



Save Papua's Indigenous Forests Coalition

## BRIEFING PAPER

# THE AWYU TRIBE: SUING THE STATE, DEFENDING INDIGENOUS FOREST 2023





## The Awyu Tribe: Suing the State, Defending Indigenous Forest

The Awyu Tribe is one of the hundreds of ethnic groups in Papua, which is residing in several areas in Mappi Regency and Boven Digoel Regency, South Papua Province. Several sources mentioned that the Awyu tribe, who speak the Awyu dialect, resides in villages in areas with numerous rivers, peatlands and swamps, namely the Bamgi River, Edera River, Kia River, Mappi River, Pesue and Asue Rivers, and Digul River (Boelaars, 1986:73).<sup>1</sup>

There is a folklore which says that the Awyu people love peace and it has become a social label of this indigenous community group. The word Awyu itself is interpreted and originates from a local expression which means Peace. (Warip, 1993). Boelaars (1986) mentions the situation of the Awyu indigenous people during the tribal war era, as people who had no desire for war, unlike the Jaghai, Asmat and Marind Tribes, whose aggressiveness is renowned. They migrated and avoided wars thus they are widely dispersed. There is also a folklore about local conflicts between the Awyu and Jaghai Tribes.

The life of the Awyu Tribe is highly dependent on land, forests, rivers, swamps and other natural resources, which serve as sources of socio-cultural, socio-economic life, livelihoods, food, medicine, and so on.

The Awyu Tribe in Mappi River, Fofi District, Boven Digoel Regency,<sup>2</sup> views that the customary land or region or *Soho* in the Awyu language, is jointly controlled (*nugini soho*) by clan groups, the management and utilization of which is carried out collectively, referred to as *dohini amumbri*, which means for the sustainability of the lives of local indigenous peoples and future generations.

*"We live because there is nature, without nature we cannot live. Water, sago, swamps exist, only then can humans live. We do not want companies to come and clear our indigenous forests,"* said Barbara Mukri, an indigenous woman from Yare Village, Fofi District.

<sup>1</sup> See also: <https://sites.google.com/site/newguineaworld/families/trans-new-guinea/central-west-new-guinea/digul-river-ok/digul-river/central-digul-river/awyu>.

<sup>2</sup> The villages in which the Awyu Tribe resides in Fofi District are: Ikisi or Bangun, Domo, Hamkhu, Hello, Makmur, Navini, Sadar, Sohokanggo.



The community livelihood systems in the endeavors of hunting, fishing and gathering forest products, processing sago and gardening, are still carried out based on indigenous knowledge systems and norms, production equipment is still traditional, with customary prohibitions and sanctions (or *toto gundi nero*).

The sago village habitats in this region is widely dispersed among rivers, swamps, peatlands and natural forests or *bisaha* in Awyu language. The production pattern of harvesting and producing sago flour is carried out by family groups, based on clans and/or groups of clan members. The activity of gathering sago is carried out simultaneously with the activities of hunting wild animals and catching fish, as well as collecting foodstuff, medicines, and so on. The people carry out these activities for days and stay in the 'bevak' in the forest. This opportunity is also used to pass on knowledge to the younger generation about the history of land rights, the livelihood system and culture of the Awyu Tribe, skills in hunting and processing sago, and so on.

Based on the peatlands distribution map and peatland biodiversity study (Rumahorbo, *et al*, 2018), it is acknowledged that in the indigenous area of the Awyu Tribe, which is located in Ampera Village, Mandobo District, Jair District, Bomakia District, Boven Digoel Regency, and Venaha, Yakowi, Edera and Bamgi Districts, there are peat swamps with a thickness of 50 – 300 cm, which are rich in endemic and protected biodiversity, such as: the grey-headed goshawk (*accipiter poliocephalus*), sulphur-crested cockatoo (*cacatua galerita*), black-capped lory (*lorius lory*), greater bird-of-paradise (*paradiseae apoda*), palm cockatoo (*probosciger aterimus*), Blyth's hornbill (*rhyticeros plicatus*), snake-necked turtle (*chelonian novaeguensis*).

The government's plan to develop a national development project for food security (Food Estate), granting permits for forest conversion and oil palm plantation business in the Awyu Tribe's indigenous region, has prompted the local indigenous people to react against the plan and the projects controlled by companies. The presence of these projects will affect and threaten the livelihood system of the indigenous peoples and the carrying capacity of the environment.

The Awyu Tribe in Mappi River have views and hopes for a safe and peaceful life with an expression in the Awyu language, '*nugunuku yevmeri bohawang fimdike eriang*'. The oil palm plantation development projects being carried out in this area have led to contradictions and disharmony within the community.







## The Tanah Merah Project Scandal

The secret deal to destroy the Papuan paradise (forests) is an investigative report by The Gecko Project (2018) which presents a grim portrait of the deforestation situation and agrarian crisis in Indonesia, in particular relation to the Tanah Merah Project.<sup>3</sup> The project is planning to clear natural forests and convert them into Indonesia's largest oil palm plantation with an area of 280,000 hectares. The forests are home to the Awyu Tribe.

On 08 December 2007, the Regent of Boven Digoel issued the first Location Permits to 7 (seven) companies, namely PT. Usaha Nabati Terpadu, PT. Trimegah Karya Utama, PT. Manunggal Sukses Mandiri, PT. Megakarya Jaya Raya, PT. Kartika Cipta Pratama, PT. Graha Kencana Mulia, PT. Energi Samudera Kencana, with a total area of 280,000 hectares, located in a natural forest area stretching from Digoel River to Mappi River. Some of the companies were granted extension of the location permits up to twice.

The seven companies are suspected of being shell companies, with no business operations or track records. The shareholders are mostly just a cover. The companies are allegedly related to and controlled by Menara Group, owned by the conglomerate Chairul Anhar. In 2010 – 2012, there was a change in company data, a change in status from Domestic Investment Company (PMDN) to Foreign Investment Company (PMA). The companies' shareholders are related to Menara Group companies and foreign companies, such as the Tadmax Group and the Pacific Interlink Group companies.

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<sup>3</sup> See: <https://thegeckoproject.org/id/articles/the-secret-deal-to-destroy-paradise/>



Based on a study by Pusaka (2020), it was discovered that the issuance of Environmental Permit by the Regent of Boven Digoel (2010) was without the environmental documents as required by Law Number 32 Year 2009 regarding Environmental Protection and Management, such as Environmental Permit, EIA, UKL – UPL (Environmental Management Efforts – Environmental Monitoring Efforts). In 2011, the Head of BKPM (Investment Coordinating Board) of Papua Province, issued Plantation Business Permits (IUP) to seven companies which affixed the signature of the Head of BKPM illegally and was forged, therefore, it was suspected that the IUP documents for seven companies were falsified.

In 2011 - 2013, the Minister of Forestry, Zulkifli Hasan, issued permits for the conversion of forest areas for oil palm plantations to 7 (seven) companies in a forest area in Boven Digoel of 270,262 ha, which were allegedly legally flawed with regard to the terms and conditions of permits issuance, and disregarded the local indigenous peoples' rights to customary land and forests.

The Tanah Merah Project plans to develop a large-scale timber industry, the raw materials of which will originate from the conversion of forest areas from seven palm oil companies. The Head of the Investment Coordinating Board issued Decision Letter Number 1/1/IUIPHHK/PMA/2015, dated 8 April 2015, regarding Granting of Timber Forest Product Primary Industry Business Permits (IUIPHHK) to PT. Tulen Jayamas Timber Industries (TJTI) in Boven Digoel Regency, Papua Province. The IUIPHHK of PT. TJTI was acquired based on the requirements, among other the existence of Decision Letter of the Regent of Boven Digoel Number 660/12/BAPPEDA/IX/2014, dated 18 September 2014 regarding Environmental Permit for IUIPHHK Activities by PT. Tulen Jayamas Timber Industries, however, this permit had problems because the official issuing the permit, Acting Head of Regional Development Planning Agency (*Bappeda*), Ir. Wempi Hutubessy, admitted that the signature on the said document was forged signature, hence the environmental permit document possessed by PT. TJTI is a falsified permit document. This was confirmed in a letter from the Investment and One-Stop Integrated Services Agency (PMPTSP) of Boven Digoel Regency, which sent letter Number 570/146/DPMTSP/XI/2019, dated 5 November 2019.



This brief information indicates that the companies involved in the Tanah Merah project have problems with law violations and environmental crimes, namely: allegation that the companies are operating without legal business permits, the process of obtaining the permits was legally flawed and they were obtained illegally with allegations of corruption. There have been instances of the criminal acts of falsification of environmental permit documents, falsification of plantation business permit documents, and legally flawed granting of permits for the release of conversion production forest areas into oil palm plantation businesses, and exceeded the maximum land tenure limits.

The Tanah Merah project permits scandal and environmental crimes have been reported to the Legal Enforcement (*Gakkum*) of the Ministry of Environment and Forestry in November 2020. However, there has been no significant response to date. In the field, companies are clearing, destroying and eliminating forests. In 2014, the company PT. Megakarya Jaya Raya cleared the natural forest along Digoel River for the development of an oil palm plantation. Until 2019, it is estimated that 5,140 hectares of forest have been lost by conversion into oil palm plantations. In addition, the company PT. Kartika Cipta Pratama has cleared forests for oil palm plantations of up to 3,218 hectares during the 2015 – 2019 period; and PT. Graha Kartika Kencana has cleared 177 hectares of forests in 2019.

In early 2022, the Ministry of Environment and Forestry issued Decision Letter of the Minister of Environment and Forestry Number SK.01/MENLHK/SETJEN/KUM.1/1/2022 dated 5 January 2022 regarding Revocation of Forest Area Concession Permits. In Attachment II to SK.01/2022, seven companies in the Tanah Merah project are included in the list of forestry concession permits/companies that are subject to revocation. This declarative decision letter still provides room for clarification and verification before the constitutive permit revocation is issued. The results of the verification are still unknown considering that this process was conducted in a closed and non-transparent manner.







## Defending Indigenous Forests

In 2015, the Regent of Boven Digoel revoked the plantation business permits of oil palm companies, PT Manunggal Sukses Mandiri, PT Trimegah Karya Utama and PT Usaha Nabati Terpadu, and assigned the companies' areas to new companies, namely PT Perkebunan Boven Digoel Sejahtera, PT Perkebunan Boven Digoel Abadi and PT Boven Digoel Cultivation Sentosa. In 2017, the Regent of Boven Digoel again revoked the plantation business permit of an oil palm company, PT Energi Samudera Kencana, and assigned the permit to a new company, PT Indo Asiana Lestari.

The new permits were granted without any consultation and without seeking the wide approval of the Awyu indigenous people. In the consultation forum, people from the new companies and certain figures pressured the indigenous people and the Environmental Human Rights Defenders from *Komunitas Cinta Tanah Adat*, Awyu Tribe Paralegal activists and indigenous women. They were reported to the local police with various odd and unproven accusations.

The community and activists from *Komunitas Cinta Tanah Adat* together with the Chief of Awyu Tribe continued their actions to reject the companies from operating on customary land and forests, and requested the government to revoke the companies' permits. They sent letters of rejection to officials, starting from the regents up to the President of the Republic of Indonesia. *Komunitas Cinta Tanah Adat* has planted traditional stakes and red crosses on the boundaries of customary forests which are targeted by oil palm plantation companies.

In December 2022, the representative of the Awyu indigenous people and head of *Komunitas Cinta Tanah Adat*, Hendrikus Woro, filed an objection to the policy of the Head of the Investment and One-Stop Services Office (DPMPTSP) of Papua Province with the Jayapura State Administrative Court (PTUN) upon a request for information on the company permits of PT Indo Asiana Lestari which was not granted by DPMPTSP, and requested for resolution of Public Information Disclosure dispute. However, the Jayapura State Administrative Court (March 2023) stated that the applicant's objection is not accepted for administrative reasons and because the deadline has lapsed.



In March 2023, the Petitioner, Hendrikus Woro and the Save Papua's Indigenous Forests Advocacy Team filed an Environmental and Climate Change lawsuit through the Jayapura State Administrative Court, which sued an official, namely the Head of DPMPSTP of Papua Province for the Decision of the Head of Investment and One-Stop Services Office of Papua Province Number 82 Year 2021 regarding Environmental Feasibility of the Planned Development of Oil Palm Plantation and Palm Oil Processing Factory with a capacity of 90 tons of FFB/hour covering an area of 36,096 hectares by PT Indo Asiana Lestari in Mandobo District and Fofi District, Boven Digoel Regency, on 02 November 2021.

The lawsuit was based upon legal reasons and contradictory facts arising from the company's permit and presence, such as: the permit was granted by disregarding the meaningful participation of local indigenous peoples; the threat that the community will lose their sources of livelihood and food; destruction of historical sites, sacred places and holy places of the indigenous people; loss of endemic biodiversity, the threat of reduced environmental carrying capacity, water and soil quality, which affect the quality of human life.

The decision of the permit granting official and the granting of the permit are contrary to the principles of Free Prior Informed Consent (FPIC) and Law Number 2 Year 2021 regarding Papua Special Autonomy, due to pressure and threats which made the community feel insecure and restrained in make decisions, and without the wide consent of the indigenous peoples; contrary to Government Regulation Number 21 Year 2021 regarding Implementation of Environmental Protection and Management; use of EIA which has problems in terms of procedures and substance; contrary to Law Number 32 Year 2009 regarding Implementation of Environmental Protection and Management, because it violates the principles of sustainability and continuity, harmony and balance, biodiversity and local wisdom; contrary to the Indonesian government's commitments regarding climate change and sustainable development, as contained Decision of the Minister of Environment and Forestry regarding Indonesia's Forestry and Other Land Use (FOLU) Net Sink 2030 for Climate Change Control, and Law Number 16 Year 2016 regarding Ratification of the Paris Agreement on the UN Framework Convention on Climate Change, that deforestation and land use will lead to GHG emissions and global warming.







## Recommendations

In order to respect, protect and restore the rights of indigenous peoples and save Papua's customary forests, we request:

1. The Minister of Environment and Forestry, the Indonesian Minister of Investment, the Governors of Papua and South Papua, and the Regent of Boven Digoel, to jointly followed up on (a) the control and revocation of permits for oil palm plantation companies in the Tanah Merah Project as well as new companies, and (b) to stipulate recognition of the designation of forest and customary land area for the Awyu indigenous people, to be managed and utilized in an equitable and sustainable manner;
2. The Panel of Judges at the Jayapura State Administrative Court to legally annul the Decision Letter of the Head of Investment and One-Stop Service Office of Papua Province Number 82 Year 2021 regarding Environmental Feasibility of the Planned Development of Palm Oil Plantation and Palm Oil Processing Factory by PT Indo Asiana Lestari;
3. The stakeholders, financial service institutions, investors and banks, sustainable plantation certificate institutions, producers which utilize palm oil and its derivative products, to ensure and emphasize compliance by oil palm plantation companies to formulate sustainable business policies, respect human rights, avoid deforestation, including ceasing the cooperation, funding and use of palm oil produced from and related to the Tanah Merah Project companies and new substituting companies, which are suspected of violating the rights of the Awyu indigenous people and leading to the threat of deforestation on a large scale.

### Contact Person :

Emanuel Gobay: +62 821-9950-7613  
 Sekar Banjaran Aji: +62 812-8776-9880  
 Tigor G Hutapea : +62 812-8729-6684





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