

Review of Village land-use Plans and the planning process

2009

This report was prepared for
The Kalimantan Forests and Climate Partnership



Australia Indonesia Partnership
Kemitraan Australia Indonesia



This report was prepared in accordance with the guidelines at the time of writing, including the overview of the KFCP project below. This research was carried out in collaboration with the Governments of Australia and Indonesia, but the analysis and findings in this paper represent the views of the author/s and do not necessarily represent the views of those Governments.

Australia's International Forest Carbon Initiative is a key part of Australia's international leadership on reducing emissions from deforestation. The Initiative will support international efforts to reduce deforestation through the United Nations Framework Convention on Climate Change (UNFCCC). It aims to demonstrate that reducing emissions from deforestation and forest degradation can be part of an equitable and effective international agreement on climate change. A central element of this is the Initiative's focus on developing practical demonstration activities in our region, particularly in Indonesia and Papua New Guinea.

Indonesia and Australia are working together under the Indonesia - Australia Forest Carbon Partnership (The Partnership) to support international efforts on REDD through the UNFCCC. A key focus is on practical demonstration activities to show how REDD can be included in a future global outcome on climate change. Activities under the partnership are funded through Australia's \$200 million International Forest Carbon Initiative (IFCI) administered by the Australian Department of Climate Change (DCC) and AusAID.

Australia has committed \$30 million over four years to the Kalimantan Forests and Climate partnership (KFCP). Under the KFCP, Australia and Indonesia are working together to develop and implement a large scale REDD demonstration activity in Central Kalimantan. The KFCP is the first REDD demonstration activity of its kind in Indonesia. It aims to demonstrate a credible, equitable and effective approach to reducing emissions from deforestation and forest degradation, including from the degradation of peat lands, than can inform a future global outcome on climate change. With an overall funding target of \$100 million, the KFCP aims to raise remaining funding through contributions from or coordinated actions with the private sector or other donor countries.

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A. Introduction

The way communities and households in the KFCP area use the land available to them is influenced and determined by the overlap and connections between formal and informal or traditional land use systems. The government has established formal systems that are designed to be interlocking systems ranging from the national level down to the village level. Traditional land use systems are village based and governed by the land users relation with the land.

In the formal system, the national and local governments, lead by their Planning Agencies (BAPENAS and BAPEDA), develop Spatial Plans (*Rencana Tata Ruang Wilaya Provinsi, RTRW*) that determine the main functions and uses for land under their jurisdiction. The higher-level governments provide more general land use guidance and the lower levels provide more detailed planning. However, these RTRW are built around existing forest lands originally established in colonial time as State Forest Land (based on the Western custom of naming “unclaimed” forest lands as state lands) and formalized in Indonesian Law in the 60s and 70s. The spatial plans for forest development, *Tata Guna Hutan Kesepakatan (TGHK)*, have been developed by the Department of Forestry. For final, official adoption of any RTRW by national or local parliaments, these two spatial plans need to be synchronized.

In Central Kalimantan, the process of developing spatial plans has been complicated by implementation and cancellation of the Mega Rice Project (MRP). During the implementation phase of the MRP, government regulations were issued changing land status and turning control forestry land over to the project implementers. After the MRP was closed down, additional government regulations again changed the land status and controlling agency for the MRP area. Unfortunately, the legality of these changes and regulation are now in dispute by the Ministry of Forestry and Central Kalimantan Government (primarily over the areas status as Forestry Lands or Provincial Lands). This dispute has left the provincial and district spatial plans and planning process in limbo for over 2 years as the issues between Ministry of Forestry and the Province continue to be negotiated.

Parallel with the spatial planning process, all levels of government conduct short, medium, and long term development planning. At the district level, this government/development planning starts at the village level, with plans from villages being consolidated into sub-district and district plans and budgets. The final plans and budgets for these local governments (including lined departments, DINAS) are finalized and adopted by the District Parliaments. Although these plans (at any level) do not include spatial planning, the plans and government services (such as agriculture and forestry) influence how land is used. At the village level, these government plans blend into traditional systems of land use and land distribution.

The traditional land use systems were community based, with community members and leadership acknowledging land use by individuals. Land “ownership” was based on the users cultivation of the land. “Ownership” was not established until the land was cultivated and could be lost if the land was not worked for a period of time. Land use patterns around villages under this system became organized based on soil types (which supported specific crops) and distance to from village. Under these systems, villages exploited mineral soils, backswamp, and shallow peat, usually within 2 to 5 kilometers from the village depending on the locations of fertile soils.

This traditional system is weakening, particularly regarding the relationship between cultivation and ownership and losing claims to unused land. While land control is still related to land use, land claims are not considered lost if the land is not cultivated.

All of these planning processes, both from the formal/legal system and the informal/traditional system are being played out in the KFCP area. This paper attempts to define and point out the agreements, issues, and conflicts within each system and between these two systems and then discuss the consequences for KFCP.

B. Background on Formal Planning Systems

Planning policy in Indonesia consists of land use planning which is spatial and development planning which is non-spatial and time-bound. The main law regulating land use planning is Law No 26/2007 on Spatial Planning, whilst time-bound development planning is based on Law No 25/2008 on the National Development Planning System.

Non-spatial or time-bound development plans are differentiated by the length of the plan: Long Term Development Plans (Rencana Pembangunan Jangka Panjang, RPJP) are valid for 20 years, Mid-term Development Plans (Rencana Pembangunan Jangka Menengah, RPJM) for 5 years, and Development Plans (Rencana Kerja Pembangunan, RKP) are annual.

Spatial planning uses a classifications system based on the main function of an area, administrative areas, activities in an area, and the strategic value of an area. Spatial plans show the main function of the area, generally consisting of protected areas and productive areas. Each administration area, national, provincial and district/city have their own spatial plans.

C. Spatial Planning Overview

Nationally, there are two main spatial planning processes undertaken and then, in an ideal world, synchronized. One set of spatial plans, or *Rencana Tata Ruang Wilays* (RTRW), are developed, with planning boards in the lead, at national, provincial, and district levels for land status covering all aspects of land use. Another set of spatial plans for forest development, *Tata Guna Hutan Kesepakatan* (TGHK), have been developed by the Department of Forestry. These two plans need to be synchronized before an RTRW can become official.

In spatial planning, the National Spatial Plan (*Rencana Tata Ruang Wilayah Nasional, RTRWN*), Provincial Spatial Plan (*Rencana Tata Ruang Wilayah Provinsi, RTRWP*), and District/City Spatial Planning (*Rencana Tata Ruang Wilayah Kabupaten/Kota, RTRWK*) are all valid for a period of 20 years and are thus considered to be long term plans. The main difference between these three types of spatial plans is the scale of the maps used, with increasingly detailed maps being used for the lower administrative levels.

All provinces and districts/cities have spatial plans based on the main function of the region and administration areas. Most of the current spatial plans are based on the previous regulation, Law No 24/1992 on Spatial Planning. The current National Spatial Plan (*Rencana Tata Ruang Wilayah Nasional, RTRWN*) was enacted by Government Regulation No 26/2008. The Central Kalimantan Provincial Spatial Plan (*Rencana Tata Ruang Wilayah Provinsi, RTRWP*) was enacted by Provincial Regulation No 8/2003; and Kapuas District Spatial Plan was enacted by Kapuas District Government Regulation No 4/2002.

The Ministry of Forestry's forest development plans, *Tata Guna Hutan Kesepakatan* (TGHK,) are based on the Ministry of Forestry Decree No 759/Kpts/Um/10/1982 on Forest Use Agreement.

In Central Kalimantan, this process has been complicated by the development of the Mega Rice Project and the period of by *Reformasi* and decentralization following the Suharto period. Toward the end of the 1990s, Central Kalimantan was the site for the Mega Rice Project, which sought to convert peat forest into rice land. During the project period, the area's status was changed to allow salvage logging and clear felling with the logging rights going to the Rice Mega Project developers and ultimately the land use status became "land for non-forest use (*areal penggunaan lain*). However, this process, pushed by the Suharto government, did not closely follow established government processes or regulations for changing land status and use.

After the fall of the Soeharto government, a series of presidential decrees closed down the Mega Rice Project and turned management of the area over to the provincial government. In addition, under Regulation no. 62/1998, transferred authority for land use and issuing concessions the Mega Rice Project area to the Districts, including Kapuas. This lead to an explosion of small scale

concessions, harvesting permits, and fees applied to forestry activities by the districts resulting in further deforestation and criticisms of illegal logging.

In response to these developments, the Ministry of Forestry first took back from the Districts the authority to grant concessions (Regulation no. 34/2002) and the reasserted its authority over forest matters in the Mega Rice Project area through MoF Decree no. 6882/2002, MoF Regulation no. P.03/2005, and MoF Regulation P.07/2005. In this matter, the Ministry of Forestry considers the excising of forestlands from MoF control and the transfer of these areas to provincial and district management to have been illegal and void from the beginning. As will be discussed below, this issue has not yet been settled with the Province or District.

In 2007, the President issued Presidential Instruction No 2/2007 on the Acceleration of Rehabilitation and Revitalization of Peat land Development Areas in Central Kalimantan. This Instruction contains a spatial plan for the Ex-Mega Rice Project Area. In addition, as a continuation of the InPres process, a “master plan” for the Ex-Mega Rice Project Area has been developed with its version of a spatial plan for the area. None of these Spatial Plans have yet been officially adopted, but negotiations at national and provincial levels are on-going regarding adoption of a plan for the Ex-Mega Rice Project Area.

Finally, the NGO BOS, working with the Natural Resource Conservation Agency (*Balai Konservasi Sumber Daya Alam*, BKSDA¹) has proposed a spatial plan for the area that is consistent with their conservation goals and protecting the orangutan populations in the area. This plan has been submitted to the Ministry of Forestry through the BKDSA.

The list below shows the various spatial policies or initiatives covering the KFCP area and their relationships to the basic spatial planning law of 1992:

- Before Law No 24/1992 :
 - Forest Use Agreement (Tata Guna Hutan Kesepakatan, TGHK).
- Based on Law No 24/1992 or Law No 26/2007 :
 - National Spatial Plan (Rencana Tata Ruang Wilayah Nasional, RTRWN);
 - Central Kalimantan Provincial Spatial Plan (*Rencana Tata Ruang Wilayah Provinsi*, RTRWP), and
 - Kapuas District Spatial Plan (Rencana Tata Ruang Wilayah Kabupaten, RTRWK);

¹ The BKSDA is a Ministry of Forestry Unit that covers Ministry of Forestry Land Issues at the Provincial Level

- After Law No 24/1992 or after Inpres 2/2007:
 - Presidential Instruction No 2/2007 on Acceleration of Rehabilitation and Revitalization of Peatland development areas in Central Kalimantan;
 - Ministry of Forestry Decree No P.55/Menhut-II/2008 on Master Plan for Rehabilitation and Conservation of Peatland development areas in Central Kalimantan
 - Master Plan proposal (2008); and
 - BOS proposal (2009)

D. Contradictions Among the Spatial Plans

During the process of finalizing the Central Kalimantan RTRWP at the end of March 2007, it was found that the alignment process between the RTRWP and the TGHK had been flawed and that not only were the two plans were not consistent, but also the designation of the government agencies responsible for the Mega Rice Project area was in dispute. As stated above, the Ministry of Forestry maintains that the land was taken from their control illegally and the land is Forestry Land. The Province claim the process of turning the land over from Forestry to Province was legal and the land is under their jurisdiction.

In addition, the zoning plans between Forestry and local governments are not consistent. For example, in the KFCP area, the TGHK has designated the area as a Development Zone while the RTRW Province has designated only 20% of the area (the area bordering the river) as a Development Zone and the remaining 80% as Conservation Zone.

The other plans described above all propose areas of Development Zones and Conservation Zones that are different from the TGHK and RTRW Province. The most extreme is the BOS proposal hat zones the whole area as a Conservation Zone. However, none of the other plans have been officially adopted, although, as described in the next section, negotiations are on-going.

A short description of spatial planning policies for the Mantangai Peat dome, from national to regional level, is presented below in table 1. Maps of each of these plans follow the table.

Table 1. Spatial Planning Policies related to the Mantangai Peat dome

No.	Map of Planning Documents	Land status/Spatial approach
1.	National Spatial Plan- Government Decree No 26/2008 on RTRWN	Allocated as productive area overall, but with the possibility of protected areas being identified in more detailed plans.
2.	Forest Use Agreement - Ministry of Forestry Decree No 759/Kpts/Um/10/1982	Allocated as productive area. About 66% as Production Forest and the rest as Production forest that can be Converted.
3.	Provincial Spatial Planning – Provincial Regulation No 8/2003 on Spatial Planning Central Kalimantan Province	About 80% allocated for conservation areas consisting of: Flora Fauna Conservation Areas, Hydrological Conservation Areas, Deep Peat Conservation Areas, and Dark Peat Water Ecosystem Conservation Areas. The rest is allocated for productive areas covering: Production Development Area (KPP) and Settlement and Other Usages (KPPL), and Production Forest.
4.	District Spatial Planning –Kapas District Regulation No 4/2002 on Kapas District Spatial Planning	In the west and south around 25% for Production Development Area (KPP), and in the middle (enclave), exactly on the deepest part of the peat dome, Industrial Plantation Forest. And around 70% for protected areas consisting of: Deep Peat Conservation Areas, Water Ecosystem Conservation Areas, Hydrological Conservation Areas.
5.	Presidential Instruction No. 2/2007 on Acceleration of Rehabilitation and Revitalization of Peatland Areas Development	More than 90% for protection areas such as Dark Peat Water Ecosystem Conservation, quartz sand areas, deep peat Conservation Areas, Hydrological Conservation Areas, and Alam/Purun Forest. The rest

		allocated as productive area for irrigated rice farming, annual crops, cash crops, vegetables and fruit.
6.	Conservation Master Plan – Ministry of Forestry Decree No P.55/Menhut-II/2008 on Master Plan for Rehabilitation and Conservation of Peat land development areas in Central Kalimantan	Follows the zonation in the Presidential Instruction 2/2007
7.	Proposed Master Plan proposal	<p>Around 80% for Conservation Zone. The rest in the west and south for Adapted Management Zone.</p> <p>This plan has been developed as a suggestion for local government with support from the Dutch Government. The proposed plan is currently under consideration at national and local levels.</p>
8.	BOS proposal, 2009	Protected areas such as Nature Reserves (kawasan suaka alam) or Conservation Areas (kawasan pelestarian alam) supported by Natural Resources Conservation Agency in Central Kalimantan (an agency in provincial level which directly managed under Ministry of Forestry) and submitted to the Ministry of Forestry

The spatial planning policies in Mantangai Peat dome are shown below graphically, in sequence starting from the TGHK issued in 1982 up to various proposals made since the publication of Presidential Instruction No.2/2007, in Map 1.



1. 759/Kpts/Um/10/1982 – TGHK



2. Kapuas District Government decree 4/2002 – RTRWK



3. Central Kalimantan Local Government decree 8/2003 – RTRWP



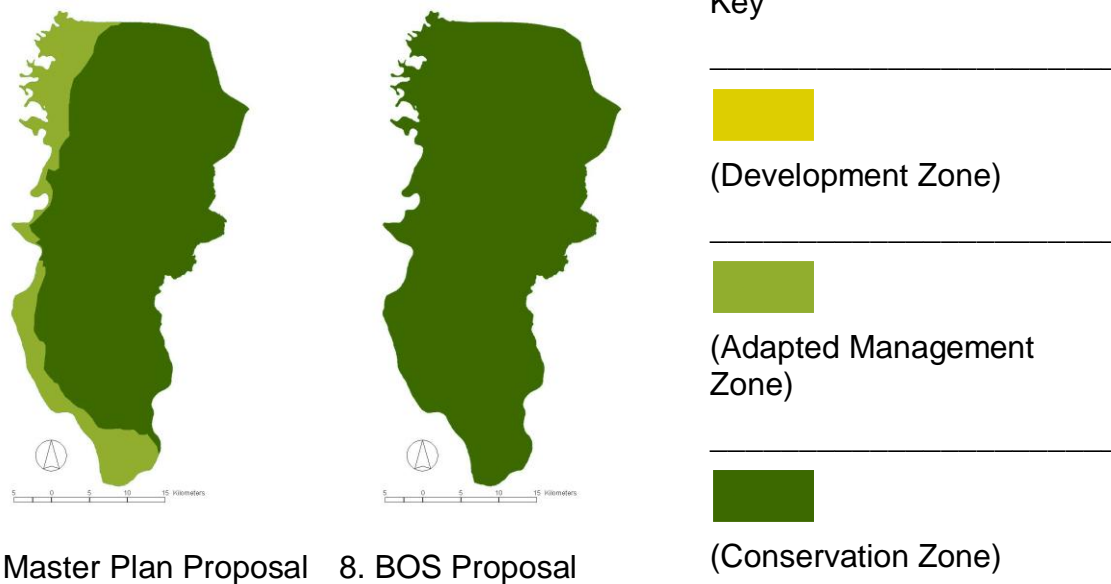
4. Presidential Instruction 2/2007 – PRRKPLG



5. Ministry of Forestry Decree P.55/2007



6. PP 26/2008 - RTRWN



E. Affects of Current Status of Spatial Planning

The development of spatial planning policy in Kalimantan has effectively been stopped since the end of March 2007 when the issue of control surfaced between the Ministry of Forestry and Central Kalimantan Province. No solution has been reached in two years despite the formation of an integrated team, based on Ministry of Forestry Decree No SK 314/Menhut-VII/2008 (consists of inter-departments in national level, university, local government, and civil societies), and involvement of the commission IV of the Indonesian House of Representatives who works on agriculture, plantation, forestry, fishery, food crops, and marine affairs.

The involvement of many parties at provincial and national levels and the amount of time that has been spent seeking a resolution of the Central Kalimantan TGHK and RTRWP problem indicates that the issue is not a simple one. It also illustrates the top down aspect of Indonesian land use policy making and that the human resources at community level are not given the space to participate optimally in solving the problem.

The delay in finalization of the Central Kalimantan RTRWP has caused delays in finalizing or revision of RTRWKs for all the Districts/Cities, including Kapuas District, in Central Kalimantan. The result of this is that at the local level, regardless of the disputes, the current practice is that the KFCP area is zoned as production forest and under the management of the district².

² Based on conversations with local government including the BDSKA and BAPEDA Kapuas.

F. Implications for KFCP

The key implication for KFCP is that under the current status, the District is issuing concessions for exploitation of the area. Already a number of concessions for Palm Oil Plantations are under discussion at the District level. Any sort of development of large-scale agriculture on deep peat is a major threat to the KFCP project.

On the positive side, the designation of the area as a Development Zone allows the development of alternative incomes that are consistent with REDD, but which may not be permitted in conservation areas. Thus this zoning may allow more flexibility for KFCP in identifying and promoting alternative livelihoods.

Conversely, the designation of large areas of the KFCP Project area as conservation forest would support the key activities of the project and provide local communities with legal support for Environmental Services, which protect the forest and generate REDD revenues. For example, both the envisioned villages REDD practices and government regulations would support preventing fires and opening of land as well as rewetting and reforestation activities.

Finally, the majority of the spatial plans presented above are relatively consistent with KFCPs developing strategy to focus first on deep peat for rehabilitation while minimizing GHG releasing cultivation on shallow peat. In almost all of these plans, land near villages and rivers will be permitted to be exploited, but the deep peat areas will be zoned as conservation areas. That said, some negotiation with the District regarding the zoning of the center of peat dome, as production forest may be necessary.

G. Development Planning

The approach to planning in Indonesia is a combination of politics, technocratic planning, and participatory planning; this results in mixture of top down and bottom up planning.

According to the existing official planning system, each province, district and city has 3 types of plan: Long Term Development Plan (*Rencana Pembangunan Jangka Panjang, RPJP*), Mid-term Development Plan (*Rencana Pembangunan Jangka Menengah, RPJM*) and Regional Spatial Plan (RTRW).

The District's long term plans are developed independently by the District and adopted by the District Parliament.

The local government's medium-term and annual development plans are based on the village development plans; Villages should develop mid-term (RPJM Des) and annual development plans (*Rencana Kerja Pembangunan Desa, RKPD*Des)

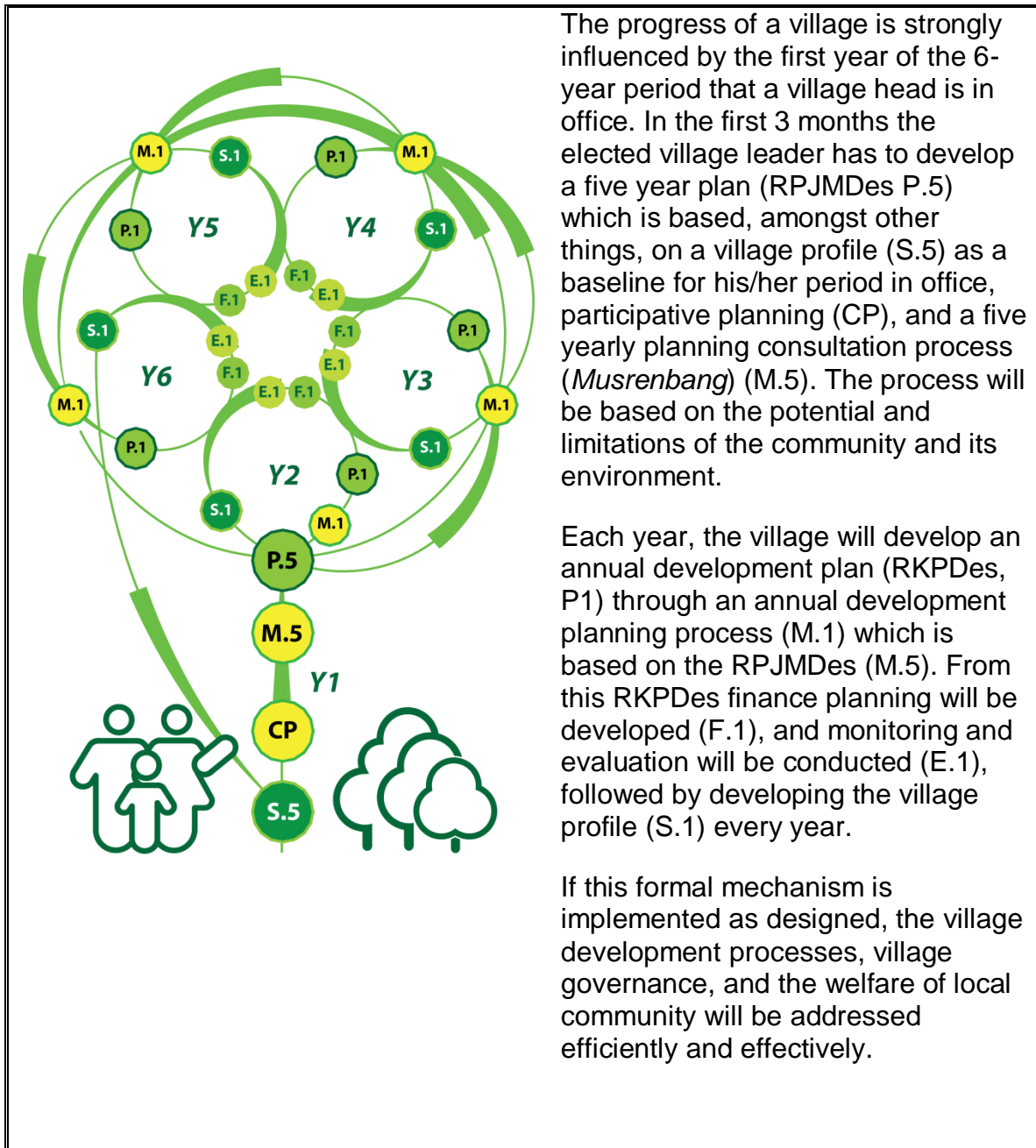
through a village planning process that includes public participation at village development meetings (*musrembang*). These plans are then consolidated into sub-district plans at a sub-district *musrembang* in which village representatives may participate. Sub-district plans are then consolidated into District medium-term plans and annual plans. These consolidated plans distribute activities among the District line departments (Dinas) and prepare budgets for the Dinas and local government departments (including sub-district and village governments). These budgets are presented to the District Parliament for approval as part of the government's annual budgeting process.

At the village level, the village RPJM is enacted through a Village Regulation, and the one year village Development Plan (*Rencana Kerja Pembangunan Desa (RKPDDes)*) is endorsed through a Village Head's Decree. The *musrembang* to develop the RPJM Desa and RKPDDes is usually managed by the village government (*Pemerintah Desa*), village legislature (*Badan Perwakilan Desa*), and other formal and informal institutions in the village-level. Those plans will become a formal planning if the village issuing village regulation and village head decree accordingly. As of mid-2009 no village regulation enacting an RPJM-Des had been passed in Kapuas District.

In addition, not all administrative entities have completed the plans they should have; CARE has found that out of around 1,400 villages in Central Kalimantan, no more than 10% have a Mid-term Development Plan (RPJM), and many sub-districts do not have strategic plan (*Renstra*).

In the KFCP area, the national RPJM, which was enacted through Presidential Decree No 7/2005, will end this year; Central Kalimantan RPJM, enacted through Central Kalimantan Provincial Regulation No 13/2005 will end in 2010; and Kapuas District RPJM, enacted through Kapuas District Regulation No 11/ 2008, will end in 2013.

The diagram below shows the village planning cycle.



H. Village Planning Issues

There are 4 main issues related to villages, which are closely interconnected. These issues are village authority, village finance, village planning, and village/area boundaries. These are common issues in Indonesia especially outside of Java.

In the Indonesian government system (Law No 32/2008), State authority is divided between Central and Local Government, with village authority being

considered to be an integral part of local authority. The government has issued Internal Affairs Minister's Regulation (*Permendagri*) No 30/2006 on The Mechanism for Delegating Authority of District/City Government to Village, but in reality many districts/cities including Kapuas District have not yet implemented this regulation. The slow implementation of the regulation maybe because many local governments are too busy with the issue of division of authority between central government and local government, a system which has not yet itself been implemented according to the regulations.

The lack of regulations and division of authority between local government and village has made it difficult for villages to do their planning including village financial planning. Only with a clear processes and authority will the village government able to develop village budget (income and expenditure). Without set division of authority, it is often unclear how to proceed with planning and which level of government may bear responsible for implementing activities (e.g will certain construction projects be paid by the district, sub-district, or village).

As a result of the lack of regulations and clarity in the village planning systems, most villages in the Kapuas District do not have village plans. Those villages that do have plans often have difficulty effectively managing their funds and implementing activities. This has lead to under spending; within the Kapuas District not more than 50% of the Village Budget Allocation (*Alokasi dana desa* or ADD) in the past 2 years has been spent.

The Kapuas District also has problems with the clarity of boundaries between neighboring villages. When village boundaries are not clear, village governments have difficulty planning for land use and/or activities that should take place at their borders. The lack of clarity of district and village boundaries is an actual and potential cause of conflict between villages and regions. This often comes into play when large scale concessions are given to investors and these concessions cut across or near village boundaries creating confusion as to who should receive what kinds and how much benefits from concession project.

The problems with village planning faced in Kapuas District are

- Unclear boundaries between villages
- Lack of an instrument related to village planning including the Village Development Planning process (*Musrenbang*).
- Low levels of initiative from Village Leaders to proactively develop village plans and budgets.
- Many villages in Kapuas District do not have a village profile, midterm-plans, nor annual plans

- The Kapuas District Government Regulation No.9/2007 on village planning processes only recognized annual plans and does not mention five-yearly plans, as a consequence, many of villages do not have village mid-term plans (RPJM-Des).
 - Without the structure of an RPJM-Des, it is difficult for a village to undertake an Annual Planning process resulting lower quality planning and budgeting, without a good capability to monitor changes over time.
- Low capacity in budgeting and managing village budgets/funds

The issues of village authority, village finances and village/regional boundaries are structural issues or issues where the root of the problem and the initiation of resolution should come from provincial and district government, while the issue of village planning remains a village issue and resolution can largely be initiated at village level.

Regarding village planning at the village level, CARE's experience in the region has been that communities and village leaders appreciate facilitated village planning programs. The village planning work conducted by CARE has helped villages begin to take some responsibility for their village programs.

However, the experience to date has shown that village planning is only a first step in integrating villages into the government systems; villages need to learn to advocate for themselves in order to ensure that at least some of their plans are incorporated into sub-district and district planning. To this end, CARE is working with Village Forums made up of representatives of a number of adjacent villages who work to coordinate their plans and advocate their plans to higher levels of government and appropriate departments (DINAS).

These models of village planning and village forums show the potential of the problem identification and solving power of a participatory *musrembang* and empowering villages to cooperate and advocate for their interests.

I. Implications for KFCP

The current state of village planning has a number of potential consequences for KFCP.

First, the lack of clarity on village boundaries may create difficulties in:

- Identifying exactly which villages that will be affected by canal blocking and greening in the interior. Note, there is the possibility that blocking certain canals and rewetting certain areas may impact villagers from more than one village;

- Planning activities such as re-greening or agricultural livelihood developments in the boarder area between two villages where it is unclear which village is responsible or affected;
- Developing village based fire response plans if villages are unclear of their boundary areas.

Working with village, sub-district, and district government in their efforts to clarify and formalize village boundaries will benefit both KFCP and other, broader, development and planning efforts.

The lack of planning regulations and instruments appears to have an effect on communities' commitment and ability to plan. Without outside intervention, few villages develop their own village plans. However, CKKP and CARE's experience has shown that with outside intervention, villages can prepare their own RPJMs and annual plans. In addition, local governments are interested in CARE's approach and are willing to work with CARE to develop village planning systems. This is an opportunity that KFCP can capitalize on to assist the efforts to build the District's systems and capacity for village planning.

In addition, more work needs to be done on the follow up, finalization, and implementation of village plans. Improving follow up and finalization means advocating for village plans so that the results of the *musrembangs* are incorporated into District Plans and Budgets. CARE has introduced the concept of Village Forums that promote cooperation between villages to advocate for their plans at the sub-district and district level. This is an activity that can be built in order to develop a district planning and budgeting system that is more participatory and transparent so that the limited resources of the District Budget are shared and villages understand the limits of the funding available to them.

J. Village Land Use Practices

Traditionally in Dayak community, land ownership is a process defined by the relationship between the land and the person who works the land. The ownership is not bestowed on a person until that person works and develops the land. Traditionally, for the Dayak people, the right of ownership is also an obligation to work and cultivate the land. If the relationship between the owner and the land breaks down for a certain length of time, the owners access to the land will disappear, although this loss of access may be temporary. This is in contrast to the current formal system, where the rights of ownership may be bestowed before any work has been done on the land and before any "relationship" between land and owner has been developed. In the traditional system, the Dayak claim to the land is known as 'petak ayungkuh' or 'this is mine'.

In and around the villages, there are no formal land use rules except for excluding claiming of sacred places and spiritual forests; these areas are set aside and not available for use. Other than that, village members have been traditionally free to claim any unclaimed land. However, in and around villages, the cultivation patterns of land have become somewhat organized based on soil types and distance from the village. Nearly all of the Dayak community land is mainly distributed on mineral soil, backswamp, and some shallow peat. This limitation appears to be more practical than “statutory”. There are no rules forbidding use of deeper peat, but traditional, village based technology appears not to be suitable for opening deep jungle. However, once peatlands are opened up (as in the case of the Mega Rice Project), villagers will exploit it. In general, the distance from the village or riverbank to the farthest land is 2-5 Kilometers, depending on the fertile soil distribution.

This traditional pattern of land utilization is clearly seen in the communities in Block E where the forest has not been cleared. In these areas, a majority of the land under cultivation is mineral soils, with little opening up of peat lands. The clearing of the forest by the Mega Rice Project changed this pattern by allowing community members access to peat lands. In Block A, the baseline survey shows that community members have moved into cultivating shallow peat lands opened up by the Mega Rice Project.

In the 1970s and 1980s, the ‘petak ayungkuh’ changed into the symbol of fight against the state. At that time, the conflict of local communities and the government increased drastically because many lands, mostly traditional rubber and rattan agroforestry areas, but also Adat lands, were converted by local governments into concession area for large wood companies. Large scale investment throughout Central Kalimantan has encouraged the local community to defend their lands. Maunati (2004) said that the agroforestry companies have tried hard to break the local communities bond with their land, even by importing other ethnic groups to displace local Dayaks as workers in their concessions.

Nowadays, the values of traditional Dayak culture on land ownership has been changed drastically, especially after Indonesian political reforms in 1998. They still adopt the terminology of *petak ayungkuh* in the context of land rights, but have left the obligation to continuously cultivate the land behind. Currently, once land has been claimed, it is considered owned by the claimer in perpetuity. This is one reason why many *petak ayungkuh* lands are now on marginal lands. Although in general, ownership of the land is still marked by the crops and cultivation on it. Land boundaries are marked with vegetation and small canals and the acknowledgement of the community.

This change in *Petak Ayungkuh* has become a problem in Central Kalimantan, causing the the overlap of land ownerships and confusion in the annexation of land. Conflicting claims come about because claimed but uncultivated lands lose their boundary markings and are then claimed by someone else, leading to conflict with the original owner. In the KFCP area, if such a conflict can not be

solved by the parties directly involved, the issue is taken to the village head (*Kapala Desa*) and village leaders (*Tokoh Masyarakat*) for resolution.

Aside from unclear official boundaries between villages described above, the process for defining the area that constitutes a village has not yet been settled. In large part, this is due to the official village boundaries drawn on government maps in the past were drawn along traditional village boundaries. Efforts to rectify this situation are in motion, but not yet complete. In September 5, 1998, the Governor of Central Kalimantan released via press release a Government of Indonesia Notification that lands considered as Adat community lands (1-5 Kilometers from both banks of a river or man made waterways or village watersheds) and clearly included in village spatial plans, must be returned back to the community (from national land). Ten years later, in January 2008, The Peat Community Alliance (Aliansi Masyarakat Gambut or ARPAG) issued a petition to support this press release regarding the boundary of Adat community rights (5 Kilometers from major waterways).

Moreover, ARPAG urged the government to acknowledge local natural resources that spread out within Adat community area, which is owned based on inherited Adat rights, such as: *pukung pahewan* (sacred forest), *hutan adat* (adat forest), *tanah adat* (adat land), *Kalaka* (formerly used land in a swidden system), *tempat keramat* (sacred place), *sungai* (river), *tatah* (ditch), *danau* (lake), *beje* (natural fish pond), *handel* (traditional canal), *tanggiran* (honey trees), *kebun rotan* (traditional rattan plantation), *kebun karet* (traditional rubber plantation), *kebun purun* (natural water plants), and *kebun buah-buahan* (fruit garden), as livelihoods, cultural, socio-economic of Adat community.

The chronological situation above has made land ownership in village level as a mixture of traditional and formal systems. Most of local communities, especially the poor, still find difficulties to access secure land rights through land certification. Most of them are only able to register their land by having land status notification or Surat Pernyataan Lahan (SPT), and farmland status notification or Surat Pernyataan Menggarap.

SPT is issued by sub-district head. Land owners who want to register their land officially inform neighbouring land owners and the village head. The neighbours and the village head will then notify the sub-district that they have no conflict with the land owner. Usually, the owner will need to pay a registration fee to the village head. The costs will depend on the area of the land. The Village head will then transfer the payment to sub-district head as village income.

Once the land has been registered, the government will automatically classify the land as taxable and the owner will pay a yearly tax through village head. This is one reason why the poor members of local communities are reluctant to access secure land rights.

Land registration through SPTs is more common in the southern section of the KFCP area. Lands near the village center are often covered by SPT. Village lands further away from the village center are distributed by the Village Head. The users/owners of these lands may or may not have certificates for their land. In the northern section of the KFCP area, villagers do not generally have government certificates of ownership or land use.

A small number of the local communities also hold *Surat Segel* or *Verklaring* (dutch). In legal aspect, the status of *Verklaring* is the same as an ownership certificate. The unique aspect of *Verklaring* is that it includes the ownership of natural resources, such as lakes, ditches, and even small rivers. However, the Indonesian government through Badan Pertanahan Nasional (National Agrarian Agency) is always suggesting land owners to change the *Verklaring* to land certificate.

Land ownership can be transferred in a number of ways. There is clearly a market for land and land is bought and sold throughout the area. Land can also change hand through trade or exchanges, free transfers, inheritance, and as dowry. The buying and selling of land, inheriting of land, free transfer of land, and land transferred as dowries is common. Less common is the trade/exchange of land and the use of land as security or collateral.

K. Implications for KFCP

One key implication for KFCP, given the traditional land tenure system, is that at the village level, there is no formal “zoning” system. In order to influence land use patterns by the communities, KFCP will have to influence both individuals and community leaders. The local communities are very protective of their prerogative to access and exploit what they consider village land and, as in the situation where villagers no longer welcome staff from BOS, resist outsiders setting rules and restrictions on “their” forests. Therefore, in order to change land use patterns and practices, KFCP will need to work with farmers as individuals, in groups, and as a village to demonstrate the benefits of and techniques for changing land use practices from cultivation to providing environmental services and conservation.

The program will also need to consider how the KFCP intervention will affect the various types of lands in the area. These include private plots, trees, and fishing areas (*ayangku*, *kalaka*, *tanggirang*, and *beje*), spiritual and sacred lands (*Pukung Pahewan* and *Hutan Tajahan*), and communal fishing areas (*Lutu* and *Tukung*). Each KFCP intervention may affect each type of resource use differently.

Canal blocking will likely have negative impacts on cultivated plots by rewetting and reducing access to them and on *lutu* by flooding them out. There may also

be issues regarding sacred and spiritual forests, where human activities are prohibited. These areas will need to be avoided for canal blocking and monitoring activities.

On the other hand, canal blocking and rewetting may have a positive impact on natural and man-made fish ponds (*Tukung* and *Beje*) by providing more water and potential areas for fishponds.

Regreening, reforestation, and fire prevention will have an impact the methods communities use to clear land, prepare and access fishing areas (*lutu*, *tukung*, and *beje*), and prepare for *gemor* collection. Fire is used in each of these activities and aside from avoiding fire use on principle, rewetting and reforestation make fire harder to use as a tool. Fire is a key method for clearing land – both for cultivation and access. Aside from burning on cultivated plots, when villagers prepare fishing areas and collect *gemor*, they sometimes (but not always) use fire to clear access to the fishponds or trees. Regenerating the forest and preventing fire may require rearranging fishing areas and finding alternatives to fire for path and undergrowth clearing when necessary.

On the other hand, reforestation and fire prevention are activities that clearly support the preservation and continuation of sacred areas.

As has already been discussed within KFCP, during implementation, the technical strategies, maps, and plans for canal blocking and regreening will need to be shared with local communities so that the project and communities can map out the affects (both positive and negative) of the proposed plans. With a clear idea of the impact of the proposed interventions (canals blocked, forests restored, fires reduced) the community and KFCP can collaboratively develop plans that mitigate negative impacts on individuals and communities and maximize positive opportunities for all.

L. Conclusion

The current unsettled state of spatial planning in Central Kalimantan is not helpful to KFCP, but nor is it fatal. There are a number of proposed spatial plans being discussed and negotiated at both national and local levels. None of them preclude at this point preclude REDD nor the activities envisioned by the project. A number of them actually reflect the developing KFCP strategy of rewetting and restoration of deep peat, while allowing cultivation and use of mineral soils and shallow peat near the rivers and settlements. However, depending on the spatial plan finally adopted, locations of activities may need to be synchronized with the spatial plan.

The only key issue in the spatial planning process that may hurt REDD in the future is the number and extent of (palm oil) concessions on deep peat that may be realized if the District spatial plan is adopted. As the District is currently going

ahead with the negotiations for such concessions, this is an urgent issue the project needs to address at the District level.

However, the lack of an approved spatial plan in the district means that District and village boundaries are not clearly delineated and agreed upon. This currently results in conflicts around these unclear boundaries over issues of jurisdiction and responsibility. This uncertainty regarding jurisdiction may affect KFCP activities in boarder areas.

The village planning system is also currently underutilized as many villages and village heads do not have the capacity to develop village plans and make them official. The CARE experience in the region shows that villages are open to and appreciate facilitation in developing village plans and advocating for higher level government support. Further capacity building in village planning, advocating, collaboration, and implementation can provide methods and models for all level of governments to deal with issues generated by unclear boundaries and spatial planning.

Finally, the traditional land distribution and use system needs to be mapped out in relations to the KFCP interventions in order to identify the costs and benefits of the interventions at the village level. This mapping will then help the village and KFCP collaborate in developing economic incentives that mitigate the costs and take advantage of the benefits.