

Securing tenure rights in Maluku, Indonesia

Searching for common action

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Key messages

- Participatory prospective analysis is an effective tool for strengthening the capacity of stakeholders including government agencies, NGOs, academia, private sector and community representatives in joint analysis and problem solving. It allows intense interaction among stakeholders, and helps to develop a common understanding of the current situation, to plan for the future and to begin to construct collective agreements around forest resource management.
- Experts view tenure security in a multi-dimensional way. It transcends the actual bundle of rights granted to include the institutions and processes deemed necessary for local rights to be exercised and guaranteed. For them, tenure security comprises governance dimensions that are embodied in implementation processes, as well as interventions that are anticipated to generate value/income from the rights that are held by communities.
- Key driving forces of local tenure security were identified as: regional governance, local government budgets, tourism potential, customary rights and institutions, strengthening the rights and voice of indigenous women, land conversion and spatial planning, local regulation, community knowledge, awareness and community empowerment.
- Five contrasting scenarios were developed by the expert group members. Each scenario captured their expectation of local community tenure security in the future given different combinations of eight factors that drive tenure security. One scenario was selected as best for future implementation. Based on the best scenario, an action plan for assuring local tenure rights was crafted through public consultation. This will be integrated with regional government programs.
- The favored scenarios emphasized good governance, collaboration, respect and recognition of customary rights and institutions, while the rejected scenarios exemplified situations that were under the exclusive control of dominant government or private sector actors.
- Taken together, these five scenarios, regardless of their desirability, point to the key issues in the ability of tenure reforms to achieve tenure security for local communities in Maluku. Important constraints on reform implementation include budget allocation, coordination, changes of policy and regulation, lack of spatial planning data and lack of recognition of customary rights. These factors are important for implementing forest reform and could provide a threat to tenure security.

Introduction

The past decade has shown that collaboration, dialog and consensus building among stakeholders is important to addressing complex public policy issues and generating broad support, which is tied to their long-term sustainability. In Indonesia, there is increasing recognition of the importance of a collaborative approach to public decision making. Thus collaborative processes in forestry are not new to Indonesia, however,

they tend to be most visible at national level, with much less visibility at sub-national and community levels. Forest reforms of the 1990s and early 2000s did not take hold in Maluku due to a strong customary system. Although the Forestry Law of 1999 allowed for customary claims, the Ministry of Environment and Forestry has only recently elaborated how communities can claim their rights, through Decree No. 32/2015. The Constitutional Court Ruling of 2013, which required that state forests be reassigned to customary communities, strengthened the aspirations of some communities in Maluku. They now expect to have full land ownership.

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However, the rights-claiming process is long and complicated (Dewi 2016).¹

This brief presents the process and outcome of a multi-stakeholder collaborative process that aimed to generate cross-sectoral understanding of factors affecting community tenure security in Maluku province in order to generate options for securing the tenure rights of local communities. PPA, a scenario-based approach (Bourgeois and Jesus 2004), was used to engage multiple stakeholders in identifying the driving forces influencing forest tenure security, building scenarios of future tenure security and generating action plans to increase the likelihood of acceptable scenarios.

Context

All forests in Indonesia are categorized as 'state and private land' where state land is under government jurisdiction. Within state land, the Ministry of Forestry has delineated zones for production, limited production, protection and conservation. Community rights to use and manage forests are enshrined in Forestry Law No. 41 (1999), which authorized various Social Forestry (SF) schemes, such as Community Forest (Hutan Kemasyarakatan, HKm), Village Forest (Hutan Desa, HD) and Community Plantation Forest (Hutan Tanaman Rakyat, HTR). These schemes grant communities rights to manage production forests (HKm and HTR), while managing production and protecting forests (HD schemes). The duration of management for all schemes is 35 years². In Indonesia, a major challenge for reform implementation is initiating and sustaining collaboration among agencies and strengthening participation of local institutions (Wiratno 2016). Obtaining customary forest under national law is difficult for communities as conditions to qualify include proof of the existence and function of customary institutions, which are largely informal. Furthermore, based on their strong customary systems, some communities in Maluku are not interested in the partial rights accorded by SF schemes. Local government agencies, though supportive of customary rights, are not well equipped to facilitate the rights claiming process.

1 http://www.fao.org/fileadmin/user_upload/rap/Asia-Pacific_Forestry_Week/doc/Stream_4/ST4_24Feb_Dewa_scalingup.pdf

2 Based on new regulation of the Ministry of Environment and Forestry (PERMENHLK No P83/2016), the duration of management schemes for HTR is changed from 60 years to 35 years.

In light of the multiplicity of rights originating from different systems and authorities (i.e. customary, forestry reforms, constitutional court ruling), compounded by increasing marketization of the local economy, there is confusion about whose authority persists and uncertainty about the tenure rights of local communities. We thus organized this series of multi-stakeholder workshops in an attempt to provide a platform for different actors to present their views, understand the perspectives of other actors and to jointly develop actions and plans i.e. a more coordinated approach that aims to secure the forest tenure rights of the indigenous people of Maluku.

Maluku

Maluku province covers an area of 712,480 km², but only 7.6% of this is land, the rest is ocean. It consists of 1412 islands. Seram Island is the largest, covering 18,625 km² with a total population of about 625,387.³ West Seram was selected as study site⁴ to represent strong customary rights to forests and tree resources (Figure 1). The forest in Maluku, which covers 3,919,701

3 The data is obtained from Wikipedia (<https://en.wikipedia.org/wiki/>).

4 The Global Comparative Study (GCS-Tenure project) on tenure reform implementation is undertaking research Indonesia, Peru and Uganda to investigate how forest tenure reforms are implemented and outcomes on tenure security. See: www.cifor.org/gcstenure. In Indonesia, we worked with communities that have different tenure regimes in four provinces, Lampung, Maluku, West Kalimantan and South of Sulawesi.



Figure 1. Seram Island with study area marked (Created by Salim, A.M. GIS Specialist Cifor in 2016)

ha,⁵ has been divided up for several functions, notably conservation, protection and production functions. Timber harvesting and collection of non-timber forest products (NTFP) is permitted in production forest, while in protection forest only NTFPs can be collected. NTFPs can only be collected in conservation forests by local arrangement.

Participatory Prospective Analysis (PPA)

Overview

Participatory prospective analysis (PPA) is a foresighting, scenarios-based approach that has been used to strengthen the capacity of stakeholders (Bourgeois and Jesus 2004; Laumonier et al. 2008; Liswanti 2012; Bourgeois et al. in press). It has been widely applied in different domains such as climate smart agriculture, agricultural value chains and land-use planning. PPA is designed to explore and anticipate change, and to facilitate interaction among multiple stakeholders with different, often conflicting, interests. In the context of the GCS-Tenure project, this approach has been used as a first step to engage key stakeholders in enabling local stakeholders in project implementation and ensuring that local voices are heard.

Methodology, required data and skills

The implementation of the PPA workshop involved a five-step processes (Bourgeois et al. in press). The first step is to define the system, including the core question to be addressed (e.g. "What is the future of forest tenure security in Maluku?"), the geographic boundaries of the areas (e.g. West Seram District), the time horizon of the foresight work (e.g. 20 years and suggested reviewing every 5 years District Midterm Plan) and relevant stakeholders, inhabiting the territory and doing work related to the territory. The second step is to detect and define forces of change by providing a clear definition of each force of change. The third step is to identify and select driving forces by analyzing and interpreting how the forces of change influence each other. The fourth step is to build scenarios using key forces of change. The last step is to elaborate an action plan based on the desired scenario. A facilitator ensures that the stakeholders understand the steps involved and guides consensus building. The process helps decision makers to understand the key drivers, challenges and future

consequences of local tenure security and to explore policy options at local, regional and national levels (Bourgeois and Jesus 2004).

Results of PPA

Process

The PPA was conducted through expert group meetings in three series of workshops, which started in 2015 (November) and ended in 2016 (January). The workshops involved 14–19 participants who were selected according to their expertise in forest management. They included relevant local government agencies, community representatives, academics, non-governmental organization (NGO) representatives and the private sector. In August 2016, public consultations were conducted at district and province levels to distil the implications of the scenarios on future tenure security and identify actions for achieving the desired scenario.⁶ As a result, 53 driving forces which were controlled by the actors at regional level and 3 driving forces controlled at central level relating to forest tenure were identified. The analysis of relative influence of the forces identified their strength. The dominant driving forces were selected to build scenarios of forest tenure security.

Driving forces of forest tenure security

Figure 2 illustrates how the expert group selected eight driving forces of forest tenure security through an analytical process that was validated by group discussion. The influence graphs display how the driving forces are distributed in a four-quadrant space (drivers, leverage, outputs, and outliers) delimited by two axes. The drivers, located in the upper-left, have an influence above and a dependence below the average. The leverages are located in the upper-right quadrant, are influential and dependent, they both drive the system and are driven by the way the system evolves. The outputs, in the lower-right, have little influence and are determined by what happens to the other forces in the system. The outliers, in the lower-left, are for independent forces in the system and sometimes

⁵ Based on Ministry of Forestry Decree No. 871/Menhut-II/2013, issued on 6 December 2013.

⁶ Public consultation brought the PPA results to stakeholders in district and province to obtain their feedback, to enlist their help in developing the action plan and to ensure that these plan have broader ownership and support beyond the experts. It was attended by all relevant stakeholders, including 20 people in West Seram District and 16 people in Ambon province, from governments, communities, and local businessman, NGO, and University.

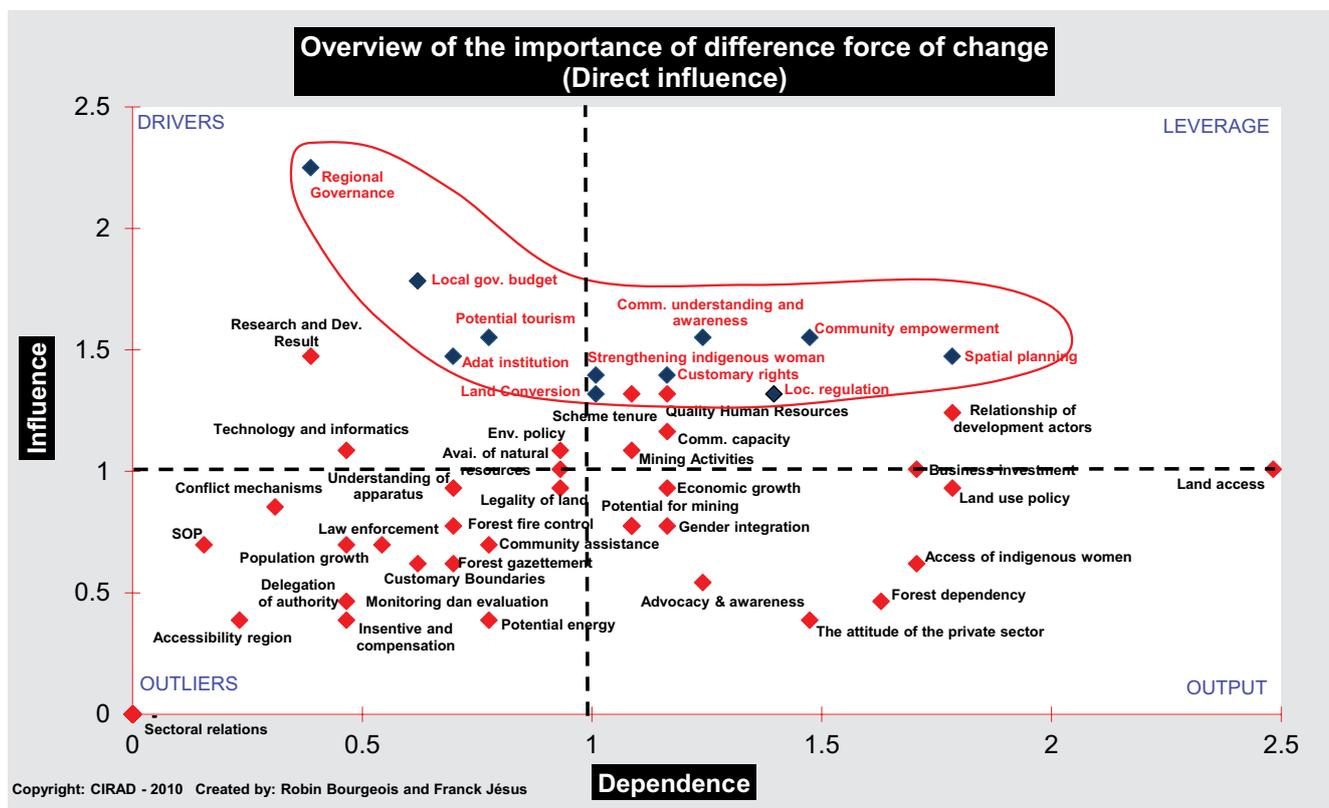


Figure 2. A four-quadrant graphs showing the importance of the difference forces of change for forest tenure security in Maluku

correspond to issues believed to be determining forces (Bourgeois et al. in press).

The driving forces included regional governance, local government budgets, tourism potential, customary rights and institutions, strengthening the rights and voice of indigenous women, land conversion and spatial planning, local regulation, community knowledge and awareness, and community empowerment. According to the expert group, these driving forces are important for securing community rights into the future.⁷ For example, tenure security can be achieved if there is better regional governance (e.g. better coordination and consultation on regulations for forest tenure reforms). No clear action has been taken to implement forest reform following the change of law 23/2014⁸). Local regulation is needed to support tenure reform. There is also a need to increase community empowerment (e.g. communities do not have sufficient knowledge

of their rights⁹ or the forest reform process). All of this should be supported by an adequate budget. These drivers show that tenure security was viewed in a multi-dimensional way. The process transcends the bundle of rights granted to include the actual institutions and processes necessary for the rights to be guaranteed. Tenure security comprises governance dimensions that are embodied in rights implementation and processes that are anticipated to generate value/income from the rights that are held.

The five scenarios of forest tenure security

A scenario is a description of how the future may unfold according to an explicit, coherent and internally consistent set of assumptions about key relationships and driving forces (Bourgeois et al. in press), which is created using a plausible combination of eight driving forces. For Maluku, these scenarios are intended to give an illustration of future forest tenure security for people dependent forest through the implementation of forest

⁷ The expert group agreed that the time frame will follow the Long Term Development Plan of West Seram district that concludes in 2029 and suggested reviewing every 5 years (District Midterm Plan).

⁸ Law no 23/2014 on Regional Governance regarding shifts the power from district to the provinces in relation to issuing permits for mining and logging.

⁹ At the beginning of the PPA process, tenure insecurity was defined as the risk of losing rights or the certainty that communities will have rights into the future. Security of rights depends on how people perceive and experience rights, regardless of whether the rights are statutory or customary.

Scenario 1: Empowered Indigenous women^a

This scenario revolves around the empowerment and promotion of indigenous communities, focusing on women, by recognizing their customary tenure system and strengthening and supporting it to perform its tenure functions of resource allocation and guaranteeing rights in a fair, inclusive and effective way.

Key features:

- Recognizing and respecting the indigenous communities (including women) and traditional institutions
- Promoting women's equality and use of customary system for managing natural resources
- Cooperation of customary community (including women) and local governments in transparent and accountable
- Spatial planning policy on forest and natural resource management is implemented according to local context and to ensure that the diversity of the local context is integrated into regional policies
- Legal security over land forest resources is provided to all communities in Maluku
- Forest tenure reforms are implemented in a participatory and sustainable way, with budgetary support from local government

Scenario 2: The desirable forest tenure security

This scenario revolves around good land and resource governance issues, such as transparency, accountability, cooperation and coordination. However, like Scenario 1, it emphasizes the recognition of customary rights. It also acknowledges the importance of allocating funds for forest tenure reform implementation.

Key features:

- Good governance that: (i) has no corruption, collusion or nepotism; (ii) is participatory and bottom up; (iii) is flexible, effective and credibly commits to the rules and guarantees forest tenure rights
- Recognition and respect for customary rights and institutions; local regulation on customary rights created as a guide in the forest tenure reform process
- Customary institution as the authority on customary territory; open, flexible, clear and effective in using and managing forests and involving 'Kewang' (a person that is traditionally responsible for saving the forest)
- Local government's support by allocating funds for forest tenure reform, including research, community empowerment programs, incentives to the community and promoting tourism
- Good relationship among the government agencies

Scenario 3: The storm that never ended

This scenario involves the empowerment of the private sector to lead reform implementation for business purposes, although the forests are controlled by the state. Indigenous groups (including women) are not recognized and there is need to establish local regulations for the certain groups.

Key features:

- Forest reform is initiated by the private sector with involvement of NGOs, communities and government, as the government does not have sufficient budget to support the implementation of reform
- State controls the customary forest and forest use and management for business interests ignoring traditional community
- The private sector does not take into account to the forest tenure rights of the community and discrimination against indigenous women continues
- Local regulations are made to legitimize forest management in favor of the private sector and not to benefit the community

Scenario 4: Gloomy sunshine at noon

This scenario revolves around a powerful government that does not prioritize reform implementation, does not allocate budgets for reform implementation, has no clear spatial planning and land allocation, ignores the customary community, has full, exclusive control over forests and is generally ineffective in implementing reforms.

Key features:

- Government is dominant, repressive, and authoritarian, causing a lack of support for tenure reforms among the relevant stakeholders; inter-sectoral relationships do not work and regulation of forest management reflects political interests; no budget allocation for tenure reform; land-use changes, spatial planning and the government tend to ignore community and serve the interests of the authorities and their cronies
- Government has full control over the entire forest estate and supports establishment of local regulations on customary territories; only supports investment that accommodates local political interest, resulting in destruction of forests and loss of potential natural assets, as well as inoperative traditional institutions and community discrimination including indigenous women
- Local regulations only accommodate the interests of bureaucrats, ignoring community as traditional land owners; customary rights and institutions have not being recognized by the State and do not feature in forest management; traditional communities lose legitimacy in decision making related to forest tenure reform issues
- Local government lacks clear information on spatial planning and land allocation, hence, budget allocations are not effective and the empowerment program is not directed at self-sufficiency but creates dependency on the government

Scenario 5: Lost sovereignty

The community is dependent on the government, the community loses the opportunity for managing the forest due to change of policy and nomenclature; insufficient budget allocation; government controls the forests including customary territory; applied government policy for community empowerment; complex policy and regulation.

Key features:

- High dependency of community on government for managing the forest, but local government lacks budget; clear spatial planning and land allocation to support implementation of forest tenure reform
- Policy change that removes local institutions' opportunity to manage forests
- Customary land is controlled by the State and used as a tool of power for political interests, not for community benefit
- Government policy on community empowerment is not directed towards self-reliance but on government support; community becomes passive and apathetic in the face of complex policies and regulations

Note:

a The scenario titles are issued by stakeholders and capture their one-sentence summary of the essence of the scenario.

tenure reform, e.g. community forestry, community plantation forest, village forest, partnership and customary forest. Figure 2 shows the key driving forces that had the strongest influence on the system (see red circled area). For example, 'Regional Governance' in the quadrant labeled 'Drivers' has a high direct influence and low dependence on the other forces. Participants selected eight driving forces with which they established five different and contrasting scenarios for Maluku as indicated in the box below.

These five scenarios highlight different themes around tenure rights of local communities and the implementation of future SF programs in Maluku. Scenarios 1, 2, 4 and 5 involve government taking the lead in assuring tenure security for local communities. In all scenarios, forests are controlled by the state. The differences relate to the roles of customary rights, government and women. Scenarios 1 and 2 placed a premium on the recognition of customary rights and institutions. They also prioritize government allocation of adequate budgets for the implementation of tenure reforms. Scenario 1 was the only one that promoted women's rights, while only Scenario 3 envisioned a dominant private sector determining local rights. Scenario 5 envisioned a community that was not empowered, had no agency and was highly dependent on government direction. Scenario 2 is the most desirable for all stakeholders. This is an ambitious and idealistic scenario that aims to provide a win-win solution for tenure security and rights that takes into account the strong customary system. Scenarios 4 and 5 were rejected by all stakeholders and future action planning should avoid them. Taken together, these five scenarios, point to the key issues in the ability of tenure reforms to achieve tenure security for local communities in Maluku. Important constraints on reform implementation include budget allocation, coordination, changes of policy and regulation, lack of spatial planning data and lack of recognition of customary rights. These factors are vital to implementing forest tenure reform and could provide a threat to tenure security in future.

Action plan

Using driving forces from the desired scenario local government and the community developed an action plan to address tenure security issues at sub-national level that they anticipated would emerge in West Seram District in future. The process of developing the action plan involved distilling the implications of

the scenarios for future tenure security and identifying actions for achieving the desired scenario during public consultations at district and province levels. The action plan represents stakeholder consensus on the actions and responsibilities/accountabilities needed at national and sub-national levels to ensure that the most desirable scenario, Scenario 2, is realized. The action plan signals an endorsement by multiple stakeholders who identified solutions to mitigate threats to local tenure security (Table 1). As indicated earlier, stakeholders adopt broader view of tenure security, which is reflected in the actions they identified as needed to assure or guarantee the tenure rights of local communities. The action plan, for example, recognizes the importance of laws and regulations at subnational and national level, strengthening customary rights and institutions, strengthening women's rights and participation and ensuring that communities are knowledgeable of laws and regulations. It also recognizes budgets for implementation and the importance of cross-sectoral coordination in land use planning and allocation. In addition to this, the action plan also suggests that ways and means of generating value out of the exercise of rights (such as infrastructure development, distributing high valued tree seedlings and enterprise development) is part and parcel of the process of rights securitization as it provides a pathway to livelihoods improvements, which are an incentive for sustainable forest and land management.

Conclusions and recommendations

PPA allows for intense interaction among stakeholders, which rarely happens under normal circumstances. Through the PPA exercise, the expert group identified forces of change that could influence the tenure security of local communities. The actors have diverse perceptions of tenure security. For local communities, full ownership rights and the recognition of their customary institutions are key, while for local government, sustainable use of land and forest resources is a major concern. Non-governmental actors regard ambiguities in laws and practices across agencies to be a threat to tenure security, while the central government views customary practice as a major concern. In Maluku, where customary rights and authority are broadly accepted and legally authorized, SF schemes are not widely implemented. There is an opportunity to leapfrog the SF schemes and to implement community management with full rights for customary communities.

Table 1. Recommended action plan for the future implementation of forest tenure reform to strengthen tenure security in West Seram District, Maluku.

| No | Driving forces | Key issues | Action plan | Responsibility Agency |
|----------------------------------|--|---|---|--|
| National and sub-national | | | | |
| 1 | Regional governance | Change of Law No 23/2014 | Establishing an institution for forest management on the ground covering protection, production and conversion forest Creating a Working Group to coordinate different sectors | PFA, FGA, MBPF, SFPEA, WMA, WMAPF, NPA |
| | | Coordination and awareness on regulation for SF scheme | Conducting an awareness program on SF on the ground and build coordination on the implementation of regulation related to SF scheme between sectors | |
| | | Lack of alignment on forest tenure from top manager at district level | Advocate at the level of regional leader | |
| 2 | Local government budget | Commitment local government to provide budget for SF scheme still not optimum. | Integrated SF program in to local regulation or MRP in province level with regards to the new regulation. | FA and RPA |
| | | The need for tree seedlings (gaharu, damar, etc.) | Maintaining pilot site for eagle wood at SBB | FA and AA |
| | | Need road access to the location for SF program | Use village funds for infrastructure | FA and PWA |
| | | Village located inside the forest area still needs attention | Provide infrastructure to give the community an easier access to the forest and land without a permit | FA, PWA, FGA |
| 3 | Land allocation and spatial planning | Coordination between related sectors is not optimum | Improve coordination between sectors | FA |
| | | Inconsistency with spatial planning in the district | Optimization to control implementation and law enforcement | FA and FGA |
| | | Land allocation from conversion production forest to area for other uses in the district is not optimum | Revision for district spatial planning to allocate more conversion production forest tor area for other uses | |
| Sub-national level | | | | |
| 4 | Local regulation | There is no local regulation that could accommodate the implementation of forest tenure reform | Development local regulation | FA, RPDA, RP, University |
| 5 | Customary institution and customary rights | There is no regulation yet to support customary institution and customary rights | Establishing local regulation at district level | District Law Firm, RP, University |
| | | 'Kewang' which was responsible for controlling the forest is not active anymore. | Establishing village regulation which accommodate an incentive for Kewang | Village Governance, District Law Firm |
| | | Capacity of customary rights is still low | (human resources, infrastructure, organization, regulation) | VGCEB of district and province |
| 6 | Potential for tourist attraction | Potential for tourist attraction is not fully utilized and has not been well managed so far | Identification and promotion for potential tourist attraction which can be integrated with Social Forestry program | FA, SFPEA, TA |
| | | | Collaboration with related agency (TA, ASITA and IHRA) | TA, IToA, IHRA |
| | | Problem of transportation (difficult and expensive) | Providing infrastructure | FA, RPDA, PWA |
| 7 | Strengthening the rights and voice of indigenous women | Lack of involvement of indigenous woman in SF management | Involving of indigenous women in forest reform implementation Strengthening any program related to indigenous women | IWEA, Village Governance |
| 8 | Knowledge, awareness, and community empowerment | Lack of clear understanding about SF program at the community level | Socialization or counseling about SF program | FA, SFPEA, CIFOR |
| | | Lack of access information on regulation and market | Socialization or counseling about regulation at the community level | SFPEA, ITA, CA, and MSME |
| | | The need of community empowerment for business development of NTFP | Developing NTFP businesses or training entrepreneurship Activities related to business meeting on the ground | |

Notes:

Province Forestry Agency (PFA), Forest Gazettement Agency (FGA), Management Body of Production Forest (MBPF), Social Forestry and Partnership Environment Agency (SFPEA), Watershed Management Agency (WMA), Watershed Management Agency on Protection Forest (WMAPEF), National Park Agency (NPA), Regional Planning Development Agency (RPDA), Agriculture Agency (AA), Forestry Agency (FA), Public Works Agency (PWA), Regional Parliament (RP), Village Government and Community Empowerment Board (VGCEB), Indigenous Women's Empowerment Agency (IWEA), Tourism Agency (TA), Indonesia Tourism Association (IToA), Indonesian Hotels and Restaurants Association (IHRA), Industry and Trade Agency (ITA), Cooperative Agency (CA), Micro Small and Medium Enterprises (MSME), Association of The Indonesian Tours and Travel Agencies (ASITA), Mid Term Planning (MRP), Social Forestry (SF)

The expert group members agreed that, if the community is given full and guaranteed ownership rights, this will reinforce sustainable use and management of forest resources.

Participants agreed to integrate the action plan, a major outcome of the PPA process, into upcoming or mid-term government program activities in Maluku. This will ensure that these actions are implemented. However, this will need to be further negotiated by the relevant actors.

Acknowledgements

We thank to the European Commission, the Global Environment Facility, The International Fund for Agricultural Development (IFAD) and Food and Agriculture Organization (FAO) for supporting this work. Any views expressed in this publication are those of the authors. They do not necessarily represent the views of CIFOR, the editors, the authors' institutions, the financial sponsors or the reviewers. We wish to thank the expert group of PPA in Maluku representing different stakeholders including government and non-government officials for their contribution. We also wish to thank Steve Lawry and Safia Aggarwal for their review and comments, and Mohammad Agus Salim for providing map. This research is supported by CGIAR Fund Donors. For a list of Fund donors please see: www.cgiar.org/about-us/our-funders

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Agroforestry

This research is carried out by CIFOR as part of the CGIAR Research Program on Forests, Trees and Agroforestry (FTA). This collaborative program aims to enhance the management and use of forests, agroforestry and tree genetic resources across the landscape from forests to farms. CIFOR leads FTA in partnership with Bioversity International, CATIE, CIRAD, INBAR, Tropenbos International and the World Agroforestry Centre.



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