



Formalising participatory land-use planning

Experiences from Sanggau District, West Kalimantan, Indonesia

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Acronyms

AMAN	Aliansi Masyarakat Adat Nusantara / The Alliance of Indigenous Peoples of the Archipelago (national indigenous peoples organisation)
BAPPEDA	Badan Perencanaan Pembangunan Daerah / Agency for Regional Planning and Development
BPS	Badan Pusat Statistik / Central Bureau of Statistics
EU RED	European Union Renewable Energy Directive
FPIC	Free Prior and Informed Consent
GIS	Geographic information system
GPS	Global positioning system
HGU	Hak Guna Usaha /Rights for business use (permanent permit to establish an oil palm plantation)
IUP	Izin Usaha Perkebunan / Plantation business permit (temporary)
KBNK	Kawasan Budidaya Non Kehutanan / Cultivation areas outside the forest zone
MOU	Memorandum of Understanding
PLUP	Participatory land-use planning
PPSDAK	Program Pemberdayaan Sumber Daya Alam Kerakyatan/Community-based natural resources management empowerment programme
RSPO	Roundtable on Sustainable Palm Oil
SHM	Sertifikat Hak Milik / Individual land title
YPSBK	Yayasan Karya Sosial Pancur Kasih / Pancur Kasih Social Work Foundation

1. Introduction

2.1 Participatory land-use planning for responsible oil palm production

Indonesia is one of the world's largest producers of palm oil and has ambitious plans for the further expansion of its oil palm plantations. There is a lot of concern that such expansion is going to have negative consequences for local people. In the recent past, large-scale expansion has often violated local customary land rights, leading to conflicts between communities and companies. In order to prevent such conflicts, proper site identification of oil palm plantations is a *sin qua non*. The oil palm companies would also benefit from better planning, not in the least because unsolved land conflicts damage their image and may result in trade restrictions.

Current land-use planning in Indonesia is based on formal maps that make no mention of customary and village boundaries. This makes communities vulnerable, as oil palm companies may expand their plantations on community land without the consent of the local people who use this land. Participatory land-use planning (PLUP) can help address this. PLUP refers to a type of land-use planning that is people-centred and bottom-up, incorporates input from all relevant stakeholders and recognizes locally specific socio-cultural, economic and environmental conditions (see, e.g. Wehrmann, 2011). It has the potential to prevent land-use conflicts and land grabbing. This is particularly important in Indonesia where space is contested and customary land rights are seldom legally formalised.

2.2 Community mapping

Community mapping refers to the drawing of boundaries of village or customary territories by community members, often with the support of an independent expert organisation. Together they establish a map of the land, using simple Global Positioning System (GPS) technology and Geographical Information System (GIS) software. The boundaries between villages are established in consultation with neighbouring communities. Community maps may depict not only the land boundaries, but also the various land uses, sacred places, wild animal feeding and breeding areas, river systems, settlements and plans for the future. They enable local people to communicate their perceptions of land rights and resource management systems with the government and other actors. The mapping process as well as the final map may help communities to collect and represent traditional knowledge, raise awareness, support land-use planning processes and gain recognition of their natural resource management systems and associated tenure rights. Community mapping may also help prevent and resolve conflicts over borders (Peluso, 1995; Momberg et al., 1996).

Since the mid 1990s, West Kalimantan has had a very active community mapping movement, led by a local NGO called *Pembinaan Pengelolaan Sumber Daya Alam Kerakyatan*¹ (PPSDAK). Up to April 2013, the NGO facilitated the mapping of 370 villages, covering approximately 1.6 million hectares. Ideally, these maps would be used in formal land-use planning processes, as this would help make sure that oil palm is only planted in areas that are agreed upon by local communities. So far, however, local governments have tended to ignore these maps.

2.3 The PLUP project

Between 2010 and 2013, an alliance of Indonesian and Dutch non-governmental organisations and universities and an international research institution conducted a pilot project aiming to facilitate the integration of community maps into formal district-level spatial planning procedures. The geographical focus of the project was on West Kalimantan – one of the top oil

¹ Community-based natural resource management empowerment programme.

palm producing regions in the world – with a high number of oil palm related conflicts and ambitious plans to expand the area under oil palm.

This document summarises the results and lessons learned from the PLUP project. Acknowledging that the potential of PLUP greatly depends on the legal context, it starts with an overview of the policy context in Indonesia (Chapter 2). The main results of the consortium’s assessment study (which was used to further define the project’s activities) are presented in Chapter 3, followed by a short description of the activities undertaken (Chapter 4). Chapter 5 analyses what worked and what didn’t. Finally, we reflect on the project’s experiences and present the main lessons learned (Chapter 6).

Box 1.1 Community mapping by PPSDAK in West Kalimantan

Of all provinces in Indonesia, West Kalimantan has the most active community-mapping movement, with a leading role for *Pancur Kasih* (literally: ‘Fountain of Love’), which is an umbrella organisation for NGOs working on the empowerment of the indigenous Dayak people. *Pancur Kasih* established a community-based natural resource empowerment programme with a mapping unit called *Pembinaan Pengelolaan Sumber Daya Alam Kerakyatan* (PPSDAK) in 1995. Since then PPSDAK has helped local communities all over West Kalimantan to map their village territories. During every community mapping exercise PPSDAK usually prepares seven maps. These include: (i) existing land-use; (ii) water bodies; (iii) housing; (iv) forests; (v) sacred areas; (vi) historical claims; and (vii) planning for the future. For the community maps that are facilitated by PPSDAK, the consent of the community is needed in order to be able to use the maps for official purposes.

2. Policy context

2.1 Land tenure outside the state forest zone

In Indonesia, oil palm plantations can only be established in areas located outside the state forest zone. Areas outside the state forest zone can be classified as state, private or customary (*Adat*) land. However, most of the lands are not yet registered, so their status has not yet been established.² Officials from the national land agency presume that all unregistered land is state land until proven otherwise. This means that the government may issue concession rights to companies on land that are in use by local people.

The unclear tenure situation is the primary source of land conflict in Indonesia. Moreover, for most of Indonesia there are no accurate maps of village territories. The maps with formal village boundaries that exist at the National Bureau of Statistics are based on large-scale sketch maps. With a few exceptions, they do generally not represent the boundaries of customary territories. Large areas are considered by the State as 'non-productive lands' and qualify as lands that can be used for oil palm plantations, while smallholders often use these lands, and claim them as customary territory. In this context, smallholders have accused palm oil companies of land grabbing or stealing their land (Rietbergen, 2011; Sirait, 2009).

Box 2.1. Recognition of customary forests within Indonesia's forest zone

Indonesia's forest zone (*kawasan hutan*) is divided into two main categories: state forests (*hutan negara*) and 'forests subject to rights' (*hutan hak*). The Indonesian government treats virtually the entire forest zone as state forests, on which the state can grant concessions to commercial logging and plantation companies. On 16 May 2013, the Constitutional Court, in its decision No.35/PUU-X/2012, invalidated the Indonesian government's claim on customary forests that are located within the forest zone. The ruling followed a request for a review of the 1999 forestry law by the national indigenous peoples' organisation AMAN, which represents indigenous people in Indonesia. The Court ruled that customary forests should not be classified as 'state forest areas'. This essentially means that customary forests have moved from *hutan negara* into the *hutan hak* category. It potentially gives indigenous and local communities the right to manage millions of hectares of forests in Indonesia. A problem is that there is no official figure for the extent of customary forests. The key challenge in the near future therefore is to obtain official recognition for indigenous peoples' territories, in order to enable them be able to claim their forests as customary forests.

2.2 Procedures and permits for palm oil companies

In Indonesia, the regulation of the plantation estate sector (including the expansion of oil palm plantations) lies primarily with district governments. On state land outside the forest zone, the district government can grant a permit (HGU) to a company to establish oil palm plantations. The HGU permit is valid for 25 years with the possibility of extension. An important consequence of these large-scale land allocations is that the status of the land will automatically change to state land, also after the permit's expiration.

There are several steps for a company to follow in order to obtain an HGU permit. The company should first submit a plan to the district government, which shows that the area

² Only an estimated ten per cent of the area outside the state forest zone is registered with the national land agency (BPN) as private ownership (SHM). Since 1999 there is the possibility to register lands as customary (*Adat*) land, but only one area in Banten Province (Java) has gone through this process thus far.

planned for plantation development is in accordance with the provincial and district spatial plan. The district government will then check the proposed area against the map 'guidance for investment', which shows the areas that are classified as 'cultivation areas outside the forest zone' (KBNK). Oil palm plantations can only be established within these KBNK areas. The investment map also shows the permits that have already been handed out. If the proposed area is classified as KBNK and there are no other permits in the area, the District Governor (*Bupati*) can issue a temporary plantation utilisation permit (IUP).³ The IUP permit gives the company two years to conduct an Environmental and Social Impact Assessment and to reach an agreement with the communities within the permit area about the location of plantations and the terms of involvement of community members. The latter agreement is in the form of a letter signed by the village head. If the requirements are not followed, the District Governor will withdraw the IUP permit and recommend the National Land Agency not to grant a long-term HGU permit (Sirait, 2009; McCarthy and Zen, 2010).

In the IUP stage, a company opens up negotiations with the communities that are located within the concession area. During these negotiations, the company will try to establish a contract-farming arrangement that involves a land deal. The most common of these arrangements is the *Perkebunan Inti Rakyat* scheme. In this scheme, the company manages its own nucleus estate plantation, called *Inti*, which falls under the 25-year HGU permit granted by the local government. In addition, the company develops oil palm plantations on lands that are owned and managed by smallholders, referred to as *Plasma* (Wakker, 2005). A typical *Plasma-Inti* scheme in West Kalimantan requires every individual who joins the scheme to provide 5.5 hectares of land to the company, which will become part of the *Inti* plantation. In return, each contract farmer obtains two hectares of land, for which (s)he will get an individual land title (SHM). These individually owned lands are part of the *Plasma*. The contract farmers take a loan from the company for land clearing, planting materials, maintenance, road construction and land registration.

Communities tend to have weak bargaining power in these negotiations, due to the lack of formal land titles and accurate maps. Moreover, companies may provide misleading information and the terms of engagement often remain unclear for the communities. Smallholders involved often do not understand the contracts that they are expected to sign and are confused about the interest they are to pay. Most notably, communities entering into an arrangement with a company may not be aware of the fact that the status of a significant part of their customary territory (i.e. the land that becomes part of the company's *Inti* plantation) will permanently change to state land and that they will thus lose their property claim on these lands.

2.3 Spatial planning

Spatial planning is the government's instrument to define where which activity can take place. Although spatial planning does not directly address the underlying tenure issues, it is a crucial instrument to make sure that the rights of people are not violated and that the proper use is planned in the right place. In Indonesia, the legal framework for spatial planning is provided by Law no 24/1992 (Salim, 1992). According to the law, spatial planning in Indonesia consists of the following three main elements:

- Documentation of biophysical and social-economic conditions (land, water, population, demographics, etc.), serving as the background for the Spatial Plan.

³ In case the area overlaps with a state forest area, the Ministry of Forestry needs to grant permission for forest area conversion (the conversion of land status from forest area to non-forest area).

- The Spatial Pattern Plan, which appoints the state forest areas and other areas of national interest such as national roads, railways, energy sources, etc. The Spatial Pattern is defined top-down, in a hierarchical process from the national to the provincial to the district level.
- The Spatial Structure Plan defines the structure of provinces and districts in greater detail based on local interests. The plan indicates, for example, which areas are designated for food production and which areas are for plantation development. The development of the Spatial Structure Plan is the responsibility of the district planning agency and developed on top of the Spatial Pattern.

3. Exploring opportunities for PLUP

Considering the complexity of issues related to land regulation and planning in West Kalimantan, the project consortium first conducted an assessment study in order to define the project's activities in more detail. The assessment explored (i) the legal context, both nationally and in West Kalimantan, (ii) experiences with participatory land-use planning in Indonesia, (iii) biophysical and socio-economic characteristics of West Kalimantan, and (iv) constraints and opportunities to get community maps accepted by the district government. The study was based on a review of literature, geographical and biophysical data, national legislation and interviews with government officials and NGO staff. Based on the assessment, the consortium concluded that the revised spatial planning law of 2007 – and the ensuing development of a new Indonesian spatial plan – provided several new opportunities to address the land right concerns of communities. The two main windows of opportunity are summarised below.

3.1 The revised Indonesian Spatial Planning Law demands participation

In 2007, the Spatial Planning Law of 1992 was revised with Law No. 26 on Spatial Planning, which opened up possibilities for a more inclusive planning process. Articles 60 to 66 state that participation of civil society is required during planning, implementation and monitoring. There are, however, no guidelines on how participation should take shape, which can be used as a justification not to implement the law or to interpret it creatively. At the same time, the absence of guidelines means there is room to 'experiment' with the concepts of 'participation'. Since 2010 all districts are obliged to review their spatial plans in accordance with the revised law. This provided an opportunity for the project consortium to work together with the district government to test whether and how existing community maps can be used in planning procedures. The lessons learned from this experience can be applied at national level in the development of guidelines for implementation.

3.2 The Rural Areas category

Articles 48-54 of the revised law introduce 'Rural Areas' as a new category. The classification as a Rural Area implies that the area is considered as being crucial for the local community and can therefore not be used by private companies to establish plantations. The law states that the Rural Area is to be identified through a process of 'detailed spatial planning'. This implies that the communities themselves can decide which areas should be part of the Rural Area and which areas should not. Only the latter can become part of negotiations with companies. Within a Rural Area, households can decide to plant what they want (including oil palm) providing the land use contributes to (i) maintaining the quality of the environment, (ii) conserving natural resources, (iii) preserving cultural heritage, and (iv) ensuring local food security.

So far there is no practical experience with detailed spatial planning and the identification of Rural Areas, as they are new concepts in the spatial planning process. Furthermore, there is as yet no regulation that sets out guidelines on how to carry out detailed spatial planning to identify Rural Areas. Community mapping could play a crucial role in this identification process. This became the starting point for the consortium's interventions.

3.3 Outcomes of the assessment

- The revised spatial planning law requires participation of civil society in spatial planning and mentions the need for detailed spatial planning to identify Rural Areas. However, there are no guidelines on how to do this. The project consortium concluded it should make use

of this opening and highlight the potential of using community maps for detailed spatial planning with a view to fulfilling the legal obligation for participation.

- The introduction of the Rural Area as a separate category in the revised spatial planning law was identified as the main legal window of opportunity to integrate community concerns onto maps and into the formal planning procedure. Community mapping could be an effective and transparent way to give shape to detailed spatial planning for the identification of Rural Areas.
- Knowledge and perspectives concerning the revised spatial law and opportunities for participation appeared to vary greatly among stakeholders, necessitating efforts by the project consortium to inform government officers about the possibilities of the new policy setting.
- The assessment highlighted a need for pilot projects aimed at integrating community maps in spatial planning procedures (starting with existing community maps) and to seek collaboration with the district's planning agency to facilitate the use of existing community maps for detailed spatial planning.

4. Interventions to promote PLUP

4.1 Preparing the collaboration framework

In preparation of the consortium's activities at the district level, the consortium formed a Joint Secretariat, headed by a representative of one of the consortium's Indonesian partners (YPSBK) located in Sanggau. The Secretariat involves all the consortium members, the governor, vice-governor, the spatial planning agency (BAPPEDA), the Legal Bureau, and the office of the village administration. The consortium also prepared a Memorandum of Understanding (MoU), which was to be signed by the district governor, but has not been signed up to now because the governor's staff at the Legal Bureau has been reluctant to do so for a variety of (bureaucratic and political) reasons. The lack of a signed MoU has not affected the activities of the consortium, but there may be reason for concern about the continuity of the working relationship when a new governor enters the office.

4.2 Policy memo

The project consortium developed a policy memo targeted at the Sanggau district government. The key messages of the memo were:

Planning needs to become more participatory

- So far, participation in spatial planning in Sanggau district has been limited.
- Spatial planning at the district level requires transparency and participation of community organisations, NGOs and research organisations. The involvement of these parties is obliged by the revised Spatial Planning law no. 26/2007.

Rural Areas are an important new category in the revised spatial planning law

- The dominant development model does not recognise the importance and potential of community-based natural resource management patterns (e.g. rubber and fruit agroforests, etc).
- The Sanggau district spatial plan would need to adopt Rural Area classification.
- If Rural Areas are included in the spatial planning process, this will provide livelihood assurance for thousands of people in Sanggau district.
- Community mapping can be used as a tool to determine Rural Areas.

The need for a separate institution for conflict resolution

- Currently the boundaries of customary areas and villages are not established on official maps, while the government grants permits for large-scale plantation development to companies. This is leading to conflicts.
- Chapter IX (Article 67) of the revised spatial planning law No. 26/2007 refers to dispute resolution and the need for consensus among the stakeholders. This requires a separate district-level institution for land dispute resolutions.

4.3 Village workshops and discussions

The consortium organised five community-level workshops, covering a total of eleven villages, all of which had already produced a community map in the past. The main purpose of the workshops was to communicate and discuss the ideas that were presented in the policy memo (described above) and to discuss the legal consequences of Rural Areas for people in villages. Also, the consortium used these workshops to ask the communities to get involved in the follow-up activities of the project and to request their permission to use the community maps in formal spatial planning activities. All the villages agreed with the consortium's strategy and proposed activities.

4.4 Discussions with the government

In 2011 and 2012 the consortium organised four discussions with government officials from the spatial planning agency (BAPPEDA), Legal Bureau, office of village administration, secretary of economic affairs, secretary of political affairs, and the office of forestry and estate crops. These discussions were organised in close collaboration with the vice-governor, on behalf of whom the invitations were sent. The discussions were used to further explain and discuss the points mentioned in the policy memo and to agree upon a way forward.

During one of the first discussions, the consortium shared data about land-related conflicts with the government officials. The data – gathered by local civil society organisations and new to the local government – showed an increasing trend in conflicts over the last years. This was one of the main triggers for the district government to temporarily stop the issuing of permits between December 2010 and June 2012.

Over the project's period the various departments of the district government became increasingly aware and supportive of the consortium's objective. The government-level discussions generated a lot of interest in the potential of community mapping for improved planning. This is illustrated by the decision to use the *Program Desa Focus* to support community mapping in five to eight villages in 2013, with the help of two of the consortium members (PPSDAK and YPSBK). The *Program Desa Focus* is a special district level programme focussing on a select number of villages each year, with Rp 200 million (about US\$ 20.200) of allocated government budget.

4.5 Discussion with the private sector

In addition to meetings with communities and the district government, the consortium organised one meeting with representatives of twelve private companies operating in the oil palm, forestry and mining industry, including both state-owned and private enterprises. The meeting was meant to inform them about the on-going process and to obtain their input. The meeting was organised in close collaboration with the district government, with the head of the district's Plantation and Forestry Department officially inviting the companies. Academic partners in the consortium facilitated the discussions.

The discussion provided insight into the ways in which companies perceived the potential of participatory spatial planning, the establishment of Rural Areas, and the use of community maps in conflict resolution. Several of the participants from the private sector shared actual cases of conflict from their own companies. The attendants agreed that conflicts were structural and that there was a need to deal with the root problem, i.e. overlapping land claims. Also, discussions made clear that it would be impossible to develop land-based enterprises without considering the views of local communities. Private parties agreed that it would be useful to have one district-level map, which would include all the information about bio-physical features, land tenure, permits and local communities' land uses and land claims.

4.6 Developing an integrated district map ('One Map')

The 'One Map Movement' is a national initiative coordinated by the President's Office in collaboration with the Indonesian REDD+ Taskforce, aiming to integrate all the maps covering tenure status, land allocations and permits from all over Indonesia. The movement started soon after the Indonesian government announced its moratorium on new licenses in primary natural forests and peat lands in 2011, and was influenced by the growing national and international interest in the potential of REDD+ implementation in Indonesia, which had drawn attention to the lack of integrated maps. The movement has been gaining momentum at the national level since. At the district level, however, the 'One Map' concept has not yet taken shape.

As Indonesia's President was openly supporting the concept, the consortium decided to place its activities within the 'One Map' frame. This, so it was reasoned, would make the consortium's intentions easier to understand and accept for local government stakeholders. The consortium organised a technical workshop to develop a 'One Map' for Sanggau. The government's spatial planning agency was asked to facilitate the workshop through which the consortium managed to transfer a sense of ownership over the concept and the end product. Besides the spatial planning agency and the local consortium members, the workshop was attended by the district's Secretary of Economic Affairs, the Secretary of Political Affairs, the Legal Bureau, the land agency and the Offices of Village Administration, Forestry and Estate Crops, Agriculture, Mining, Statistics and Public Works.

During the technical workshop the participants successfully combined existing geo-spatial data on land tenure status, land allocations and permits for mining, forestry and plantation operations (including moratorium areas on new permits) in Sanggau district. In addition, the community maps of the eleven communities (see Section 4.3) were integrated and indicated as Rural Areas.

The technical workshop resulted in a map that met the first three national 'One Map' requirements: (i) one standard, (ii) the same technical references, and (iii) one database. The fourth and final requirement – the data having to be open to the public – was not accepted by the planning agency, because the map clearly showed the violation of permits that had been released by the local government, such as the overlaps between forestry and mining permits. Still, the planning agency agreed to use the integrated data in the revised spatial plan for Sanggau (see Section 4.8). At the end of the workshop, representatives of the planning agency indicated to be surprised that all the government offices had openly shared their (permit) data.

4.7 Multi-stakeholder workshops

The consortium organised three multi-stakeholder workshops to discuss the revision of the district spatial planning plan, to build commitment among the various stakeholders, and to discuss the different interests of various parties. Emphasis in these meetings was on the Rural Area classification and the One Map concept. After one of the workshops (13-02-2013), a press conference was organised in which the head of the spatial planning agency stated that the local government is planning to use community maps for the identification of Rural Areas in the District's spatial plan. This was broadcasted on local television and radio, and reported by several other media (both printed and online). Also, several members of the House of Representatives publically supported this.

4.8 Reviewing the draft spatial planning regulation

The district's spatial planning regulation consists of a text (the regulation) and attachments (the maps). The regulation eventually needs to be legalised by the district's House of Representatives, but can only be signed after approval of the provincial-level spatial plan (which at the time of writing of this report had not yet happened). As long as the regulation is not passed, revisions can be made, offering opportunities for civil society to influence the regulation. The PLUP consortium has been reviewing and discussing the concept regulation, and has provided detailed feedback to the spatial planning agency (being the coordinator of the district spatial planning board), suggesting new paragraphs to be included in the regulation, and discussing technical and political implications.

The initial objective of the consortium was to have Rural Areas indicated in the attachments of the new spatial plan regulation. In preparing these attachments, the planning agency did indeed use the integrated data compiled at the technical workshop, but decided against

explicitly demarcating the eleven Rural Areas that were identified in the One Map. If they would indicate these, the agency reasoned, the members of the House of Representatives (who each represent an area in the district) would surely ask for their home area to be included as well. This would create a political problem. The consortium and the planning agency therefore came up with a new idea, namely to enable the demarcation of Rural Areas *after* the passing of the revised spatial planning regulation. For this, a new paragraph had to be developed, enabling the district's governor to classify areas as Rural Areas, based on community maps, through a 'governor's letter' (*Perbu*). This is a relatively easy and quick administrative process. The consortium prepared the new paragraph, which was then accepted and accommodated in the draft spatial planning regulation.

In addition, the consortium drafted a section concerning the establishment of a separate institution that deals with conflict settlement. This, however, has not yet been accommodated in the draft. At the time of writing of this report the consortium is still making a case for a separate conflict settlement institution.

4.9 Film documentary

Two PLUP consortium members produced a documentary about participatory land-use planning and community mapping titled 'Mapping our future' (<https://vimeo.com/61715444>). The film zooms in one village (Terusan) that was approached by a palm oil company looking for a land deal with the community. The film is available in Indonesian and English, and has been disseminated widely. It is being used as a discussion starter in meetings and workshops, it will be broadcasted on Indonesian television, and several organisations have placed the film on their websites.

4.10 Evaluating the multi-stakeholder process

A researcher from the University of Tanjungpura assessed the interactions, power structures and behavioural changes in the multi-stakeholder process that was facilitated by the consortium. The assessment concluded that the efforts to make spatial planning more inclusive made the relationships between the parties involved more equal and the government's attitude less paternalistic.

5. What worked and what didn't?

5.1 Outcomes

The PLUP project successfully put participatory land-use planning and community mapping on the agenda of the Sanggau district government. Also, through the project's activities, the relationship between local NGOs and the local government's spatial planning agency has improved significantly. The project had the following concrete results:

- The district government publically announced its commitment to the demarcation of Rural Areas based on locally produced community maps, in order to safeguard the interests of local communities.
- The district government will finance community mapping in several villages through the *Program Desa Focus* in 2013.
- The spatial planning agency has worked with other government departments and the PLUP consortium to develop a 'One Map', integrating geo-spatial data from different sources, and has used this to produce the attachments of the draft spatial planning regulation.
- The PLUP consortium managed to include a new paragraph in the draft spatial planning regulation, which explains the Rural Area classification and enables the district's governor to legalise Rural Areas through a simple legal procedure (*Perbu*).

5.2 Constraints and limitations

A number of factors obstructed the objective of the pilot project – that is the acceptance of community maps in formal planning procedures. Some of the main constraints are:

- A lack of clear national-level regulation and guidelines for detailed spatial planning caused confusion regarding the potential role of detailed spatial planning and the classification of Rural Areas – both among district government actors and consortium members.
- Some government officials were reluctant to work with NGOs and communities on bottom-up planning, based on the idea that participatory planning would compromise 'agropolitan development' ambitions.
- The spatial planning agency did not agree with putting the integrated spatial data in the public domain, because it would reveal the existing errors in land allocations and granted permits.
- Although the consortium and the local government developed a legal possibility to classify Rural Areas through a governor's letter (*Perbu*), this procedure depends on the willingness of the person holding office to put effort in classifying Rural Areas as there is no officially signed document that demands the commitment of future office holders.
- The lack of national guidelines implies potentially large differences in the way in which different districts in Indonesia implement detailed spatial planning.

6. Lessons learned

Based on the project's experience, we stress the importance of:

- *National guidelines.* In Indonesia, detailed spatial planning provides an opportunity to safeguard local interests. Considering the lack of clear national guidelines and the variety between districts, there is a need to communicate local-level experience with detailed spatial planning to the national level, where regulations can be made to guide implementation in other districts.
- *Political will.* In the absence of clear regulations and guidelines, efforts to integrate community maps in formal planning procedures are highly dependent on the willingness of the planning agency and district leaders to collaborate. When the relationship is good, a lot is possible. This was the case in Sanggau, where the vice-governor had worked with a local NGO in the past and was supportive to the community mapping movement. The situation may change when a new person enters office. This underlines the need for clear national regulation and guidelines.
- *Relationships of trust.* As political will is important, it is crucial for local NGOs to invest in good working relationships with local government officials. The same goes for the relationship between NGOs and the private sector.
- *Endurance.* In a political and legal context that is unpredictable, NGOs may easily lose their trust in cooperation with the government. The experience in this pilot project, however, shows that it is worthwhile to invest in longer-term relationships with government actors. Influencing policy is a matter of long breath and patience.
- *Involvement of academics.* In the process of building trust and alliances with the local government and the private sector, it is important to create an environment in which the different stakeholders are encouraged to enter into an open and constructive discussion with each other. Involving academics as 'neutral' actors can help in this process.
- *Process-oriented planning.* The political and legal context at the district level in Indonesia is characterised by a certain fluidity. Any process that aims to inform decision-making at this level therefore needs to be equally fluid. This requires a process-oriented approach rather than a focus on a particular result. It demands improvisation, learning by doing, and constant adapting to changing conditions. A good example of this approach has been the uptake of the 'One Map' concept (which emerged during the project's implementation period) and making it central in the consortium's further activities.
- *Sensitivity.* Land-related issues are sensitive and these sensitivities need to be taken into account, for example by looking for shared interests and common concepts among the different stakeholders. In this project, the consortium placed its activities under the umbrella of the 'One Map' movement, which was supported by Indonesia's President, and was therefore not threatening to the local government. As mentioned above, the involvement of 'neutral' academics also helped to deal with contested issues.
- *Ownership.* The PLUP consortium established a Joint Secretariat in an attempt to involve government partners from the very beginning and to share ownership over the process as much as possible. Although the Secretariat never received a legal status, the government

departments involved hosted several meetings on behalf of the Joint Secretariat. Sharing ownership is deemed crucial for the success of such multi-stakeholder processes.

- *Timing.* Making spatial planning more inclusive requires a political and legal window of opportunity. Civil society organisations therefore need to stay informed and updated about national, provincial and district policies and need to time their interventions carefully.
- *Private sector involvement.* Political and legal processes are slow. Therefore there is a need to simultaneously target companies, in particular those that are committed to responsible business, such as RSPO-certified companies. Community mapping may be used to improve the modus operandi of companies (see Section 7.2 on RSPO recommendations).

7. Policy recommendations

7.1 Recommendations for policy and practice in Indonesia

The revised spatial planning law of Indonesia requires participation of communities in spatial planning procedures. Such participation should be more than just lip service. To ensure that the interests of local people are truly taken into account we recommend the integration of community maps in spatial planning.

To protect the interests of local farmers and reduce the potential for conflicts, district-level spatial plans should account for local land uses, customary land rights and local development aspirations. Official maps do not contain that type of information, but community maps do. If the district's spatial planning agency would integrate community maps in its formal planning procedures, this could be used for detailed spatial planning of the landscape, ensuring a balanced mix of plantation development, food production and natural areas, and improving the rural communities' welfare.

Recommendations

- In line with Articles 60-66 of the Indonesian Spatial Law (26/2007), district-level spatial planning should facilitate participation by communities with a view to ensuring Free Prior and Informed Consent (FPIC) for land allocations.
- District governments should verify and subsequently formalise community-level maps and produce district maps that clearly demarcate village land boundaries and customary lands.
- District governments should not only issue land allocations to companies, but should also allocate lands for local agricultural activities, classified as 'Rural Areas' (Spatial Law, Article 48 to 59).
- Community maps can be used to identify Strategic Rural Areas in spatial plans.
- District governments should ensure that local communities are fully informed about the consequences of deals with companies.

7.2 Recommendations for the Roundtable on Sustainable Palm Oil (RSPO)

According to the RSPO revised principle P7.5 no new plantings can be established on local peoples' land where it can be demonstrated that there are legal, customary or user rights, without their free, prior and informed consent. Such rights can be demonstrated through community mapping.

In recent years community mapping has developed into an efficient and cost-effective method to create detailed local maps. Companies can use these maps to make sure that they comply with several RSPO's Principles and Criteria, such as:

Principle 2: Compliance with applicable laws and regulations

This principle includes two criteria related to community mapping. The first (2.2) requires documents showing legal ownership or lease, history of land tenure and the actual legal use of the land. Secondly, Criterion 2.3 requires that maps of an appropriate scale showing the extent of recognised customary rights (Criteria 2.2, 7.5 and 7.6) are developed through a broad 'participatory mapping' process that involves the parties affected, including neighbouring communities where applicable and relevant authorities.

Principle 7-5: Free, Prior and Informed Consent

According to RSPO Principle 7.5 on the responsible development of new plantings, customary and user rights need to be demonstrated through 'participatory user mapping' as part of the

FPIC process. This not only entails clarification of land ownership and use, but also constitutes a process to clarify local aspirations concerning new developments and the implications of the company's offer.

Principle 5, 6 and 7: Environmental and Social Impact Assessment

Prior to establishing a new plantation or mill, environmental and social impact assessments are to be conducted (Criteria 5.1, 6.1 and 7.1). Community mapping can be used as a tool for stakeholder engagement and consultation (6.2) and proper analysis of land ownership and user rights. The ensuing map can become an integral part of the assessment reports. Any loss of legal, customary or user rights (6.4) should be documented on the community maps in order to inform community members about the consequences of signing an agreement and the compensation agreed with the oil palm grower (7.4).

RSPO Dispute Settlement Facility

Criterion 2.2.5 requires that, in the case of any conflict or dispute over land, the extent of the disputed area needs to be mapped in a participatory way with involvement of all the parties affected. This can be done through community mapping. In the event disputes are not resolved, parties can submit a request to the RSPO Dispute Settlement Facility (DSF) asking for support to resolve the dispute – notably by involving an independent mediator. In such situations, community maps can assist in clarifying disputed land claims and borders.

Certifying bodies

Community maps offer certifying bodies (CBs) tangible evidence to measure palm oil companies' compliance with some key RSPO principles and criteria. Hence, it is important that CBs get trained and acquainted with the essence, requirements and purposes of community maps, within the context of possible expansion of oil palm plantations.

Recommendations

- Before plantation establishment, RSPO-certified companies are advised to ensure that communities located within the concession area have been enabled to document the boundaries of their lands and land uses through community mapping. Only then, communities can negotiate on an equal footing and give their Free, Prior and Informed Consent.
- Community maps can be used for proper site identification and internal zoning of plantations, to allow for local food crop production and biodiversity preservation.
- Companies should provide the farmers who participate in outgrower arrangements with land right certificates within one year of plantation establishment.
- In case of land-based conflicts within existing plantation areas, community mapping can be used for dispute settlement.
- The RSPO is recommended to create a dedicated fund for independent community mapping and inclusion of community maps into spatial planning.
- The RSPO is recommended to support an update of the 2008 RSPO Guide for Companies on FPIC, aligning it with the revised principles and criteria and incorporating recent experiences with PLUP and community mapping.

7.3 Recommendations regarding the European Union Renewable Energy Directive (EU RED)

For responsible palm oil production, the EU RED should demand that companies facilitate communities to document their land boundaries through community mapping before plantation establishment.

According to Article 17 of the EU RED, an oil palm plantation established on village lands after January 2008 cannot be regarded as sustainable unless the land is properly mapped and the

type of vegetation established (par.17.3). For this, community mapping is the most appropriate tool.

In order to deal with the macro issues of biofuel production and indirect land-use changes (ILUC) caused by the expansion of oil palm plantations (par. 85), proper spatial planning is pivotal. Various RED articles require that the European Commission provides more attention to macro and local level spatial planning (Art. 18.4 on verification of compliance by including spatial planning in the bilateral agreements with producing countries; Article 23.5b and f on the Renewable Energy Progress Report in relation to ILUC and biodiversity in producing countries; par. 85 on spatial planning as a compulsory instrument in the methodology for dealing with ILUC).

The use of community maps to demarcate areas that are used for local food production is important in this regard. It will help to develop a balanced regional spatial plan, which takes into account local food security and customary land-use rights.

Recommendations

- Biodiesel from oil palm cannot be counted against the blending targets of the EU RED as long as the land is not mapped at the local level. Community mapping should involve the establishment of the village boundaries (without remaining land disputes), the communal land rights and the type of vegetation and land uses.
- The EU RED is recommended to benchmark with and adhere to the revised RSPO Principles & Criteria.
- Companies should be required to prove that community maps have been used for proper site identification and internal zoning of plantations, to allow for local food crop production and biodiversity preservation.
- Each palm oil company should be required to put the land deal they made with farmers in an outgrower arrangement on paper, including a map of their land and their rights, and to give it to the owners when establishing the plantation.
- In order to deal with the macro issues of biofuel production, the European Commission should (i) include spatial planning in the bilateral agreements with producing countries in accordance with RED Article 18, par. 4 on verification of compliance, (ii) include spatial planning and land-use rights in the Renewable Energy Progress Report in relation to ILUC and biodiversity in producing countries (Article 23, par. 5b and f), and (iii) include spatial planning as a compulsory instrument in the methodology for dealing with ILUC (par. 85).

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Further information

Recommended reading

- In 2008 the Forest Peoples Programme developed a Guide for Companies on FPIC through a process of extensive training and dialogue with communities and companies. Chapter 5 summarises the main lessons related to participatory mapping, which are still valid today. See:
<http://www.forestpeoples.org/sites/fpp/files/publication/2009/12/fpicandrspocompaniesguideoct08eng.pdf>
- Colchester M., Jiwan N., Andiko, Sirait M.T., Firdaus A.Y., Surambo A. and Pane H. 2006. Promised Land: Palm Oil and Land Acquisition in Indonesia – Implications for Local Communities and Indigenous Peoples. FPP, Sawit Watch, HUMA, ICRAF-SEA, Bogor.
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