

FPIC (FREE, PRIOR and INFORMED CONSENT)

Recognize and Fulfill the Rights of Indigenous Peoples through the Implementation of FPIC

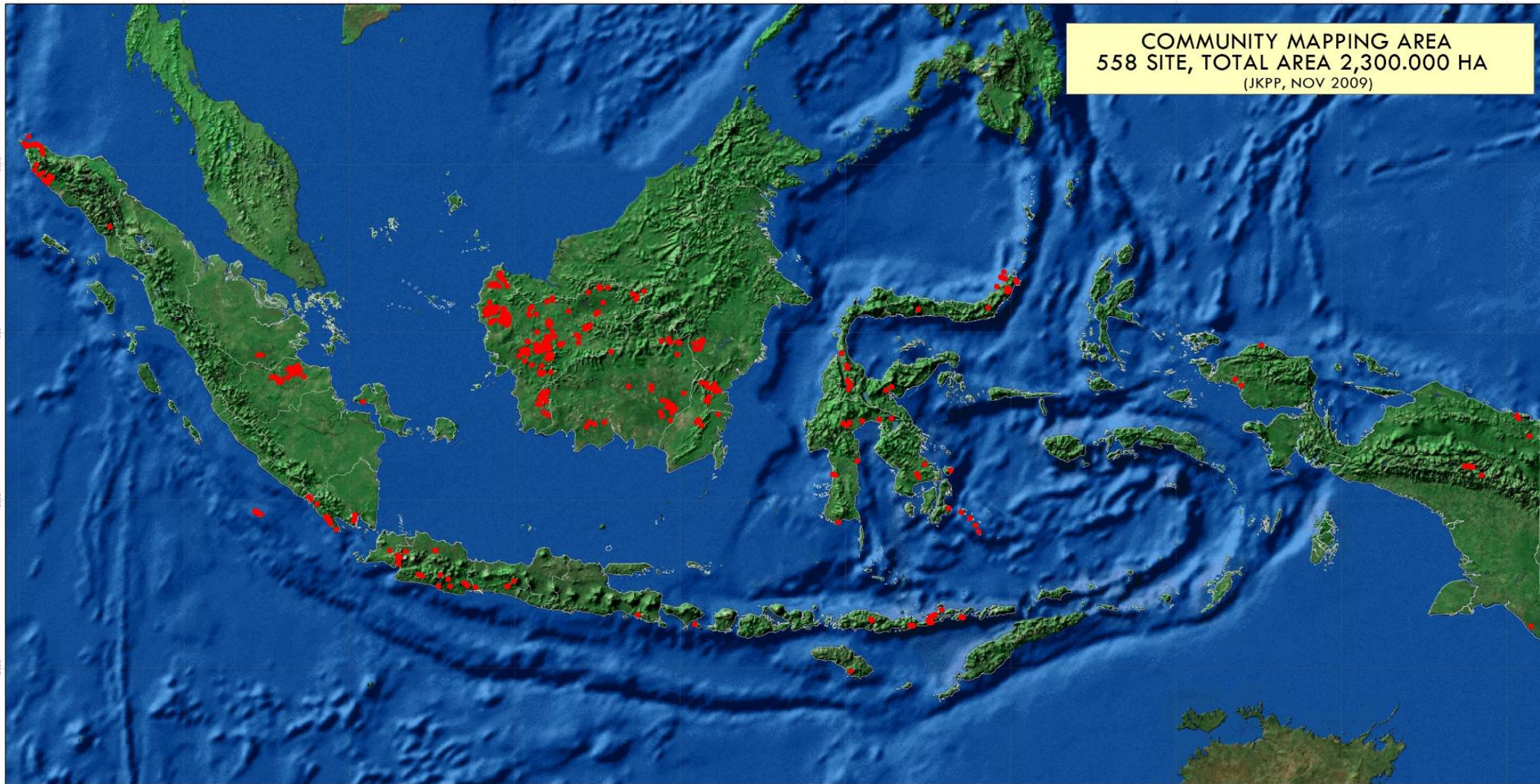


Mina Susana Setra - AMAN
The Forest Dialogue (TFD), Riau ,14-15 October 2010

IPs and THEIR TERRITORIES in INDONESIA AMAN MEMBER (1163; August 2009)



COMMUNITY MAPPING AREA
558 SITE, TOTAL AREA 2,300.000 HA
 (JKPP, NOV 2009)



Sekala

1 cm = 65 km

0 250 500 1,000 Km



Jaringan Kerja Pemetaan Partisipatif (JKPP)
 Merupakan Jaringan Kerja Nasional di Indonesia,
 memiliki visi terwujudnya kedaulatan rakyat terhadap ruang.

Kegiatan utamanya berupa memfasilitasi kegiatan pemetaan &
 perencanaan penataan ruang secara partisipatif terutama komunitas
 yang berada di wilayah adat dan perdesaan, riset & promosi model kelola ruang
 berbasis rakyat dan advokasi kebijakan penataan ruang.

Jaringan Kerja ini mulai terbentuk pada tahun 1996

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Keterangan :

● Titik Wilayah Pemetaan Partisipatif

Region	Propinsi	Jumlah Unit Yang dipetakan
Sumatera	BANGKA BELITUNG	1
	BENGKULU	6
	JAMBI	40
	LAMPUNG	14
	NANGGROE ACEH DARUSSALAM	44
	RIAU	2
Total Jumlah Region Sumatera		107
Jawa - Bali -Nusra	BANTEN	2
	JAWA BARAT	18
	JAWA TENGAH	4
	JAWA TIMUR	1
	BALI	1
	NUSA TENGGARA TIMUR	15
Total Jumlah Region Jawa-Bali-Nusra		41

Keterangan : unit yang dipetakan berupa wilayah adat, desa, kampung dan wilayah kelola

Region	Propinsi	Jumlah Unit Yang dipetakan
Sulawesi	SULAWESI SELATAN	11
	SULAWESI TENGAH	10
	SULAWESI TENGGARA	9
	SULAWESI UTARA	12
	GORONTALO	1
Total Jumlah Region Sulawesi		43
Kalimantan	KALIMANTAN BARAT	296
	KALIMANTAN SELATAN	6
	KALIMANTAN TENGAH	35
	KALIMANTAN TIMUR	18
Total Jumlah Region Kalimantan		355
Papua	IRIAN JAYA BARAT	3
	P A P U A	9
Total Jumlah Region Papua		12

Basic Reference – UN Declaration on the Rights of Indigenous Peoples (UNDRIP)



Confirmation of Collective Rights of Indigenous Peoples as Human Rights in 5 important grouping of rights :

- Self Determination
- Land, Territories and Resources
- Cultural and intellectual property rights
- *Free, prior and informed consent (FPIC)*
- Rights to determine models and other forms of appropriate development

Each Rights is related and cannot be separated one another



Indigenous Peoples and Forestry “Sector”

- Indigenous Peoples have unique relationship with forest. They developed concepts of communal property rights which are exclusive for their respective territories. They have distinctive knowledge systems, customary laws, and indigenous institutions to govern their lives and solve their problems, including the prevention of resource overuse by both their members and outsiders.
- For Indigenous Peoples, forest cannot be separated with their territories. That’s why there is no forestry “Sector” in Indigenous management system, as it is an integral part of the whole management system of territories.
- Destroying forests means destroying the whole aspect of the life system and livelihood of Indigenous peoples.

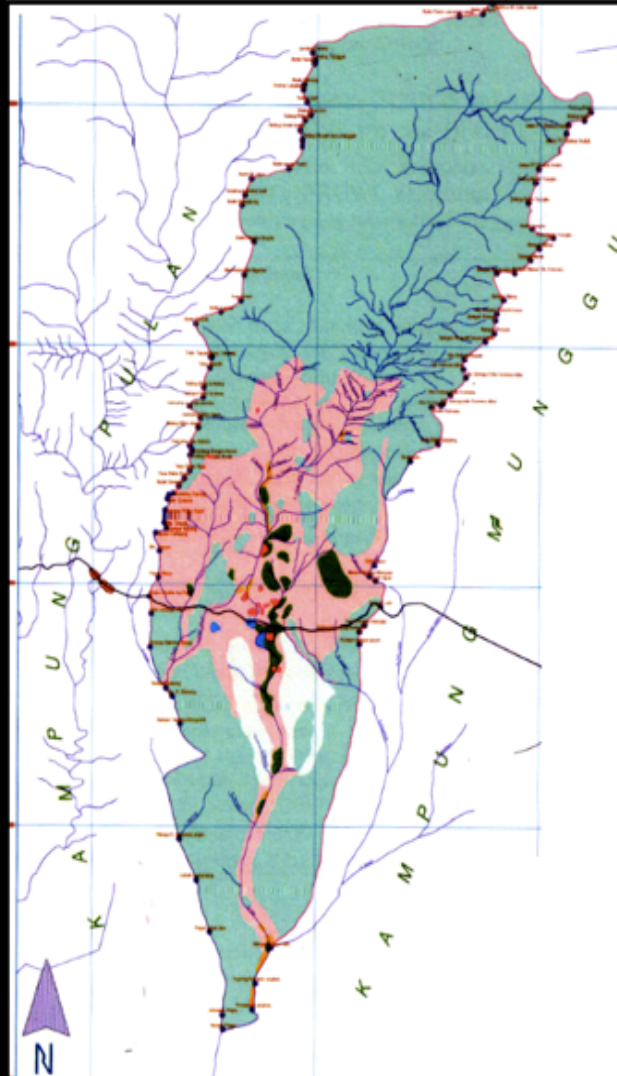


EXAMPLES :

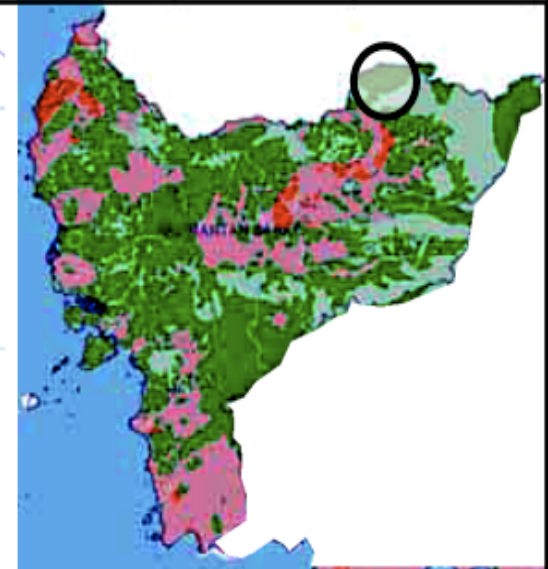
Territorial Management in Menua Sungai Utik of Iban Peoples, West Kalimantan

Indigenous Territory in the Concept of Dayak Iban In West Kalimantan, Indonesia known as Menua. The management of Menua divided into :

- Base on Land Used
- Base on Territorial Allocation
- Base on Function



Source: AMAN, 2008



West Kalimantan Province. The circle on the map represents the location of the Sungai Utik HSEE. The crimson and red patches are fire-prone areas in the Province.

Source: Ministry of the Environment, 2008



EXAMPLES Con't :

Territorial Management in Menua Sungai Utik of Iban Peoples, West Kalimantan

BASE ON LAND USED

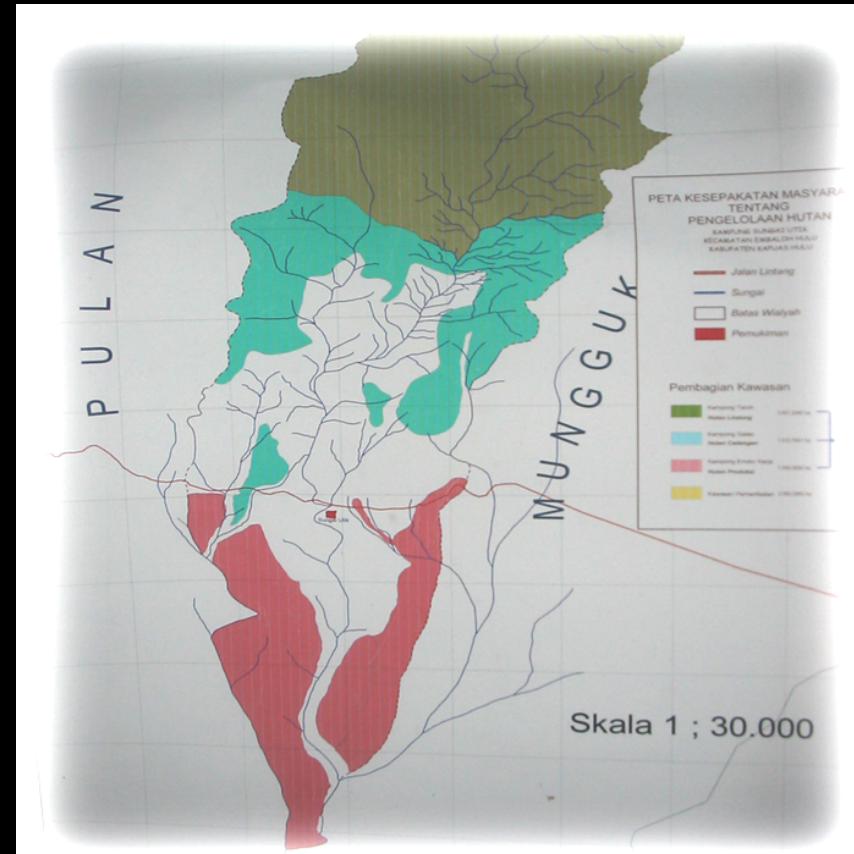
				Social-Ecological Division of (Forested) Territory			
				Kampung Taroh	Kampung Galao	Kampung Gilir-Balik	Kampung Embor-Kerja
Home range		<u>Rumah Panjai</u>					
		<u>Pendam</u>					
		<u>Taba</u>					C
		<u>Temawai</u>					
Water System		<u>Pengayut Aek</u>					
Access Type		<u>DAMUN</u>					
		<u>KAMPUNG PUANG</u>					
		<u>Umai Pantai</u>					B
		<u>Umai Payak</u>					
Protected Forests		<u>Pulai</u>					
		<u>Tanah Endor Nampok</u>					
		<u>Tanah Mali</u>				A	
		<u>"Hutan Simpan"</u>					

EXAMPLES Con't :

Territorial Management in Menua Sungai Utik of Iban Peoples, West Kalimantan

BASED ON TERRITORIAL ALLOCATION

- 4.000 Ha. Protected Areas
- 2.000 Ha. Reserve Forest
- 1.600 Ha. Production Forest
- 1.835,50 Ha. Non Forest Territories



EXAMPLES Con't :

Territorial Management in Menua Sungai Utik of Iban Peoples, West Kalimantan

BASED ON FUNCTION

- Farming Areas
- Hunting Areas
- Areas for Wood and Herbal/ Medicines Collection
- Reserved Forest
- Areas for Hunting and Fishing



What's the Issues Now on Forest ?

Massive exploitation of Forest

- On REDD : for mining and plantation only (with now an addition - food security issues) has depleted most of Indonesian forest, then where is space for *“reducing emission from deforestation and forest degradation”*?

Door to door Market Intervention

- Forest is now for sale ! (Sounds like an auction at Christie's) *Though it's not something new, but hey, now the trader is in front of my door ! Don't understand what they were saying, but they promise prosperity and MONEY !*

Saving the World from Climate Change

- It was already saving the world for energy, for development, for food, for cosmetic, for transportation, for finery, etc. Now the world is seeking “help” from forest (again).



Pre-Requisites



Pre-requisites needed by Indigenous Peoples to continue and participate effectively in protecting forest :

- 1. For millennia indigenous peoples have drawn on their traditional knowledge to strengthen their resilience and demonstrate their capacity to manage and to protect forest. There should be “Rights Assurance” on their self manage forest and territories;**
- 2. Indigenous Peoples traditional knowledge/wisdom have to be supported and promoted as part of solution of the world’s crisis;**
- 3. Strong Capacity of Indigenous Organizations and Solid Communities.**



What's the Issue on FPIC?

POLICIES/LAWS

- Indigenous Peoples' Rights which inseparable with the rights to FPIC has not yet been fully recognized and protected. It is recognized in Law No. 32/1999 on the Protection and Management of Environment and Law No. 27/2007 on Management of Coastal Areas and Small Island, BUT NOT in Forestry Law or other Laws. It is Urgent to have an National Law on the Rights of Indigenous Peoples.



Challenge on the Ground

- Although Indigenous Peoples have rights as in the UNDRIP, on determining their own identity, but without clear recognition by State, this will be a challenge in implementing FPIC.
- The situation in community is sensitive to external intervention. It may change any time without alert.
- Internal conflicts from friction in the community.
- Individual vs communal claim
- Indigenous Institution/Organization on the ground, not strong enough to deal face to face with third parties.
- No formal evidence and documentation on the ownership of Indigenous territories.

Community Organizing is require prior to the implementation of FPIC.

This have to be part of the earliest step in implementing or pre FPIC.



Recommendations

1. There's already hesitation/doubt and skeptical questions on FPIC. Proving the power of FPIC can only be done through non-stop implementation from all stakeholders.
2. FPIC as Rights - should be fulfilled. As Principles – should be enforced, as method – should be continuously tested to find the most appropriate way, which may vary. The State have to ensure these processes by putting FPIC into Law.
3. FPIC not only benefits one party, but rather a RIGHTS-BASED tool to negotiate, to consult various things that will have impact on a community, in which any decision/result must be respected by all parties.
4. FPIC can only be done on the basis of positive thoughts and good will. Without these two things, no matter how well prepared the tools is, it will not produce anything.



“TERIMAKASIH”



Credits

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