

IASCP 2006 Abstract Submission Form (PANEL)	
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Special Autonomy, Mapping and Recognition of Land Rights in Papua: Overcoming threats to the Survival of the Remaining Commons

Papua is Indonesia's last great reserve of untouched rainforest, rich in biodiversity (50% of Indonesia's total) and valuable forest products and minerals. About 70% of the province's 35 million ha of original forest cover is still intact (2002 data). This is 24 % of Indonesia's total forested area of 143 million hectares. And yet despite its size and wealth of resources, it remains the poorest province in the country.

It has over 2 million people (an area of 41.48 million ha). Almost 75% of the population is indigenous, living in remote rural but defined areas, the majority below the poverty line. They are heavily dependent on natural resources for their livelihoods, especially forestry and agriculture. The contribution of forests to cash income in sample areas is between 30% and 99% (highest in young men who cut wood). Forests also contribute up to 50% of subsistence, and are especially important to women. Access to Papua's forest wealth is not fairly shared, with poor rural people getting the least share. Large, wealthy or powerful outside interests have captured the largest share. It is a major driver of illegal logging and forest destruction, especially now that forests in Kalimantan and Sumatera are severely depleted.

The late Governor Solossa highlighted unrecognised land rights (*hak ulayat*) as the primary cause of poverty and environmental damage (Paper March 2003). Another important cause is centralised decision making.

The special autonomy legislation, Law No. 21/2001, outlines an independent governance structure of the Papua Peoples' Council (MRP), an indigenous/local legislative and judicial system, and rights over management of natural resources. Unfortunately the implementation of this Special Autonomy law is marred by perceived central government indecision, leading to the creation of new provinces through another law that many Papuans see as having weakened their position both politically and economically.

A few policy lessons learned from the MFP include

Recognition of customary tenure in Papua is key to ensuring that land designation takes adequate account of local community livelihoods. Without this legal guarantee, rapid land-use transformation risks leaving rural communities worse off. But for customary tenure and regional autonomy to translate into poverty reduction, fundamental reforms are needed to the current allocation of forest lands, and the systems and institutional structures by which they are managed.

The designation of Integrated Forest Management Units (KPH) is a priority for the Ministry of Forests under the current administration. Papuan stakeholders have seized this as an opportunity to secure management space for local communities, and to clarify rules of the game for addressing the overlaps between community and other (commercial and conservation) interests.

Yet these are still early days. The sector reform process in Papua depends on strong engagement by the Ministry of Forests and other central agencies (particularly the Presidency) if it is to succeed; donors have an important role in securing space for dialogue and negotiation between the Province and Central Government.

As such, Indonesian Papua offers a potential source of lessons learned for reform under other 'fragile-state' scenarios.

Four panellists will tackle:

1. Special Autonomy, Forestry and Civil Society: Special autonomy challenges revolve around harmonization of national and regional legislation. Finding the context in forestry legislation is important. The Provincial Forestry Department has been an essential agent of change, given strong leadership and active communication with local communities and District-level government. (Bambang Setiono)-Paper to follow
2. Local Institutions for Tenure Reform. Growing conflict and a steadily deteriorating investment environment for the forest sector has led to the emergence of a unique alliance of stakeholders arguing for greater legal

certainty over customary tenure, and devolution of powers for forest management and licensing. The involvement of civil society organisations with clear constituencies has been vital in securing political will for sector reform. They include customary institutions, as well as trade union and industry representatives. (Hidayat Al Hamid)- Paper to follow.

3. Strategic support for land use mapping

ABSTRACT

Taking Over Bottom-Up Process for Land Use Policy Making in Natural Resource Management Through Land Use Mapping - Papua Experience

Maria Latumahina

Land conflicts in Papua between local communities and state institutions frequently contribute to chronic poverty and environmental degradation. In many instances, they reflect bad management by government institutions, including corruption, collusion and nepotism. This kind of management typically includes the absence of clear rules, and overlapping and often conflicting laws and regulation. Perhaps most significant, the normative confusion that ensues often undermines, and in some cases destroys, institutional arrangements at local community levels for sustainably managing natural resources.

The paper is based upon a review conducted by Jaringan Kerja Pemetaan Partisipatif (JKPP), a national NGO that provides expertise on participatory mapping. It describes land-use mapping strategies by local communities in western areas of Jayapura. These strategies are typically perceived by local people as civil society mechanisms by which they can organize and build networks and alliances for promoting collective land rights recognition and other natural resources. The most promising reforms to date reflect community aspirations and objectives that aim to encourage active government and business sector participation.

The strategies emerged from small scale village mapping exercises and evolved into more large scale initiatives encompassing adat territories including as many as thirty local villages. These broader initiatives were supported by new regulations on Papuan autonomy that encouraged civil society organization to expand and accelerate mapping exercises. The primary methodology entails use of larger multidisciplinary teams, many of whose members were previously never involved in mapping exercises. The expansion of disciplines and individuals involved in local mapping exercises has strengthened political support for mapping, and improved the quality of the maps and other research being produced. Most important, the maps have informed and influenced the development of legal and institutional mechanism for recognizing adat territory and re classifying forest land in ways that better accommodate adat ownership and management system in Papua.*

4. Customary Land Rights Recognition under the Papuan Forestry Sector

ABSTRACT

Customary Land Rights Recognition in Papua; Creating a Viable Basis for Poverty Reduction and Growth in the Forest Sector

Marthen Kayoi, Head, Provincial Forest Department, Papua

This paper describes how advocacy for customary land rights in Papua has been amplified through legal reform under the leadership of the Provincial Forestry Department. Law 21/2001 on Special Autonomy for Papua mandates the protection of customary law communities in natural resource management. This presents a particular challenge for the forestry sector which, to date, has given minimal recognition to the existence of customary law communities.

De facto, Papua is largely governed by customary law spanning over 250 linguistic groups. Customary tenure exists as clearly defined territorial units, with their own institutional structures and management systems. Yet the designation of commercial concessions, conservation areas as well as areas for land conversion takes little account of this. By withdrawing local peoples' access to vital sources of subsistence and cash income, land-use policies compound already rampant material deprivation. Rural poverty rates in Papua are now the highest in Indonesia, at 60%. The paper explores how policies affecting land designation have fuelled now unmanageable conflict between communities, companies and government. Short-term measures such as compensation payments and one-year community logging licenses have not worked to resolve the problem. Neither addresses the fact that local people have virtually no say in land-use decision-making, and continue to have their rights usurped on a daily basis.

Escalating conflict has encouraged the Provincial Forest Department to champion legal recognition of customary land rights. Not only does this give local people greater security, but it is also good for business. Without clarity over land rights, companies and communities have struggled to reach agreement - often leading to violence. Specifically, the Provincial Forest Department is promoting the development of enabling legislation which mandates the mapping of customary territories. It also establishes mechanisms for customary authorities to work with government in determining: (i) areas that must be set aside for long-term community

management, as well as (ii) areas suitable for large-scale investment. This reflects the fact that many rural Papuans do in fact want to do business with investors; but that, as customary land owners, they wish to reserve the right of first refusal.

The implications of this legislation are twofold. On the one hand, many large-scale concession areas will be rationalised. In reducing conflict, the Provincial government argues that rationalisation makes business sense. On the other hand, the forest sector stands to undergo a dramatic shift in favour of community-based production and processing, with the emphasis on enhancing rural productivity and economic opportunities for customary peoples. The paper suggests that the economic rationale for customary land rights recognition is a powerful one; and joins a growing body of literature that argues in favour of the viability of traditional land tenure as a basis for both poverty reduction and growth in Melanesia. *