

# CHAPTER I

## INTRODUCTION

### A. Background of Study

Reducing Emissions from Deforestation and forest Degradation (REDD+) is a mechanism to reduce forest-related activities to protect the climate, through the sustainable management of forests and the conservation and enhancement of forest carbon stocks. Under the framework with these REDD+ activities, developing countries can receive results-based payments for emission reductions when they reduce deforestation.<sup>1</sup> The main objective of REDD+ is for national governments to carry out initiatives aimed at lessening the impact of people on forests, which in turn lowers national greenhouse gas emissions. It also acknowledges subnational implementation as a stop gap measure. The voluntary nature of REDD+ implementation is contingent upon the specific national context, the capacities and competencies of each developing country, and the extent of external assistance secured.<sup>2</sup>

REDD+ is part of the component of the United Nations Framework Convention on Climate Change (UNFCCC). It has been the first serious attempt by the international community to establish a global system of forest governance that

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<sup>1</sup> UNFCCC. "What is Redd+?". Last modified 2018. Accessed September 11, 2024. [https://unfccc.int/topics/land-use/workstreams/redd/what-isredd?gad\\_source=1&gclid=Cj0KCCQjw1Yy5BhDARIsAI0RbXYcAC3i50B4I79TAwfJ3Y5sFOerpB87gWW7EtG2WPAadubEcljGDqIaAvwTEALw\\_wcB](https://unfccc.int/topics/land-use/workstreams/redd/what-isredd?gad_source=1&gclid=Cj0KCCQjw1Yy5BhDARIsAI0RbXYcAC3i50B4I79TAwfJ3Y5sFOerpB87gWW7EtG2WPAadubEcljGDqIaAvwTEALw_wcB)

<sup>2</sup> Nur Masripatin, *INDONESIA REDD+ NATIONAL STRATEGY 2021-2030 Reducing Emissions from Deforestation and Forest Degradation, and the Role of Conservation, Sustainable Management of Forests and Enhancement of Forest Carbon Stocks*, Preview (Jakarta: Ministry of Environment and Forestry of the Republic of Indonesia, 2022), 4, [https://redd.unfccc.int/media/indonesia\\_redd\\_national\\_strategy\\_2021-2030.pdf](https://redd.unfccc.int/media/indonesia_redd_national_strategy_2021-2030.pdf)

would affect nations on a national, regional, and even local level. Adopted at COP 19 in Warsaw, December 2013, REDD+ is also known as the Warsaw Framework for REDD+ (WFR), which offers comprehensive methodological and financing guidance for carrying out REDD+ activities. Moreover, REDD+ is acknowledged in Article 5 of the Paris Agreement, where the Parties reiterated their encouragement to carry out REDD+ initiatives and their belief that they ought to be a fundamental component of the agreement. Consequently, in order to meet the highest level of commitment to climate action in the forest sector, Parties participating in REDD+ can build on the WFR.<sup>3</sup>

The extraordinary efforts to battle deforestation and forest degradation reflects the importance of forests in combating climate change. This is because, in addition to serving various ecological purposes, forests offer humans a wide range of ecosystem services. Forest services and ecosystem functions are provided by biodiversity.<sup>4</sup> Biodiversity is defined by the Convention on Biological Diversity as “the variability among living organisms from all sources including, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems”.<sup>5</sup> Deforestation and forest degradation would eventually lead to the

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<sup>3</sup> UNFCCC. "What is Redd+?". Last modified 2018. Accessed September 11, 2024. [https://unfccc.int/topics/landuse/workstreams/redd/whatisredd?gad\\_source=1&gclid=Cj0KCQjw1Yy5BhDARIsAI0RbXYcAC3i50B4I79TAwfJ3Y5sFOerpbB87gWW7EtG2WPAubEcljGDqlaAvwTEALw\\_wcB](https://unfccc.int/topics/landuse/workstreams/redd/whatisredd?gad_source=1&gclid=Cj0KCQjw1Yy5BhDARIsAI0RbXYcAC3i50B4I79TAwfJ3Y5sFOerpbB87gWW7EtG2WPAubEcljGDqlaAvwTEALw_wcB)

<sup>4</sup> The Economics of Ecosystems and Biodiversity, A synthesis of the approach, conclusions and recommendations of TEEB. (Abingdon: TEEB, 2010), 7, <https://www.teebweb.org/wpcontent/uploads/Study%20and%20Reports/Reports/Synthesis%20report/TEEB%20Synthesis%20Report%202010.pdf>

<sup>5</sup> "Convention on Biological Diversity," opened for signature on 5 June 1992, 30619, Article 2, <https://www.cbd.int/doc/legal/cbd-en.pdf>

decline of biodiversity, and the decline of biodiversity will inevitably lead to disruptions in the ecosystem and the increase of emissions from human activity within the forest.

Forest protection would be a very important task to prevent large-scale environment devastation, and one of the efforts is to implement a forest licensing mechanism. Forest licensing is a regulatory system that grants permission to individuals or companies to harvest or use forest resources in a sustainable way.<sup>6</sup> It involves managing access to forests, ensuring that forest use does not lead to exploitation, deforestation, or significant environmental damage. In practice, forest licenses are often given to logging companies or local communities under strict guidelines that govern the amount, type, and method of resource extraction. The aim of these licenses is to balance economic activities with environmental conservation, ensuring the forest's long-term sustainability.<sup>7</sup>

However, despite its foundational value and intention, forest licensing could become a tool to disrupt and exacerbate the already unstable environmental issues. In developing countries, the corrupt practice of the issuance of licenses is one of the prominent problems. This is connected to developed countries' external pressures and influences as the root cause of forest licensing issues in developing nations.

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<sup>6</sup> Kementerian Lingkungan Hidup dan Kehutanan, *LAYANAN PERIZINAN BERUSAHA PEMANFAATAN HUTAN PADA HUTAN LINDUNG DAN HUTAN PRODUKSI*, (Jakarta: Direktorat Bina Usaha Pemanfaatan Hutan, 2022), 6.

<sup>7</sup> Hariadi Kartodihardjo, "Transaction Cost of Forest Utilization Licenses: Institutional Issues," *Journal of Tropical Forest Management*, JMHT Vol.21, 3 (2015):184.

These pressures have the potential to worsen existing issues in developing countries with regard to sustainability, governance, and fair resource management.

Developed countries consume a large amount of paper, wood, and other forest products, and need resources from developing nations. This demand encourages developing countries to grant additional forest licenses for logging, frequently at levels that are not sustainable. Exploitation of forests occurs as a result of pressure to meet the global demand for timber, especially in areas with lax regulatory control and inadequate governance.<sup>8</sup>

Often, the victims of this exploitation are those Indigenous people who live around the forest. Indigenous tribes are frequently harmed by development projects. The preservation of ancestral lands and Indigenous peoples' cultural identities are usually subordinated to the expansion of infrastructure, modernisation, and resource extraction by governments and businesses. These initiatives, which include logging, mining, building dams, and expanding agriculture, frequently result in environmental damage, the loss of livelihoods, and displacement of people. Indigenous peoples' marginalisation is exacerbated when the state uses eminent domain to seize land for "national development" while frequently ignoring the strong cultural and economic ties they have to their ancestral territories.<sup>9</sup> The implementation of REDD+ can lead to conflicts over land tenure and resource

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<sup>8</sup> Krystof Obidzinski, "Cross-border timber trade in Indonesia: critical or overstated problem? Forest governance lessons from Kalimantan" *International Forestry Review*, Vol.9(1) (2007):533.

<sup>9</sup> Jayantha Perera, *Land and Cultural Survival The Communal Land Rights of Indigenous Peoples in Asia* (Mandaluyong City: Asian Development Bank, 2009)

rights, as the government may claim sovereignty over forested areas to meet REDD+ commitments, disregarding the customary rights of Indigenous groups.

According to United Nations Permanent Forum on Indigenous Issues, the term Indigenous people is to be understood as people that have historical continuity, strong links to territories and surrounding natural resources, distinct social, economic, or political systems, distinct languages, culture, beliefs, and form non-dominant groups of society.<sup>10</sup>

The United Nations developed the global agreements like the UN Declaration on the Rights of Indigenous Peoples (2007) and the International Labour Organization's (ILO) Convention 169 (1989). The collective rights of Indigenous peoples to land ownership, involvement in resource management, and preservation of their cultural and spiritual values are acknowledged by these instruments.<sup>11</sup> The UN Declaration broadens these principles by highlighting the right to free, prior, and informed consent for activities that impact Indigenous territories, while ILO Convention 169 expressly affirms the significance of collective ownership and Indigenous peoples' involvement in decisions affecting their lands. Notwithstanding these developments, there are still difficulties converting international norms into domestic legislation and customs.<sup>12</sup> Due to perceived

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<sup>10</sup> United Nations, "Factsheet: Who Are Indigenous Peoples?", UN Department of Economic and Social Affairs, 5th Session, accessed January 18, 2025, [https://www.un.org/esa/socdev/unpfii/documents/5session\\_factsheet1.pdf](https://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf).

<sup>11</sup> G.N. Barrie, "The United Nations Declaration on the Rights of Indigenous People: Implications for Land Rights and Self-Determination," *Journal of South African Law / Tydskrif vir die Suid-Afrikaanse Reg* 2013, no. 2 (2013)

<sup>12</sup> United Nations, "Indigenous Peoples' Rights to Lands, Territories and Resources," Department of Economic and Social Affairs, accessed January 22, 2025, <https://d3o3cb4w253x5q.cloudfront.net/media/documents/IndigenousPeoplesRightsLandTerritoriesResources.pdf>.

difficulties with national sovereignty and economic interests, many states are hesitant to fully implement collective land rights.<sup>13</sup>

In line with the international legal framework, by redefining the status of customary forests, the Indonesian Constitutional Court rendered a historic decision in 2013 (MK35/2012)<sup>14</sup> that greatly enhanced Indigenous land rights. The court affirmed Indigenous tribes' legal rights to manage and use their ancestral forests by ruling that customary forests are not a part of state-controlled forests. Decades of governmental authority, which had restricted Indigenous access to these lands and frequently gave corporate concessions for mining, logging, and palm oil plantations priority, were overturned by this ruling. But the ruling also put the onus of officially recognizing Indigenous communities on local governments, which made implementation difficult and left many communities open to continued land disputes and red tape.

With these dynamics in mind, the implementation of REDD+ in Indonesia can bring up potential discrimination against Indigenous peoples, primarily due to issues related to land tenure, participation, and benefit-sharing. When forest areas are designated for conservation under REDD+, Indigenous communities may be restricted from accessing resources that they have traditionally depended on for their livelihoods. This can be seen as a violation of their rights and an erosion of their autonomy, creating tension between state sovereignty and the rights of

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<sup>13</sup> Rashwet Shrinkhal, ““Indigenous sovereignty” and right to self-determination in international law: a critical appraisal” *An International Journal of Indigenous Peoples*, Vol.17, (2021):77.

<sup>14</sup> ALIANSI MASYARAKAT ADAT NUSANTARA, KESATUAN MASYARAKAT HUKUM ADAT KENEGERIAN KUNTU, KESATUAN MASYARAKAT HUKUM ADAT KASEPUHAN CISITU (2012) Putusan Nomor 35/PUU-X/2012

Indigenous peoples.<sup>15</sup> The issue becomes even more complex when the state prioritizes REDD+ projects over local land use practices, further marginalizing these communities.

Control over forest resources is exercised by regional or local authorities within a decentralised system of forest governance. These decentralised governance structures may occasionally be compromised by REDD+ projects, which frequently entail international agreements and national-level legislation. As part of the REDD+ process, the central government may try to exert more control over forests, which could cause tensions between national and local authorities.<sup>16</sup> Local authorities, most importantly Indigenous peoples often hold traditional rights to forest lands, but these rights are not always formally recognized by the state. The implementation of REDD+ can lead to conflicts over land tenure and resource rights, as the government may claim sovereignty over forested areas to meet REDD+ commitments, disregarding the customary rights of Indigenous groups.

Moreover, limited participation of Indigenous peoples in the implementation of REDD+ programs in Indonesia has been a significant concern, undermining the potential for equitable and inclusive outcomes. Indigenous people are frequently left out of meaningful participation in REDD+ planning and decision-making processes, in spite of international norms like Free, Prior, and Informed Consent

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<sup>15</sup> Eleonor Baldo-Soriano, *WHAT IS REDD+? A GUIDE FOR INDIGENOUS COMMUNITIES*, 3rd edition, (Chiang Mai: AIPP Printing, 2012), 96.

<sup>16</sup> Global Forest Coalition, *REDD+ and the Underlying Causes of Deforestation and Forest Degradation* (Asuncion: Global Forest Coalition, 2013), 16, <https://globalforestcoalition.org/wp-content/uploads/2013/11/REDD-and-UC-report-final.pdf>

(FPIC).<sup>17</sup> A number of systemic and structural obstacles are the cause of this lack of participation.

REDD+ has been implemented throughout many countries, especially in forest-rich, developing countries with high rates of deforestation. Countries like Brazil with its large tropical rainforest, the Amazon, was initially a global leader in implementing REDD+, with substantial reductions in deforestation rates during the early 2000s.<sup>18</sup> Strong government action, like as the Forest Code and the creation of protected areas, together with foreign finance, like the Amazon Fund, helped to bolster Brazil's efforts. Indonesia, just like Brazil, was an early adopter of REDD+. The Indonesian government has shown commitment by pledging to reduce emissions and reform forest governance. Indonesia signed a \$1 billion agreement with Norway to support REDD+ efforts and introduced policies such as the concession moratorium on new logging in primary forests and peatlands.<sup>19</sup>

Brazil has a strong institutional framework for REDD+, with substantial participation from state, federal, and civil society organisations. One important tool for funding REDD+ projects is the Amazon Fund, which was founded in 2008 and is mostly supported by Germany and Norway.<sup>20</sup> The Brazilian Institute of the

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<sup>17</sup> AMAN et al, UN CERD submission (2009), para 14  
<https://www.forestpeoples.org/sites/default/files/publication/2009/11/cerdindonesiaurgentactionjul09eng.pdf>

<sup>18</sup> Boucher, Doug, Pipa Elias, Jordan Faires, and Sharon Smith. "Brazil: The World's Biggest Reductions in Deforestation and Emissions." *Deforestation Success Stories: Tropical Nations Where Forest Protection and Reforestation Policies Have Worked*, (2014):7.

<sup>19</sup> Center for International Forestry Research, *Indonesia's forest moratorium A stepping stone to better forest governance?* (Bogor: Center for International Forestry Research, 2011), 1, [https://www.cifor-icraf.org/publications/pdf\\_files/WPapers/WP-76Murdiyarso.pdf](https://www.cifor-icraf.org/publications/pdf_files/WPapers/WP-76Murdiyarso.pdf)

<sup>20</sup> Deutsche Gesellschaft für Internationale Zusammenarbeit, "Financing forest and climate protection in the Amazon region". Last modified 2023, accessed September 11, 2024,

Environment and Renewable Natural Resources (IBAMA), Brazil's environmental agency, played a crucial role in implementing policies to prevent deforestation. Indonesia's institutional framework on the other hand involves multiple layers of government, from the central to the district level. The country established the REDD+ Management Agency (later integrated into the Ministry of Environment and Forestry) to oversee its implementation.<sup>21</sup> The creation of Forest Management Units (FMUs) aims to decentralize forest management, improve oversight, and reduce illegal activities. However, like many developing countries, Brazil and Indonesia's effort to implement REDD+ is hindered by many issues such as political changes, governance fragmentation, coordination among different government levels and most importantly, the existence of strong private sector interests in palm oil, timber, etc.

The key point of this research is the examination of human rights issues faced by Indigenous people because of the implementation of REDD+ by the government. Furthermore, the study makes a comparison between Indonesia, Brazil, and Tanzania on the implementation of REDD+ and its impact on Indigenous people. Brazil and Tanzania have long implemented the REDD+ policy, and this comparison would be a robust identification for Indonesia and its mechanism on the implementation of REDD+.

## **B. Problem Formulation**

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<https://www.giz.de/en/worldwide/134744.html#:~:text=Context,protection%20and%20international%20development%20cooperation>.

<sup>21</sup> Presidential regulation number 16 of 2015 concerning the Ministry of Environment and Forestry, Chapter 6 Article 59 section 1.

Based on the context of study, the problem formulations of this research are:

1. What are the impacts of the implementation of REDD+ on Indigenous people in Indonesia?
2. How can REDD+ be improved to better protect and promote the rights of Indigenous people?

### **C. Objectives of Research**

The objectives of this research are:

1. To examine the specific human rights issues faced by Indigenous communities in Indonesia as a result of REDD+ implementation.
2. To analyse REDD+ implementation to improve the programme at protecting and promoting the rights of Indigenous people.

### **D. Originality of Research**

This research focuses on the specific human rights issues faced by Indigenous communities that arise from the implementation of REDD+ in Indonesia. There is a lot of research discussing the implementation of REDD+ and its impact on Indigenous communities, and the writer will refer to this research in order to prove its originality.

, Christine Löw critically examines the role of gender, particularly Indigenous women, in REDD+ (Reducing Emissions from Deforestation and Forest Degradation) projects. She emphasizes how Indigenous women's knowledge and

leadership in forest management and climate change adaptation are often overlooked in REDD+ initiatives. The paper advocates for an intersectional feminist approach, integrating gender and indigeneity, to address the socio-economic and ecological challenges posed by climate change and deforestation.

Mucahid Mustafa Bayrak provide an in-depth analysis of the challenges and concerns that Indigenous peoples face with the implementation of REDD+ (Reducing Emissions from Deforestation and Forest Degradation). The report critically examines REDD+ through an Indigenous lens, calling for reforms that prioritize Indigenous rights, land tenure, and holistic forest management approaches.

, Pablo Reed explores the complexities surrounding the implementation of REDD+ in Ecuador, especially in relation to Indigenous communities. The writer examines the complexities of implementing REDD+ in Ecuador, particularly in relation to Indigenous communities who control over 60% of the country's forests. It highlights the tensions between the government's climate initiatives, such as the Socio-Bosque program, and Indigenous concerns over land rights, sovereignty, and the commodification of nature. While some communities, like the Cofan, have engaged with REDD+ as a means to protect their forests, others, including the Waorani and Awa, remain wary of losing control over their territories. The study underscores the critical need for inclusive legal frameworks and genuine Indigenous participation to ensure that REDD+ benefits both conservation efforts and Indigenous autonomy, without perpetuating historical injustices. The study concludes that incorporating Indigenous territories into REDD+ requires careful

consideration of their political and cultural concerns. REDD+ has the potential to support Indigenous conservation efforts, but only if it respects their rights, provides fair compensation, and does not undermine their sovereignty. A balanced approach, like the Socio-Bosque program, might help bridge the gap between government objectives and Indigenous interests, though challenges remain.

Julia Dehm critically examines the social impacts of the REDD+ (Reducing Emissions from Deforestation and Forest Degradation) carbon offset schemes, focusing on Indigenous peoples and forest communities. The paper raises critical questions about whether REDD+ can truly offer meaningful protections for Indigenous peoples or if it perpetuates unequal global power structures under the guise of environmental protection.

Tracey Osborne examines the effects of the REDD+ program on communities that depend on forests. The authors assess how REDD+ has influenced various aspects of these communities, such as governance, livelihoods, socio-cultural aspects, and the environment. It explores how REDD+ has affected local governance structures, often recentralizing control and marginalizing forest-dependent people from decision-making processes. The program's impacts on livelihoods are discussed, including reduced access to forest resources and challenges to food security, as well as the erosion of traditional ecological knowledge and cultural practices. The review also highlights concerns about REDD+'s environmental focus on carbon sequestration, which may lead to biodiversity loss and the expansion of monoculture plantations. The authors call for stronger safeguards, equitable benefit sharing, and better integration of local

communities to ensure that REDD+ fulfils its environmental goals without harming vulnerable populations.

Beatriz Garcia explores the implementation of REDD+ projects on Indigenous lands in the Brazilian Amazon, focusing on their potential as market-based mechanisms within the voluntary carbon market (VCM). It examines the legal, technical, and market barriers to these projects, highlighting challenges such as the lack of an international carbon market, complex certification requirements, and low demand for carbon credits. The study also emphasizes the importance of ensuring Indigenous rights through Free, Prior, and Informed Consent (FPIC) and equitable benefit-sharing. A case study of the Suruí Forest Carbon Project, the only Indigenous REDD+ project in the region, illustrates both the potential and difficulties of implementing such initiatives, especially amid external threats like illegal logging and mining.

T.N Maraseni evaluate the impacts of a REDD+ (Reducing Emissions from Deforestation and Forest Degradation) pilot project on Community Forest User Groups (CFUGs) in Nepal. The study focuses on the effects of the project on local communities' forest management, participation, and socio-economic conditions. The research identifies both positive and negative outcomes. On the positive side, the project increased the participation of marginalized groups such as Dalits, women, and Indigenous people in forest governance and offered some social safeguards. However, the study also found that the financial incentives provided by REDD+ were insufficient to offset the opportunity costs and additional expenses incurred by the CFUGs, such as reduced access to forest resources and increased

time commitment for governance activities. The research concludes that REDD+ may not be a viable market-based option for Nepalese CFUGs without more substantial financial support, and suggests that non-market-based approaches could offer better incentives for both environmental and social outcomes.

Kathleen Lawlor provides a comprehensive review of the early outcomes and lessons learned from REDD+ projects, focusing on community participation and socio-economic benefits. It examines the effects of REDD+ on local communities' well-being through three key dimensions: opportunities (such as jobs and income), security (especially land tenure), and empowerment (participation in decision-making). The study finds that while material benefits from REDD+, like jobs and income, have been modest, many projects have helped communities secure tenure rights and have involved them in governance decisions. The report emphasizes the need for careful consideration of community involvement and suggests that REDD+ projects with strong participatory approaches tend to produce better social and environmental outcomes. However, challenges remain in ensuring equitable participation and long-term benefits, particularly in regions with weak land tenure systems.

<b>No.</b>	<b>Previous Research Details (Name of Author, Title, and Year of Publication)</b>	<b>Outcome of the Research</b>	<b>Main Differences with this Research</b>
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1.	Christine Löw, Gender and Indigenous Concepts of Climate Protection: a Critical Revision of REDD+ Projects, 1 April 2020 <sup>22</sup>	<p>REDD+ projects need to incorporate a gender-sensitive and intersectional approach to be effective.</p> <p>Indigenous women should be recognized as key actors in forest management and climate adaptation, and their knowledge and leadership should be integrated into climate policies and projects for more equitable and sustainable outcomes.</p>	<p>This research specified its analysis through the lens of a gender-sensitive approach.</p> <p>Whereas, the current research that the writer currently undertaking is highlighting the possible human rights violations of local communities or Indigenous communities regardless of gender.</p>
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<sup>22</sup> Christine Low, “Gender and Indigenous concepts of climate protection: a critical revision of REDD+ projects,” *Current Opinion in Environmental Sustainability*, 43, (2020)

2.	<p>Mucahid Mustafa Bayrak; Lawal Mohammed Marafa, Ten Years of REDD+: A Critical Review of the Impact of REDD+ on Forest - Dependent Communities, 2 July 2016<sup>23</sup></p>	<p>Governments have frequently taken back the management of forests as a result of a shift in forest governance towards recentralization. Decentralisation attempts are hampered by this, because local communities are not included in decision-making. There are concerns that strong external players, such as governmental bodies and</p>	<p>This study reviewed and criticized the lack of local communities' inclusion in the decision-making process of REDD+ program. This study uses the general sample of forest communities, unlike the current study that uses the Indigenous community in Indonesia as the subject of analysis.</p>
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<sup>23</sup> Mucahid Mustafa Bayrak, "Ten Years of REDD+: A Critical Review of the Impact of REDD+ on Forest-Dependent Communities," *Sustainability*, 8, (2016)

		<p>commercial enterprises, would push out local populations. Their income and food security have been adversely affected in several instances by REDD+-related restrictions on land use and access to forests.</p>	
3.	<p>Pablo Reed, REDD+ and the Indigenous Question: A Case Study from Ecuador, 13 April 2011<sup>24</sup></p>	<p>The political and cultural issues of Indigenous lands must be carefully taken into account when including them in REDD+. Indigenous conservation</p>	<p>This study uses the socio-bosque program as the balanced program that would be appropriate to implement to strategize with the government and</p>

<sup>24</sup> Pablo Reed, "REDD+ and the Indigenous Question: A Case Study from Ecuador," *Forests*, 2, (2011)

		<p>initiatives may benefit from REDD+ funding, but only if their rights are upheld, just compensation is given, and their sovereignty is not compromised. The Socio-Bosque program is an example of a balanced strategy that could aid in bridging the gap between government goals and Indigenous interests.</p>	<p>local communities. The current study tries to highlight the possibilities of human rights violations within the implementation of REDD+, especially in Indonesia.</p>
4.	<p>Julia Dehm, Indigenous Peoples and REDD+ Safeguards: Rights as Resistance or as Disciplinary</p>	<p>The study raises important concerns about whether REDD+, in its</p>	<p>This study presents REDD+ as the disguise of an effort to</p>

	Inclusion in the Green Economy? , September 2016 <sup>25</sup>	attempt to preserve uneven global power systems under the pretext of environmental conservation, can actually provide Indigenous peoples with significant protections.	maintain uneven global power that hinders and subjugates Indigenous peoples. The current study attempts to conceptualize this as a violation of human rights towards Indigenous people.
5.	Tracey Osborne; Laurel Bellante; Nicola von Hedemann, Indigenous Peoples and REDD+: A Critical Perspective, November 2014 <sup>26</sup>	Alternative approaches to REDD+ that emphasize collective action, rights-based approaches, biocultural	This study tries to find an alternative perspective for the implementation of REDD+ that would appropriately involve the local

<sup>25</sup> Julia Dehm, "Indigenous peoples and REDD+ safeguards: rights as resistance or as disciplinary inclusion in the green economy?" *Journal of Human Rights and the Environment*, Vol. 7, (2016)  
<sup>26</sup> Tracey Osborne, "Indigenous Peoples and REDD+: A Critical Perspective," Indigenous People's Biocultural Climate Change Assessment Initiative, (2014)

		<p>approaches, and non-market approaches.</p>	<p>communities. Whereas, the current study targets the analysis of human rights issues faced by the Indigenous community in Indonesia.</p>
6.	<p>Beatriz Garcia; Lawrence Rimmer; Leticia Canal Vieira; Brendan Mackey, REDD+ and Forest Protection on Indigenous Lands in the Amazon, July 2021<sup>27</sup></p>	<p>The study highlights how crucial it is to protect Indigenous rights by implementing equitable benefit-sharing and obtaining free, prior, and informed consent (FPIC). The possibilities</p>	<p>This study highlights the Suruí forest project and also the mechanism of free, prior, and informed consent (FPIC).</p>

<sup>27</sup> Beatriz Garcia, "REDD+ and forest protection on indigenous lands in the Amazon" *Review of European, Comparative & International Environmental Law*, Vol.30, (2021)

		<p>and challenges of executing efforts like this are demonstrated by a case study of the Suruí Forest Carbon Project, which is the only Indigenous REDD+ project in the region. This is especially true in light of external threats like illegal mining and logging.</p>	
7.	<p>T.N. Maraseni; P.R. Neupane; F. Lopez-Casero; T. Cadman, An Assessment of the Impacts of the REDD+ Pilot Project on Community Forests User Groups (CFUGs) and Their</p>	<p>The study comes to the conclusion that non-market-based techniques might provide greater incentives for both environmental and</p>	<p>Study on the REDD+ implementation in Nepal specifically that focuses on the impact of market</p>

	Community Forests in Nepal, 19 February 2014 <sup>28</sup>	socioeconomic results, and that REDD+ may not be a feasible market-based choice for Nepalese CFUGs without more significant financial support.	and economical approaches.
8.	Kathleen Lawlor; Erin Myers Madeira; Jill Blockhus; David J. Ganz, Community Participation and Benefits in REDD+: A Review of Initial Outcomes and Lessons, 10 May 2013 <sup>29</sup>	The paper highlights the need of giving community involvement serious thought and indicates that REDD+ programs that have a significant	The study emphasises the importance of carefully considering community involvement and shows that REDD+ initiatives with a large

<sup>28</sup> T.N. Maraseni, "An assessment of the impacts of the REDD+ pilot project on community forests user groups (CFUGs) and their community forests in Nepal" *Journal of Environmental Management*, vol.136, (2014)

<sup>29</sup> Kathleen Lawlor, "Community Participation and Benefits in REDD+: A Review of Initial Outcomes and Lessons" *Forests*, 4, (2013)

		participatory component typically result in better social and environmental benefits. Ensuring fair participation and long-term benefits, however, continues to present difficulties, especially in areas with inferior land tenure systems.	participatory component usually yield greater social and environmental benefits.
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In conclusion the differences between this research the others as stated before is the emphasis on the dynamics of Indonesia's implementation of REDD+, and this research stresses the specific human rights issues face by Indigenous communities in Indonesia as a result of REDD+ implementation. Indigenous communities are the most impacted communities by the implementation of REDD+ because of their dependence on forests for their livelihoods and their cultural and spiritual significance that usually involves the existence of forests. In addition, the writer

also expand the research towards the improvement of REDD+ to better protect and promote the rights of Indigenous people.

## **E. Literature Review**

This part will mention the theories used for this research proposal, which are taken from literature and journals.

### **1. State sovereignty**

The idea of state sovereignty holds that a country or state is free to manage its people, resources, and political system without intervention from other forces. It refers to a state's absolute power to rule itself, enact laws, and oversee its domestic affairs in a political and economic capacity without interference from other states or international organisations.<sup>30</sup> This notion is further emphasized by the United Nations Charter chapter I article 2 (4) on the prohibition of threat or use of force to respect the sovereignty territorial integrity and political independence of other States.<sup>31</sup> The most important component of sovereignty for the purposes of international human rights law is a state's ability to treat its residents inside its boundaries however it sees fit, without interference from other parties.<sup>32</sup> Sovereignty is more than just an important international affairs concept. In addition, it is an acknowledgement of their right to control their own fate, a defence of their

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<sup>30</sup> Samantha Besson, "Sovereignty" *Max Planck Encyclopedias of International Law, Oxford Public International Law*, (2011):1.

<sup>31</sup> "United Nation Charter" open for signature on June 26 1945, 1 UNTS XVI, Article 2(4), <https://treaties.un.org/doc/source/docs/charter-all-lang.pdf>

<sup>32</sup> Douglass Cassel, "A Framework of Norms: International Human Rights Law and Sovereignty" *Journal Article*, (2001):1.

distinct identities and national freedom, and a recognition of their equal worth and dignity for numerous states and peoples.<sup>33</sup>

Many human rights-related processes, including decolonisation, would not have occurred in the absence of sovereignty, and many of the sovereign States that exist now would not have been possible without the role that human rights played in their creation. This is not to imply, of course, that human rights and sovereignty cannot coexist.

The principle of state sovereignty implies both "political independence," or the ability of nation states to govern themselves, and "territorial integrity," or the prohibition against intrusion. The prerogative powers that states have over subjects under their national jurisdiction are included in these two facets of state sovereignty, and this include the protection of the rights of Indigenous peoples,<sup>34</sup> and also the right to determine the use of its natural resources, including forests.

## 2. Human Rights

Human rights are essential liberties and rights that are intrinsically the property of every person, irrespective of their gender, nationality, ethnicity, religion, language, or any other characteristic. They are thought

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<sup>33</sup> INTERNATIONAL COMMISSION ON INTERVENTION AND STATE SOVEREIGNTY, *Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, 2001), 7, <https://idrc-crri.ca/en/book/responsibility-protect-report-international-commission-intervention-and-state-sovereignty>

<sup>34</sup> James Anaya, *Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People*, UNHCROR, 12th session, UN Doc A/HRC/12/34 (15 July 2009)

to be crucial for the growth of both persons and societies, and they are founded on the ideals of equality, decency, and respect for one another.<sup>35</sup> A vast array of rights and safeguards known as human rights guarantee that people can live free and with dignity.

Human rights are fundamental entitlements that protect the dignity and freedom of all individuals. These rights, have evolved over time to address the changing needs and values of societies. This evolution can be understood through the framework of generations of human rights, which categorizes these rights into three distinct waves: civil and political rights, economic, social, and cultural rights, and collective and developmental rights.<sup>36</sup> Each generation reflects a more comprehensive view of human rights, emphasising the connections between social welfare, individual liberties, and global issues. By looking at these generations, we can see how the conversation around human rights has evolved, highlighting the need to defend individual freedoms as well as the need to advance social cohesion and deal with urgent global concerns.

The first generation regards negative rights and corresponds to civil and political liberties. The rights of the “first generation” are the “classical” civil and political rights which have been formulated since the latter part of the 18th century. Since the Magna Carta and the founding texts like the US Bill of Rights and the Declaration of Rights of Man and Citizen, the first

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<sup>35</sup> UN General Assembly, Resolution 217A (III), Universal Declaration of Human Rights, A/RES/217(III) (December 10, 1948)

<sup>36</sup> Kasak Varel, “A 30-year struggle” *The Unesco Courier*, Issues 24, (1977):29

generation has also had a long tradition of emphasising liberty. These rights include equality before the law, the right to a fair trial, the freedom of speech and religion, the right to life, and other civic and political rights.<sup>37</sup>

The second generation emerged in the 19th century<sup>38</sup> following World War II, and is concerned with protecting people's welfare and financial security. These rights are frequently referred to as "positive rights" since they necessitate direct government engagement in order to be implemented. The rapid industrialisation of the nineteenth century and the ensuing social and economic inequality gave rise to the second generation of human rights. Within the framework of the post-World War II ideological struggle, communism firmly upheld economic, social, and cultural rights.<sup>39</sup>

The third generation is the most recent and ambiguous of the human rights generations. Reflecting a broader understanding of rights that includes collective interests and global challenges. These rights address issues that transcend national boundaries and focus on the well-being of communities and the planet. This group's collective rights were referenced in the Rio Declaration (UN General Assembly 1992), the Stockholm Declaration (UN General Assembly 1972), and other international declarations. The aforementioned rights encompass the freedom of self-governance, advancement in the economy and society, preservation of the environment, access to natural resources, and involvement in cultural

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<sup>37</sup> Spasimir domaradzki, "Karel Vasak's Generations of Rights and the Contemporary Human Rights Discourse" *Human Rights Review*, Vol.20, (2019):425.

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.* 426.

heritage.<sup>40</sup> Because of this, these rights are constructive, communal, and require accountability that transcends national boundaries.

Human rights connect with the requirements of communities collectively even while they centre on the innate dignity and freedoms of people, guaranteeing rights like the right to life, liberty, and personal security. Individual rights may not be sufficient to meet the particular difficulties experienced by Indigenous peoples, ethnic minorities, or distinct cultural groups in many nations, especially those with these groups. Here's where the rights of the community come in; communal rights acknowledge that preserving a group's identity, customs, and general well-being is crucial, and that maintaining a community's land, customs, and independence is frequently necessary for its survival and growth.<sup>41</sup> Knowing communal rights emphasises the defence of group interests in addition to individual liberties, which adds an important dimension to the discussion of human rights.

Rather than focussing on individual rights, communal rights refer to the rights of groups or communities. They emphasise collective interests and well-being. These rights acknowledge that some groups have particular cultural, social, or environmental demands that cannot be fully met by individual rights alone. Examples of these groups include Indigenous peoples, minority communities, and religious organisations. By

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<sup>40</sup> *Ibid.* 29.

<sup>41</sup> UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly, A/RES/61/295, 2 October 2007, <https://www.refworld.org/legal/resolution/unga/2007/en/49353>

safeguarding these groups' identity, customs, and assets, communal rights help to ensure their continued existence and prosperity within broader society.<sup>42</sup>

The UN has become the key platform where the rights of Indigenous peoples are shaped and articulated over the years, serving as a vital source for declarations, covenants, and other documents that are integral to international law and international human rights law.<sup>43</sup> Instead of dominance and exclusion by the state and the general public, their demands are centred on inclusion and sharing. However, the modern individualism and state sovereignty that guide national economic development and property laws continue to conflict with this Indigenous communalism.<sup>44</sup>

### **3. Reducing emissions from deforestation and forest degradation+**

REDD+ stands for Reducing Emissions from Deforestation and Forest Degradation. By encouraging developing nations to reduce deforestation and forest degradation, as well as encouraging sustainable forest management and the expansion of forest carbon stores, this worldwide program seeks to mitigate climate change. Beyond deforestation and degradation, the "+" in REDD+ stands for conservation and sustainable

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<sup>42</sup> Jayantha Perera, *Land and Cultural Survival The Communal Land Rights of Indigenous Peoples in Asia* (Mandaluyong City: Asian Development Bank, 2009), 17.

<sup>43</sup> UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly, A/RES/61/295, 2 October 2007, <https://www.refworld.org/legal/resolution/unga/2007/en/49353>

<sup>44</sup> Jayantha Perera, *Land and Cultural Survival The Communal Land Rights of Indigenous Peoples in Asia* (Mandaluyong City: Asian Development Bank, 2009), 3.

forest management, among other activities.<sup>45</sup> Because forests collect carbon dioxide from the atmosphere and operate as carbon sinks, the program offers financial incentives to nations that protect their forests. By lowering greenhouse gas emissions from changes in land use, the goal is to slow down climate change. By encouraging better land use practices and sustainable resource management, REDD+ also aims to help local communities and Indigenous peoples live better lives.<sup>46</sup>

Because REDD+ offers a cost-effective way to combat climate change through carbon offsetting and reducing greenhouse gas emissions, it has substantial advantages for developed countries. In addition to helping to preserve biodiversity and vital ecosystem services like carbon sequestration and water regulation, which have worldwide benefits, developed nations can fulfil their international climate commitments, including those outlined in the Paris Agreement,<sup>47</sup> by supporting forest conservation and restoration projects in developing nations.

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<sup>45</sup> UNFCCC. "What is Redd+?". Last modified 2018. Accessed September 11, 2024.

[https://unfccc.int/topics/land-use/workstreams/redd/what-isredd?gad\\_source=1&gclid=Cj0KCQjw1Yy5BhDARIsAI0RbXYcAC3i50B4I79TAwfJ3Y5sFOerpB87gWW7EtG2WPAubEcljGDqIaAvwTEALw\\_wcB](https://unfccc.int/topics/land-use/workstreams/redd/what-isredd?gad_source=1&gclid=Cj0KCQjw1Yy5BhDARIsAI0RbXYcAC3i50B4I79TAwfJ3Y5sFOerpB87gWW7EtG2WPAubEcljGDqIaAvwTEALw_wcB)

<sup>45</sup> Nur Masripatin, *INDONESIA REDD+ NATIONAL STRATEGY 2021-2030 Reducing Emissions from Deforestation and Forest Degradation, and the Role of Conservation, Sustainable Management of Forests and Enhancement of Forest Carbon Stocks*, Preview (Jakarta: Ministry of Environment and Forestry of the Republic of Indonesia, 2022), 4,

[https://redd.unfccc.int/media/indonesia\\_redd\\_national\\_strategy\\_2021-2030.pdf](https://redd.unfccc.int/media/indonesia_redd_national_strategy_2021-2030.pdf)

<sup>46</sup> Center for international Forestry Research, *REDD+: Combating Climate Change with Forest Science* (Bogor: Center for International Forestry Research, 2021), 6,

[https://www.ciforicraf.org/publications/pdf\\_files/FTA/FTA-Highlights-11.pdf](https://www.ciforicraf.org/publications/pdf_files/FTA/FTA-Highlights-11.pdf)

<sup>47</sup> "Paris Agreement," adopted December 12, 2015, United Nations Framework Convention on Climate Change (UNFCCC), Conference of the Parties (COP21), Paris, France.

REDD+ implementation in developing nations has both noteworthy advantages and difficulties. By offering financial incentives for reducing deforestation and increasing forest carbon stocks, REDD+ empowers nations to fund conservation and sustainable development initiatives. Through sustainable forest management, it supports climate resilience, biodiversity preservation, and local economic development potential. But there are drawbacks to these advantages. Dependency on erratic outside funding, the high expense of setting up monitoring and reporting mechanisms, and possible disparities in benefit distribution can put a burden on national resources and lead to societal unrest.<sup>48</sup> Furthermore, REDD+ runs the risk of sustaining "carbon colonialism," which would enable developed nations to evade meaningful domestic emission reductions,<sup>49</sup> and it may result in land-use conflicts, where conservation objectives collide with local communities' demands for resource usage or agricultural growth.

The Central Kalimantan REDD+ pilot project is a noteworthy example that illustrates the disadvantages of REDD+ in Indonesia. Despite the project's goal of lowering emissions and protecting forests, a number of difficulties surfaced. Long-term engagements with local communities were hampered by financial uncertainties due to varying carbon market income. Conflicts and delays in project implementation were also created by problems with governance and ambiguous land tenure. Many local

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<sup>48</sup> Center for International Forestry Research, *Analysing REDD+: Challenges and Choices* (Bogor: Center for International Forestry Research, 2012), 112.

<sup>49</sup> Laurie Parsons, *CARBON COLONIALISM How Rich Countries Export Climate Breakdown*, 1st edition, (Manchester: Manchester University Press, 2023), 6.

communities were unhappy and expressed concerns about equity as a result of feeling left out of decision-making processes.<sup>50</sup>

#### **4. Indigenous rights**

The freedoms and rights that acknowledge and defend the political, social, cultural, and economic customs of Indigenous peoples are known as Indigenous rights. In order for Indigenous groups to preserve and advance their unique lifestyles, relationships to the land, and political structures, these rights are essential. The United Nation established the Declaration on the Rights of Indigenous Peoples<sup>51</sup> to crystalize the pertinent rights that indigenous people are entitled to. Indigenous peoples are defined as the original inhabitants of a territory that has been overrun and colonized by foreign powers, and are entitled to Indigenous rights.<sup>52</sup> These rights are essential for safeguarding the survival, identity, and dignity of Indigenous peoples, while also ensuring that they can continue to contribute to the cultural and ecological diversity of the world.

Indonesia through its constitutional court, has also established the acknowledgement of the existence of Indigenous people and its rights. Decision Number 35/PUU-X/2012 of the Constitutional Court (MK) affirms the rights of Indigenous peoples to their traditional lands, including

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<sup>50</sup> Forest People Programme, CENTRAL KALIMANTAN: REDD+ and the Kalimantan Forest Carbon Partnership (KFCP) (Birmingham: Forest People Programme, 2011), 3.

<sup>51</sup> UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly, A/RES/61/295, 2 October 2007, <https://www.refworld.org/legal/resolution/unga/2007/en/49353>

<sup>52</sup> Paul Keal, *European Conquest and the Rights of Indigenous Peoples*, (New York: Cambridge University Press, 2003), 9.

forests.<sup>53</sup> This decision is the result of a judicial review of Law Number 41 of 1999 concerning forestry.

Broader reforms have been prompted by this decision, including giving Indigenous communities the ability to independently govern their lands and take part in participatory mapping projects to more precisely define their borders. Additionally, to prevent exploitation of their land and natural resources, Indigenous tribes have used traditional laws and governance systems.<sup>54</sup> However, political will at the local level, which might be swayed by corporate interests, is frequently necessary for these policies to be effective.

## **F. Research Methods**

This research would be conducted with the specifications as follow:

### **1. Type of Research**

This research is a Normative Legal Research since it is mainly comprised of reviewing books, journals, laws, legal theories, and doctrines. The researcher will examine REDD+ and its impact on Indigenous people from a myriad of sources. within the framework of international and national legal systems. The study examines the legal norms and principles underpinning REDD+, focusing on the impact it

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<sup>53</sup> *ALIANSI MASYARAKAT ADAT NUSANTARA, KESATUAN MASYARAKAT HUKUM ADAT KENEGERIAN KUNTU, KESATUAN MASYARAKAT HUKUM ADAT KASEPUHAN CISITU* (2012) Putusan Nomor 35/PUU-X/2012

<sup>54</sup> Fair Planet, "How Indonesia's Indigenous Tribes Protect their Lands" Last modified 2024, accessed November 29, 2024. <https://www.fairplanet.org/story/how-indonesias-indigenous-tribes-protect-their-lands/>

has on Indigenous people and the challenges of its integration into domestic environmental and land-use policies. By analysing relevant international treaties, national laws, and policy documents, the paper evaluates how well these legal frameworks align with REDD+'s objectives of forest conservation, climate change mitigation, and Indigenous rights protection.

## **2. Focus of Research**

The focus of this research will analyse the specific human rights issues face by Indigenous communities in Indonesia, also to analyse the improvement of the implementation of REDD+ to better provide protection and promotion towards the rights of Indigenous communities.

## **3. Research Approach**

The research approaches that will be used in this research are:

### **a. Statutory Approach**

In enforcing its mechanism, REDD+ should refer to applicable laws, be it national or international, that constrain the applicability and enforceability of REDD + in Indonesia.

### **b. Historical Approach**

The historical approach entails studying the historical development of the interaction that exists between forest conservation efforts and Indigenous communities. The researcher

will investigate the origins of the potential and problems presented by REDD+ by tracing the history of environmental conservation initiatives, Indigenous land rights, and deforestation regulations. By placing Indigenous peoples' past forest management, resistance to encroachment, and interactions with state policies in context, this method illuminates the lasting effects of colonisation, land dispossession, and environmental governance. It also makes it possible to critically examine how current concerns about the implementation of REDD+ and its implications on Indigenous sovereignty, livelihoods, and traditional ecological knowledge are informed by historical injustices and land use practices.<sup>55</sup>

c. Conceptual Approach

The concept of western hegemony is relevant in the implementation of REDD+ in developing countries.<sup>56</sup> It can violate the human rights of Indigenous people, if the developing countries have no leverage and bargaining power with the donor country.

d. Comparative Approach

This study compares the implementation of REDD+ and its effect on Indigenous communities between Indonesia, Brazil, and Tanzania.

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<sup>55</sup> World Rainforest Movement, 15 Years of REDD A Mechanism Rotten at the Core, (Montevideo: World Rainforest Movement, 2022), 11, [https://www.wrm.org.uy/sites/default/files/2022-05/REDD\\_15\\_%20years\\_ENG.pdf](https://www.wrm.org.uy/sites/default/files/2022-05/REDD_15_%20years_ENG.pdf)

<sup>56</sup> Paul Keal, *European Conquest and the Rights of Indigenous Peoples*, (New York: Cambridge University Press, 2003)

e. Case approach

The case approach in this thesis involves an in-depth analysis of specific instances or examples to explore key issues related to the implementation of REDD+ in Indonesia. By examining real-world cases, the approach allows for a detailed understanding of the challenges, successes, and lessons learned in integrating Indigenous rights, governance, and environmental conservation within REDD+ projects. This case-based analysis provides valuable insights that can inform future strategies and policy recommendations for improving REDD+ outcomes.

**4. Sources of Research Data**

This research uses secondary data that consists of:

a. Primary Sources

The researcher will examine the documents of treaties, legal rules and codification of law including United Nations Framework Convention on Climate Change, Kyoto Protocol, Warsaw Framework for REDD+, and national legal rules such as, Regulation of the Minister of Environment and Forestry Number 70 on Procedures for Implementing REDD+, Presidential Regulation No. 71 of 2011 on the National Greenhouse Gas Inventory, Constitutional Court Ruling No. 35/PUU-X/2012, etc.

b. Secondary Sources

Secondary sources provide summaries and interpretations of law in narrative format. Printed law books will help the researcher to discover the primary sources by providing the relevant references for the research. Specifically, the researcher will investigate journal and legal articles that are relevant for the references of this research.

c. Tertiary Sources

Tertiary legal materials are other materials in supporting primary in this research, the writer use Black's Law Dictionary.

d. Data Collection techniques

The writer will review all written materials or secondary data that are required for the paper. This approach uses existing data in the form of written documents, databases, newsletters, reports, etc.

## 5. Data Analysis

The writer favours a qualitative approach over a quantitative approach; this entails analysing data based on legal precedents, instances, and the viewpoints of researchers rather than on statistics.

## 6. Structure of Writing

### Chapter I

This chapter introduces general idea of the research consisting of the background of the study, the problem formulation, the research objectives, the literature review, the research methodology and also the structure of the thesis.

## **Chapter II**

This chapter analyses main theory of the research of state sovereignty, human rights, communal rights, and its pertinence with the REDD+ mechanism.

## **Chapter III**

This chapter continues the explanation in the previous chapter by assessing further the human rights aspects and their relationship with Indigenous rights in the REDD+ mechanism. This chapter also answers the pertinent problem formulation that has been set for this research.

## **Chapter IV**

This chapter finalizes the analysis from all chapters into a conclusion about the actual conception of human rights issues within the implementation of REDD+ in Indonesia.

