

Provincial Autonomy and Forest Management Unit (FMU) Legislation in Aceh Province, Indonesia: A Review of Regulatory Asynchronies

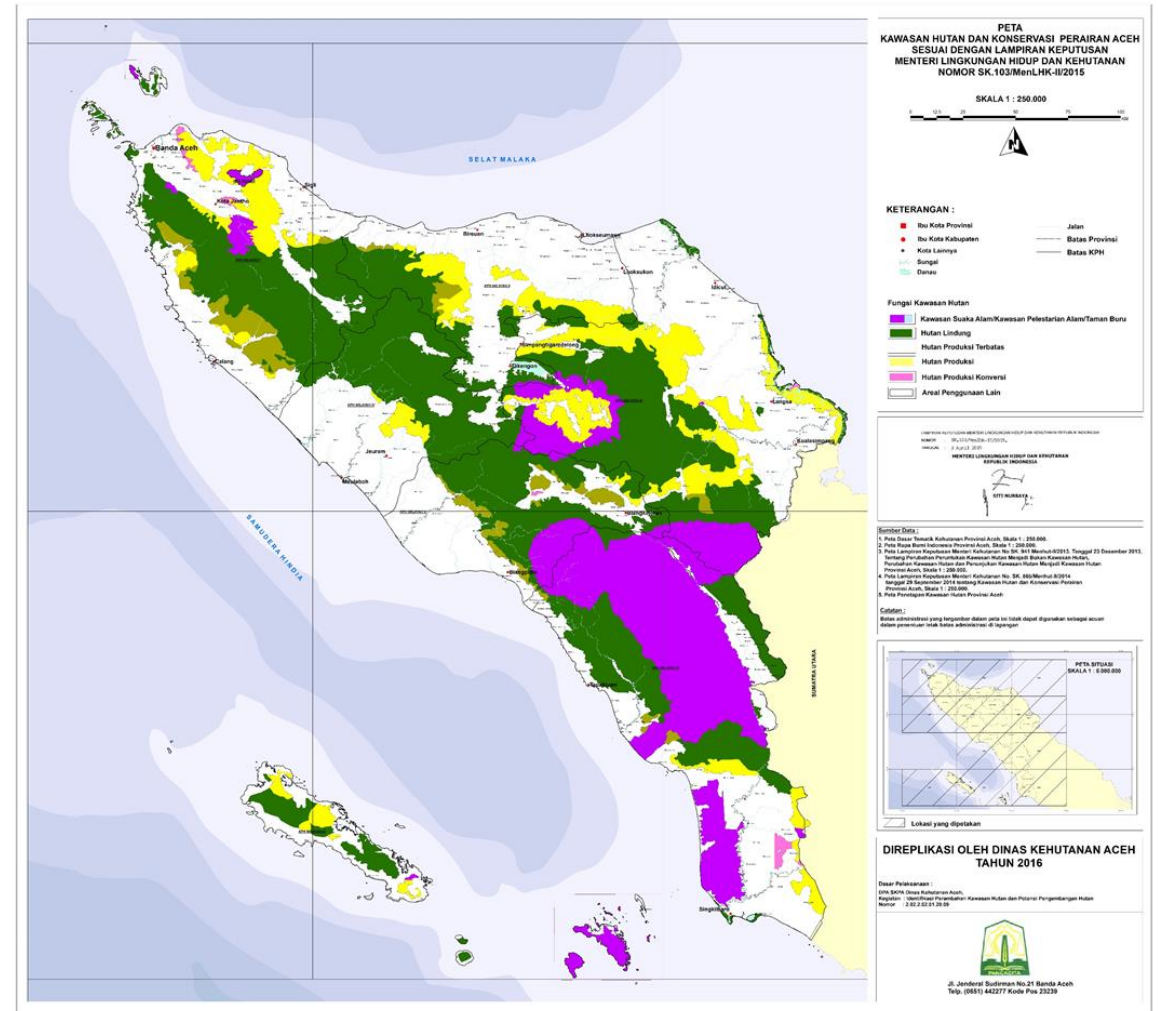
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Introduction

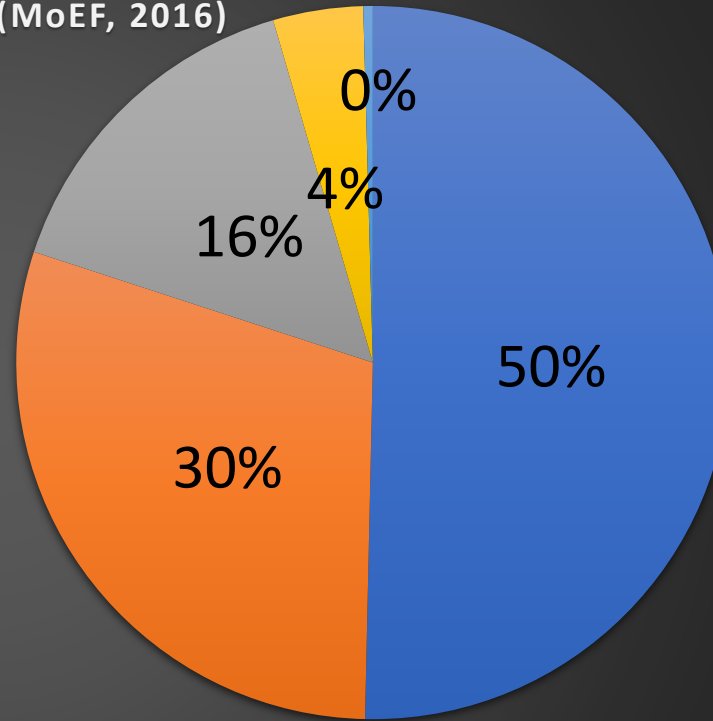
- Aceh is a province with special autonomous status in Indonesia, located on the northern tip of the island of Sumatra and is the most western province and among the 15 largest critical forest in Indonesia. Aceh Comprises of 18 districts, 5 cities, 289 sub-districts, 778 Mukim (local name for sub-sub district), 6,474 villages. Population is just under 5.1 million people with a growth rate of 1.94% and a density of 90 people/km².
- Average poverty levels are 16,73%, while in rural areas they are higher: 19.11% (Aceh Central Bureau of Statistics, 2017). About 37% of people use forests as a source of income.



Aceh Forest Composition (MoEF, 2016)

- Protected
- Conservation
- production
- Limited Production

Protected Area : 1,794,350 ha
Conservation : 1,057,628 ha
Production : 551,073 ha
Limited production : 145,384 ha
Covertible Production : 15,378 ha
Total : 3,557,916 ha



Aceh awarded the authority in forest resource management by Law number 11/2006. Forests in Aceh cover **about 3,557,916 ha** ; Two main important ecosystem landscapes: Leuser ecosystem and Ulu Masen ecosystem. Habitat for Sumatran orangutans (*Pongo abelii*), Sumatran tiger (*Panthera tigris sumatrae*), Sumatran elephant (*Elephas maximus*) Rhino and birds. The forests managed by 7 Forest Management Units (FMUs) by legal basis GR Number 20/2013

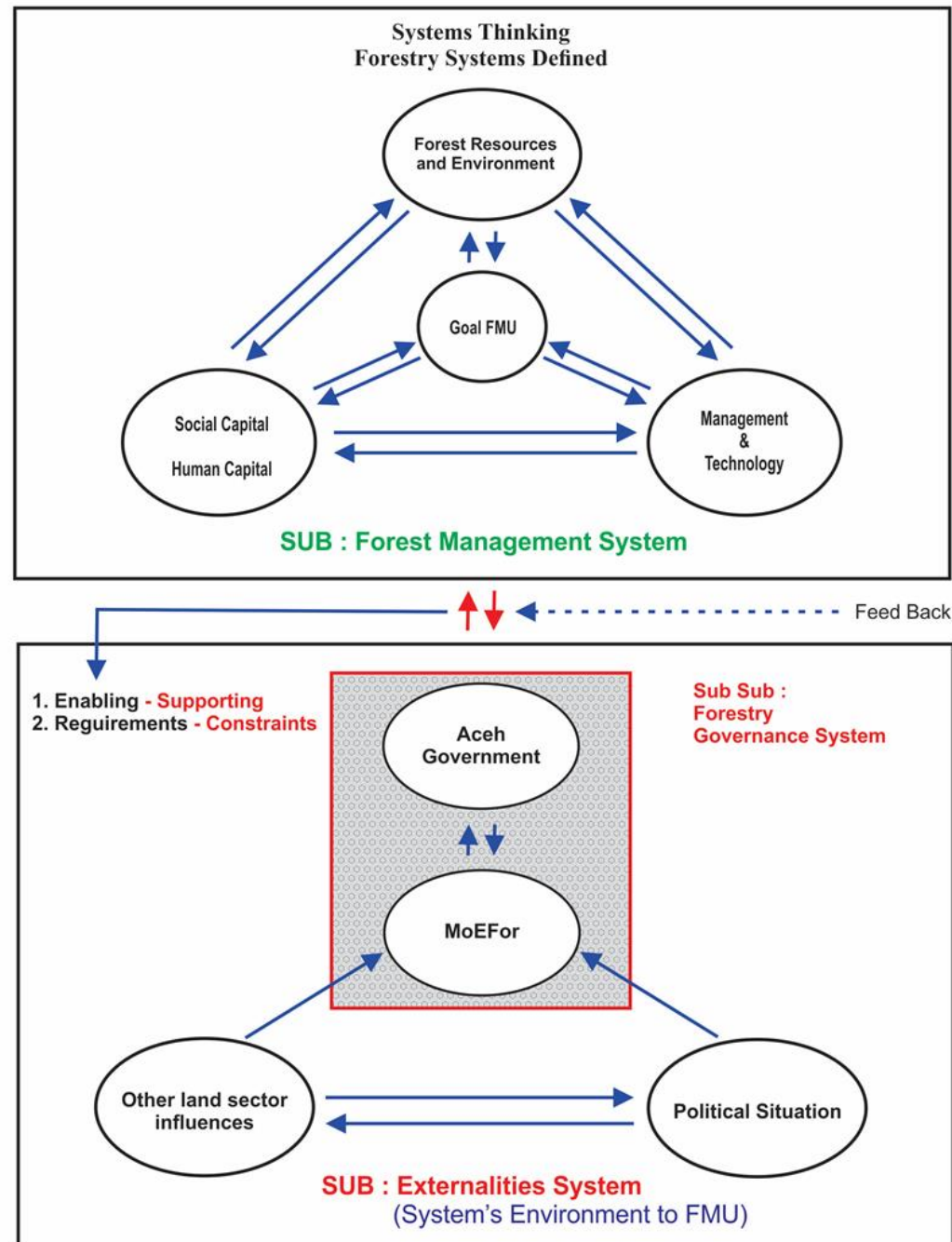
FMU & Forestry System

The three components support each other to reach FMU's goals in the main system of Forest Management system

The core of this exploratory study is part of the main core of the environment system of FMU is about the forestry governance system, between Aceh and Central Government.

Forest governance is the domain area that will impact FMU to operate, based on the legislation.

Law Number 11/2006 with GR number 20/2013 and Qanun Number 7/2017 as Aceh's authority. Law Number 41/1999, PP Number 6/2007, Law Number 23/2014. These legislation assumed having potential gap as constraints to the FMU authority.



Specific objective

- This exploratory study was conducted to find the gap of the forestry legislation implementation in Aceh. Is the regulation issued by Aceh Government in line with that issued by the Central Government of Indonesia? Does the regulation fit, share and flow of the legislation products assumed as a factor that support constraints the FMUs operation? What gaps that constraints to the FMUs operationalization in the ground

Approach

- Review the degree of synchronization among these regulations, three basic properties were adopted, namely: 1) **Fit** – shows the degree of compliance of (subnational) regulation to the higher level of regulation (national). 2) **Flow** – shows the degree of a regulation in organizing more operational policies as guided by the higher level of regulation. 3) **Share** – shows the degree of portfolio of a regulation in addressing the same program, object and target of regulation.

Situation of coherence between these government regulations are then mapped out in the following contrast analysis

Government Regulation	Degree of synchronization		
	Fit	Flow	Share
National Government Regulation on forest Organization (PP 06/2007)			
Aceh Government regulation (<i>Qanun</i>) on Forestry			

Critical Findings

- Two Scopes of Gaps :

First scope related to the management and conservation consists of forest planning, forest management, conservation.

The second scope related to the institutional and budgeting including supervision and control.

Gaps in first scope ; Forest Planning

- Gaps in Forest Planning, there is a potential conflict in authority between Law number 23/2014 and Law number 41/1999 and Law Number 11/2006. Those regulations mention that Planning is the authority of Central government. Besides that, there is also a regulation number 6/2007 and local government regulation *Qanun* Number 7/2016.
- In theory this means that FMUs have two options, either to follow National government regulation number 6/2007 or follow *Qanun* number 7/2016. For the moment FMUs are following National government regulation number 6/2007 since *Qanun* number 7/2016 is not deemed sufficiently equipped with standards/guidelines to properly guide planning

Gap on Forest Management

- Gap in Forest Management there is a potential conflict between *Qanun* Number 7/2016 and Law Number 23/2014 and Central Government Law number 6/2007 on where the authority for conservation sits. Forest management in Aceh is regulated by *Qanun* number 7/2016, conservation is explicitly mentioned as being under the authority of Aceh government, even though following Law number 23/2014 this is under Central Government authority. Moreover, on the issue of forest area organization, there is a conflict between Law Number 23/2014, *Qanun* Number 7/2016 and National government regulation number 6/2007. In this case the regulation is overlap. The implication is that FMUs are unsure from where to request assistance for forest area organization. *Qanun* number 7/2016 may have different standards.

Gaps regarding Forest Rehabilitation

- On the issue of forest rehabilitation, there is a potential conflict between Law Number 23/2014, *Qanun* number 7/2016 and National government regulation number 6/2007. Furthermore, on the authority to manage forests, *Qanun* 7/2016 needs to be equipped with more operational guidelines for FMUs, particularly on the issue of forest utilization licenses, *Qanun* number 7/2016 doesn't have sufficient guidance to issue licenses.

Gaps in Conservation

- Gaps in Conservation identified that there is a potential conflict of authority to govern and manage conservation areas between *Qanun* number 7/2016 and Law Number 23/2014. The implication to FMUs is a potential legal conflict. FMU is mandated to carry out tasks for conservation management. However, FMU may become powerless after issuance of permits/licenses on utilization of conservation areas are issued at central or province level. Leuser Ecosystem Area (Kawasan Ekosistem Leuser) has been mentioned in several regulatory packages. However, no site management institution has been established so far. It is unclear where the licensing authority for conservation areas sits for Aceh. Institutionally, Aceh has not been equipped with clear units to deal with conservation management, wildlife conflict and wildlife trafficking or poaching.

Gaps regarding Watershed Management

- Gaps in Watershed Management, there is no clear guidance for watershed management in Law number 23/2014 or in Qanun number 7/2016. The implication is the watershed management in Aceh doesn't exist in the development agenda. In national government regulation watershed management is also not mentioned. This situation results in potential neglect of Watershed Management by FMUs

Gaps in the second scope ; capacity building

- The second scope of gaps identified related to the institutional including capacity building, supervision and control, and budgeting. In the context of capacity building, *Qanun* number 7/2016 fits with Law number 11/2006, but only part of it is aligned with law number 23/2014. Central government Law number 6/2007 does not specifically cover the issue on capacity building or human resources development. *Qanun* number 7/2016 partly possess flowing power to law Number 23/2014. *Qanun* number 7/2016 is sufficiently aligned with law 23/2014, more specific targets on developing human resources in operating FMU. In *Qanun* number 7/2016 the statement about capacity building however is very general. The implication to FMU is that FMUs do not get sufficient support in the development of professional staff (national government regulation number 6/2007 doesn't equipped with Human Resources Development on FMU). On community empowerment, Law Number 23/2014 focusses on forestry extension. The *Qanun* number 7/2016 outlines community empowerment on issuing licenses on community-based forest management. The implication to FMU is, FMU's need for professional staff to coach, mentor and provide ongoing support to communities is not met.

Gaps regarding Supervision and Control

- Gaps in Supervision and Control in *Qanun* 7/2016 outlines a number of articles on supervision and control. In National government regulation number 6/2007 mandated FMU to assume supervision and control of its areas. Implication to FMU, it may be subject to excessive supervision and control from external authorities of Aceh. This may lead to constraining factor than supporting component to operation of FMU.

Gaps regarding Budgeting

- According to Law number 11/2006, article 156 mentions that forestry is one of the natural resources that must be managed as transparently and sustainably as possible. These criteria match Law number 25 on Development Planning. Forestry as natural resources in the management system consists of two aspects, governance and management. Forest governance consists of government program, then developed in the strategic plan and inputted in the programming and budgeting. The output from the flows is the annual budget allocation. The management aspect is FMU responsibility and FMU plan should be a part of the strategic plan.
- It is important that the FMU plan is inputted in the strategic planning then it can be included in the programming and budgeting resulting in FMU receiving an annual budget allocation. There is no budget for FMU if the workplan of FMU is not set up properly in the government program. Based on the Provincial regulation in Aceh there is no mandatory financing of FMUs.
- The financing of FMU can come from two sources, (1) National Government and (2) Provincial Government but it needs to be included in the strategic planning. In practice, however FMUs lack vital finance. The financing of FMUs is predominantly for governance, not management. FMU finance is normally ring-fenced for the program that must be implemented as submitted in the Strategic Planning document, which is a reflection of government programs and governance issues. Meanwhile, for management issues, FMU has a Long-Term Management Plan document. It is unlikely for the whole program in the LTMP to be financed by the Province.

Conclusion

- Seven areas that show inconsistencies and/or gaps in legislation affecting FMU operations.
- Additional guidance is needed in order for FMUs in Aceh to operate properly. Aceh government must task the relevant agencies by strengthening their forestry strategic planning. Aceh was awarded the authority over natural resource management, considering forest management in Aceh issued local legislation *Qanun* number 7/2016).
- The implementation of Law Number 23/2014 as the regulation regulate about local government also has an impact institutionally and for the budgeting of forest management. Further, the goal of forest sustainability must be ensuring FMUs are able to operate optimally within the forestry governance system. Following up on these recommendations can help Aceh manage its forests more effectively.

Recommendation

- To implement forest planning in Aceh Qanun 7/2006 should be equipped by standard guidance on planning sections that are under the authority of the Aceh government and the planning sections that are under central government authorities.
- The Aceh government should provide competency standards for planning staff. Regarding gaps on forest management, Qanun 7/2016 needs to be equipped with more operational guidelines to be effectively followed by FMU.

Closing Remarks

Aceh was awarded the authority over natural resource management including forest resources (article number 156 of Law number 11/2016). Considering the forest management Aceh issued local legislation named *Qanun* number 7/2016. Besides that, the implementation of Law Number 23/2014 also has an impact institutionally and for the budgeting of forest management. In the forest management context FMU is the field level institution which has to manage forests. Further, the goal of forest sustainability must be ensuring FMU are able to operate optimally within the forestry governance system. Following up on the recommendations in this paper can help Aceh manage forests more effectively.

THANK YOU

