

Regulatory Landscape Forest Carbon in Sustainable Forest Management

Harry Alexander

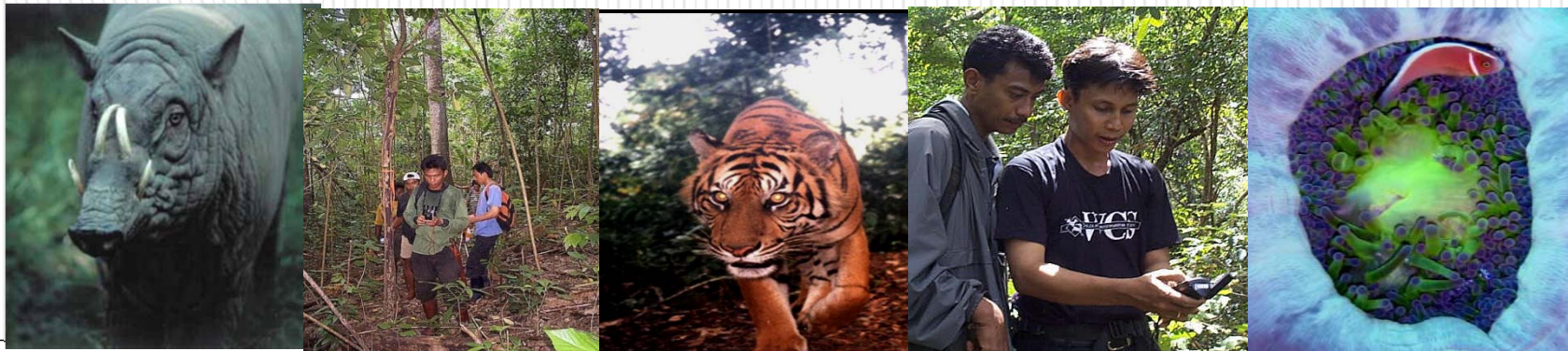
Legal experts

Research Center for Climate Change-University of Indonesia

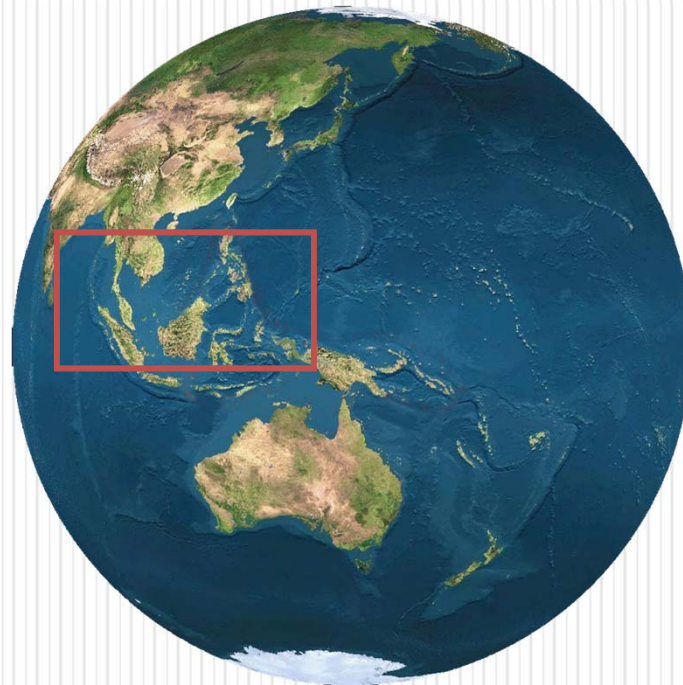
Inclusive Innovation and Entrepreneurship in REDD+

Sweden-Indonesia Initiative

7-8 May 2013, JW Marriott Hotel, Jakarta



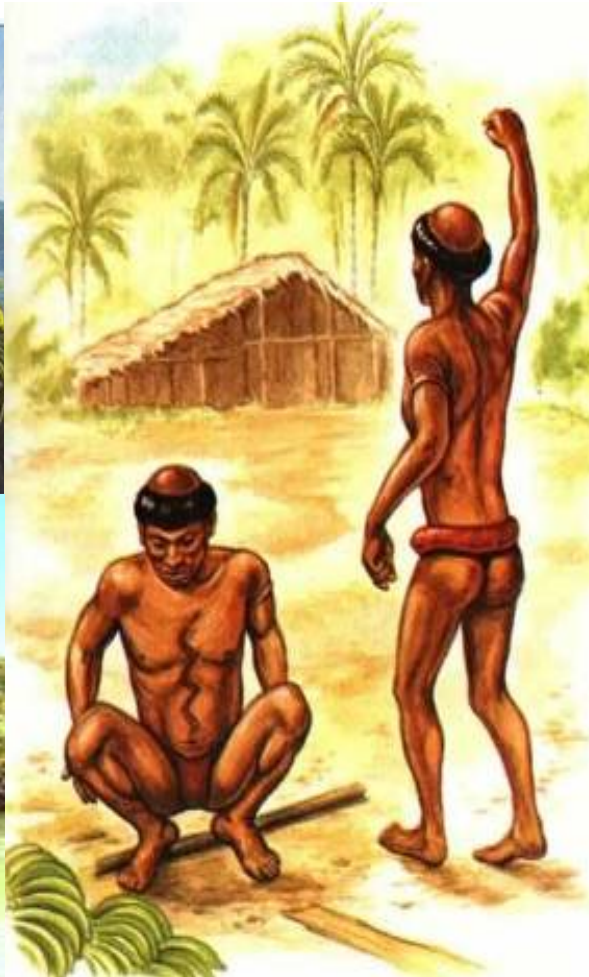
Background



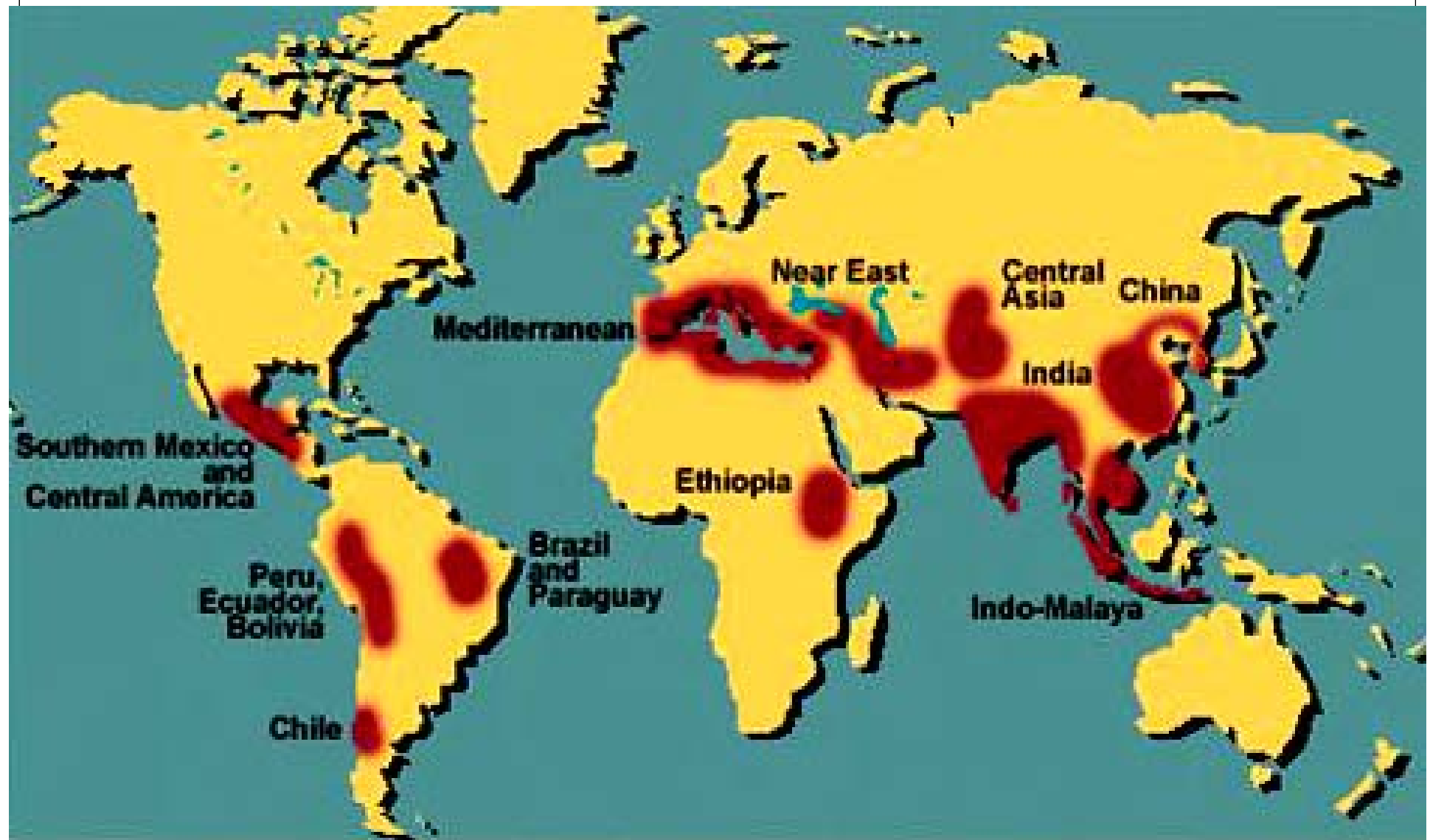
REDD in National & International Fora

- Indonesia is a mega diversity country and also rich in cultural Diversity
- Law and legal institutions in Indonesia changed in response to economic policies
- In 2007, the Ministry of Forestry launched a REDD pilot project
- There is now scientific consensus that global warming is taking place and COP recognized the crucial role of reducing emission from deforestation and forest degradation (REDD) Plus.
- The debate over International negotiation on Climate Change & REDD is largely about economic development, benefit sharing, conservation and International trade
- At present, there are no agreed rules on REDD at the international level and the structure of a REDD mechanism is unclear

People & Forest



People & Forest



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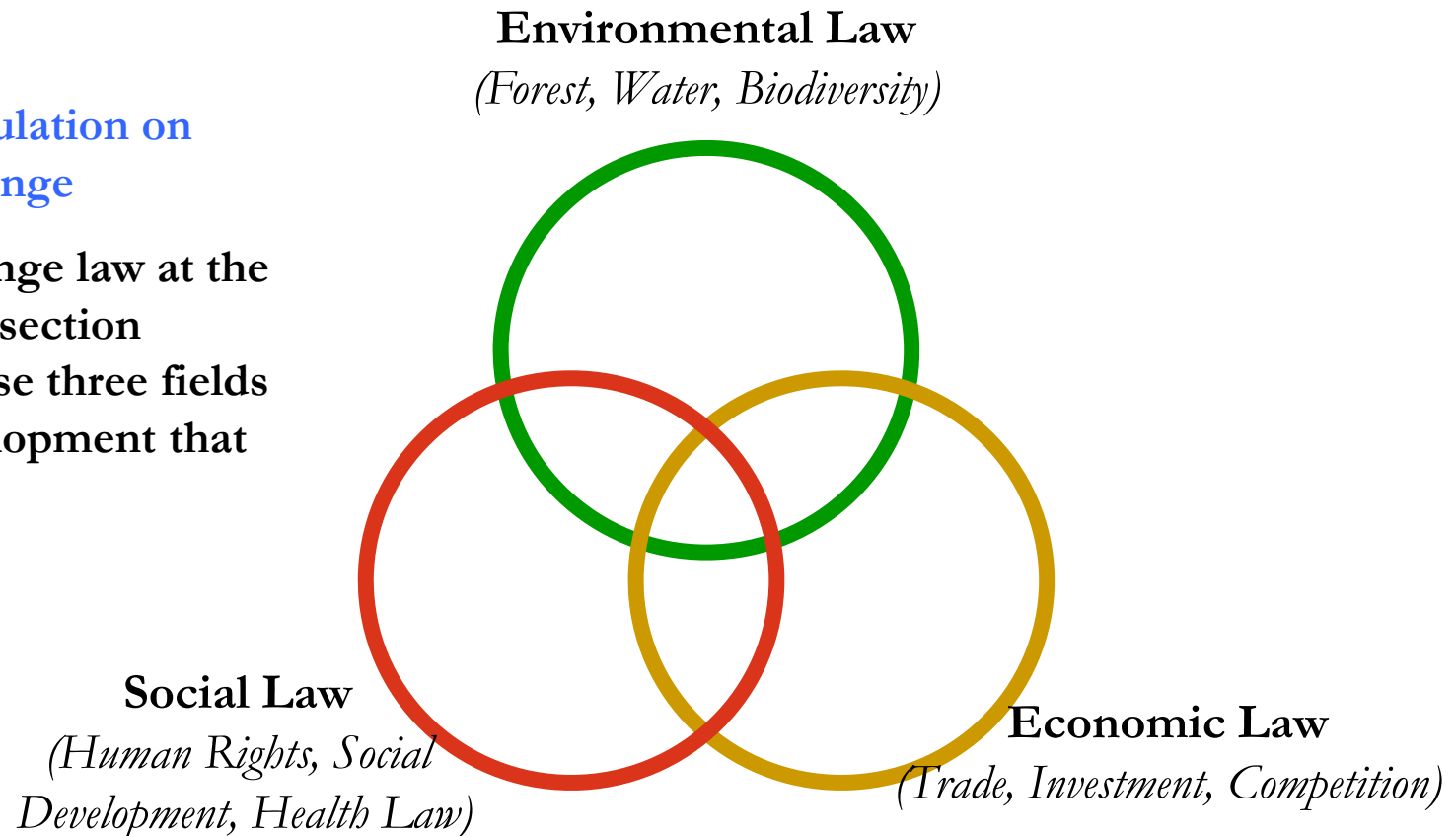


Legal Framework

Law & Regulation on Climate Change

Law & Regulation on Climate Change

Climate change law at the area of intersection between these three fields toward development that can last.

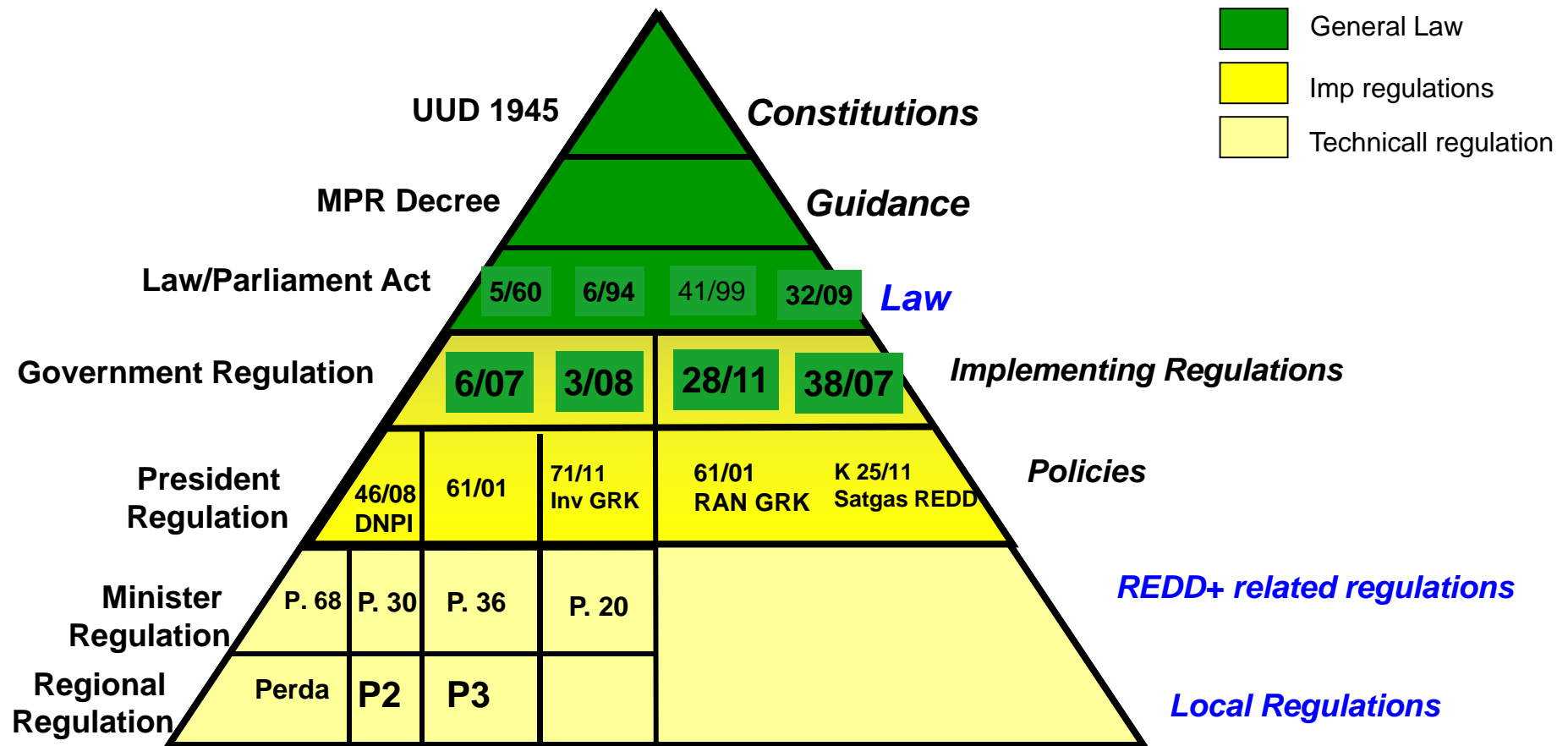


International Law - Principle

- The duty of States to ensure sustainable use of natural resources
- The principle of permanent sovereignty over natural resources
- The principle of sustainable development
- The principle of equity (inter and intra-generational equity) and the eradication of poverty
- The principle of common but differentiated responsibilities
- The principle of the precautionary approach to human health, natural resources and ecosystems
- The principle of public participation, access to information and to justice
- The principle of good governance
- The principle of integration and interrelationship, in particular in relation to human rights and social, economic and environmental objectives



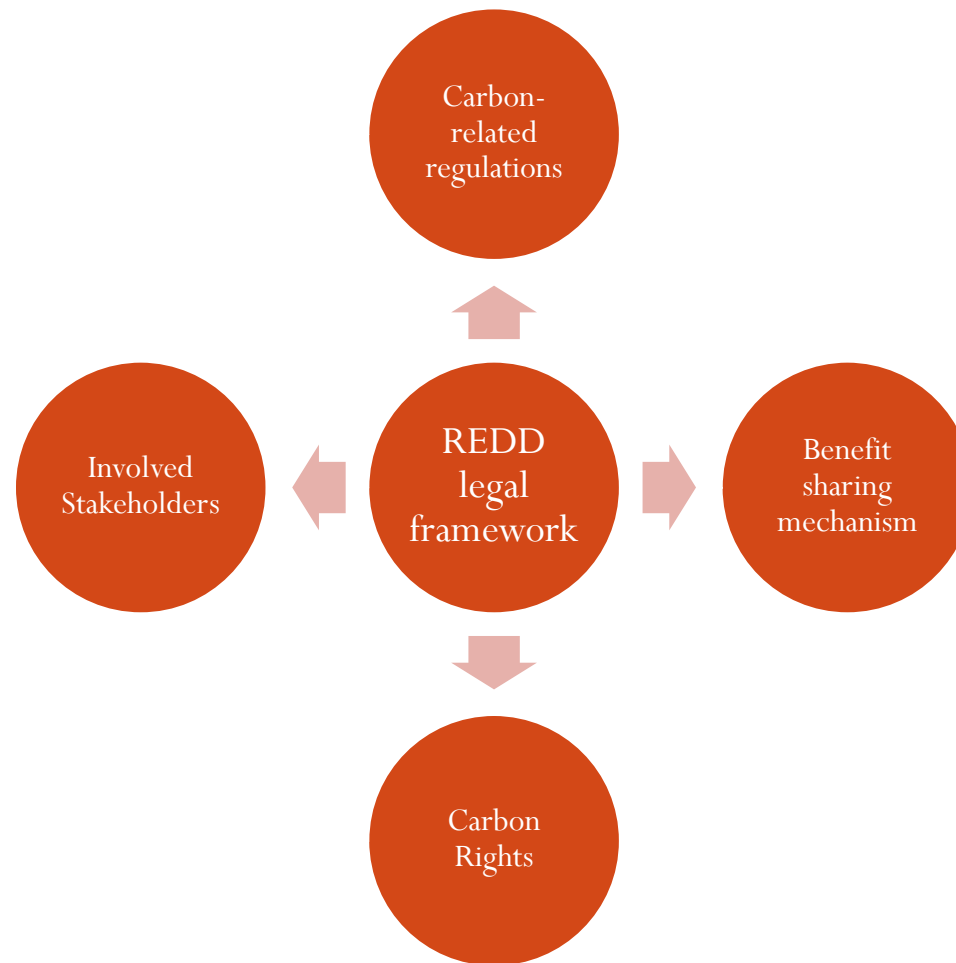
REDD+ related regulations



Forest Carbon & RAN GRK (PERPRES No.61/2011)

Sector	Emission Redaction (Giga ton CO ₂ E)		Action Plan
	26%	41%	
Forestry and Peat-land	0.672	1.039	Forest and land fire control. Network system management and water management, forestry and land rehabilitation, HTO (industrial Plantation Forest), HR (Community Forest), illegal logging eradication, deforestation prevention, community empowerment
Agriculture	0.008	0.011	Introduction of low emission paddy varieties, irrigation water efficiency, organic fertilizer use
Energy and Transport	0.038	0.056	Bio-fuel use, engines with higher fuel efficiency standard, improvement in TDM (Transportation Demand Management), quality of public transport and road, demand site management, energy efficiency, renewable energy development
Industry	0.001	0.005	Energy efficiency, use of renewable energy, etc
Waste	0.048	0.078	Use of Final Landfill, waste management by 3R, and urban integrated waste water management
	0.767	1.189	

REDD Legal Framework



GAP Analysis

Policy

- Comprehensive Policy
- Fiscal Policy
- Rights and the Role of ILC

Legislation & Regulations

- Definition of REDD+
- Carbon Ownership
- Law foundation for REDD + rules inadequate, Inconsistency, Conflict
- GAP on regulation of Conservation area
- Land ownership and Land Tenure?

Institutional

- Independent under Presiden?
- Attach to Ministry of Forestry
- Attach to Ministry of Environment

Implementation

- GAP on technical language of the law in REDD +
- Investment Legal Certainty
- Government Responsibility & Guarantee

Carbon Right

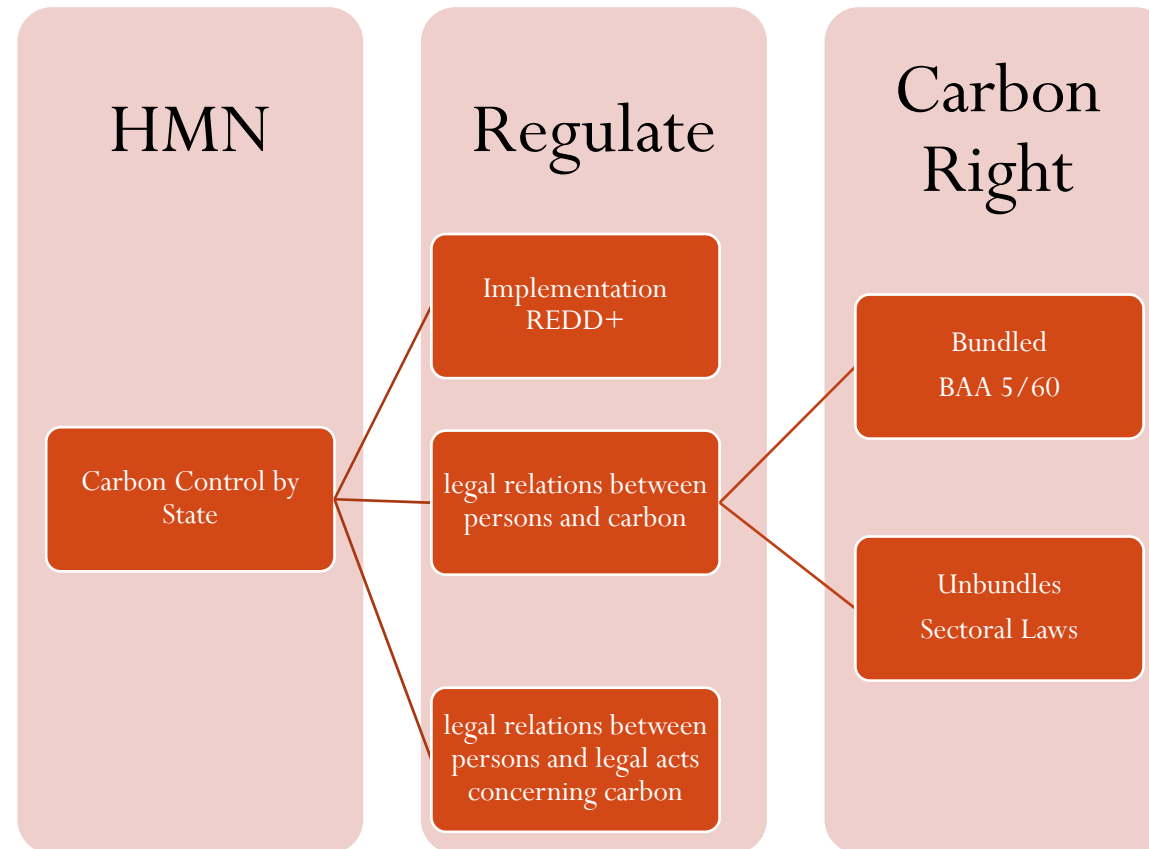


Carbon Ownership Concepts

Tenure Regime	Definition	Examples
<i>Res Communes</i>	Things open to all by their inherent nature (CO ₂ in the atmosphere)	Air, sea (open access)
<i>Res Publicae</i>	Things belonging to the public and open to the public by law (C in the lithosphere)	Roads, navigable rivers (public property)
<i>Res Universitatis</i>	Property belonging to a private or public group in its corporate capacity (Forest C?)	Private university, condominium (community property)
<i>Res in Patrominium</i>	Things that could be privately owned by an individual (Forest C on private land?)	Land under private ownership
<i>Res Nullius</i>	Things belonging to no-one (C in the ocean)	Unclaimed land, fish or game

Carbon Ownership - Indonesian Constitution

The Indonesian 1945 Constitution, Article 33.3, placed land, water and airspace including the natural resources, within the “control” of the state, to be used for the people’s prosperity.



Carbon Rights

License

IUPHHK and IUPHHBK license

IUPJL license

IUPK license

timber and non-timber forest products (IUPHHK and IUPHHBK license)

Land Title

State Forest Land

Customary Forest Land
(Hutan Adat)

Other Collective/Community
Forest Land

Private Forest Land

Other type of land

Land status

Forest Area:
MoF responsibility:
Conservation Forest
Production Forest
Protection Forest

additional coordination with
Ministry of Agriculture,
Public Works etc. Required:
Conversion Forest

Non-Forest Area
(district government)

Benefit Sharing



Elements of Benefit-Sharing

Policy Oriented

Fair & Equitable Sharing

Monetary / Commercial or Other Use
Benefits

Mutually Agreed Terms / Contract

Benefit-Sharing Management Considerations

Option 1

Regulatory

Centralized

Itemized

Now

Option 2

Negotiated

Localized

Packaged

Later

Benefit Sharing

Government

Tax

Non Tax

Investor

Payment

Contract

ILC

Indonesian
Customary
Law

Contract

Existing Benefit Sharing?

No	License Holder	Distribution / Benefit sharing		
		Government	Local Community	Project Proponent
1.	IUPHHK-HA	20%	20%	60%
2.	IUPHHK-HT	20%	20%	60%
3.	IUPHHK-RE	20%	20%	60%
4.	IUPHHK-HTR	20%	50%	30%
5.	Hutan Rakyat	10%	70%	20%
6.	Hutan Kemasyarakatan	20%	50%	30%
7.	Hutan Adat	10%	70%	20%
8.	Hutan Desa	20%	50%	30%
9.	KPH	30%	20%	50%
10.	KHDTK	50%	20%	30%
11.	Hutan Lindung	50%	20%	30%

Existing Benefit Sharing among Government

Distribution / Benefit sharing Among Government		
Central	Province	District
40%	20%	40%

Existing Benefit Sharing?

License Holders	Aka	Explanation	C	P	D
Concession fee	IIUPH	Concession application fee	20%	16%	64%
Pajak Bumi dan Bangunan	PPB	Land and building tax, paid annually on land area	10%	18%	72%
Pajak Pertambahan Nilai	PPn	Value added Tax, paid annually on applicable revenue	80%	8%	12%
Provisi Sumber Daya Hutan	PSDH	Forest resource fee, paid per cubic metre wood removed	20%	16%	64%
Dana Reboisasi	DR	Rehabilitation fund fee, paid per cubic metre wood removed	60%	0%	40%
Izin Usaha Pemanfaatan Jasa Lingkungan	IUPJL	Environmental service license fee, varies by location.	TBC	TBC	TBC
Pajak Penghasilan	PPh	Income tax on salaries	80%	8%	12%
Iuran Hasil Hutan Non-Kayu	IHPH	Non-timber forest product use fee, paid annually on applicable revenue	20%	16%	64%

Stakeholders Engagement



Involved Stakeholders

Government

Local Government

Central
Government

Non- Government

ILC

NGOs

Donors

Certification and
Verification Bodies

Private Sectors

Investors

Insurance
Companies

REDD+ Institutional Arrangement

Institutions

Kementerian Kehutanan

**Kementerian Lingkungan Hidup
(KLH)**

**Kementerian Koordinator
Perekonomian**

Bappenas

Kementerian Keuangan

DNP/Satgas REDD+

Pemerintah Daerah

Role&Responsibility

**Pengaturan & Kebijakan Karbon
Hutan & Kehutanan**

Kebijakan Lingkungan Hidup

Kordinasi Kebijakan

Perencanaan

Pembangunan Nasional

Incentives & Financial Policy

Kebijakan Perubahan Iklim

Detailed

Kementerian Kehutanan bertanggung jawab dalam tata kelola kehutanan melalui penyediaan jaminan pemenuhan hukum dan peraturan di Indonesia untuk kegiatan Kehutanan/REDD+ di Indonesia

KLH sehubungan dengan kegiatan sinergitas kebijakan bertanggung jawab untuk analisis kebijakan lingkungan yang mengkuantifikasi dan menilai dampak lingkungan dalam kegiatan kehutanan dan kegiatan PBJP. KLH juga dapat berperan dalam kordinasi kelembagaan di bidang lingkungan hidup.

Kementerian Koordinator Perekonomian bertanggung jawab dalam pelaksanaan kordinasi dan sinergi kebijakan pendukung pelaksanaan REDD+.

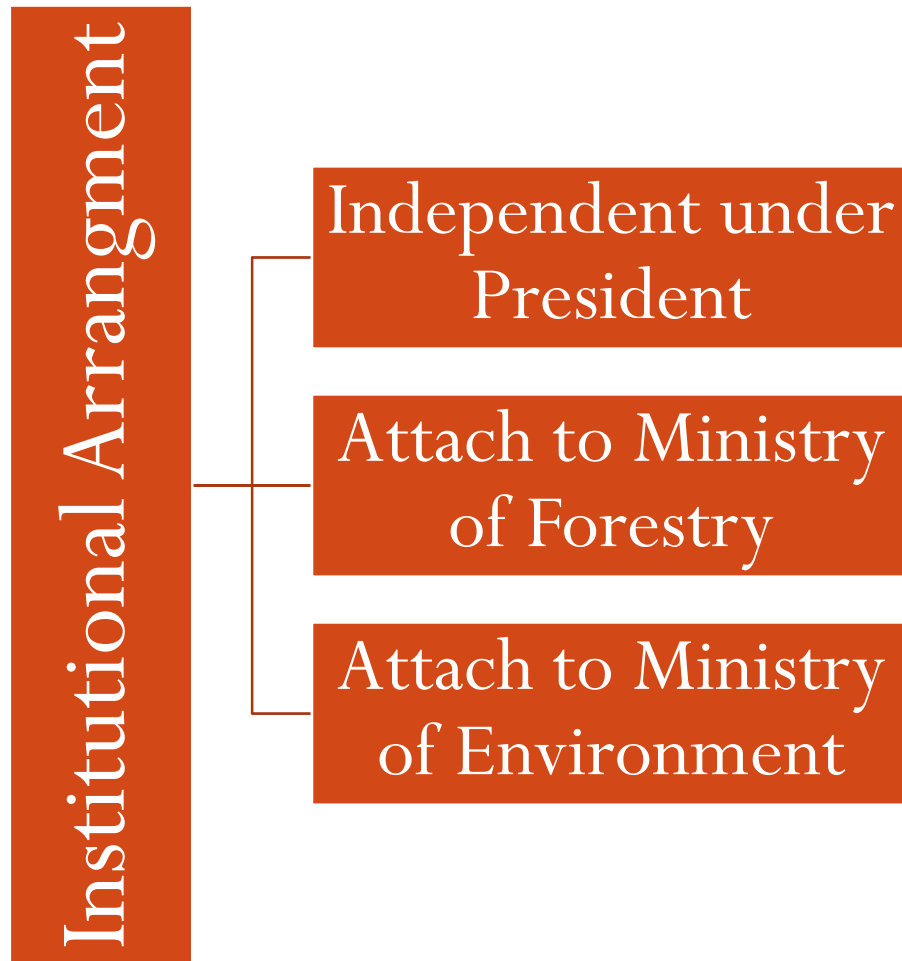
Perencanaan pembangunan nasional terdiri dari Jangka Panjang Rencana Pembangunan Nasional ("RPJP"), Jangka Menengah Rencana Pembangunan Nasional ("RPJM") dan Rencana Tahunan / Rencana Kerja

Peran Kemenkeu sehubungan dengan kegiatan REDD+ adalah untuk (i) penyusunan anggaran (ii) menentukan kebijakan fiskal (iii) menyetujui insentif pajak, dan (iv) memberikan insentif fiskal. Dalam Kemenkeu, Ditjen Anggaran, Ditjen Kekayaan Negara dan Badan Kebijakan Fiskal dapat menjadi kelembagaan untuk menyusun kegiatan REDD+

Melakukan Koordinasi dan komunikasi posisi Indonesia di UNFCCC dan Kebijakan PI

Berdasarkan UU Pemerintahan Daerah, pemerintah daerah bertanggung jawab di wilayahnya sesuai kewenangannya.

Scenario of REDD's Institutional Arrangement



Thank you

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