

**Strategies for advancing women's rights to
inheritance, land ownership and other property**

**Experiences of Indonesian women
In West Sumatera and West Nusa Tenggara**

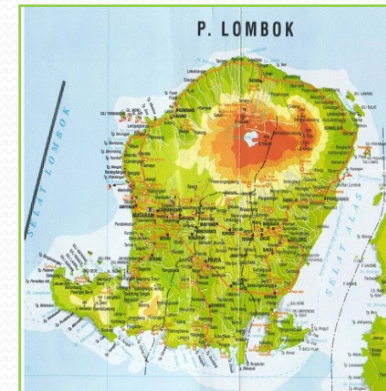
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Women Groups in W.S**

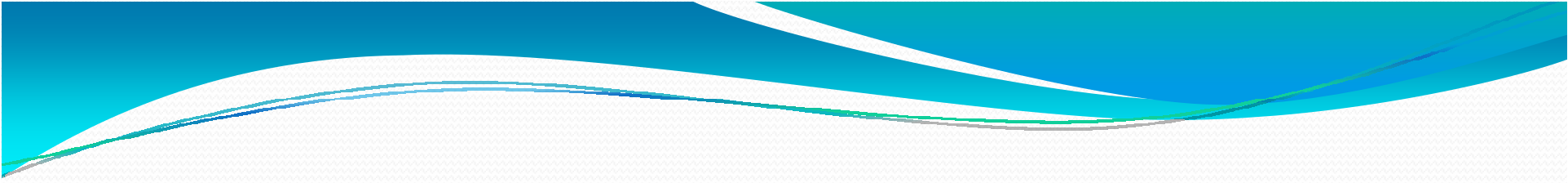
WIPR WG Meeting,
Dakar, Senegal, 11 February 2011

Indonesia, West Sumatera, and West Nusa Tenggara



West Sumatera and West Nusa Tenggara





SCN CREST has conducted 3 WIPR Projects to develop and support women's empowerment in facing of disempowering forces that use the cultural legitimacy:

- Developing capacity building methodology on women's land rights, in contexts of customary laws, cultures, state laws and religious interpretations (project 1)
- Support of selected local groups in exploring and developing strategies for asserting women's land rights in diverse contexts (project 2)
- Compiling a database of progressive cultural resource women's land rights: interpretations, experts (project 3)

SCN's Partners for asserting women's rights to inheritance, land ownership and other property

(2) Women group, some of them claiming land rights (individually and collectively) - 18

Expertise on Islamic laws, customary laws and State laws (provincial level, W. Sumatera) - 2

Customary leaders, religious leaders, village heads, village officers, other local leaders (village level) - 10

Expertise on Islamic laws, customary laws and State laws (provincial level, W. Nusa Tenggara) - 2

(2) Local community organizer - 3

(1) Semarak Cerlang Nusa

(2) LBH APIK NTB - 3

Communities in Lombok, West Nusa Tenggara

(3) Group of community, religious leaders, customary leaders and paralegal activists - 17

Women claiming land rights = 7

Expertise on Islamic laws, customary laws and State laws at national level (Jakarta) and provincial levels - 4

The legal context of Indonesia

- Indonesia embraced the pluralism of laws system, which allowed of 3 of law systems (customary laws, Muslim laws and state laws)
 - The practices of pluralism of law system are deference in each area which caused differences impact to women in term of WIPR issues, for examples:
 - In West Sumatera the customary law allowed women's rights to inheritance, land ownership and property rights, but the state laws and Muslim laws caused women no access to this rights
 - In West Nusa Tenggara the Muslim laws and state laws allowed women's rights to own land from inheritance and other property, but the customary laws caused women no access to this rights
- Relative demand

SCN's Strategies for asserting women's rights to inheritance, land ownership and other property

- (1) SCN CREST → LBH APIK W.NT → Group of community leaders (Customary leaders, Muslim leaders and Paralegal activists)

“Before WIPR project: LBH APIK already have experiences on handling inheritance cases by using legal process on state laws; and LBH APIK already developed strategy to work with community leaders as strategic agents of change to stop violence against women”

SCN's strategies:

SCN built on LBH APIK W.NT capacity to handle cases concerning WIPR that come to them by using progressive interpretation on 3 of laws system above;

SCN contribute to built on group of community leader existing to increase they knowledge and awareness on women's rights to inheritance and land ownership

SCN's Strategies for asserting women's rights to inheritance, land ownership and other property

(2) SCN CREST → Local community organizer → **Women group in community**

“Before WIPR project: local community organizer existing knowledge on women's issues, i.e. the equal rights of both women and men in all areas of life (access to education, health, earn income, etc); women group in community already developed their own initiatives to claim land rights as individually by other project in 2008-2009”

SCN's strategies:

SCN built on local community organizer capacity to assistance members of women group resolve their WIPR by using progressive interpretation on 3 of laws system above;

SCN contribute to built on women group existing to increase they knowledge and awareness to handling collectively their cases by using progressive interpretation

West Sumatera

- Even though matrilineal system which only women are entitled to inheritance of ancestral land, but, in fact most of women no rights to land ownership, men already take over the rights;
- That situation was supported by Local Regulation No.16/2008 on utilization of communal land. “*The owner of the communal ancestral land is Ninik mamak KAN/penghulu/mamak the head of inherit*”, which is all Man (Article 5)

Strategies in West Sumatera

| Sources of strategies | Strategies by women to strengthen their rights to the inheritance of ancestral land |
|--|---|
| (1) Cultural sources, especially customary laws | Increased knowledge about different modes of ownership of communal land, genealogies of ownership, and history of land have |
| (2) State laws and judicial processes | To avoid domination by male head of lineage, ancestral land is certified on behalf of all lineage members (male and female) |
| (3) Progressive interpretations of customary laws, Muslim laws, and State laws | Progressive interpretations used to legitimise women's rights to inheritance, land ownership, and others property |

The result of strategies related with Rao-Kelleher paradigm; *is it linear impact?*

- Knowledge and awareness about important to know cultural strategies which can use to re-claiming women's rights to inheritance of ancestral land is increased;
- Women have access to formal resources to re-claiming the land;
- Women succeeded to change perspective of traditional leader (including customary and religious leader) became supported them;
- Even thought, in some cases, not automatically women succeeded to get back their land.

Paradigm of sites of change by Aruna Rao and David Kelleher of Gender at Work:

| Individual Change | | | | | | |
|---|---|--|--|---|---|----------------------------|
| I n f o r m a l | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 10px;"> Domain 1: Women's and men's consciousness </td> <td style="width: 50%; padding: 10px;"> Domain 2: Women's access to resources </td> </tr> <tr> <td style="padding: 10px;"> Domain 3: Informal cultural norms and exclusionary practices </td> <td style="padding: 10px;"> Domain 4: Formal institution – laws, policies, etc </td> </tr> </table> | Domain 1: Women's and men's consciousness | Domain 2: Women's access to resources | Domain 3: Informal cultural norms and exclusionary practices | Domain 4: Formal institution – laws, policies, etc | F o r m a l |
| Domain 1: Women's and men's consciousness | Domain 2: Women's access to resources | | | | | |
| Domain 3: Informal cultural norms and exclusionary practices | Domain 4: Formal institution – laws, policies, etc | | | | | |
| Systemic Change | | | | | | |

Yen's Case (Teluk Village):

- Yen's mother and two other mother's sisters are heirs of ancestral land. Suwarman (SW) a head of inherit (*mamak kepala waris, in bahasa*) was controlled the land.
 - Assisted by WIPR team Yen and her's member tried to get back land through several strategies:
 - Writes the history of ownership land – the land is belonging of Yen's mother
 - Writes genealogies of ownership
 - Got supported by most of lineage members , community religious leader (*lebay* in bahasa) and members of customary institution in District Level (KAN)
 - But.... until now, Yen's mother hasn't supported yet by head of village who is in SW's side
 - So the land is still in SW's control
- Results: Domain 1, 2, 3

Suwarni's case (Palak Aneh Village)

- Suwarni (SW) is the heir of inheritance of ancestral land of her grandmother, named Tamin (TM). Siros (SR) claimed the land as his's member land (SR is a head of inherit in his member)
 - Assisted by WIPR team SW and her's member tried to get back land through several strategies:
 - Got supported by all lineage members, both men and women
 - Checked back the boundaries of land and writes the history of ownership land – the land is belongin of SW's members
 - Writes geneologies of ownership – SR isn't part of member of SW's
 - Got supported by lawyers to register land on behalf of all her member s
 - Now, the land has returned to SW's lineage member and can be utilized by all members
- Result domain: 1,2,3

Lesson Learnt:

- ❑ Not easy to develop progressive interpretations in a society that is still patriarchal. But this strategy created community awareness that alternatives are possible, that interpretations of 3 laws system are not the only ones;
- ❑ The strategies not 'plays' in 'stagnant space', but, its play in the dynamic situations and patriarchal domination; so that, not automatically women have rights to land ownership, even the results have exist in more than 1 domain--- not linear or relative results



TERIMA KASIH

