

Legality and Implications of International Law on Cooperation between Indonesia and Norway in the Environmental Sector

Loso Judijanto¹⁾, Desi Asmaret²⁾, Agus Septima Ridwan³⁾, Beki Utomo⁴⁾, Sahrul⁵⁾

¹ IPOSS Jakarta, Indonesia

² Universitas Muhammadiyah Sumatera Barat, Indonesia

³ Universitas Pamulang, Indonesia

⁴ Universitas Sebelas Maret, Indonesia

⁵ STIH Sultan Adam, Indonesia

E-mail: losojudijantobumn@gmail.com, desiasmaret.da@gmail.com, agusseff@gmail.com, mr.bektiutomo@staff.uns.ac.id, arulsam87@gmail.com

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Abstract

The issue of environmental protection has become a significant concern in international relations, with numerous countries striving to preserve the environment through various initiatives. One such initiative is the conduct of international cooperation, which is implemented through a special program on the environment. This study seeks to ascertain the dynamics of the cooperation between Indonesia and Norway on environmental matters, with a particular focus on the Reducing Emissions from Deforestation and Forest Degradation (REDD+) programme, which operated from 2017 to 2021. The objective of this initiative, which falls under the umbrella of environmental cooperation, is the reduction of greenhouse gas emissions resulting from deforestation and forest degradation. The REDD+ program is a funding mechanism designed to support initiatives aimed at mitigating greenhouse gas emissions resulting from deforestation and forest degradation. The methodology employed in this research entails the utilization of qualitative research techniques, namely descriptive analysis, to generate insights from the data collected. This study's theoretical approach is informed by the context of international cooperation, particularly the historical bilateral relationship between Indonesia and Norway. The results of this research indicate the implementation of cooperation between Indonesia and Norway in the environmental sector through the REDD + program between the years 2017 and 2021, which was met with a number of significant challenges. These included issues related to the protection of forests, delays in fulfilling cooperation requirements, and disagreements with indigenous peoples. Additionally, the study identifies the problem of the implementation of Result Based Payments by Norway and the termination of Indonesia-Norway REDD+ cooperation.

Keywords: legality, international law, Indonesia, norway

INTRODUCTION

Bilateral relations are mutually beneficial activities conducted between two countries. Strategic partnership is a novel approach to the development of bilateral relations in the contemporary era. The similarity of strategic goals encourages the depth of interconnectivity between the involved parties. This encourages the implementation of long-term cooperation. Several academic theories on the study of international relations present their own arguments concerning the factors that drive bilateral cooperation. Realists posit that global international anarchy is the fundamental argument underpinning this process. The realist assumption that

military force is the only means of achieving security results in states channeling force and balancing external threats (balance of threat) in order to fulfill their respective security agendas. In short, the primary goal of states is to achieve their security interests. The basic liberal notion of democracy and interdependence advocates increased individual freedom and prosperity. In bilateral relations, the primary desired outcome of a state is economic prosperity.

The interdependence between states on trade correlation represents a means of achieving integration and avoiding potential issues that may arise from a lack of cooperation. Institutional liberals posit that states engage in collective action to establish institutions that facilitate the pursuit of common interests, particularly those related to the advancement of economic interests. Cooperation can manifest in a multitude of non-aligned contexts. The majority of interactions in the form of cooperation occur between two governments that share similar interests or are confronted with similar challenges simultaneously. Additional examples of cooperation can be observed at the level of individual countries, which engage in such endeavors through international organizations and treaties.

Some organizations, such as the League of Nations (UN), have established that the cooperation that occurs between the member countries of the organization is conducted on the basis of recognition of the respective national sovereignty of the participating countries. Bilateral cooperation, which occurs between the governments of two sovereign countries, is defined as the process of finding a settlement to a case that concerns the two countries through negotiations, agreements, and other means. Bilateral cooperation is a form of relationship between two countries that influence each other or a reciprocal relationship that is manifested in the form of cooperation.

The bilateral relationship between Indonesia and Norway is characterized by a spirit of collaboration, as evidenced by the signing of the Letter of Intent (LoI) by both parties on May 26, 2010. This agreement, which marked the beginning of a fruitful partnership, was a pivotal moment in the evolution of the REDD+ program. This cooperation is Norway's financial assistance, which may reach up to one billion US dollars, provided to Indonesia for the implementation of the REDD+ program. The cooperation process is then divided into three phases: the preparation phase, which occurred from 2011 to 2013; the transformation phase, which occurred from 2017 to 2020; and the full implementation phase, which began after 2018.

The implementation of Indonesia's cooperation with Norway in the environmental sector through the REDD+ program has been a lengthy process, necessitating the completion of applicable procedures. During the course of this cooperative endeavor, a number of challenges or dynamics emerged for Indonesia and Norway, which had the potential to impede their ability to achieve the objectives that had been agreed upon. What then are the dynamics experienced by Indonesia and Norway in environmental cooperation through the REDD+ program? This study aims to describe the dynamics experienced by Indonesia and Norway in their relationship of cooperation in the environmental field through REDD+.

Indonesia has engaged in cooperative relations with Norway due to the latter's reputation as a developed country with a high level of environmental concern. Moreover, environmental concerns have become an integral aspect of Norway's foreign policy. Conversely, Indonesia and Norway enjoy a cordial bilateral relationship. Nevertheless, there are several reasons why Norway has chosen to engage in cooperation with Indonesia in the context of the REDD+ program. The rationale for this collaboration is twofold. Firstly, Indonesia is the third largest forest owner in the world, and thus has a significant stake in the conservation of its natural

resources. Secondly, the financing scheme proposed by Indonesia aligns with the priorities of the Norwegian government. (Lady, 2018)

RESEARCH METHOD

This research employs a qualitative methodology. According to Sugiyono, qualitative research is defined as a research method carried out in natural object situations where researchers are considered an important tool. In qualitative research, the objective is to gain an in-depth understanding of human phenomena or social events by creating a universal and complex picture that is then translated into a series of words and expressed in detailed terms. This approach allows for the generation of a natural understanding.

Qualitative research is conducted with the intention of gaining a comprehensive understanding of human and social issues because researchers have observed that individuals gain insight and understanding from their environment and that this understanding can influence their behavior. As Fadli (2021) notes, this understanding can be gained through a qualitative descriptive approach. The qualitative descriptive approach employed is one of data analysis. This approach is not limited to the presentation of numerical or statistical data. Instead, it focuses on the interpretation and description of the phenomenon under investigation, employing a narrative format. This approach prioritizes the collection of empirical evidence derived from observational studies, interviews, and the analysis of various documents. In this context, the utilization of literature studies is essential in order to gather the necessary data for analysis. In this research, the data generated comes from a literature study conducted by collecting data from various sources, including journals, e-books, and official websites.

RESULT & DISCUSSION

Indonesia has been engaged in foreign relations with other countries since its declaration of independence on August 17, 1945. These relations have been fostered by the establishment of bilateral, regional, and multilateral institutions, which were designed by the Indonesian government to serve as mechanisms through which it could establish cordial relations with its foreign counterparts. In establishing these relations, Indonesia consistently espouses a model of community based on mutual respect and the rejection of interference in the internal affairs of other nations. It also maintains a policy of non-violence and the promotion of consensus-based decision-making, with the goal of avoiding the use of force and resolving conflicts peacefully. Currently, Indonesia maintains bilateral cooperation with 162 countries and one specific territory (a non-self-governing territory), representing a significant global network of diplomatic engagement.

Among the numerous countries that engage in bilateral cooperation with Indonesia, a number of factors drive the necessity for such collaboration. These include the imperative to maintain global peace, to fulfill each other's economic needs, to coordinate immigration management, to confront global challenges collectively, and to advance cultural advancement.

Bilateral cooperation represents a specific form of international cooperation. International cooperation, in turn, is defined as an activity or effort undertaken by a country that encompasses bilateral, regional, and international dimensions, with the objective of achieving shared objectives.

International law is a branch of law that regulates activities occurring on an international scale. Initially, international law was defined exclusively in terms of the behavior and relations between states. However, with the evolution of increasingly complex patterns of international relations, this understanding was expanded to encompass not only the structure and behavior of states but also that of international organizations and, to a lesser extent, multinational corporations and individuals.

The term "law between nations" is used to describe the customary laws and legal rules that apply in relations between ancient kings. The term "law between nations" or "law between states" refers to a complex of methods and principles governing relations between members of the community of nations or states. International law has several forms of manifestation or development patterns that specifically apply in a particular world (region). Regional international law is a specific subset of international law that applies within a particular geographical area. For instance, American and Latin American international law encompasses concepts such as the continental shelf and the protection of marine biological resources. These concepts initially emerged on the American continent and subsequently became general international law.

Additionally, special international law is international law in the form of rules that apply specifically to certain countries. The European Convention on Human Rights (ECHR) serves as an example of this type of law. It is different from regional law, which grows through the customary law process. International law is based on the premise that there exists an international community comprising a number of sovereign and independent states. Each state is autonomous and not subject to the authority of another, thereby forming a legal order of coordination between equal members of the international community.

International law is defined as a body of legal principles and rules of conduct that regulate the relations between states, and as such, is generally observed in the relations between states. The prioritization of laws governing legal relations between states in international relations gives rise to two distinct understandings, namely:

The notion of dualism, which is based on the theory that the binding force of international law is based on the will of the state, and that international law and national law are two separate legal systems. In the context of this perspective, international law and national law represent components of a larger entity, the law that regulates human conduct. The consequence of this monistic view is that between these two sets of legal norms there may be a hierarchical relationship. The issue of hierarchy between national law and international law gives rise to a range of different perspectives within the school of monism concerning which law is the primary one in the relationship between national law and international law. Some scholars maintain that in the relationship between national law and international law, national law is the primary legal norm.

Phase 1, the Preparation phase, is the stage during which Indonesia develops the REDD+ National Strategy. The REDD+ Institutional Preparation Task Force has developed five pillars of the REDD+ National Strategy, including REDD+ institutions, strengthening the legal and regulatory framework, strategic programs, paradigm shift and work culture, and community engagement. The development of this National Strategy was carried out in conjunction with action plans, development and capacity policies. The preparation phase spanned from 2011 to 2013. Phase 2, Transformation, is focused on enhancing the capacity

for policy development and implementation. Indonesia implemented several policies related to REDD+ during this second phase, including a moratorium on primary licenses and peatlands, peatland protection and restoration, a palm oil moratorium, the One Map Policy (KSP), the Indigenous Peoples Bill, agrarian reform, and procedural regulations for REDD+ implementation. Furthermore, Indonesia must implement a comprehensive REDD+ pilot project at the provincial level. According to the government's determination, 11 provinces have been designated as pilot sites, namely Aceh, West Sumatra, South Sumatra, Jambi, Riau, West Kalimantan, Central Kalimantan, East Kalimantan, Central Sulawesi, Papua, and West Papua. The second phase was conducted from 2017 to 2020, as reported by Mufidah Fariani in 2021.

Phase 3, the final phase of the REDD+ initiative, entails a shift towards full implementation, during which time performance-based payments are verified and integrated to support ongoing policy improvements and development efforts. It commences after 2018. Indonesia's forest protection issues include the occurrence of large-scale forest degradation, which persists with some frequency. One example is the deforestation that has taken place in the Central Kalimantan forest, which has been facilitated by the establishment of temporary settlements for illegal miners and illegal logging. Furthermore, the utilization of former camps belonging to Forest Tenure Rights (HPH) that are no longer operational has also contributed to the problem. These former HPH camps are then utilized by civilians as settlements. Consequently, numerous forest lands in Central Kalimantan are at risk of being lost due to their deforestation activities.

Other issues in forest protection can be observed from various perspectives. From a legal standpoint, based on Law No. 41/1999 on forestry, forest areas are classified into three categories: conservation forests, protected forests, and production forests. In this context, issues frequently arise in production forests, where private parties often abuse forest management licenses arbitrarily, resulting in inappropriate deforestation. From the social perspective, it can be observed that there are administrative conflicts based on non-transparent political decisions regarding the process of granting management licenses to natural industries. Furthermore, the decision-making process involves a lack of local participation. International law relating to bilateral relations between the two countries attempts to protect the policies of Indonesia and Norway.

From an economic perspective, Indonesia's economy is highly dependent on natural resources, with approximately 70% of non-tax income derived from natural resources. The expansion of agricultural land, plantations, and mining activities, driven by the influx of foreign investors in the oil palm sector, has led to the encroachment of forest areas. From an ecosystem perspective, forests in Indonesia serve not only human interests but also those of other living things, including a variety of animals and plants that inhabit the forest as their residence. However, the diversity of these animals and plants is threatened with extinction due to disturbances to their ecosystems.

A further challenge arises from the indigenous peoples of Indonesia. Although the implementation of REDD+ schemes on the ground appears straightforward, in practice it is highly complex due to the involvement of numerous parties with diverse interests. REDD+, in essence, involves supporting indigenous peoples' rights, including the protection of human rights, the reduction of economic disparities and the protection of biological heterogeneity. In Indonesia, the dominant indigenous communities continue to adhere to strong customary

practices. Consequently, the implementation of REDD+ in Indonesia is beset by numerous complex obstacles and hurdles. For them, forests represent a vital source of life and an indispensable component of their daily activities. Forests are utilized for agricultural and horticultural purposes, hunting, the collection of forest products, medicinal supplies, and traditional ceremonies. The form of joint ownership of land pertains to joint ownership and its utilization based on perception or deliberation.

Conversely, the implementation of REDD+ presents an opportunity for indigenous peoples, particularly to enhance their rights to forest resources and well-being. This is because REDD+ upholds the principle of prioritizing human rights. Moreover, the implementation of REDD+ is an initiative designed to safeguard the environment, and thus indigenous peoples should welcome it. They can actively participate in this program, which serves to blend indigenous knowledge with forest resource preservation. (Dwi Monica, 2016). However, it is worth noting that the implementation of Indonesia-Norway REDD+ programs has been delayed. This is due to the fact that Indonesia has been slow to fulfill the requirements set forth by Norway, particularly those pertaining to the disbursement of funds. Furthermore, the delay in fulfilling these requirements was also due to institutional changes. Nevertheless, Indonesia and Norway continued their REDD+ cooperation. (Ningsih, 2019)

A new partnership between Indonesia and Norway in the form of a Memorandum of Understanding (MoU) on Partnership in Support of Indonesia's Efforts to Reduce Greenhouse Gas Emissions from Forestry and Other Land Use was signed by the Minister of Environment and Forestry in Jakarta on September 12, 2022, after previously stalled due to technical issues. This MoU will strengthen Indonesia's efforts in sustainable environmental protection and management, while the scope of cooperation includes: (1) Reducing emissions from deforestation and forest degradation by protecting and managing forests with community participation, including indigenous peoples; (2) Capacity building to strengthen natural forest carbon sequestration through sustainable forest management, forest rehabilitation, and social forestry, including mangroves; (3) Biodiversity conservation; Fourth, the reduction of greenhouse gas emissions from fires and peatland destruction. Fifth, the strengthening of law enforcement. Sixth, the communication, consultation, and knowledge exchange at the international level on climate, forestry, and land use policies and agendas. Seventh, the exchange of information and knowledge at the technical level.

The signing of the Indonesia-Norway MoU will reinforce Indonesia's environmental restoration efforts while upholding the principles of environmental sustainability and continuing to apply green principles. This will be achieved through a number of measures, including: (1) Indonesia has maintained a downward trend in deforestation, with a particularly notable decline in the last two periods, despite the ongoing global pandemic. The deforestation rate has reached its lowest level in the last 20 years. This sustained decline in deforestation reflects Indonesia's efforts towards achieving the FOLU (Forestry and Other Land Use) NET SINK 2030 goal. In addition, there has been a more than 80% reduction in forest and land fires compared to 2015, as well as peatland rehabilitation efforts. Furthermore, a permanent moratorium on the granting of new licenses in primary forests has been implemented. (5) Replanting through forest and land rehabilitation schemes; (6) Gradual replanting and rehabilitation of mangroves; (7) Social forestry; (8) Official recognition of customary forests since the end of 2016, by President Joko Widodo; (9) Establishment of the Job Creation Law which also emphasizes support for indigenous peoples; (10) Improving forest areas with dense vegetation and high environmental value, or high conservation value

forests, in various forest and oil palm concession areas; (11) Structuring animal corridors through the construction of flyovers and underpasses; (12) Structuring wildlife habitats that are fragmented due to past concession licenses; (13) Implementing more systematic and intensive law enforcement.

Furthermore, various partnership schemes have been implemented, including initiatives to establish large-scale nurseries in collaboration with government, private, and community stakeholders. For instance, the production and distribution of seedlings through a partnership framework involving the government, private sector, and community has proven to be an effective mechanism for fostering mutual awareness and environmental stewardship. Indonesia has set a goal of establishing 30 large-scale nursery units with a capacity of 10-12 million tree seedlings per year. Currently, seedling production is underway in Rumpin, Bogor, and six other units are in the completion stage, including Toba, Likupang, Labuan Bajo, Mentawir, Mandalika, and Bali. In addition, five more units are still under construction. Furthermore, there is already cooperation and preparation for cooperation in South Kalimantan, South Sumatra, Southeast Sulawesi, Central Sulawesi, and Central Kalimantan.

In order to maintain security and order in the cooperation of international relations, each country sends their delegations in the form of diplomatic envoys to each country. The main function of diplomatic envoys is none other than to improve and establish friendly relations between countries. To prevent disputes in international law, there are several roles of international law that have the aim of achieving peace and prosperity of the country, including: International law as an effort to maintain peace and ignore all forms of unnecessary regulations in various regulations relating to high policies such as peace or war issues.

The function of international law for overseas offices and the practice of lawyers on an international scale who in their daily lives apply, improve, and consider all problem solving by applying the rules of international law relating to various cases that occur. International law aims to evaluate various violations of international law as a result of war or conflict due to military aggression and the inability of a country to prevent problems within the country. For disputes that occur, international law is needed in regulating state borders, diplomatic relations, making and implementing, and abolishing treaties. In addition, international law also regulates issues of common interest in the economic, social, cultural, legal, defense, and security fields.

CONCLUSION

The REDD+ collaboration between Indonesia and Norway commenced with the signing of the Letter of Intent (LoI) and subsequently proceeded through three phases: preparation, transformation, and full implementation. During this period, it appears that Indonesia and Norway confronted a multitude of pivotal dynamics, which subsequently became challenges for both countries. The dynamics experienced in the form of Indonesia's internal problems in the Indonesia-Norway REDD+ Implementation, which include problems regarding forest protection, delays in fulfilling cooperation requirements, and disagreements with indigenous peoples, have affected the implementation of REDD+. In its development, Indonesia ended the REDD+ cooperation with Norway because there were discrepancies that had been agreed upon previously. Nevertheless, the termination of this cooperation did not dissuade Indonesia from its determination to reduce carbon emissions from deforestation and forest degradation. To maintain security and order in international relations and facilitate diplomatic

engagement, countries send delegations in the form of diplomatic envoys. The principal function of these envoys is to cultivate and reinforce friendly relations between countries. To prevent disputes in international law, there are several roles of international law that have the aim of achieving peace and prosperity of the country. One such role is international law as an effort to maintain peace and ignore all forms of unnecessary regulations in various regulations relating to high policies such as peace or war issues. One of the primary functions of international law is to provide a framework for overseas offices and to facilitate the practice of lawyers on an international scale, who, in their daily lives, apply, improve upon, and consider various solutions to problems that arise in the context of international law. The objective of international law is to evaluate and address violations of international law resulting from armed conflict, aggression, or the inability of a nation to resolve internal disputes. In the event of disputes, international law is required to regulate state borders, diplomatic relations, the formation and implementation of treaties, and the termination of treaties. Furthermore, international law also regulates matters of common interest in the economic, social, cultural, legal, defense, and security fields.

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