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Agenda Item 10

**CHALLENGES IN THE RECOGNITION OF INDIGENOUS PEOPLES 'RIGHTS IN
INDONESIAN LEGAL SYSTEM**

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Good afternoon the distinguished participants of 15th UNPFII, it is an honor for me to be present in this respected forum. My name is Erma Suryani Ranik, besides coming from the Dayak community in Kalimantan Barat, Indonesia, I am also a Member of Parliament from the Democratic Party and this is my second year. Previously in 2009-2014 I was an Indonesian Senator from West Borneo.

As we all know, Indonesia is a large country with a population of 254 million people with different characteristics of ethnicity, religions and cultures. According to data from AMAN, there are 30-50 million of indigenous peoples in Indonesia. A month ago, I went to Papua. I met with the leader of Indigenous Papuans who is also the governor of Papua, Mr. Lukas Enembe. He does a lot of work to promote the welfare of indigenous peoples in his region and also in defending the rights of indigenous peoples. In his capacity as governor, Lukas Enembe filed a lawsuit against PT. Freeport Indonesia as much as 1.7 trillion Rupiah due to allegations of not paying taxes to the government of the province. As an MP, I strongly support this step of Papua Governor who is also the indigenous people of Papua.

Brothers and sisters of indigenous peoples all over the world, I would like to apologize if what I convey is less directly related to the theme of the issue. But I feel the need to convey these matters because this is a good development, how the progress of the recognition of indigenous peoples throughout Indonesia should be known by the world. So that the nations of the world know that Indonesia is heading on steps forward related to Indigenous Peoples.

It is until now the Indonesian government has not used “Indigenous Peoples” term. The Indonesian government is more convenient to use “*Masyarakat Hukum Adat*” or “*Customary Law Community/Adat Community*” term. If we want to trace the term, it refers to the Constitution of Indonesia in Article 18 B (2). This article expressly recognizes the existence of Indigenous Peoples in Indonesia as long as it still exists and in the principles of the Unitary Republic of Indonesia. Thus, the Indigenous Peoples is not a separate part of the Republic of Indonesia.

The respect of this constitution is set forth in various laws and regulations that exist in Indonesia. However, it must be recognized that there are inconsistencies of the term in Indonesian legislation. There are some Acts that use the term of “*Masyarakat Adat*”

(Indigenous peoples), and others are using “ *Customary law communities/Adat Community* ” term.

Related to Indigenous Peoples in Indonesia there are three issues that are currently becoming trending topics: FIRST; Forest and land fires, SECOND; Bill on Indigenous Peoples Protection, THIRD; Bill on Criminal Code (Criminal Justice System)

Related to the issue of forest and land fires, as we have seen during 2015, Indonesia becomes the country that experienced forest and land fires on a massive scale occurred almost throughout Indonesia. The impact of these fires was enormous, tens of millions of people in Indonesia suffered from smog, not to mention the impact of economic and social losses.

In the case of forest and land fires, as if only the Indigenous Peoples who caused the fires. In fact, from Satellite data shows that most fires occur in the areas of oil palm plantations which are scattered throughout Indonesia. Indeed, most indigenous peoples, especially in West Kalimantan, still practice the shifting cultivation for land clearing by burning forests. However, forest and land fires is done selectively and fire control carried out jointly by the indigenous people, so it is unlikely the fire spreading to other land.

The law provides protection for indigenous peoples to their traditional activities in order to meet the needs for food. But of course we do not turn a blind eye, if the government able to find a new concept of shifting cultivation farming without having to burn the land, the indigenous people will be helped and definitely left the old farming patterns.

The second issue is the issue of Bill on Indigenous Peoples Protection. This bill is a legacy of the previous period of government and the House of Representatives from 2009 to 2014. However, since it has not finished to be discussed yet, it is now a further discussion between the parliament and the government from 2014 to 2019 period. We really hope that this bill can be completed in the present period of the Parliament so that the protection of indigenous peoples can be more secure.

The third issue is the issue of Bill on Criminal Code (Criminal Justice System). The Criminal Code that is being used by Indonesia today is still the legacy of the Dutch Criminal Code. The Criminal Code is very legalistic and does not give any space at all on the recognition of traditional Indonesian law. Therefore, the Parliament especially in Commission III where I work and the government are determined to create a new Criminal Code Bill and it is scheduled to be finished in late 2017. One of the crucial issues related to Indigenous Peoples is, in the new Criminal Code Bill, the judge has a right for completing sentence by using local customary law in each local area. So the recognition of customary law in each district will be accommodated. The next task for local government to conduct identification and recognition of indigenous peoples in their respective regions.

Related to these three issues, I inform you that the Democratic Party has a very high spirit of the respect and recognition of Indigenous Peoples in Indonesia. We realize that there are still many challenges related to issues of indigenous peoples. It is apparent that there are indigenous peoples whose their rights are still neglected. There are still many conflicts arise between indigenous peoples with various of large-scale enterprises in the regions of Indonesia. There is still a legal system that is not fair related to indigenous peoples. But

Indonesia was having a lot of progress in this issue in the era of Susilo Bambang Yudhoyono (SBY) as the President. The importance of indigenous issues for us is also seen as our Chairman of Democratic Party which is also our ex-president of Indonesia, Susilo Bambang Yudhoyono, realized that the major contribution of indigenous people to the world, especially is in the issue of climate change.

Of the points raised above, I would like to convey the most important thing for us to think together: I found that the Indigenous People around the world should take a more active role in local politics in their countries to make sure that there is a solution and transformation of conflicts between indigenous peoples and states. We need to educate more indigenous youth to engage in political struggle, be as a member of parliament or senate thus the political struggle of indigenous peoples will soon gain great political support. Political struggle, in my opinion is a peaceful and democratic means to fight for the rights of indigenous peoples effectively.

In conclusion, allow me to close this presentation by quoting our philosophy of indigenous Dayak in West Kalimantan, Indonesia, that says: *ADIL KA' TALINO, BACURAMIN KA SARUGA, BASENGAT KA JUBATA*, which means "JUSTICE TO ALL HUMAN BEINGS, REFLECT ON LIFE AFTER DEATH AND ALWAYS REMEMBER TO THE CREATOR."

Thank you.