples' Rights Advocacy Network
JKPP	The Networks for Participatory Mapping
KIARA	The People Coalition for Justice on Fishery
KMAN	The Congress of Indigenous Peoples of the Archipelago
KPA	The Consortium for Agrarian Reform
MoU	The Memorandum of Understanding
MPR	The Peoples Consultative Assembly
NES	The National Engagement Strategy

**LIST OF ABBREVIATIONS (cont.)**

NGO	The Non-Governmental Organization
PEREMPUAN	The Indonesia Indigenous Women Solidarity
RBD	The Rio Branco Declaration
REDD+	The Reducing Emissions from Deforestation and Forest Degradation
UN	The United Nations
UNDRIP	The United Nations Declaration on the Rights of Indigenous Peoples
UNFCCC	The United Nations Framework Convention on Climate Change
UNPFI	The United Nations Permanent Forum for Indigenous Peoples
UPR	The Universal Periodic Review
WALHI	The Indonesian Forum for the Environment
WEF	The World Economic Forum
YTM	The Yayasan Tanah Merdeka Organization

## **CHAPTER I**

### **INTRODUCTION**

#### **1.1 Research Background**

Indonesia is one of the countries having the most ethnic minority diversity. One of the national serious issues is indigenous peoples' rights on land and the problem of the tenure system. Over centuries of being under colonial power, land laws became merge between western land laws and traditional land laws. In the areas where western land laws applied, land registration was completely supported with agrarian maps and surveys. While on the other hand, many Indonesian kingdoms were imposed their own regulations. Failure of administration systems caused ineffective on implementation as well as traditional laws are various and different from region to another. The government failed to solve a land management problem. The land conflicts are keep rising in many areas, especially for vulnerable indigenous communities. The Non-Governmental Organizations (NGO) working to support those communities. Those NGOs aimed to draw and organized indigenous peoples together and addressed their issue, then they can press stronger pressure on the government. As the indigenous communities have no legal rights over their land, NGOs who work on this issue are facing different difficulties, in order to mobilize those communities.

Non-governmental organizations (NGOs) have proved crucial to political and social development in developing countries, and perhaps none more so than Indonesia. Indonesia is one of the countries having the most ethnic diversity. The issue of indigenous peoples' rights is not a new issue for the country, whereas it is existing over the decades. Many NGOs working to mobilize those peoples and recall the rights for them, especially rights on land. Indigenous peoples have a deep connection with their lands, territories, and resources, which are basic to their identity and livelihood. The collective rights of indigenous peoples to lands are embedded in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which Indonesian government refuses to accept the concept of indigenous peoples. In 1991,

the International Labour Organization (ILO) established Convention No.169 concerns about indigenous peoples' rights in independent countries, Indonesia also did not consider to ratifying lately. The government argues that the concept of indigenous peoples cannot apply to all Indonesians. Consequently, the Indonesian government rejected calls for needs by indigenous groups (AMAN, 2017).

One of the national serious issues is indigenous peoples' rights on land and the problem of the tenure system. Over 350 years of being under colonial power, land laws became combined use between western land law and traditional land laws. In the areas where western land laws applied, land registration was completely supported with agrarian maps and surveys. On the other hand, many Indonesian kingdoms were imposed their own customary laws. Both administration systems caused unstable on implementation because traditional laws are various and different from region to another. In 1960, the government tried to end this situation by creating a National Land Law based on the utilization of traditional concepts. The National Land Law divided land status into state land and private land. State land can be land that has been designated to person legally or state land without any right attached to it. For private land is a land with certain right on it either registered or not yet register (Heryani, 2004). However, land titles and ownership is assigned due to state interests neither standard qualification nor formal regulation. The government failed to solve a land management problem. The land conflicts are keep rising in many, especially for vulnerable communities.

There are several Non-Governmental Organizations (NGO) working to working to support those indigenous communities. Those NGOs aimed to draw and organized indigenous peoples together and addressed their issue, then they can press stronger pressure on the government. Recently, NGOs in Indonesia involving an issue of property and land rights got involved more from the global perspective, which influenced their perception of the issue. Back in the late 1990s, many NGOs had successfully influenced the government to have new agrarian reform which at that time thousands of hectares of lands had redistributed to indigenous communities. However, after the agrarian reform, as the government has emphasized economic developing and promote more investment in the country. This leads to a more complex conflict of land grabbing issue. While the issue of weakening land law and land

administration which cause the conflict between the communities and the government still remains unsolved. Other sector had joint in, business sectors. As mentioned that the government can assign land to any sector or person according to its interest, here become an issue. As the indigenous communities have no legal rights over their land, the government can turn their land into the business sector for investment. The NGOs working on this issue are facing different situation compared with the 1990s, in order to mobilize those communities. Therefore, this research aims to study recent works of NGOs working on this issue and the challenges they have been facing that threatening their work achievement.

## **1.2 Research Objectives and Research Questions**

The research aims to study recent works of NGO in Indonesia who working on Indigenous' land rights issue. In order to have a better understanding of how those NGOs works help to mobilize indigenous peoples on this particular issue. Also, to learn about their challenges that threatening their work achievement. This research aims to study the roles of NGOs working on indigenous rights issues, especially on the land rights issue. As the indigenous communities have no legal rights over their land, NGOs who work on this issue are facing different difficulties, in order to mobilize those communities. This research aims to study recent works of one case study of NGO namely the Indigenous Peoples' Alliance of the Archipelago (AMAN) who working on this issue for more than twenty years on their roles and the challenges they have been facing that threatening their works and achievement.

## **CHAPTER II**

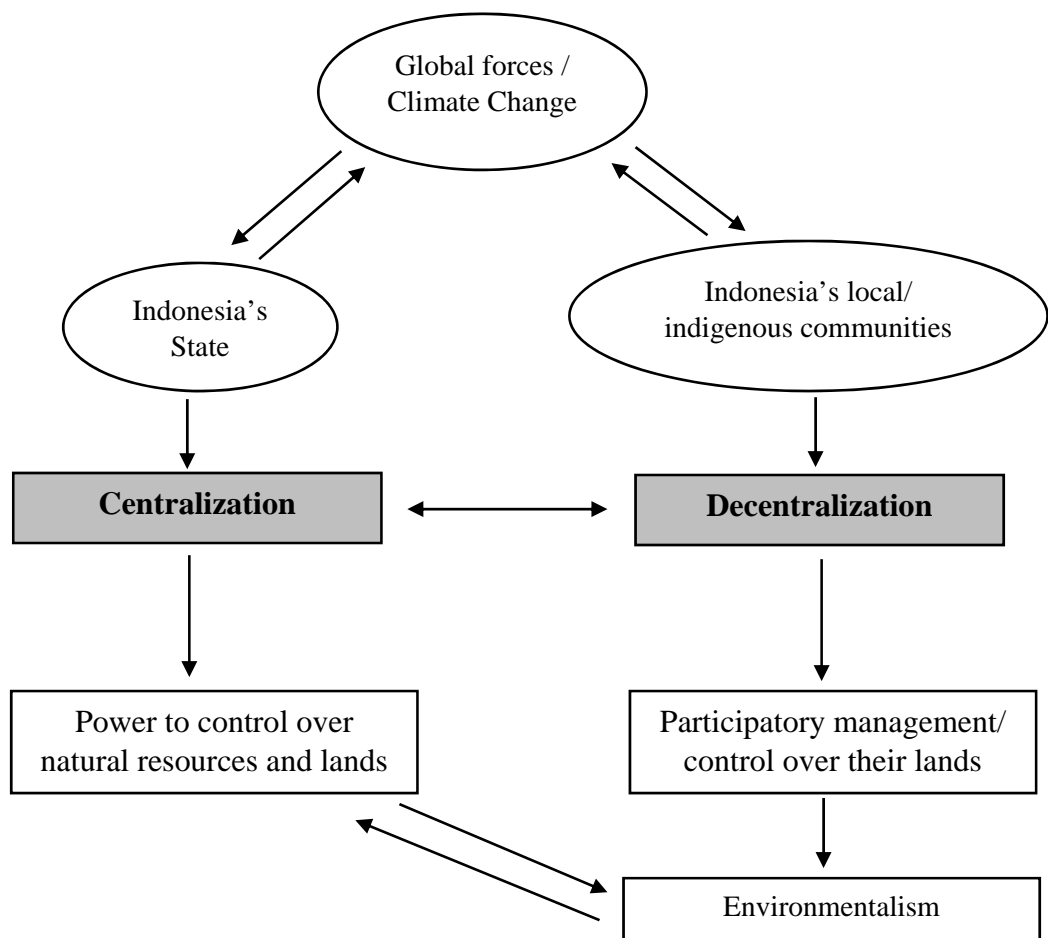
### **METHODOLOGY**

#### **2.1 Research Approach and Conceptual Framework**

This research conducted based on a qualitative ethnographic case study approach. The research aims to study on the role of non-governmental organization (NGO) working on indigenous land rights, the data collecting will be works of a only one case study of NGO name 'Aliansi Masyarakat Adat Nusantara (AMAN)' or Indigenous Peoples Alliance of the Archipelago in English, as qualitative method is the best for describing, contextualizing, and gaining in-depth insight into their specific works and issue that they are working on. The analysis involve contextual analysis of NGO's role in this particular issue which this thesis will demonstrate by providing case example of AMAN's work. In addition, the research also tries to draw a connection between their works and impacts on the issues on how the organization mobilize indigenous people's rights on land in the country, as well as the challenges on their works.

The concept used to explain the phenomenon for this research is the expostulation of centralization and decentralization which is the universal issue that happen everywhere across the globe. The states always prefer centralization both as ideology of administration and as practical implementation. While on the other hand, ordinary people request for decentralization of power that they can be part of development process of their own homeland. Similarly, Indonesia has been also facing this conflict of interest for many decades. Indonesia's government wants to centralize the power controlling over national natural resources and lands. The problem is those natural resources are usually located in forest areas where indigenous communities living. Land grabbing started to relocate indigenous people somewhere they cannot make a living. Deforestation happened widely in many areas across the country. Moreover, a part from land grabbing, deforestation that effect on indigenous communities. It also increasingly contributes the greenhouse gas emission to the

global atmosphere. The indigenous peoples attempt to call for participatory management to have a rights to manage their own lands and resources (see the dialogue of the issue in Figure 2.1). In the discussion part, the research will analyze based on this living dialogue of conceptual framework. With the global forces, trends, funds, and climate change, we will see how Indonesia’s government response to the indigenous peoples’ request, and how indigenous peoples apply external forces and trends in their fight strategies.



**Figure 2.1** Conceptual Framework Dialogue

Source: Drew by the researcher



## **2.2 Research Site and Scope**

Studying one NGO working specifically on Indigenous' Land Rights issues name Aliansi Masyarakat Adat Nusantara (AMAN). The study will focus on their works mainly on this particular issue. Then, analyze their works perform to helping or mobilizing indigenous peoples in the Indonesia.

## **2.3 Participant and Recruitment**

The sample is selected on the basis of their knowledge, expertise, and experience regarding a research subject. In the present study, the Aliansi Masyarakat Adat Nusantara (AMAN) was selected because of their expertise knowledge with indigenous land rights issue in Indonesia, under investigation, active involvement, and sufficient and relevant work experiences in the field of this issue. The AMAN organization is a civil organization whose experience on working with indigenous peoples on land rights issue in Java and all over the country for more than ten years.

## **2.4 Data Collection**

At the first point of the research provides relevant literature from secondary sources for the inquiry and to provide the historical context of land rights issue in Indonesia. Then, it will provide the background of NGOs' works involved in indigenous land rights issue in Indonesia. For primary data collection, the researcher interview one NGO namely AMAN as a research case study. The interview took place during April 2019 at the AMAN office in Jakarta, Indonesia.

## **2.5 Data Analysis**

This research analysis will be based on a case study approach. As a small sample will be interviewed for this research, it might not be intended to be representative of all NGOs or all group of indigenous peoples who might experience differently. As this study aims to understand and analyze the roles of NGOs working

on indigenous land rights issue, so the analysis based on a literature review, semi structured interviews, and secondary data. However, this sample will be possible to show the role of NGOs' works and its distribution to the issue and indigenous communities. The research will be dominantly qualitative, the analysis will be based on the secondary data together with the primary data received from interviews in order to answer the thesis objectives.

## **2.6 Ethical Considerations**

According to research objectives, this research aims to mainly interview the NGO. It is important to get informed consent from the NGO who will be involved in the study. A participant consent form have been given in English. The participants are fluent in English, so the interviews also conducted in English without translator. According to the sample a literacy is not an issue, the participant clearly understand the purpose of the interview, a research's scope of study and objectives. As researcher is a foreigner, the interviews were conducted in English. The researcher needs to ensure that participants fully understand their rights throughout the interview and understand the topic they will be interviewed. Also, it is important that participants are aware that their narratives will be used in this thesis.

In addition, understanding about the culture and nature of participants are main considered ethic for the researcher. As a foreigner, the researcher needs to be aware of participants' cultural practice during the data collection process and allow them to be most comfortable to be interviewed. To ensure the confidentiality of participants, the researcher had informed the participants that the research will address their names and position in the paper, and the participants gave their consents for the researcher to do so. All notes and recordings are locked and the only researcher can access that information.

## **2.7 Limitations**

The research conducting has faced several limitations. First, time limitation. As the duration of this research is six months, the research is not being able to use an ethnographic approach to study the works of NGOs at large in Java. Instead, the research will be based on a case study approach of one organization as research sample. During the data collection period, it was a going to be the general election of Indonesia. The organization was very busy with their candidates who represent indigenous peoples. I have very limited time available. Therefore, the case studies do not represent the entire works of the NGOs but rather explains their experiences working on this issue and the challenges they have been facing.

## **CHAPTER III**

### **LITERATURE REVIEW AND THEORETICAL FRAMEWORK**

#### **3.1 Introduction**

Non-governmental organizations (NGOs) have proved crucial to political and social development in developing countries, and perhaps none more so than Indonesia. Indonesia is one of the countries having the most ethnic diversity. The issue of indigenous peoples' rights is not a new issue for the country, whereas it is existing over the decades. Many NGOs working to mobilize those peoples and recall the rights for them, especially rights on land. Indigenous peoples have a deep connection with their lands, territories, and resources, which are basic to their identity and livelihood. The collective rights of indigenous peoples to lands are embedded in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which Indonesian government refuses to accept the concept of indigenous peoples. In 1991, the International Labour Organization (ILO) established Convention No.169 concerns about indigenous peoples' rights in independent countries, Indonesia also did not consider to ratifying lately. The government argues that the concept of indigenous peoples cannot apply to all Indonesians. Consequently, the Indonesian government rejected calls for needs by indigenous groups (AMAN, 2017).

One of the national serious issues is indigenous peoples' rights on land and the problem of the tenure system. Over 350 years of being under colonial power, land laws became combined use between western land law and traditional land laws. In the areas where western land laws applied, land registration was completely supported with agrarian maps and surveys. On the other hand, many Indonesian kingdoms were imposed their own customary laws. Both administration systems caused unstable on implementation because traditional laws are various and different from region to another. In 1960, the government tried to end this situation by creating a National Land Law based on the utilization of traditional concepts. The National Land Law divided land status into state land and private land. State land can be land that has been

designated to person legally or state land without any right attached to it. For private land is a land with certain right on it either registered or not yet register (Heryani, 2004). However, land titles and ownership is assigned due to state interests neither standard qualification nor formal regulation. The government failed to solve a land management problem. The land conflicts are keep rising in many, especially for vulnerable communities.

There are several Non-Governmental Organizations (NGO) working to working to support those indigenou communities. Those NGOs aimed to draw and organized indigenou peoples together and addressed their issue, then they can press stronger pressure on the government. Recently, NGOs in Indonesia involving an issue of property and land rights got involved more from the global perspective, which influenced their perception of the issue. Back in the late 1990s, many NGOs had successfully influenced the government to have new agrarian reform which at that time thousands of hectares of lands had redistributed to indigenou communities. However, after the agrarian reform, as the government has emphasized economic developing and promote more investment in the country. This leads to a more complex conflict of land grabbing issue. While the issue of weakening land law and land administration which cause the conflict between the communities and the government still remains unsolved. Other sector had joint in, business sectors. As mentioned that the government can assign land to any sector or person according to its interest, here become an issue. As the indigenou communities have no legal rights over their land, the government can turn their land into the business sector for investment. The NGOs working on this issue are facing different situation compared with the 1990s, in order to mobilize those communities. Therefore, this research aims to study recent works of NGOs working on this issue and the challenges they have been facing that threatening their work achievement.

All over the world, recently about 2.5 billion peoples depend on indigenou and community lands, which cover over fifty percent of the land on the planet. Those indigenou communities legally own just one-fifth of the total. Most of the lands remain unprotected and vulnerable to land grabs from either governments or corporations. Protecting and expanding indigenou community ownership of land has been a key component in a discourse of development goals (Oxfam, 2016). Indigenou

property rights issue has become a major discourse for most of the developing countries, including Indonesia. NGOs and non-profit organizations play very important roles in helping indigenous people on rising their rights. Those NGOs who work at local, national and international levels for recognition, respect, protection, and fulfillment of the rights of indigenous peoples.

### **3.2 The Rise of NGOs in Indonesia**

The rise of civil society institutes happened significantly after Indonesia's declaration of independence in 1945. The country recalled for a transformation in many aspects; political, economic, and social reformation. In the past three decades, non-governmental organizations (NGOs) have a substantial increase in the number, size, and scope. These organizations have established themselves in social, economic and political landscapes across the country. Non-governmental organizations or NGOs, were first called in the United Nations' Charter in 1945. They have no formal definition, they generally defined as nonprofit or independent governmental influence (Grant Space, 2019). In Indonesia, the number of NGOs has grown significantly from 10,000 in 1996 to around 70,000 in 2000 (BPS, 2000 cited in Hadiwinata, 2003, p. 1). The history of NGOs more widely in Indonesia since back in the colonial era. NGOs are part of civil society and continued to be important despite the repression of political expression and engagement, and laws limiting the right of people during the New Order era from 1965-1998. In transitions to democracy, by the mid-1980s, international donor agencies and international non-governmental organizations (INGOs) provided some funding and support for Indonesian NGOs, with a motivation of promotion of the role of civil society in transitions to democracy. Megan McGlynn Scanlon and Tuti Alawiyah (2012) state that such a transition of democracy led to the decentralization of power and gave rise to new generation of NGOs with a local focus on governance and public services. The collapse of President Soeharto's authoritarian New Order regime in 1998, the ensuing transition towards democracy has brought many changes in the country, including a rapid growth in civil society. The spread of democracy has opened up opportunities for civil society groups to participate in establishing rights, institutions of accountability in a society. However, their statement

is challenged by an earlier paper by Christopher R. Duncan. Duncan (2007) argues that when Indonesia began a new form of decentralization in order to making government more accountable to local population. In fact, the decentralization in Indonesia led to the empowerment of the local authorities to be more control over their regional natural resources. The decentralization promises that the benefit of ethnic minorities and other marginal groups within the state will be better protected but it seems contradictory, after centralized power to the local level, it made the local especially indigenous groups are even more marginalized. Therefore, in Indonesia case, the rise of NGOs is not actually because of the decentralization itself, but decentralization led to a marginalization of ethnic minorities. Consequently, NGO sector in Indonesia started to grow in order to support and mobilize those marginalized groups.

Recently, the NGO network in Indonesia is influenced by the evolution of the NGO sector back in the New Order era. In the last 40 to 50 years, Bob S. Hadiwinata (2003 cited in Lessa and Li, 2015, p.2) explains that civil activists and Indonesian public intellectuals formed organizations to deal with development problems. Back in 1970s, the government acknowledged its limited capacity to deal with deeply rooted poverty problems, and realized that NGOs' interventions could be more efficient in terms of capacity development for poor communities. Despite the growth of the NGO sector is now a part of broader civil society in Indonesia, it is important to understand that the impact of a prolonged experience of repression is still very significant. For more than four decades of authoritarian rule, civil society was seen as a part of the problem in Indonesia, not as the solution. Back then, state saw civil society as there to be controlled, neither to be listened or as a partner to work with. The uncertain position and strategies of civil society is compounded by the increasing call for accountability. As a result, civil society institute like NGOs are being seen as political opposition in state's perspective.

The state under Soeharto's government at that time attempted to limit the capacity and expression space, as well as donors of NGOs. Within this limitation, it led to the emerging of NGOs who active in human rights and environmental protection in Indonesia. These NGOs started to work on deliver their advocacy activities to support those whose rights were violated by the regime, such as, indigenous

communities, women, and workers (Antlov, Ibrahim and Tuijl, 2005). It is clearly see that NGO sector subsequently played a significant role in the transition to democracy. The fall of the Soeharto regime and the start of democratization process in Indonesia led to the question and discourse on a good governance, accountability and transparency for the country. During the reign of Soeharto's presidency, his policies related to the natural resources abundance for the national economic development, had led to many serious environmental issues and it has had huge impacts on the indigenous peoples. In the very beginning, the NGOs that emerged during that time, response to the marginalism of Indigenous peoples and have less interest on the environmentalism. Therefore, the NGOs were active focus on monitoring the activities of state and other political institutions as well as engaging more effectively in promoting public policies, carry out advocacy to change, influence and draft new laws.

### **3.3 NGOs Response to the Indigenous Land Rights Issue**

We cannot deny that NGOs and non-profit organizations play very important roles in helping indigenous people on rising their rights. Those NGOs who work at local, national and international levels for recognition, respect, protection, and fulfillment of the rights of indigenous peoples. During the mid of nineteenth century, there was an increasing public space for indigenous peoples to express their opinion at international forums and somehow contribute to policy decisions. But yet, there was no organization supports them and could speak as their true representative to the international community. Hence, the NGOs at that time is aimed to draw and organized indigenous peoples together as the national level, so they can address their issue and press stronger pressure to the government (DTE, 1999). In order to deal with indigenous people land issue is not as simple as stated in principle. Indonesia national law is based on the primary colonial powers, Netherlands, British and Holland (Szczepanski, 2002). With its colonized history that shaped national law, tenure system and the complexity of indigenous groups in the country, dealing with this particular issue is a tough work since it requires many aspects involved.

At the very beginning, NGOs in Indonesia response to the gap created by the developmentalism and had seen how it marginalized peoples, especially



indigenous groups. Recently, NGOs involved in the issues of property rights, especially land rights got involved from the more global perspective, which influenced their perception of the issue. NGOs were more widely back since the colonial era in Indonesia (Scanlon and Alawiyah, 2012). In the National Engagement Strategy (NES) research report (2013) states that in 1994 Consortium for Agrarian Reform who is civil society organization attempted to call for agrarian reform by lobbying the government for its implementation action. This effort had made by many small farmers' organizations to support this cause and has successfully redistributed thousands of hectares of land to indigenous peoples. Later, Indonesian Community Mapping Network sought to protect and restore people's rights to land and has mapped millions of hectares of indigenous peoples land in collaboration with local communities. Meanwhile, forest rights recognition also struggled with state forest regulation. The Indigenous Peoples' Alliance of the Archipelago (AMAN), a national NGO tried to address this issue and promoting many advocacies, and has had success in influencing forest law. For example, the correction of forest rights from state forest to customary forest, the approved graft of law on indigenous peoples protection, and the integration of indigenous peoples territorial maps, which will be followed by land registration (NES, 2013). Those NGOs working on indigenous land rights have established a strong reputation in Indonesia's indigenous rights movement.

### **3.4 Land Rights Issue and Indigenous Peoples in Indonesia**

The issue of indigenous peoples' rights on land is not a new issue, whereas it is existing over centuries around the world. Despite, the rights of indigenous peoples were acknowledged since the sixteenth century globally, however how each state recognizes these rights is more significantly. Indonesia does not accept the concept of indigenous peoples (IP) stated by UNDRIP and ILO Convention No.169, while the state has its own interpretation of IP. The interpretation of state towards IP is subsequently effect how their rights are being threatened. The issue of IP's rights on land is still problematically happening and seems to be continues.

### **3.4.1 The concept of Indigenous Peoples in Indonesia**

In 1991, the International Labour Organization established Indigenous and Tribal Peoples Convention No.169 concerns about indigenous peoples' rights in independent countries. None of the international standards contained indigenous and tribal rights in their convention. Many parts of the worlds these people are unable to enjoy their fundamental human rights to the same level as the rest of the population within the country they live. This convention aims to call attention to the distinguishing contributions of indigenous people to the cultural diversity, and social and ecological harmony of humankind and to international co-operation and understanding (ILO, 1991). The concept of indigenous peoples are still crucial in the international mechanisms. However, there is no universal agreement on the definition of the term 'indigenous peoples'. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007) identifies 'indigenous peoples' as being the beneficiaries of the rights contained in the declaration, without definition of the term. However, there are several definitions which are widely accepted as guiding principles for the identification of indigenous peoples (IP), including ILO Convention No.169.

*“Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural, social institutions and legal systems.”* ILO Convention No.169, Article 1.

Despite, the concept of IP is being accepted internationally, but this conceptual dissimilarity has no legal implications under convention No.169. In 2007, The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the United Nations General Assembly (United Nation Report, 2007). However, with those declarations of the rights of indigenous peoples (IP), Indonesian

government refuses to accept the indigenous people concepts as state by the UNDRIP and ILO Convention No.169. Also, Indonesia did not consider to ratifying those convention lately. The government argues that the concept of indigenous peoples cannot apply to all Indonesians. The diverse terminology concerning indigenous peoples addresses that there has not been agreement on which groups can be categorized. The government use a term '*masyarakat adat*' which mean 'geographically isolated customary communities' instead of using a word 'indigenous'. In fact those customary communities are considered to be Indonesian's indigenous peoples. Aliansi Masyarakat Adat Nusantara (AMAN, 2017) is an indigenous peoples' organization estimates that the population of indigenous peoples in Indonesia is between 50-70 million. In the past few years, there was a third amendment of the Indonesian Constitution, which eventually recognizes indigenous peoples' rights. In more recent legislation, there is an implicit recognition of some rights of peoples referred to as *masyarakat adat*. While Indonesia seems to have more recognition of IP and has been a signatory to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), however the Government argues that the concept of indigenous peoples is not applicable as all Indonesians, with the exception of the ethnic Chinese, are indigenous and thus entitled to the same rights with the rest of population. Consequently, the Government has rejected calls for specific needs by groups identifying themselves as indigenous. As consequence, the rights of indigenous peoples in Indonesia is still not being fully recognized, especially their status and rights on land and property.

### **3.4.2 Indigenous Peoples and Land Rights Conflict in Indonesia**

*'Indigenous peoples have the rights to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. Indigenous peoples have the rights to the lands, territories and resources which they have traditionally owned, and occupied. Indigenous peoples have the rights to own, use, develop and control the lands, territories and resources that possess by reason of traditional ownership. States shall give legal*

*recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned' (UNDRIP, 2007).*

The rights of indigenous peoples were acknowledged since the sixteenth century universally (Ulfstein, 2005) but whether or not the country will recognize these rights is totally different story. Indigenous peoples have a deep connection with their lands, territories, and resources, which are basic to their identity and livelihood. The problem happen once their rights on land is being violated. Land conflicts between the government and indigenous communities in Indonesia have occurred for a long time, especially in a post-colonial era. Indigenous land rights and a problem of tenure system are one of the national serious issues since the government is not accept the definition on rights of indigenous peoples by UNDRIP. Not too long after the independent, in 1966, under an administration of President Suharto, well-known as the New Order Regime, had applied the four pillars for state- building which are forced national unification, centralization, military repression, and economic development. A result from such policies caused widespread of human rights abuses over Indonesia. There was no exact figures address on the number of people or the extent of the areas affected by the violations, more than two thousand land and other natural resource cases were reported to the National Human Rights Commission in 2000 alone and land cases were the most numerous (Moniaga, 2007).

Over centuries of being under colonial power, land laws became combined use between western land law and traditional land laws. In the areas where western land laws applied, land registration was completely supported with agrarian maps and surveys. While on the other hand, many Indonesian kingdoms were imposed their own regulations. Both administration systems caused unstable on implementation because traditional laws are various and different from region to another (AMAN, 2017). Unclear about indigenous property rights in Indonesia has given rise to disputes among stakeholders over land rights. According to the Indonesian National Human Rights Commission, there were a total of 520 cases on land disputes in 1999. After agrarian reform in 1945, the disputes had widespread increased.

Consortium for agrarian Reform stated that there were total 1,753 land disputes cases in 1970-2001 (Toha, 2007). Not all cases are solved. From 2012 to 2014, a number of land deutes exploded in some places and some were accompanied by violence. The Association for Community Based and Ecological Law Reform reports in 2014, there was 472 land disputed covering around 286 million hectares of land (Herwati and Sumarlan, 2016) The numerous of land disputes led to an intensive criticism of the government's policy in action to these cases. The government still remain firm in its stance on existing laws, and lands that were claimed by communities are state land (Toha, 2007). Furthermore, on the International Day of the World's Indigenous Peoples, August 9<sup>th</sup> 2018 in Jarkarta, the Indonesian government has decided to not include customary land maps of indigenous territories initially. The human rights activists say that the exclusion of the customary maps effectively signals of the government's denial of the existence of indigenous lands. The government says that the customary maps will be included once all of them have been formally recognized by local governments. It seems to be fair unless those processes are complicated and time-consuming that requires the passage of a bylaw in each of many jurisdictions in which indigenous lands occur. These kind of processes are rarely possible for indigenous peoples to get their land registered (Mongabay, 2018).

Novri Susan (2015) addresses that there are at least three main reasons why land conflicts have been increasing in contemporary Indonesian democracy. First, many communities that had been disadvantaged by the state since 1966, have recently trying to reclaim their rights to land. Second, a political system like democracy has provided more spaces and opportunities for groups to voice their interest, especially regarding land rights. Lastly, land conflict governance still significantly poor with low capacity of land administration. The increase in land conflict. In 1960, the government tried to solve this issue by creating a National Land Law based on the utilization of traditional concepts. The National Land Law divided land status into state land and private land. State land can be land that has been designated to person legally or state land without any right attached to it. For private land is a land with certain right on it either registered or not yet register. In 1990, there were approximately fifty-five million parcels of land of which only about seventeen million were formally

registered. Later on it has increased to about 80 million and still, less than thirty million are formally registered (Heryani and Grant, 2004).

### **3.5 Indonesia's Land Law and Land Administration**

After being independent of colonial power in 1947, land rights in Indonesia encountered transformative changes to encourage homogeneity of land tenure systems (Szczepanski, 2002). In 1960, the government had set the conversion provisions of the Basic Agrarian Law (BAL). This transformation of land law aimed to avoid creating a legal vacuum as a consequence of the invalidation of colonial land law, at the same time ensuring the protection of existing property rights. Also, the transformation helped to protect the existing landholder interests from arbitrary and unjust revocation and land grabbing. The transformation of land rights in the post-colonial era involves an action to transform and alert existing land rights into statutory rights. Indonesia applies two control models for its revolutionary changes: the private law model and state control model. Both models have their own limitations and advantages. The private model leads to greater economic benefits while state control might enable greater protection against the manipulation of land by non-state actors (Daryono, 2010). By using mix models, Indonesia allows administrative control to intervene in the transformation process. Daryano states that this makes the transformation process even more complex, as it relies not only on private law system to convert the existing land rights into statutory rights, but also uses public law systems to tight administrative controls against monopolization by non-state actors. As consequences, in many cases, state control has benefited from this rather than society at large. The state failed to protect the interests in land for the entire community, especially vulnerable populations.

The commandment of the Basic Agrarian Law (BAL) was attempted to bridge the gap between Western law from the colonial powers and customary law (*adat* law) by providing registration of individual land rights, while at the same time continuing to recognize customary land law concepts (Wright, 2012). Under the passage of the Basic Agrarian Law, two systems of land law continued in force, civil law and *adat* law. Civil law applies for foreigners and *adat* law for Indonesians which

more than 90 percent of the land is controlled by the principle of *adat* system. *Adat* law also known as customary law and still remains a part of modern Indonesia legal system. Each indigenous group has a system of *adat* laws, which developed over time to meet their individual group needs and to meet with particular culture and environment of the community (Szczepanski, 2002). As *adat* law is unwritten, recognition of *adat* land rights and customary of tenure, have become a critical element of contention in the country. Erna Heryani and Chris Grant (2004) explains that the root of the problem is that most of the existing implementing regulations of BAL failed to elaborate, and sometimes even contradictory to the principle of *adat*. The government had attempted to recognize the existence of customary land but still not effective. After decades of failure of the agrarian law, there was a second wave of land reform in 1999. In response to civil society complaints and requests for land reform. After the Reformation, the government at that time re-distributed land to peasants and indigenous communities. However, as customary laws are still not much being legally recognized, the conflict over land is continuing.

After the collapse of the New Order state, the highest state institution, the Peoples Consultative Assembly (MPR) has recognized the issue of natural resources conflicts. It announced the Decree no.9 of 2001 reflects these concerns. First, ongoing agrarian and natural resource management conflicts lead to environmental degradation. Second, the existing laws and regulations concerning agrarian or natural resource management are overlapping and contradictory. Finally, sustainable and environment-friendly management of agrarian or natural resources has to be developed in a coordinated, integrated way, that accommodates the people's dynamic development, their participation, and which resolves outstanding conflicts. Three years after the recognition by the Decree, the MPR's admission has been no systematic attempt to implement its decree. Sandra Moniaga (2007) elaborated case example in August 2003, in efforts to reclaim ancestral land from a plantation company, three of the Ama Toa people in South Sulawesi were shot dead by local police, and fifty more were injured. A similarly violated conflict has flared in Manggarai where indigenous peoples and security forces have come to blows over contested land. In Indonesia's Constitution also tries to recognize indigenous people and their customary laws. In constitution Article 18B (2) "*the State shall recognize and respect entities of the adat*

*law societies along with their traditional rights to the extent they still exist and are in accordance with the development of the development of the society and the principle of the Unitary State of the Republic of Indonesia, which shall be regulated by laws.”* And Article 28I (3) state that *“the cultural identity and the right of traditional societies shall be respected in harmony with the development of the age and civilization.”* However, BAL, Forestry Laws, or MPR, do not practically implemented to respect or protect indigenous peoples’ rights. It may works once it becomes a court case, but not all indigenous peoples are able to access to such a juristic process.

### **3.6 Theoretical Framework**

Under the concept of non-profit sector work on the issue of indigenous’ land rights, there are two approaches underlying beneath, developmentalism and environmentalism. Under the concept of developmentalism showing the relation between the state and market. Understanding of developmentalism will link us to see how this concept creates a gap and creates exclusion of people. On the other hand, environmentalism is a result of such a gap. When the environment is exploited, the vulnerable groups often get the most affected. Number of environmentalists and activists have increasing in the past decades due to the awareness of the environment harmful and the negative impacts on people.

#### **3.6.1 Developmentalism**

Developmentalism is one of the capitalism forms. There are two major forms of capitalism, developmentalism and economic liberalism. Capitalist societies will be either developmental or liberal depending on the way they deploy their major institutions, the state and the market. Economic liberalism gives full primacy to the market, while developmentalism combines state and market. Developmentalism is a theoretical framework for understanding economic development as the outcome of moderate intervention by the state in the economy (Bresser-Pereira, 2017). Developmentalism was one of the most popular ideologies of the twentieth century. The idea of developmentalism is often referred to a post-World War II phenomenon. During the Cold War, the division of ideas of either being politically to the right or to



the left has obliterated the fact that developmentalism was successful performed both via social democracy and communism. In the emphasis of developmentalism on economic growth built on industrial mass production, consequently, only a certain type of national economic structure is conducive to increased wealth (Bresser-Pereira, 2017). This idea becomes policy tools used by nations during the transition of the country.

As mentioned that developmentalism defines as a form of capitalism that combines state and market, but let elaborate its definition more. The state will be developmental if (1) the society makes economic development its priority, industrialization or production sophistication the means to achieve it; and (2) the market coordinates the competitive sectors of economy, the state being engage only in strategic and temporary industrial policy; (3) The state coordinates closely the non-competitive sectors of economy which are infrastructure, basic industries, and major financial institutions; (4) the state is responsible in fiscal as well as in exchange rate terms, not incurring chronic budget and current account deficits; and (5) the state assumes a proactive role in keeping the five macroeconomic prices balanced such as the profit rate, the interest rate, the wage rate, and the exchange rate (Bresser-Pereira, 2017). A state whose primary objective is economic development is defined by Chalmers Johnson (1982-1999) as developmental state (cited in Bresser-Pereira, 2017). Erik Reinert explains that developmental state applies the developmentalism as its productive structure of a nation that may be suboptimal and may be improved with the help of active economic policy. The general concept of developmentalism through to the policies has been to industrialize or to transfer the economy out of a dependency on agricultural and other raw natural resources alone. The states aim at increasing national wealth by building a diversified industrial structure where economic activities with large potentials for technological upgrading (Reinert, 2010).

Indonesia is one of examples of the developmental state where the state had involved heavily in the market. Indonesia is one of the richest in natural resources. The country relies much on natural resources for its economic development since Soeharto's era. During his presidency, the rate of natural resources exportation was very high, as the paper will discuss later in Chapter V. At that time, the national income was mainly from the country's natural resources. As the result, the natural

resources were over exploited. Additionally, those resources often located where indigenous communities lived in. They were evicted from their land, because the government always claimed that it is a state's land or forest area, which state have fully authority over it. This shows how developmentalism approach is used by the state and creates a gap for the state and market to exploit on vulnerable groups of peoples. The developmentalism mainly focuses on the relation between the state and market, and most of the time refers the state to represent the whole society. In fact, the benefit of the state is not always benefited people.

### **3.6.2 Environmentalism**

The developmentalism focuses the combination of the state and market in a balance way, but practically, it is not often so. When the development is imbalance, it will create an exploitation on people, especially vulnerable one, including the exploitation on the environment, causing harm to the world's environment, here where the ideology of environmentalism began. According to the dictionary, environmentalism is a broad ideology and often means social movement regarding concerns for environmental protection and improvement of the health of the environment. The increasing of global environmental damage was rise in the production and burning of fossil fuels such as coal. Another factor was the growing global population which jumped rapidly every year. A third reasons was the rising consumption of natural resources from places far from producers and customers. In this century, more and more people began to demand better living conditions and global environmental problem began to emerge. In 1980s, global environmental issues began to move up the list of government priorities, but after 1990s the environmental issues had slided down the list of state priorities, economic development took center stage (Dauvergne, 2009). However, state negotiators kept signing and ratifying environmental treaties, which mostly for political and economic purposes.

Among ordinary citizens, the concern over the environmental damage has been strongly rising. In recent decades, environmentalism is considered a key new social movement that successfully garnering substantial public support throughout the country and even the world. Generally, very few social movements fully achieve their goals, unlike environmental movement. A key reason for the success of

environmentalism, relative to that of most social movements, is that its goal of environmental protection is widely supported by the general public as they can relate the issue to their own (Dunlap & Mertig, 2001). A part from well known as natural resource richness country, Indonesia is also called the lungs of the earth because it is home of one of the third of all tropical forests and is recognized globally as having the second highest levels of biodiversity. However, Indonesia is also named the third largest polluter, the second biggest contributor to waste in the oceans, the second highest emitter, and the second biggest deforester of the world (Laarse, 2016). There has been growing pressure on the environment due to industrialization and urbanization. As explained in developmentalism part, natural resources have been exploited for economic development, moreover, policies and regulations have been neglected to such an issue.

## **CHAPTER IV**

### **FINDINGS AND DISCUSSIONS**

#### **4.1 NGO Working on Indigenous Land Rights Issue**

After struggle by a number indigenous peoples in response to the loss of their rights and dignity at the hands of state policies, laws and actors, in March 1999, more than two hundred representatives of indigenous peoples gathered at the First Congress of Indigenous Peoples of the Archipelago (KMAN) which initiated by AMA Kalbar, JKPP and JAPHAMA. KMAN later established as the Alliance of the Indigenous Peoples of the Archipelago or AMAN. The Congress received strong support from many regional indigenous peoples' organizations and National NGO networks. For decades, indigenous peoples have been struggling to reclaim their lands, some firmly fight against natural resources extraction companies and local authorities appropriating their lands, while some struggled quietly. For instance, in 1988, hundreds of Batak Toba people in North Sumatra began opposing the plantation company name Inti Indorayon Utama. This Company was granted permits to convert a local forest into a timber plantation (WALHI 1992, cited in Miniaga 2007). In Ketapang, West Kalimantan, Dayak Simpang people have resisted palm oil development and logging concessions on their customary lands. In East Kalimantan, Dayak Bentian peoples have fought against logging companies clearing their forests and thereby ruining their rattan gardens. In response to these local straggles and state repression, the Indonesian Forum for the Environment or WALHI and a regional counterpart facilitated a meeting in South Sulawesi. The meeting included a number of indigenous leaders and young human rights and environmental activists. After the meeting, the Indigenous Peoples' Rights Advocacy Network (JAPHAMA) was formed. The meeting participants concluded that the prevalence of rights violations against indigenous peoples had to be confronted with a mass organized movement. Hence, from 1993 onward, indigenous peoples' organizations and indigenous advocacy NGOs were already existed.

As this research focuses on one case study of NGO which is the Aliansi Masyarakat Adat Nusantara (AMAN), who has been working on indigenous land rights issue in Indonesia for more than twenty years. It is necessary to have a brief information about the AMAN background and their scope of working. The Aliansi Masyarakat Adat Nusantara (AMAN) or the Indigenous Peoples Alliance of the Archipelago, is an independent community organization whose members consist of communities of indigenous peoples from various corners of the archipelago in Indonesia. AMAN is working on mobilizing and helping indigenous peoples all over the country in all aspects. AMAN was declared based on the long history of the movement of indigenous peoples in Indonesia. In the mid-1980s, there has been awareness rising among non-governmental organizations (NGOs) and social movements on the negative impacts of development projects in various groups of community in the country. Indigenous peoples are one of the main and largest groups that have been most affected by (and become victims of) political and economic developments over the past three decades. This suppression of indigenous peoples takes place both in the fields of economy, politics, law, and in other social and cultural fields.

In 1999, when AMAN first established, AMAN Board was the highest decision making body of the organization under the National Indigenous Peoples Congress. AMAN become a large organization who works in all levels, national, regional, local. The AMAN Board consists of 54 people representing 27 provinces, one male and one female representatives. AMAN consists of 21 regional chapters in 31 provinces, 120 local branches, which cover over 2,366 indigenous communities members with contain more than 18 million indigenous peoples. AMAN has tried play a role on two issues, unrecognition of indigenous peoples' rights in Indonesia, and indigenous land rights conflict, which this paper has address in Chapter III.

#### **4.1.1 Implementation Strategies of AMAN**

According to the interview with AMAN, when the organization first established in 1999, their works are not mainly about lobbying the government, advocacy, or promoting indigenous movement. AMAN aims to do so including be able to negotiate with the ministers or higher position officers, but in the first couple

years the organization was more the center for indigenous members to gather together to learn and understand the issues, importantly what the organization is here for. As there are many different indigenous communities joint AMAN, they experienced different issues and most of the time have different needs. It is necessary for them to exchange information and learn about each communities' issues in order to ensure that as indigenous peoples, they will work towards a same goal. Hence, in the first couple years was mostly about internal affair, ensuring everyone sharing the same value and the same goal.

Through time and experiences, few years after the establishment, AMAN was be able stabilized their work core. From the beginning of helping case by case, AMAN realized that there are needs of other work aspects to help indigenous peoples, for instance, a knowledge on legal framework which the government always uses it to restrict indigenous peoples rights. Currently, AMAN have structured their works into four fields, internal affairs, political affairs, and socio-cultural affairs. AMAN implements strategies and programs based on the need of members, which are indigenous communities, to ensure the functioning of the indigenous people movement and organizations in Indonesia.

- **Political Affairs: Advocacy, Human Rights, and Politics**

Political Affairs is mainly working on law and advocacy. In present, for this affair AMAN is putting more afford in political participation of indigenous peoples. At the beginning the organization attempted to advocate indigenous peoples to raise their voice by voting in the election. Many elected presidents promised to change laws for better recognition of indigenous peoples' rights but they always false to do so. Therefore, in the national general election AMAN have sent candidates in all levels who are indigenous peoples hopefully to be a representative of indigenous groups in Indonesia. Under the political affairs, they mainly work on;

- 1) Encourage changes in laws, policies, regulations and agreements at the national and regional levels, to recognize and protect the rights of indigenous peoples.

- 2) Providing legal services and handling cases for indigenous communities of AMAN members who experience conflict regarding their collective rights.

3) Encourage the expansion of political participation of indigenous peoples.

4) Lobbying and intervening in various international forums to encourage changes in agreements to recognize and protect the rights on indigenous peoples.

- **Internal Affairs: Strengthening Organizations and Institutions**

Strengthening the management and operational capacity of the organization and the capacity of AMAN members and cadres; develop and expand AMAN organization at all levels; build and strengthen communication and information systems, including building community media; and mobilizing public resources.

- **Economic Affairs: Community Services and Support**

Conduct mapping of indigenous territories; strengthening the community economy; developing renewable energy in communities members; disaster emergency response; establishing indigenous peoples production cooperatives; build indigenous community owned enterprises; develop culture and education; develop customary forestry.

- **Socio-Cultural Affairs: Social and Cultural**

Identifying and documenting data on knowledge, traditional arts and intellectual property of indigenous peoples; encourage and develop local content in the formal education curriculum; develop customary education systems rooted in culture; organizing events and cultural development of indigenous peoples at various levels; preservation of indigenous peoples cultural sites.

**Table 4.1** AMAN National Structure

<b>AMAN National Structure</b>			
General Secretary of AMAN National Council			
Deputy on Internal Affairs	Deputy on Political Affairs	Deputy on Economic Affairs	Deputy on Socio-Cultural Affairs
Directorate on Organization Cadres and Membership	Directorate on Law and Advocacy	Directorate on Community Supports	Directorate on Cultural Affairs
Directorate on Information and Communication	Directorate on Political Participation of Indigenous Peoples	Directorate Development and Management on Sustainable Natural Resources	Directorate on Indigenous Education
Directorate on Operational and Management		Directorate Independent Fundraising	
AMAN has 21 regional chapters in 31 provinces, 120 local branches with 2,366 indigenous communities members			

Source: Primary data from AMAN

AMAN has a national headquarters in Jakarta and localize their works through four different levels, which consists national, regional, and provincial administrations, importantly all indigenous communities. According to the interview, all of AMAN’s staffs in all levels are from different indigenous communities. Each staff is truly understand the issue of indigenous peoples’ rights, and they often sharing information and experiences to one another. That made AMAN has strong connection because they are not the organization who work for indigenous peoples, but they are all indigenous peoples who gather together in AMAN and work for their people’s rights.



## 4.2 Causes of Indigenous Land's Rights Issue

### 4.2.1 Unrecognition of Indigenous Peoples' Rights

What does it mean by unrecognition? They have no citizen status? These questions may raise in our mind when we think about someone's rights. According to the interview with the Deputy of General Secretary on Political Affairs, Erasmus Cahyadi from the Aliansi Masyarakat Adat Nusantara (AMAN)' or Indigenous Peoples Alliance of the Archipelago Organization, explained that from 2,366 indigenous communities members they have all of people in those communities holding Indonesian citizen card, they have all rights as other Indonesians. It may bring you to the confusion that if they have all rights as other Indonesians, so why they are unrecognized. Cahyadi explains that although they have citizen card, but because of many limitations such as literacy ability, remote geographical difficulty, and different cultural practice and way of lives, they are unable to fully exercise their rights as the majority. Indigenous peoples need to get 'collective rights' recognition. Most of the indigenous communities' cultural and traditional practices, including their way of lives, are tightly rely on their lands and forests.

The government argues that the international legal category of 'indigenous people' is not applicable to Indonesia, as all Indonesians are indigenous. As the result, the government often lease indigenous lands to private sectors for industrial investment or palm oil plantation. AMAN saw the issue and realized that this happened because the government does not recognize indigenous peoples in the national legislation. Therefore, AMAN seeks to represent indigenous peoples and attempt to gain recognition and land rights from the government. AMAN defines indigenous peoples as '*communities which have ancestral lands in certain geographic locations and their own value systems, ideologies, economies, politics, cultures and societies in their respective homelands*' (AMAN, 2019). AMAN has putted the effort to strengthen the position of those politically marginalized groups that were harmed by the politics of development. The communities most adversely affected by the natural resource policies often lived on land that was needed for natural resources extraction and plantation expansion. The state and bureaucrats usually saw them as obstacles to

development which needed to be removed. Without collective rights recognized in the law, indigenous peoples hardly claim their lands back when the extraction happened.

#### **4.2.2 Decentralization and Regional Autonomy on Indigenous Ethnic Minorities' Land**

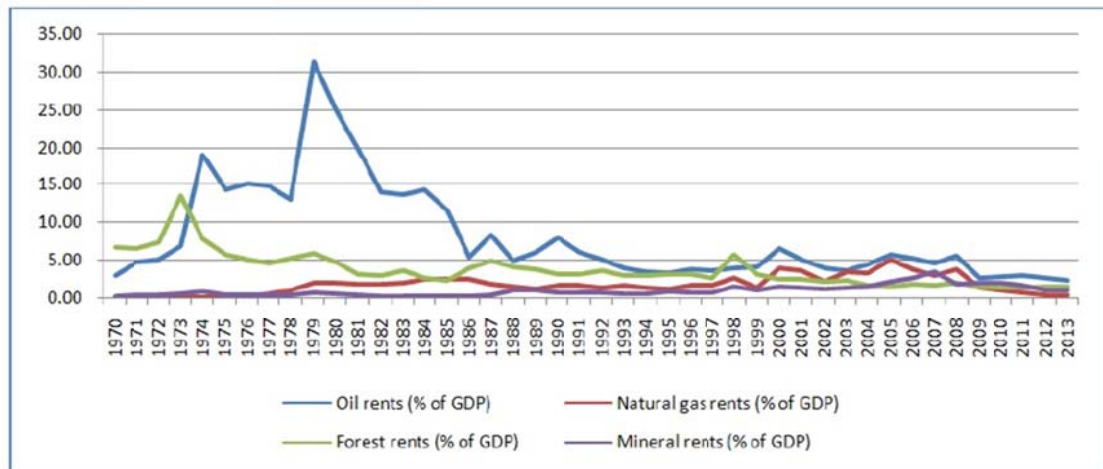
In the past decades, Indonesia began a new form of decentralization with the passage of new legislation that shifted political and fiscal authority from the national government in the capital city, Jakarta to sub-provincial level government throughout the country. On the national level, politicians and policy makers saw decentralization and regional autonomy as a way to stabilize the country by making government more accountable to local populations and by addressing demands from regional leaders who want more control over their regional natural resources. Local communities had complained that the wealth generated by their natural resources had enriched politicians and their cronies in Jakarta rather than benefiting local communities. Policy makers thought that transferring authority and responsibility for administrative functions to the local government would make government more responsive to local concerns.

The promises of decentralization is the belief that the interest of ethnic minorities and other marginal groups within the state are better protected as local communities gain more control over their own affairs. However, on the other hand, decentralization allows local elites to capture more benefits while still excluding ethnic minorities and other vulnerable groups of people. This is because ethnic minorities are saw as not important groups in political process representatives and downwardly accountable local authorities may over exploit resources and ignore minority interest. These local elites have little liability to include ethnic minorities in the political process as their future election hopes are often tied to majority communities that have different needs and desires (Duncan, 2007). Although decentralization provides new opportunities for ethnic minorities to participate in local politics, they are often still excluded from the decision-making process. Whether decentralization policies have helped indigenous ethnic minorities remains a debate. Some camps argue that indigenous ethnic minorities have benefited from this new arrangement, while others have noted that it was the failures.

As mentioned in the earlier part, the Indonesian government has a strict policy of not officially recognizing indigenous peoples, consequently, ethnicity is also not recognized or considered in the government discourse or policy making. Therefore, this new legislation could affect indigenous ethnic minorities throughout the country. The indigenous rights movements hope that this change towards regional autonomy will allow indigenous communities in Indonesia to retain, or regain, control over natural resources through local-level politics. In addition, some ethnic minorities see this change as an opportunity to return a local forms of governance, land tenure, and resource management practices that had been ignored by the national government. In contrast, the new fiscal arrangements encourage district-level governments to generate revenue through natural resource extraction, as they will receive a large percentage of income from this business. The local authorities now need these new revenues that they are responsible for a large portion of their own budgets, which have increased significantly since the national government has started the decentralization process. Unfortunately, the extraction of natural resources often works against the best interest of indigenous peoples as these resources such as timber, minerals, and many more, are often found on their land.

#### **4.2.3 Natural resources dependence for national economic development.**

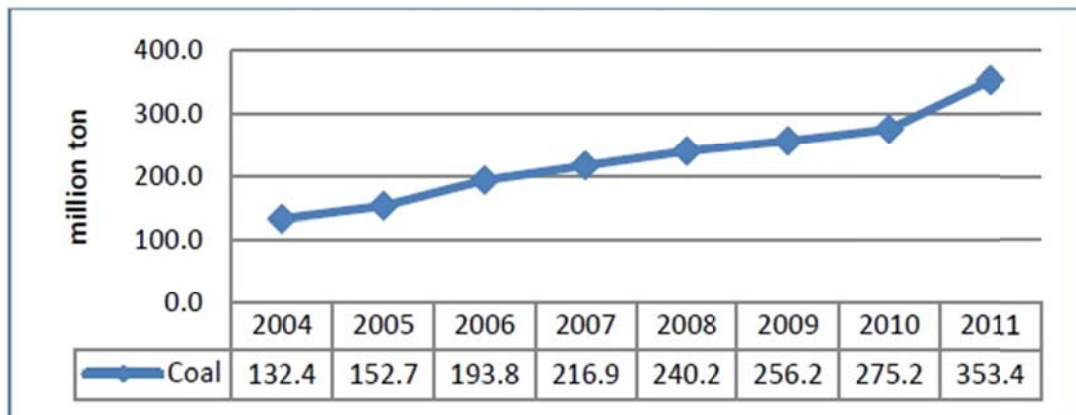
Indonesia has been known as one of the most richness in natural resources. Indonesia relies on natural resources for its economic development since during Soeharto's era, through natural resources extraction, Indonesia is able to finance its development. During Soeharto, Indonesia's second president, the development of the country was highly dependent on oil, gas, mining, and timber because they are the value sources of national income. Soeharto passed laws on foreign investment, forestry, and mining because he knew that the extraction of the resource abundance could not be done by local corporations and should involve international corporations (Resosudarmo, 2005; cited in Stenly, 2015). This is the starting point where natural resources in Indonesia are over exploited. However, after the fall Soeharto in the late 1990s together with the Asian financial crisis in 1998, the contribution of the natural resource has become less contributed to the income source of the country.



**Figure 4.1** Indonesia’s Natural Resource Rents as a percentage of Gross Domestic Product (GDP)

Source: World Bank Data, as cited in Stenly, 2015

As shown in Figure 4.1, after 1990, Indonesia’s natural resource contribution to the national income had negatively gone down and kept staying in very low rate, especially from oil and gas. Contradictory, coal production has rapidly increased since 2004 as shown in Figure 4.2. Over the course of Susilo Bambang Yudhoyono’s presidency (from 2004-2014), the national economic boost is focusing on mining and plantations. As the result, land grabbing happened all over the country for mining investment and plantation of private sector, which most of them are where indigenous communities located. In 2013 alone, land conflict caused 22 deaths due to violent clashes and involved almost 140,000 households. According to Agrarian Reform Consortium record, there are 1,391 land conflicts causing 70 deaths, involving five million hectares of disputed land and 926,700 households (Kurniawan, 2014). Most of the land disputed involves land designated as forest area then later converted to non-forest land for economic purposes such as mining and plantation.



**Figure 4.2** Coal Production in 2004-2011

Source: Directorate General of Oil and Gas, cited in Stenly, 2015

Indigenous peoples' rights to land are significantly affected from these conflicts, because large tracts of indigenous customary lands are located within forest area, which control by the government and sometime designated as forest conservation area. Frequently, the government has claimed such customary lands to be empty and transferred them to private investors. One of AMAN's current policy is working on advocating for the One Map initiative. This policy came out of the fact that land ownership, land use, and land tenure, are the main factor of indigenous peoples' issues. Aaron Burr from University of Maryland of Public Policy, Indonesia (2017) explains that In Indonesia, different levels of government and government agencies have maps that show conflicting data. Those maps include data of forest cover, territorial boundaries, land use categories, and the local use of natural resources. These mapping differences led to the wrongful use to take advantage of indigenous groups who rarely hold formal land titles on the land they occupied. The One Map policy is very contentious throughout the country. Various competing interests across the government and business sector regarding their benefits, while indigenous communities argue over traditional borders. The goal of the One Map initiative is to bring together land use, land tenure, and other spatial data into a single incorporated database for Indonesia to ensure that conflicts are adjudicated fairly and openly.

### **4.3 The Roles of NGOs in Mobilizing Indigenous Peoples' Rights**

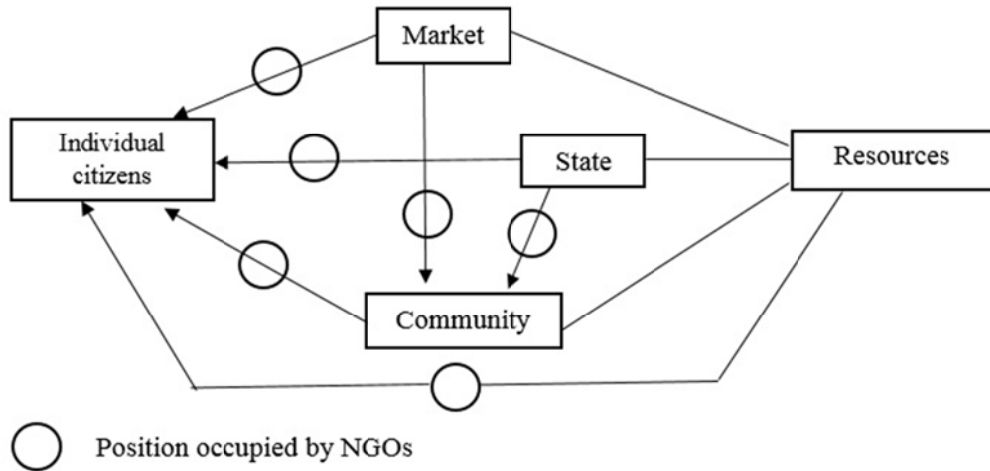
As we all know that in many developing countries the presence of non-governmental organizations (NGOs) can no longer be ignored. They are engaged in extensive formation of activities, including philanthropic work to people left out of the developmental process as well as efforts at addressing problems of environmental destruction and other negative consequences of economic development, and efforts to institutionalize popular participation. When considering the role of NGOs as case study given, AMAN, NGOs, in social context of developing countries, one evidence is the existence of people who have been left out of the market-based developmental process, and are unable to secure the necessary resources to lead fulfilling lives. NGOs are constituents of what is called the 'third sector' or 'non-profit sector'. In the advanced countries, the researches and discussions on the third sector, especially the West take for granted that both the market sector and government sector once performed relatively important roles in the distribution of resources in society, and assess the advantages and disadvantages of the third sector relative to these two sectors (Bauer, 1990; cited in Shigetomi, 2002). In developing countries, the resource distributing functions of both market and government sectors have been found grossly inadequate even prior to the emergence of the third sector. When peoples are not able to secure their livelihood because of the loss of resources NGOs like AMAN came into space and tries to help those people. For decades, indigenous peoples have been fighting to defend their rights in the face of government's development projects. They have been struggling to defend their lands and resources against the large-scale commercial development promoted by the government. With the founding of the AMAN, indigenous peoples have an opportunity to work at a nation-wide level, to push for change in government policies and laws. Currently, AMAN is working on many aspects related to indigenous peoples in Indonesia such as, community mapping, people's rights advocacy, law enforcement, capacity building, and so on as have been elaborated in earlier part.

However, it does not mean that NGO or the third sector will take a role over the state. In order to consider the role of the third sector, it is necessary to explain what we mean by the state, and what functions of the state we consider important. When a group of individuals interact with one another socially, rules

become necessary, and are formulated through such interacts. A set of commonly accepted rules forms emerge when group of people interact with one another. Such rules, we might called them 'social rules' that the society has for governing and regulating its constituent members. The society is also equipped with a system for distributing resources to its members on the basis of its rules. The state is an entity who establishes a set of rules that applied to all its constituent societies across the territories, and often enforce in the name of 'public interest'. On the one hand, these rules which refer to laws, police, and so on, are for regulating private interactions among its citizens, and on the other hand, those which regulate the formation and management of goods and services which are produced by private interactions among its citizens. The functions of the state can be examine in two dimensions. The former rules represent the despotic dimension of the state that use laws and regulation to regulate its citizens. Another dimension that the state also has is infrastructural dimension. The infrastructural dimension is the state's performance in administrative part. However, the question is what areas it is managing to supply how many resources, and that determines the areas of activities available to NGOs.

#### **4.3.1 Space for Non-Profit Sector**

With the understanding of the state functions, and the gap occurred in developmental process, we can determine the space available for NGOs. We can discuss the space of NGOs in two perspectives, economic space and political space. The Economic space for NGOs is the way NGOs manifest themselves as state demand for their activities, or the arena in which they needed. Individual citizens require various goods and services or what we call resources. Citizens can consume some of these resources from the market or from the original source. The market is an arena where individual citizens purchase resources in a competitive way, using prices as the standard for decisions on whether or not to purchase a certain good. However, not all necessary resources are supplied by the market and even when sufficient resources are available on the market, there are a large number of citizens. State needs to make use of its administrative systems and mechanisms, to provide people inadequately goods and services.



**Figure 4.3** Possible Arenas for NGOs’ Activities

Source: Shigetomi, 2002

The resource distributing function is usually seen as being performed by the state and the market alone. In reality, however, there are other systems for the distribution of resources, which are built into societies, NGOs (see Figure 4.3). NGOs emerge to maintain and distribute resources that cannot be supplied by either the market or the state. For example in the case of AMAN. AMAN does not enter into the only one arena, but many. AMAN’s works cover the gap between state and individuals of indigenous communities, between state and resources, between the market and indigenous peoples and communities. As mentioned, AMAN is working to mobilize indigenous peoples in all aspects.

### 4.3.2 Achievements of AMAN

As a national NGO, AMAN is working widely with many organizations and agencies related to indigenous peoples’ rights, especially rights on land. Over 20 years working on this issue, it has been facing many difficulties regarding the issue itself and regarding to their strategies. However, for two decades, AMAN has achieved many goals and aims. At the international level, since 2007, AMAN has been involved with the Reducing Emissions from Deforestation and Forest Degradation (REDD+) issues and is a member of the International Peoples Forum on Climate



Change (IIPFCC). AMAN is directly involved in the intervention of the formation of the Paris Agreement at COP21 Summit on Climate Change. AMAN gained trust by the Indigenous Peoples Organizations in Asia to lead and represent the Asian Region in various climate change forums and REDD+ negotiations such as UNREDD, the Forest Carbon Partnership Facility (FCPF) Sub-Commission, the Forest Investment Program (FIP) Sub-Committee and is involved in the establishment of a Special Grant Mechanism (DGM) for Indigenous Peoples and Local Communities under the FIP. AMAN is also involved in the Global Environment Facility (GEF) Council, REDD+ Partnership Forum. So far, AMAN has been involved in meetings, including the World Economic Forum (WEF), Global Landscape Forum, UNFCCC COP, the Creative Time Summit, Global Land Forum, The State of Rights and Resources, The Climate Summit, UNESCO, Tropical Forest Alliance, etc. AMAN also actively participates in the United Nations Permanent Forum for Indigenous Peoples (UNPFII). Along with Human Rights issues, AMAN is involved in the UN meetings in Geneva such as Universal Periodic Review (UPR) and the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), and reports for the Committee on the Elimination of Racial Discrimination (CERD). AMAN was also invited to join in various international conferences to discuss about the rights of indigenous peoples and efforts to find solutions to the problems related to Human Rights such as deforestation, climate change, economics and businesses.

At the national level, AMAN collaborates with the government and produces a Memorandum of Understanding (MoU) with the National Human Rights Commission, the Ministry of Environment (now is the Ministry of Environment and Forestry) and the National Land Agency (now is the Ministry of Agrarian Affairs and Spatial Planning). In the last five years, AMAN produced: (1) Decision of the Constitutional Court Number 35/2012 concerning Customary Forests, (2) Draft Bill on Indigenous Peoples, (3) Inclusion of maps of indigenous territories as thematic maps by the Geospatial Information Agency, (4) National Inquiry conducted by the National Human Rights Commission on Violations on the Rights of Indigenous Peoples in Forest Areas, (5) the National Initiative Program on Recognition and Protection of Indigenous Peoples launched by the Vice President of Indonesia.

At the local level, AMAN facilitates local governments in developing Regional Regulations on indigenous peoples. AMAN also continues to facilitate the mapping of indigenous territories. On December 22, 2014, AMAN officially submitted 517 maps of indigenous territories registered at the Indigenous Territory Registration Agency (BRWA) to the REDD+ Agency and the Ministry of Environment and Forestry, covering 4,822,000 million hectares of territory. Launched in August 2015, AMAN submitted a map of 6.8 million hectares of customary territory to the Ministry of Environment and Forestry. On December 2017, AMAN network has mapped lands over 9.3 million hectares of indigenous territories from 777 indigenous communities throughout Indonesia and officially handed them to the Ministry of Environment and Forestry, Ministry of Agrarian Affairs and Spatial Planning/ National Land Agency, and the Geospatial Information Agency. This number continues to increase because of many indigenous peoples are currently in the process of mapping their customary territories. AMAN continues to work with the Geospatial Information Agency to include maps of indigenous territories in the One Map Policy.

AMAN also works on economic empowerment of indigenous peoples. In present, AMAN has established Nusantara Outlets (including online) to original community's products market, develop renewable energy programs, develop media (such as community radio and streaming, citizen journalism, SMS front liners, websites, social media, and so on. Based on the decree of the 3rd National Working Meeting (RAKERNAS) in Tumbang Malahoi, Central Kalimantan in 2013, and AMAN also encourage its members to get involved in politics. In the national election in 2014, AMAN supported 181 candidates from the indigenous community of AMAN members to participate in the election, where 25 of them were successfully selected at different levels. In addition, at the Fourth National Working Meeting (RAKERNAS) in Kampng Malaumkarta, Sorong, West Papua. AMAN encourage its cadres to be involved in the election of village heads and succeeded in sending 15 of their cadres to be a village heads.

### **4.3.2 Collaborations and Partnerships**

AMAN continues to work with the environmental justice movement and environmental organizations such as WALHI who is the Indonesian Forum for the Environment, the oldest environmental organization in Indonesia. AMAN is also part of c consisted of AMAN, WALHI (Friends of the Earth Indonesia), Konsorsium Pembaruan Agraria (KPA) or Consortium for Agrarian Reform, PUSAKA Foundation (Center of Study, Documentation and Advocacy of Indigenous Rights), Indonesian Peasant Union (Serikat Petani Indonesia/SPI), Sajogyo Institute, Alliance for Agrarian Reform Movement (Aliansi Gerakan Reforma Agraria/AGRA, a peasant union), Indonesian Human Rights Committee for Social Justice (IHCS), People Coalition for Justice on Fishery (Koalisi Rakyat untuk Keadilan Perikanan/KIARA), Indonesian Forum on Budget Transparency (Forum Indonesia untuk Transparansi Anggaran/FITRA), Networks for Participatory Mapping (Jaringan Kerja Pemetaan Partisipatif/JKPP), Ancestral Domains Registration Body (Badan Registrasi Wilayah Adat/BRWA), Indonesian Peasant Alliance (Aliansi Petani Indonesia/API), Sawit Watch, Women Solidarity (Solidaritas Perempuan). We wanted legal recognition of ancestral territories, meaning formal state acknowledgement. One possibility for this was a reintroduction of legal pluralism into the Indonesian legal system, a move supported in part by some national, local, international activists and even funders.

## **4.4 Environmentalism as a New Approach to Claim Indigenous Peoples' rights**

Keeping forest intact is key to climate change mitigation and sustainable development. This means sustainably managing existing forests and restoring degraded ones, in which people especially who live in the forest like indigenous peoples have been doing so for centuries. Indonesia is the world's fifth largest emitter of greenhouse gases, due to the conservation of its forests and carbon-rich peat lands. World Resources Institute states that the shift in land use for commercial plantations, industries, and mining in Indonesia, have ecological and social consequences, as the forests are home to thousands of plant and animal species, and 50-60 million Indonesians which mostly are indigenous groups, depend directly on the forests for

their livelihoods. A new study released in the Global Climate Action Summit shows that indigenous peoples play crucial role in managing the planet's climate. The study by Woods Hole (2018) found that indigenous peoples manage nearly 300 billion metric tons of carbon stored above and below ground on their lands. Evidence from the last decade shows that developing-country governments and the broader international community are not moving fast enough to recognize and strengthen the rights of forest peoples. The author notes that deforestation rates are significantly lower on native-occupied lands that governments often fail to recognize indigenous peoples' legal claims to their lands.

With the global trend of concern on the environmental issues which all states pay attention for, AMAN also attempts to collaborate their works with the government. AMAN has brought in the environmental issues and climate change involved in its discourse, in order to catch government's attention on the environmental rights as well as indigenous people's rights on the resources. Environmental discourse now is a new statement for AMAN to help indigenous people to claim back their rights. This statement was made by AMAN as a call for its community members to start claiming their land and other natural resources in the aftermath of a controversial Constitutional Court decision. The decision stipulates that the customary forest is no longer part of the state's forest, but instead will be recognized as owned by masyarakat hukum adat (officially recognized Indigenous people). The court ruling opens up new political opportunities for Indigenous peoples and their supporters for securing territory and resources threatened by state and private interests.

Failure to recognize indigenous peoples' land rights could open up these lands to unbridled deforestation and release the sequestered carbon into the atmosphere. Sardi Razak, the head of AMAN chapter in Indonesia's South Sulawesi Province said that indigenous peoples had inherited the knowledge needed to protect the climate and forest (Jong, 2018). In September 2018, representatives of indigenous groups from Indonesia joined a protest march climate change with other indigenous groups from the Amazon, Mesoamerica, and Brazil in San Francisco. In a press release, the passage of the indigenous rights bill would give the government an invaluable ally in the fight against climate change.

Indigenous people have high stakes in protecting biodiversity because they depend on its survival for their own, hunting and gathering non-timber forest products for their daily needs. Once their resources are threatened by either development projects or climate change, the impact is felt more directly and more acutely than by those in cities. Climate change put threats and dangers to the survival of indigenous communities, although indigenous peoples contribute the least to greenhouse emissions. Indigenous peoples are among the first to face the direct consequences of climate change because of their dependence upon and having a close relationship with the environment and its resources (Brauer, 2018). Over the generations they have learned to live sustainably and have a keen understanding of a forest's limitations, making them the ideal caretakers of forested land. For example, a traditional fire-prevention practice preserves eco-system functioning by creating barriers to contain flames, protecting the deepest and most essential parts of the forest.

As their rights are ignored by legislation, since 2010s, Indonesian indigenous groups try to fight for their rights at the same time to fight against climate change that threatening their livelihood by producing community mapmaking using GPS. They want to demonstrate the boundaries of their ancestral lands and forests, which they also believe could help mitigate negative effects of climate change. *“Community mapmaking has been a successful tool to show the government that we are here, and that we want to protect our lands”*, says Rukka Sombolinggi, a spokeswoman for the AMAN, a Jakarta-based secretariat representing more than 2,000 indigenous communities. According to the Philippines-based Tebtebba policy research foundation record in 2014, more than 600 cases for land rights have been filed in Indonesian courts by indigenous communities (IRIN, 2014). These advocates of sustainability and indigenous rights hope the maps will help thousands of diverse aboriginal groups to guard the health of the environment they depend on for survival.

Environmentalism became one element of a new political conjunctures, which also includes the forest carbon initiative Reducing Emissions from Deforestation and Forest Degradation Plus (REDD+), and a state-wide programme known as One-map. Together these forces are reshaping Indonesia's forest politics. A new regime of environmental governance is evolving in which Indigenous rights discourses are becoming an important component of rhetorical debates and practical

policies. For example, emphasize the importance of secure tenure for successful REDD+ implementation to campaign for recognition of customary land. The scale of AMAN's claims could be considered to an Indigenous-style green grab, or an ambitious attempt to align Indigenous land claims with broader green grabbing processes. AMAN is leveraging the green economies underpinning the new political conjuncture to claim, or grab, substantial parcels of land back from more extractive users (Astuti & McGregor, 2017).

One example of using environmental discourse to claim back indigenous peoples' right is the collaboration with GCF. Currently, Indonesia is part of the Governors' Climate and Forest Task Force (GCF Task Force), AMAN saw this as a next step for the government to consider environment protection in the country. Consequently, this is an opportunity for AMAN to work with the government related to the climate change, it is absolutely linked with indigenous peoples. In 2014, Governors from the member states included Indonesia adopted the Rio Branco Declaration (RBD), which commits the members to reducing deforestation and promoting sustainable, low-emissions economic development across state and provincial jurisdictions while forging partnerships and sharing benefits with indigenous peoples and local communities (Siringoringo, 2018). The members of the GCF Task Force and indigenous peoples and local community leaders endorse the following Principles of Collaboration:

- 1) The state shall recognize and respect indigenous peoples' and local communities' rights in relation to their lands, territories, culture, self-determination and governance as expressed, for example, in Convention 169 of the International Labor Organization on Indigenous and Tribal Peoples, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the New York Declaration on Forests, the Paris Accord, and other international agreements;

- 2)The state shall recognize the historic contribution of indigenous peoples and local communities to the maintenance of forest stocks and the environmental services those forests provide to society as a whole, through the traditional management of resources, such as community forest management, as well as modern territorial management strategies;

3) The state shall acknowledge, value and support the intrinsic relationship that indigenous and other local forest communities have to their territories and natural environments, which are the main sources for the long-term wellbeing of their people and integrity of their cultures;

4) The state shall intend to facilitate and strengthen indigenous peoples and local communities with regards to territorial governance, forest conservation and management, the preservation of and respect for their traditional knowledge and worldviews, including concepts such as “buen vivir,” implementation of life plans, and support for traditional livelihoods that promote integrated forest conservation and community development;

5)The state shall intend to contribute to the broader GCF objective of creating, monitoring and evaluating adaptable, context-specific subnational jurisdictional approaches to forest governance, avoided deforestation, livelihood development, and achievement of Nationally Determined Contributions in their respective countries, with a focus on respect for indigenous peoples’ and local communities’ rights;

6) The state shall intend to facilitate and support partnerships between subnational governments and representative indigenous peoples and local community authorities, who by definition are those who represent groups that have jurisdiction over a defined territory and vision for management of that territory;

7) The state shall promote, strengthen and guarantee the participation of and representation of indigenous peoples’ and local communities’ authorities and representative organizations in decision- making processes related to jurisdictional strategies for low emissions rural development and reducing deforestation and degradation;

8)The state shall advocate for subnational, “bottom-up” leadership in national policies for reducing emissions from deforestation and degradation and low emissions rural development that affect indigenous peoples and local communities and environmental governance in GCF member states and provinces;

9) The state shall respect and ensure consistency with the Cancún Safeguards, including Free, Prior and Informed Consent (as specified in UNDRIP and

ILO Convention 169) for the consultation of indigenous peoples and local communities;

10). As stipulated in the Rio Branco Declaration, the state shall affirm that benefits originating from subnational low emissions rural development and reducing emissions from deforestation and degradation initiatives should flow to indigenous peoples and local communities, as well as other actors contributing to reducing emissions from deforestation, recognizing their contribution to forest conservation;

11) The state will work to co-design initiatives and pathways for benefit-sharing, increased financing mechanisms, capacity building, and consultation through the Global GCF Indigenous Peoples and Local Communities Working Group as well as through working groups in GCF member regions, if applicable;

12) The state commits to facilitate and encourage the design and implementation of finance mechanisms by indigenous peoples and local communities through their representative authorities and organizations; and

13) The state commits to promoting measures to ensure protections for the defense of forests by indigenous peoples and local communities.

GCF Task Force states and provinces recognize that indigenous peoples and local, forest-based communities often lead the way in building and maintaining successful, territorial approaches to forest conservation and low-emissions development. For their part, indigenous and local community leaders recognize that working with governments at all levels is critical in their efforts to secure territorial and human rights and benefits for their communities from their forest conservation and low emissions development leadership (Siringoringo, 2018). Thus, GCF Task Force believes that to sustain the environmental health, is to strengthen and support indigenous communities. AMAN strongly agrees on this point and applying this discourse into their approach.

#### **4.5 NGOs' Shifting Roles and Strategies**

Under the political transition in the country, Indonesia's political and social contexts since the post-colonial era have been complicating. Indonesian NGOs need to adapt their roles, strategies, and approaches to survive under the different



social and political contexts. During Suharto's government, once the society suffered from serious political constraints and the powerless were suppressed by the powerful, NGOs were forced to adopt strategies and approaches that conform to the political conditions set out by the state. In the mid-1990s, when Suharto's political legitimacy was beginning to wane, some NGOs attempted to facilitate grassroots resistance by conducting the pro-democracy campaigns to include grassroots in developmental process, while many NGOs conducted activities to facilitate the formation of a strong civil society. Thus, in the post-Suharto era, the role of NGOs in facilitating the political transition to democracy becomes more significant.

Since before the fall of Suharto, Indonesian third sector place themselves as challengers to the government. They adopted an approach to challenge government's administration. NGOs at that time were saw as the political opposition in the state's eyes. In Indonesia, NGOs are defined as any of those development organizations which are not part of government and which have not been established as a result of an agreement between governments. NGOs' goals as opposed to those of other organizations are almost always related to the problem of development that is to problems surrounding the economic, social, and cultural. NGOs in Indonesia explicitly attempt to separate themselves from governments, which also intervene in the economic, social, cultural dynamics (Fakih, 1991). As the New Order was administrated by authoritarian government with fully centralized structure, civil society was hardly to participate in any policy making. The only way they can express their struggle was through resistant campaign or a mop. Thus, the government have always seen the third sector as enemy.

In early years, after the fall of the New Order in 1998, as the space for civil society have been more expanding, NGOs had better opportunity to deliver their campaigns and advocacy to be heard. However, their strategies were still place in the same form which to oppose government's works. As the AMAN General Secretariat explains that at that time they have less experience to work in democratizing sphere. They main focus is oppose the government's projects case by case in different areas. Throughout time, they have leant that Indonesian political context was changed, they cannot work under the same approach. Few years after that, they turned their focus from government opposition to be more friendly with government and attempted to

cooperate with government agencies. Since then, Indonesian NGOs started to apply a new approach to advocacy for indigenous peoples. The new approach is development engagement or participatory approach. Some NGO started to apply this approach since before the fall. For instance, in 1996, an NGO name Yayasan Tanah Merdeka (YTM) introduced this approach in the Lindu plateau area. YTM collaborated with a Canadian NGO called the Silva Forest Foundation, which trained several YTM activists and others in community-based or participatory mapping. This approach also used by a number of NGOs in Kalimantan and the Moluccas. Participatory mapping is a process that local communities map the distribution of their natural resources, land use patterns, social orders, and ownership structures. Such a process becomes an instrument through which he community can observe its social relationships in relation to the management, ownership and control of natural resources. This participatory mapping produces a map can be used as a tool for claiming and protecting territories and resources when a community faced with predatory outsiders (Sangaji, 2007).

Recently, the participatory approach seems to be jammed and not easy to reach people's needs. Indonesian NGOs again adapt their approach to be more global and link their issue with international concern, environmental health concern. For example AMAN, they started to apply environmentalism approach in their strategies since early 2000s. They linked the issue of indigenous peoples' rights and land grabbing with environmental issue, in order to gain attention globally and put more pressure on the government to take action. Furthermore, for bigger organization, especially national level NGOs, from the idea of working together with the government, as many year passed, they have learned that whatever the central government promised, they often fail to do so. Many Indonesian NGOs now try to send their representatives to be a candidates for general election in all levels, provincial, regional and national levels. They believe that if they have people who really represent vulnerable people as politicians, those people will have stronger voice to address the issues and influence in policy making which truly benefit people.

## 4.6 Challenges

NGOs in the world today are facing various challenges that threaten their future works and sustainability. Generally, these challenges are the availability of funding, management of human resources, public interest, and the ability to maintain a new generation of NGO leaders. NGOs also need to operate freely without government interference (Lassa and Li, 2015). Although, working collaborated as NGOs network helps strengthen their works and have strong influences on government implementation. However, those challenges are only a second prioritized challenges for Indonesian NGOs. Although, The number of NGOs in Indonesia have grown significantly since 1998 as part of a broader development, but few of them have positively engaging with government, the corporate sector or other stakeholders. After the reformation period, the environment of works and strategies of NGOs have changed, considerably more complex and difficult to navigate, even though the new environment for civil society and NGOs is more open in terms of access to information and distribute their information, but there is no guarantee that NGO contributions to public and political discourse will be welcomed by society. The major challenge for Indonesian NGOs is a reformation of their positions vis-s-vis the state and various other sectors in the society. As democratizing country, power is no longer centralized but it distributed among new power agencies such as parliament, political parties, and judicial institutions.

Nowadays, NGOs are in the process of learning how they can be part of a process of creating checks and balances. The role of public benefit protector is no longer monopolized by NGOs, but is shared with other actors, and other civil society organizations. The situation seems to be changed today, NGOs cannot express their position as government opposition, and it is unfavorable for the immediate future of the NGOs without a breakthrough on relations and interactions with government and other sectors in the society (Antlov, Ibrahim and Tuijl, 2005). The NGOs need a genuine two way dialogue with the government and private sector to develop trust. It will led to a change from protest politics to developing strategies of engagement through the process of lobbying and negotiations. However, those challenges usually represent external challenges facing by most of the NGOs, not only Indonesia but around the world. According to the interview with AMAN, they state that the most

challenges for them are internal factors which they divide them into three main parts accorded to their recent work evaluation report, which are strategies, institutions, and program management.

#### **4.6.1 Strategies**

##### **1) The importance of communication**

Communication is a very important basic strategy for team working. AMAN has experience many improvements in communication skill and has utilized many media effectively, it is still lack of good communication in several significant issues, some of the issues are still unknown. An important factor for the success of AMAN's advocacy work is strengthening the visibility of AMAN's works and increasing awareness and better communication among members, wider community, and government agencies.

##### **2) Engaging in election and political parties**

AMAN tries to engage in election and political positions, believing that it will provide opportunities to bring about legal and policy changes as desired. However, as experienced by Indonesian peasants unions and demonstrated by indigenous people movement in other countries, this can also bring a danger of being co-opted by political parties and ended up in conflict and violence.

##### **3) Choose the right target in the government agencies**

In general, AMAN has so far well targeted advocacy work and responded to changes in government appropriately. However, being too focused on specific bodies that are temporary use is no efficient because we will ignore other targets such as ministries who is the permanent bodies and will be responsible in the long term for AMAN's working issues. AMAN needs to ensure that it has well-understanding of bureaucratic structure and sentiment, so that it can target advocacy better. This is very important challenge because AMAN expects the Indigenous Peoples Task Force to be formed in a soon future.

##### **4) The allies are important**

Other non-governmental organizations and civil society organizations partnership are important for AMAN's success. We realize the challenges of maintaining independence and the need to work together with other civil society

organizations that sometime do not understand well about the rights of indigenous peoples. AMAN does not limit the potential in cooperating with new strategic alliances such as civil society organizations, religious institutions, and academics, especially at the local level. This can help for speed up the passage of our regional regulations on indigenous peoples' issues as well as can help to raise funds for regional administrators.

#### **5) Projects must support the movement**

The projects should support the work of community movements or organizations, in promoting the rights of indigenous peoples and should not be the movements and organizations 'serve the projects'. However, in some cases, it happened because of the lack of resources. To prevent this, AMAN already has policies and procedures to ensure that local organizations' decision making is in line with the mandate given by the Congress.

#### **6) Think globally, but act locally**

Being a member of AMAN dose bring great changes to indigenous peoples and communities because as members they have better access to important information and have increased awareness of their rights and knowledge about the law. The communities become more empowered and confident. Leaders and activists who decided to form the local organization of indigenous peoples were inspired by indigenous people's movements that took place in many area in Indonesia and everywhere in the world. AMAN has kept it connected with global network and became very important player in the global indigenous movement. Involvement in international processes such as the Permanent Forum on Indigenous Issues, UNFCCC, and so on, helps AMAN stay informed about the current global indigenous issues and contribute to the developments at international processes, as well as to Indonesian indigenous working plan as well. As the leaders of AMAN often attend the events abroad, it is challenging for AMAN to balance between the international, national, and local works. Therefore, AMAN applies the concept of 'think globally, but act locally'. Knowledge that has been gained at the global level must be shared with the local and grassroots, to make sure that the local act is connected with global thinking.

## **4.6.2 Institution**

### **1) Leadership sustainability**

The sustainability of AMAN's leadership has become a strong people's movement and well-known throughout the country. It should be underlined that individual activists, leaders, and members of AMAN, their commitment, dedication and sacrifice make AMAN what it is today. AMAN is able to provide a dependence on their commitment. However, the organization need to ensure that the movement will not only depends on a small numbers of people. AMAN must ensure the growth of new generation. AMAN needs to give a space for and support to young activists to get involved and can become a new leaders in the future. Building a capacity of staffs and leaders at all levels, in order to form a 'second tier' that can be relied upon leader changes occur.

### **2) Focus on the local and empower the community**

AMAN takes advantage of the opportunity to change the political situation by being involved and making peace with the government. There are some responses from several monitories for a cooperation. The president even states that working with AMAN is necessary. This made AMAN secretariat and leaders at national and regional levels spend more time and effort engaging with the government. A number of AMAN allies concern that AMAN will be increasingly uprooted from its grassroots base. Some concerns that AMAN will be more project oriented and become inactive NGO. Furthermore, the political situation and donor priority can change. Therefore, AMAN must be aware that its strength lies in its strong roots and its ability to mobilize the community. AMAN has succeeded in strengthening the capacity of the Regional Administrators, but it also aware that there is a need of focusing on building capacity of the Provincial Administrators and strengthening the capacity of community level as well.

### **3) Empowering youth**

In 2012, AMAN begun to address one of the biggest challenges in the plan called the movement of indigenous peoples' rights at all level of community, meaning mobilizing and encourage young people committed to their cultures, traditions, and community, and voice for their rights.

#### **4) Empowering women**

With the formation of PEREMPUAN AMAN (the Indigenous Women Solidarity) in 2012 and the adoption of AIPP gender policy, AMAN has taken step towards mobilizing women and incorporating gender issues into their work. However, gender issues at all level in AMAN's work is still very limited.

#### **4.6.3 Program Management**

##### **1) Strengthening staffs' capacity**

AMAN has staffs in national and regional offices that have very high capability and commitment. However, there are some skills that are lacking such as analysis and writing skills. Staff members showed a desire to increase their capacity, but this was difficult because of the heavy workload.

##### **2) Following the schedule**

AMAN's work frequently missed the deadlines and do not fulfill the promise of the partners. It caused the frustration to the partners and effect on their relationship with AMAN. Meeting the deadlines of the donors are very important because it will show a reliable and professional of the organization, also ultimately makes donors willing to continue support the finance to the organization.

##### **3) Sustainability**

AMAN has a strong foundation at the community level because of the Provincial and the Regional Administrators have the capability and large numbers of institutional volunteer activists which can be guaranteed. However, the challenge is the financial sustainability. The Provincial and the Regional Administrators have conveyed the need for greater financial resources. In the past few years the Secretariat has been able to seek for financial resources, and the donors still continue to support the issue of indigenous peoples in Indonesia, in at least the next few years. Therefore, AMAN must take advantage of this opportunity in its strategy in term of financial plan and sustainability at all levels (AMAN Evaluation Report, 2015).

## **CHAPTER V**

### **CONCLUSION**

We all know that non-governmental organizations (NGOs) address very important roles in our society, not only in developing countries but also in advanced countries. Generally, NGOs engaged in extensive formation of activities and mostly philanthropic work for people left out of the developmental process. However, when considering the roles of NGOs, different contexts in particular country may be different. This research aims to study the roles of NGOs in Indonesia in particular, it found that their roles have changed through the democratic transition of the country. This research found that nowadays, NGOs are in the process of learning how they can be part of a process of creating checks and balances in the development process and decision. The role of public benefit protector is no longer monopolized by NGOs, but is shared with other actors, and other civil society organizations and sectors. The situation seems to be changed today in Indonesia, NGOs cannot express their position as government opposition as in the past, as Antlov, Ibrahim and Tuijl state that it is unfavorable for the immediate future of the NGOs without a breakthrough on relations and interactions with government and other sectors in the society. The NGOs need a genuine two ways dialogue with the government and private sector to develop trust. It led to a change from protest politics to developing strategies of engagement through the process of lobbying and negotiations.

As shown in the case of AMAN's role, in the beginning years after the establishment, AMAN mainly worked to help the indigenous communities protest the government's development projects. They were placed as the government opposition. The government always saw them as an enemy. It was very difficult to do lobbying and negotiation because the governmental officials did not welcome them for the negotiation. Few years later, when the organization was more stabilized in working on this issue, plus they have more experiences, seeing what were really needed for the best solution. They started to change their position and roles. Now, AMAN placed themselves into a space where they can involve in developing strategies through the



process of lobbying and negotiation. AMAN put themselves in a gap space created by the developmental process, trying to link up the individuals' needs (here means indigenous communities) with the government's distribution of resources. However, in order to reach that goal is not simple, the (collective) rights of indigenous peoples need to be official recognized by the state. AMAN divide their works into four fields, political, internal, economic, and socio-cultural affairs ensuring that their works cover all aspects for the best benefit of indigenous peoples.

AMAN is not only working among the indigenous communities but it also work widely with private sector and other civil society organizations. With a strong network, AMAN have achieved many works and have stronger influences to put a pressure on the government, as well as the policy makers. In these present years, AMAN adopted the global trend of a concern on the environmental issues, climate change, and global warning into their discourse. AMAN sees the environmental exploitation in Indonesia is an urgent problem because the increase of land grabbing for the industries, mining, and palm oil plantation which always lead to deforestation. Those projects are not only affect the indigenous peoples but also very harmful to the environment. AMAN addresses environmentalism as a new approach to claim indigenous peoples' rights. AMAN believes that in order to protect the environment, we need to protect indigenous peoples, who clearly known as the best forest defenders. With the environmental discourse, the government cannot ignored it. As one of the richest countries in natural resources, Indonesia is being observed internationally. Thus, Indonesian government needs to be more careful on their developmental projects.

However, although democratization in the country opened up more space for the third sector like NGOs for their activities but it does not mean that NGOs can work freely and easier. NGOs in Indonesia face many challenges that threatening their works and achievement. Generally, these challenges are the availability of funding, public interest, and ability to maintain a new generation of NGOs. The research found that the challenges that concern NGOs the most is internal challenges. AMAN found that the most challenges for them are the strategies, institutions, and program management. First challenge is designing strategies. As a national wide organization, the strategies they use need to be well-communicated between the members, so they

will be able to spread this message to wider society and government agencies. Importantly, the strategies and advocacies need to think as globally, but act locally ensuring that people will be the most benefited. Second challenge is institution or internal affairs. The most important for AMAN is strengthen and empower the communities. When the community is strengthened, they will be able to empower their youth and women as well. Lastly, the challenge on program management. AMAN has staffs in national and regional offices that have very high capacity and commitment. However, there are some skills that are lacking, so the organization needs to strengthen their staffs' capacity. Furthermore, AMAN is concerning on the sustainability of their staff. They have a program training indigenous youth who have potential to be leaders in the future. Those challenges are important to consider when we discuss about NGOs' roles, because they can significantly affect their works and limited them from doing some fruitful activities for communities.

On the other hand, the democratization seems to be contradictory. While it created more space for NGOs' works, but it also lead to a wider gap in society, particularly marginalized groups. In Indonesia, democratizing the nation based on developmentalism approach led to an ignorance of minorities groups. In the past decades, the Indonesian government tries to decentralize the central power, with the passage of new legislation that shifted political fiscal authority to provincial level governments. The policy makers saw decentralization as a way to make government more accountable to local populations. Nonetheless, such a shift of power, it empowered and authorized the local government to control more over the natural resources in the region. They can lease lands to any private companies, they can allow private sector to do illegally deforestation. The wealth generated by the natural resources had enriched politicians and their cronies rather than benefiting local communities. The decentralization promises that the benefit of ethnic minorities and other marginal groups within the state will be better protected but it seems contradictory, after centralized power to the local level, it made the local especially indigenous groups are even more marginalized. The rise of NGOs is not only because of the decentralization itself opened up the space for a third sector, but decentralization led to a marginalization of ethnic minorities. Consequently, NGO sector in Indonesia started to rise up in order to support and mobilize those marginalized groups.

Therefore, the idea of developmentalism and democratization is conflicting with reality in Indonesia.

The gap happened because the state apply the developmentalism approach by focusing only on the relation between state and market. In a case study of Indonesia, the state only focus the national development based on the economic growth. Indonesian government develop their economy by dependence on the natural resources without considering its impacts on people which mostly are indigenous groups, and negative consequences on the environment. The government pays rarely attention on socio-economic, sociopolitical, and human development, which are strongly linked to sustainable development of the country. Today, indigenous peoples and other minorities groups in the country are still left out from the development plan. Moreover, indigenous peoples' rights are not legally recognized, when the development projects either government's projects or private sectors' industries or investor, come to claim the land they lived in for centuries, they cannot claim it back as they do not hold legal ownership over hose land. This is strongly shown that NGOs or the third sector is necessary for Indonesia's development and democratization. Their roles are to bring up the issue from the gap created by the exclusive development, to the duty bearer that is the government who responsible for the solution. On the other hand, NGOs also influent and engage in policy checking ensuring that those policies will be inclusive. Nonetheless, it does not mean that NGOs will take over the roles of the state, in reducing the gap and serve all populations' needs. Instead, NGOs' role is to present the issues and needs of people who are left behind. In other words, NGOs' works is to bridge the gap between the state policy, market interest, and people. Obviously that they play very important roles in developmental process in various aspects, especially for developing countries included Indonesia.

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## **APPENDIX**

## **DRAFT INTERVIEW QUESTIONS**

Explanation of the participant's role, rights during the interview, and explanation of confidentiality was clearly stated in the research consent form. The research interview was delivered based on a semi-structured approach. List of questions below is the only guideline that used during an interview process.

## **CONTEXT QUESTIONS**

- 1) How long have you been working in this organization?
- 2) How long has your organization been working on Indigenous' Land Rights issue?
- 3) What kind of work are you doing for helping IPs on this issue?
- 4) What strategies are you using for dealing with this issue?
- 5) How many cases/ communities are you working on?
- 6) How is the land rights issue situation currently in your area of work?
- 7) What do you think are the main causes of land rights issue in Indonesia?
- 8) What do you think is the best solution for this issue?
- 9) Do you have any difficulty working on this issue? If yes, can you please explain?

## **BIOGRAPHY**

<b>NAME</b>	Numfon Jaiwong
<b>DATE OF BIRTH</b>	26 January 1994
<b>PLACE OF BIRTH</b>	Chiang Rai, Thailand
<b>INSTITUTIONS ATTENDED</b>	Chiang Mai University, 2012-2016 Bachelor of Arts (Social Science)
<b>SCHOLARSHIP RECEIVED</b>	Asia Pacific Regional Program (APMA) Scholarship
<b>RESEARCH GRANTS</b>	Asia Pacific Regional Program (APMA) Scholarship
<b>HOME ADDRESS</b>	60 M.5 Baan Sribunraung, Nongpagoh Sub-District, Doiluong District, Chiang Rai, Thailand