

The Impacts of Forestry Decentralization on District Finances, Local Communities and Spatial Planning

A Case Study in Bulungan District, East Kalimantan

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CIFOR REPORTS ON DECENTRALIZATION AND FORESTS IN INDONESIA

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Center for International Forestry Research (CIFOR)

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Printed by Intiprima Karya, Jakarta

ISBN 979-3361-96-4

Published by
Center for International Forestry Research
Jl. CIFOR, Situ Gede, Sindang Barang
Bogor Barat 16680, Indonesia
Tel.: +62 (251) 622622; Fax: +62 (251) 622100
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Contents

Glossary	v
Preface	vi
Abstract	viii
1 Introduction	1
1.1 Background	1
1.2 Earlier Research in this Area	2
1.3 Problem Formulation	2
1.4 Research Objectives	3
1.5 Research Focus	3
2 Research Sites and Methods	4
2.1 Research Sites	4
2.2 An Overview of Bulungan District	4
2.2.1 Location, geographic conditions and climate	4
2.2.2 Population	6
2.2.3 Economy	6
2.2.4 Forestry	8
2.3 Research Method	8
3 Forestry Decentralization in Bulungan: IPPK Policy and Stakeholders	10
3.1 IPPK Policies: Chronology, Distortion and Suspension of Authority	10
3.2 Regional Autonomy and Division of Regulatory Authority in the Forestry Sector	14
3.3 Permit Mechanisms	15
3.4 Stakeholders in the Forestry Sector	17
4 Impacts of Decentralization and IPPK Policy on Regional Finance and Local Communities	19
4.1 IPPK Contributions to PAD and District Finances	19
4.2 The Impact of IPPK Policy on Community Income	23
5 Land Issues, IPPK and Spatial Planning Processes	26
5.1 Land Issues and IPPK	26
5.2 District Spatial Plan and Suitability of Land for Oil Palm	32
5.3 Forest Land Claims and <i>Tana' Ulen</i>	33
6 Future Challenges of Decentralization	36
6.1 Will Unclear Administrative Authority Still Be the Norm?	36
6.2 Unclear Land Status and Incentives for Conservation	36
6.3 Equitable Distribution of Benefits versus 'Elite Capture'	37
6.4 The Future of Community-based Management	38
7 Conclusions and Recommendations	40
7.1 Conclusions	40
7.2 Recommendations	40
8 Endnotes	42
9 References	46

Tables and Figures

Tables

Table 1.	Bulungan District: Area and population statistics by subdistrict in 2000	6
Table 2.	Gross Domestic Regional Product of Bulungan District (Rp. 000), 1993–1999	7
Table 3.	Bulungan District: Forest estate area and forest concession types	7
Table 4.	‘Critical’ land in Bulungan District	8
Table 5.	Chronological summary of legislation passed on IPPKs and numbers and area of IPPKs from 1999 to 2003 in Bulungan District	11
Table 6.	Stakeholders’ relative access to centre of policymaking	17
Table 7.	Stakeholders’ relative access to forest benefits	18
Table 8.	Stakeholders’ perception of positive and negative impacts of decentralization	19
Table 9.	District revenue from third-party contributions and IPPK log taxes	20
Table 10.	IPPK contributions to DR and PSDH transferred to central government and district income through DAK-DR and PSDH, for 7 of Bulungan’s 13 subdistricts	21
Table 11.	Fees and social benefits received by local communities in some villages	24
Table 12.	Estimated cash fee receipts from IPPKs based on Bulungan District Government’s log production data	24
Table 13.	Companies holding permits for IPPK areas inside PT. ITCI Kayan Hutani’s HPH forest concession area	28

Figures

Figure 1.	Research location map showing sample villages in Bulungan District	5
Figure 2.	Procedure for granting IPPK permits	16
Figure 3.	Relative positions of stakeholders in relation to forest resources benefits	18
Figure 4.	Mechanisms for issuing legal forest product transportation permits (SKSHH) and fee collection	22
Figure 5.	Distribution of IPPKs (both existing and planned) in Sesayap Hilir and Sekatak Subdistricts in the Bulungan District Spatial Plan.	27
Figure 6.	IPPK areas inside PT. ITCI Kayan Hutani’s HPH forest concession area	29
Figure 7.	Distribution of IPPK locations (both existing and planned) in Bulungan District, East Kalimantan, on the District Spatial Plan (2003).	30
Figure 8.	IPPK distribution on a Landsat image (1999) and land-use map (1997)	31
Figure 9.	Physiography and land suitability map for oil palm estates in Bulungan District, East Kalimantan	34

Glossary

Bappeda	District Planning and Development Agency
BPJN	<i>Badan Pertanahan Nasional</i> – National Land Agency
CIFOR	Center for International Forestry Research
DAK-DR	<i>Dana Alokasi Khusus-Dana Reboisasi</i> – Specially Allocated Funds - Reforestation Funds
DPRD	<i>Dewan Perwakilan Rakyat Daerah</i> – District Legislative Assembly
DR	<i>Dana Reboisasi</i> – Reforestation Funds
GDRP	Gross Domestic Regional Product
HPH	<i>Hak Pengusahaan Hutan</i> – Large-scale Forest Concession Permit
HPHH	<i>Hak Pemungutan Hasil Hutan</i> – Forest Product Harvesting Rights
IPHH	<i>Izin Pemungutan Hasil Hutan</i> - Forest Product Harvest Permit
IPK	<i>Izin Pemanfaatan Kayu</i> – Timber Utilization Permit
IPPK	<i>Izin Pemungutan dan Pemanfaatan Kayu</i> – Timber Extraction and Utilization Permit
IUPHHK	<i>Izin Usaha Pemanfaatan Hasil Hutan Kayu</i> – Timber Forest Product Utilization Business Licence
KBK	<i>Kawasan Budidaya Kehutanan</i> – Areas Designated for Forestry Uses
KBNK	<i>Kawasan Budidaya Non Kehutanan</i> – Areas Designated for Non-forestry Uses
LAC	Local Advisory Committee
LHP	<i>Laporan Hasil Pemeriksaan</i> – Inspection Report
PAD	<i>Pendapatan Asli Daerah</i> – District Own-source Revenue
PSDH	<i>Provisi Sumber Daya Hutan</i> – Forest Resource Rent Provision
RTRWK	<i>Rencana Tata Ruang Wilayah Kabupaten</i> – District Spatial Plan
SKSHH	<i>Surat Keterangan Sahnya Hasil Hutan</i> – Legal Forest Product Transportation Permit
UPTD	<i>Unit Pelaksana Teknis Daerah</i> –Regional Technical Implementation Unit

Preface

This case study is part of a series describing the impacts of decentralization in the forestry sector in Indonesia. Over the last two years (2002–2004), a team of researchers from regional universities, NGOs and CIFOR worked on a policy action research project: *‘Can Decentralization Work for Forests and the Poor?’* intended to help inform policy decision making. The research has involved working with multi-stakeholder networks in five provinces across Indonesia (South Sulawesi, East Kalimantan, Jambi, West Kalimantan and Papua) in gathering and sharing detailed socio-legal, economic and ecological analyses of the impacts of decentralization on forestry and the poor.

The foundations for decentralizing Indonesia’s highly centralized governance system were laid out in Law No. 22/1999 on Regional Governance and Law No. 25/1999 on Fiscal Balancing between the Central and Regional Governments*. Decentralization has provided district governments with considerable opportunities to reform their governance, development and public service delivery. The most tangible manifestation of decentralization in the forestry sector was that district heads were given authority to grant small-scale forest concessions for the first time.

The first two years of decentralization in Indonesia represented a time of transition and adjustment. Forest-rich districts celebrated this new freedom to gain direct economic benefits

by establishing district timber regimes. As a result there was a boom in small-scale logging. The national government reacted with a new set of forestry policies attempting to limit forest degradation, mainly by curbing district authority. At about the same time, many district governments and local stakeholders started to realize that their level of timber exploitation was not sustainable. In these districts, a process of policy learning led to new, more carefully considered district forestry policies. However, their potential was limited as the central government had already taken back much of the district’s authority for forestry.

Under the New Order regime, the forest governance system had created an unsustainable timber extraction regime. It has also been described as a ‘poverty-creating’ model of forest management (DFID 1999). So far, decentralization in Indonesia has not magically solved the problems built up over decades of over-exploitation and under-investment in natural resource-based development. Decentralization has undoubtedly brought short-term economic windfalls to some forest-dependent communities, and brought decision-making closer to local stakeholders. However, if forest and eco-system management at the local level is to be sustainable, all the stakeholders who will be impacted by government policies in this area need still greater involvement.

Their input should help to ensure that final policies provide them with real opportunities

* When this report was being finalized, the two laws had been replaced by Law No. 32/2004 on Regional Governance and Law No. 33/2004 on Fiscal Balancing between the Central and Regional Governments.

to improve their livelihoods and the natural environment within a framework of sustainable natural resource management.

CIFOR gratefully acknowledges the financial support of ACIAR and DFID as well as the important role played by partners in the five locations: Hasanuddin University (UNHAS), Tanjungpura University (UNTAN), State University of Papua (UNIPA), the Study

Center for Regional Autonomy Law and Policy (PSHK-ODA), Yayasan Konservasi Borneo and Yayasan Pionir Bulungan. We would also like to thank the district governments, village communities and other local stakeholders in the areas where the research was conducted. Special thanks go to the Indonesian Ministry of Forestry's Agency for Forestry Research and Development, FORDA.

Bogor, Indonesia

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Project Coordinator

Abstract

The report describes the impacts of forestry decentralization on district finance, local communities and spatial planning, drawing on an 18-month research project in Bulungan District in East Kalimantan Province. The District Government of Bulungan welcomed the opportunities provided by decentralization and responded rapidly by passing district-level legislation to regulate locally issued small-scale logging permits, known as IPPK or Timber Extraction and Utilization Permits. As time passed, central government observed that there were irregularities in the way that the new administrative authority handed to the districts was being implemented. Disagreements between central and district governments finally led to the Minister of Forestry's issuing a decree postponing and a government regulation subsequently revoking the district heads' authority to issue small-scale logging permits.

The research project on which the report is based aimed to document forestry management

policies following the implementation of regional autonomy, to investigate their impacts on district revenue and local livelihoods, and to analyze district spatial planning, forest land use and community control over forest lands.

While agreeing that decentralized forest policies have had positive impacts in Bulungan District, the report highlighted a number of issues that both district and central governments and stakeholders need to examine if the decentralization of the forestry sector is to be successful. These issues include the lack of coherent policies and coordination between central and district governments; lack of adequate resources on the part of both district and central governments to manage, monitor and control the use of the forest resource; weak district tax collection mechanisms and ineffective imposition of penalties, and the failure of the decentralized policies to ensure that the local people benefit from the resource.

1.1 Background

The foundations for decentralizing Indonesia's highly centralized governance system were laid out in Law No. 22/1999 on Regional Governance and Law No. 25/1999 on Fiscal Balancing between the Central and Regional Government. Decentralization, or regional autonomy, provided district governments with considerable opportunities to reform their governance, development and public services delivery. The most tangible manifestation of decentralization in the forestry sector was that, for the first time, district heads were given the administrative authority to grant small-scale forest concessions.

In common with the governments of most forest-rich districts across Indonesia, the District Government of Bulungan, East Kalimantan, welcomed the opportunity provided by decentralization and responded rapidly by issuing a District Head's decree¹ and a district regulation² to regulate locally issued small-scale logging permits or Timber Extraction and Utilization Permits (*Izin Pemungutan dan Pemanfaatan Kayu*, hereinafter referred to as IPPK³). To strengthen decentralization in the forestry sector, Bulungan District Government then issued a district regulation⁴ establishing its own, independent Forestry Office.

As time passed, central government began to argue that there were irregularities in the way that the new administrative authority handed to the districts was being implemented. Disagreements between the central and district governments finally led to the Minister of Forestry's issuing a decree postponing and a government regulation subsequently revoking

the district heads' authority to issue small-scale timber extraction licences.

One element of the new decentralized concession system that attracted frequent criticism was the tendency of district governments to regard forest resources as a source of quick revenue. This was apparent in the way district governments used the policy to increase their own-source revenue (District Own-source Revenue – *Pendapatan Asli Daerah* or PAD). Conflicts occurring between IPPK permit holders and other groups who claimed that their land ownership rights were as strong if not stronger than those of the IPPK permit holders also came under scrutiny, as did the social and cultural effects on local communities of earning quick cash from forestry for the first time. Furthermore, the process for obtaining the permits was quick and simple. The new small-scale permits required relatively little investment compared to that required for nationally issued large-scale forest concession permits (HPH). This made certain parties in the illegal timber market very interested in obtaining IPPK permits.

This research project set out to investigate the impacts of forestry decentralization in Bulungan District since Law No. 22/1999 came into effect in 2001. The case study documents, in chronological order, the various policies and changes in administrative authority between the central and provincial governments and Bulungan District Government. It focuses specifically on investigating the impacts of decentralization on district finances, the wellbeing of local communities and spatial planning.

1.2 Earlier Research in this Area

A great deal of research has been undertaken to understand decentralized forestry policies and their impacts on forest management, regional development and local communities. Papers by the Center for International Forestry Research (CIFOR) and regional partners in East Kalimantan⁵, West Kalimantan⁶, Central Kalimantan⁷ and Riau⁸ show different responses to decentralization by individual district governments, with the new policies having correspondingly varied impacts on various sectors of the economy and local community livelihoods. Resosudarmo and Dermawan (2002) summed up these differences: they commented that until the third quarter of 2000 regional attitudes and opinions about decentralization and its implementation reflected enthusiasm, pessimism, confusion and uncertainty. Every case study undertaken during the transition period revealed problems relating to spatial planning and land-use processes, HPH forest concessions, conservation and protected areas as well as the problem of forests being used as a fast and easy source of independent district revenue.

Studies aimed specifically at investigating the impacts of small-scale timber extraction permits have already been undertaken in Bulungan⁹, Malinau¹⁰ and Berau Districts¹¹ in East Kalimantan and Sintang District¹² in West Kalimantan. The current research provides further confirmation of the results of previous analyses on the impacts of IPPKs, and also provides the latest information following the revocation of the enabling legislation and the specific challenges associated with district-level governance processes and democratic and transparent decisionmaking.

1.3 Problem Formulation

Decentralization in the forestry sector was intended to devolve authority from central government to provincial and district leaders. The hope was that moving decisionmaking processes closer to resources, communities and other stakeholders (who are most affected

by the direct impacts of these decisions) could bring about more sustainable, equitable and democratic management of forests and help lift local communities out of poverty. It was anticipated that decentralized regional policies could increase community participation in forest resource management and provide local communities with greater opportunities for accessing benefits from forest resources.

However, as earlier studies on the impacts of decentralization have shown, these hopes have not been fully realized in the decentralized forestry policies in Bulungan District. On the one hand, unclear definition of administrative authority and central, provincial and district governments' differing understanding of decentralization still hamper the effective implementation of regional forestry development. On the other hand, the authority of the district heads to grant permits has provided significant contributions to district own-source revenue (PAD), however along with this benefit to the district have come concerns that increasingly large areas of forest would be degraded as rampant forest utilization continued with scant regard for conservation. Although local communities are the main targets for empowerment in the era of regional autonomy, they have yet to obtain fair or sustainable benefits.

In this context, a number of important questions arise: To what extent have IPPK policies actually contributed to regional revenue? What impacts have they had on environmental conservation, economics and local community culture? How much heed has the District Government paid to transparency, accountability and community participation in its district regulations, granting of IPPK permits, spatial planning and other forestry sector developments? To what extent have district policies accommodated the interests of different stakeholders, including the needs of the local communities for continued sources of income and security of tenure and/or access to their lands?

On 20 February 2004¹³ the Bulungan District Head issued a decree banning the

issuance of any new IPPKs or any extensions to existing permits granted after 31 December 2003. The research team who conducted this case study hope that the outcomes of the study will provide inputs to preparing future national and district forest management strategies, once the allocation and division of authority in the forestry sector becomes clearer.

1.4 Research Objectives

- To document central and district forestry policies relating to forest management following the implementation of regional autonomy.
- To investigate the impacts of the Bulungan District's IPPK permit on district revenue and local livelihoods.
- To analyze spatial planning in the district in relation to forest land use and community control over forest lands.

1.5 Research Focus

Research focused on the framework for forestry sector decentralization put in place at the national level and on Bulungan District's own decentralized forestry policies, namely its IPPKs. The research team analyzed the formation and substance of these policies and their impact on district revenue and community livelihoods, licensing procedures and mechanisms, the distribution of benefits, stakeholder roles and relationships, social conflict and district spatial planning activities. The impact of IPPKs on forests – although not the major focus – was also investigated in this study.

2.1 Research Sites

The research team selected Bulungan District, East Kalimantan, as the study location for a number of reasons. First, the district still has relatively large tracts of natural forests. Second, the District Government was issuing relatively high numbers of Timber Extraction and Utilization permits (IPPK), which was having a significant impact on the direction of forest management in the area. Finally, the district has traditionally had relatively low levels of outside intervention or support. Since Bulungan District was subdivided in 1999 into two separate districts, Malinau and Nunukan, due to the need to develop communities and improve governmental delivery services, very few international or national organizations have researched or supported forestry sector developments there. The relatively small number of community organizations present in the district was also a consideration in relation to District Government efforts to encourage public participation processes.

For these reasons we concluded that it would be useful to compare the outcomes of research in Bulungan District with those of studies on the impacts of decentralization undertaken in other regions.

The team conducted research¹⁴ in several villages in Bulungan District. The aim was to document the impacts of the IPPK policy on communities and include local stakeholders' aspirations and views. Aspects considered when selecting research villages were the locations of IPPKs operating from 1999 until 2003, the existence of customary forest, and the relatively high instances of land-tenure conflict in the local area. The following sample villages were chosen: Long Tungu, Long Lembu and

Long Bang in Peso Ilir Subdistrict, Lepak Aru and Long Peso in Peso Subdistrict, Pejalin and Tanjung Palas Ilir in Tanjung Palas Subdistrict, and Sajau in Tanjung Palas Timur Subdistrict. The locations of these villages are shown in Figure 1.

2.2 An Overview of Bulungan District

2.2.1 Location, geographic conditions and climate

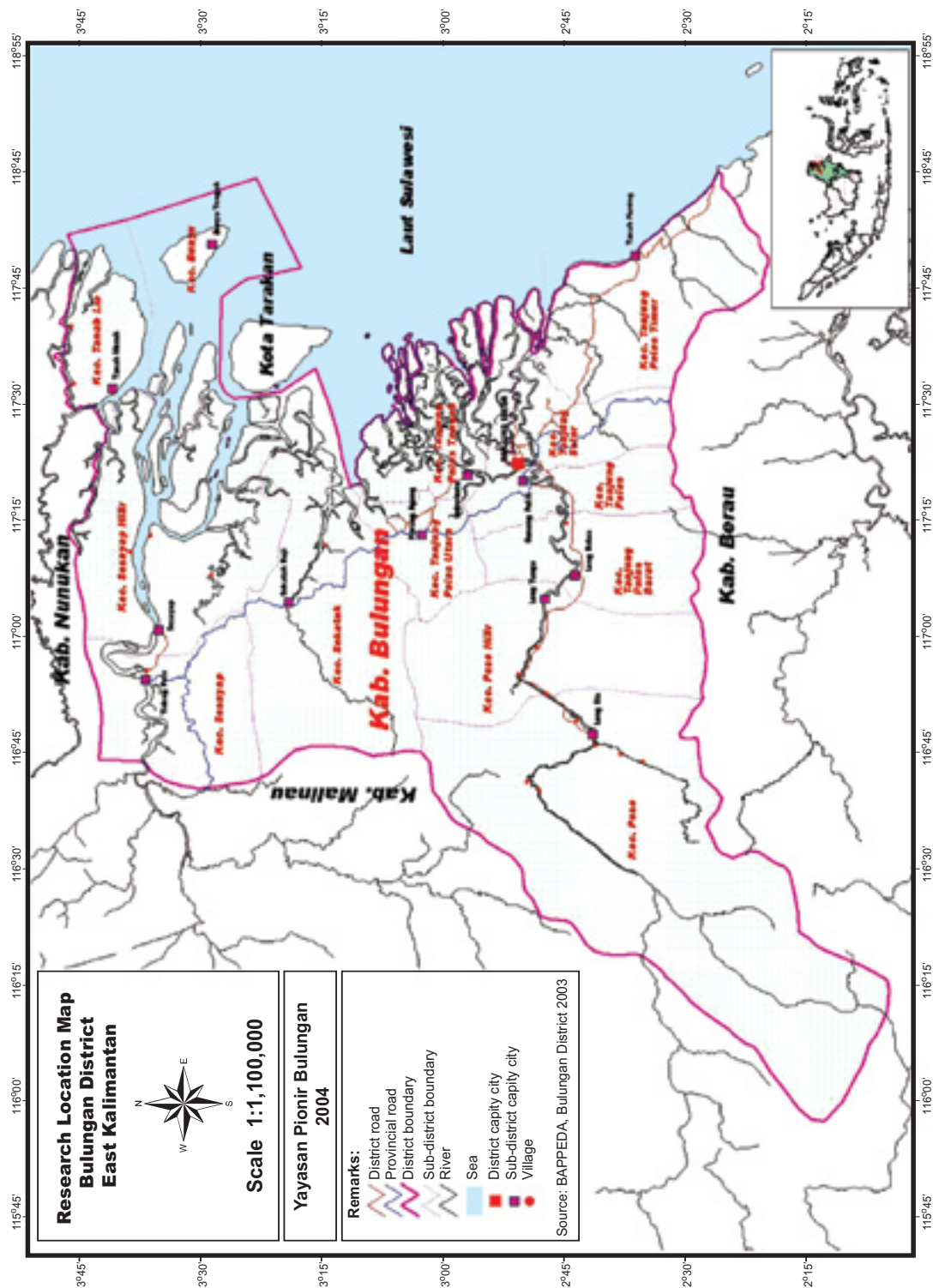
Bulungan District¹⁷ covers an area of 18,009.30 km² and borders Nunukan District to the north, the Sulawesi Sea and the island town of Tarakan to the east, Malinau District to the west and Berau District to the south.

The topography of Bulungan District is varied: relief maps show steep hills and lowlands with average gradients of between 8% and 30% and elevations of up to approximately 1,600 m above sea level.

Bulungan District encompasses a number of small islands and is crossed by several large and small rivers. The region comprises mostly plains and tidal wetlands in the lower areas, with hills and mountains with steep slopes and sheer cliffs in the upper areas. The dominant soil types are alluvial, red yellow podsolik and latosol. These conditions contribute to the area's abundant and rich natural forest habitats and natural eco-systems.

The seasons in Bulungan District, with its wet-tropical climate, are almost identical to those in other parts of Kalimantan, with indistinct dry and rainy seasons. These conditions are influenced by Bulungan District's geographic location on the equator.

Figure 1. Research location map showing sample villages in Bulungan District



2.2.2 Population

Bulungan District has a diverse and varied population of native people and ethnic newcomers, or transmigrants. The indigenous people are ethnic Bulungans and Tidungs in the coastal and island regions, and ethnic Dayaks mainly in the interior. Other ethnic groups are incoming Banjarese, Javanese, Madurese, Bugis and Toraja from Sulawesi, people from Sumatra and East Nusa Tenggara, as well as people of ethnic Arab and Chinese origin. See Table 1 for area and population statistics for Bulungan District.

The population distribution in Bulungan District is greatly influenced by geographic conditions, so settlements are unevenly spaced and widely dispersed. In the interior, people tend to live along riverbanks where water and river transportation are more easily accessible. Island dwellers generally live on the coast as most of them are traditional or modern fishermen.

2.2.3 Economy

Based on Gross Domestic Regional Product (GDRP) calculations, the economy of Bulungan District is dominated by natural resource-based sectors, especially the forestry subsector.

Table 2 shows GDRP according to figures for 1993–1999, before Bulungan District was subdivided.

The available data show that the forestry sector is the largest contributor of revenue to the area, exceeding even the oil and gas sectors. Despite showing increases in the GDRP and community revenue, in real terms these figures do not reflect actual changes in community livelihoods because *per capita* revenue figures were obtained based on GDRP with indirect tax and net revenue from outside the region deducted.

Most people in Bulungan District earn their living from farming and fishing. Data from 2002 show that the majority – 65.5% – earn their living from farming, followed by 17.2% in the services sector, with the remainder trading or working in processing industries, public transportation etc. (BPS 2002).

Most communities in Bulungan are moving increasingly towards wetland rice cultivation, but communities in the interior still favour dryland farming. Generally, the crops grown are rice (wetland and dryland), secondary crops, and horticultural crops such as Chinese cabbage, water cabbage, cucumber and eggplant. In contrast to the intensive wetland

Table 1. Bulungan District: Area and population statistics by subdistrict in 2000

No	Subdistrict	Area		Number		Population density (Individuals per km ²)
		Km ²	%	Village	Population	
1	Peso	3,141.79	17.45	10	4,139	1.32
2	Peso Hilir	1,639.71	9.10	4	5,568	3.40
3	Tanjung Palas	1,755.54	9.75	7	10,227	5.82
4	Tanjung Palas Barat	1,064.51	5.91	4	5,591	5.27
5	Tanjung Palas Utara	806.34	4.48	6	8,589	10.62
6	Tanjung Palas Timur	677.77	3.76	5	4,559	6.73
7	Tanjung Selor	1,277.81	7.09	7	22,068	17.27
8	Tanjung Palas Tengah	624.95	3.47	3	5,287	3.40
9	Sekatak	1,993.98	11.07	21	5,394	2.70
10	Sesayap	1,752.54	9.73	9	4,374	2.50
11	Sesayap Hilir	877.86	4.87	5	2,495	2.84
12	Bunyu	198.32	1.10	3	9,541	48.11
13	Tana Lia	2,198.18	12.20	3	2,018	0.92
	Bulungan District	18,009.30	99.98	87	89,850	110.9

Source: BPS (2002)

Table 2. Gross Domestic Regional Product of Bulungan District (Rp. 000), 1993–1999

Business Sector	1993	1994	1995	1996	1997	1998	1999
Forestry	164,504	175,786	170,642	212,805	296,720	393,140	426,883
Percentage	44.03	43.00	39.53	39.77	46.30	45.60	44.22
Oil and Gas	48,973	57,595	72,470	108,038	106,070	192,406	200,805
Percentage	13.11	14.09	16.79	20.19	16.55	22.32	20.8
Others	160,159	175,381	188,524	214,290	238,090	276,558	337,704
Percentage	42.86	42.91	43.68	40.04	37.15	32.08	34.98
Total GRDP	373,636	408,762	431,636	535,133	640,880	862,104	965,392

Source: BPS (1999)

rice culture usually practised by transmigrants, indigenous communities in the interior practise less productive dryland farming, mainly shifting cultivation.

Other enterprises involve estate crops such as coconut, rubber, cocoa, coffee, cloves and pepper. The government has developed coconut plantations, especially plantations of hybrid coconut, by providing free seedlings to communities, but due to poor management less than 50% of these plantations have been successful.

The majority of people working in the fisheries sector live in settlements along the rivers and coastal areas. Communities

generally orientate their lives towards the rivers, settling on river banks and relying on them for their livelihoods, communication and transportation. Fishing is the dominant livelihood source.

Local communities officially became involved in forest enterprises for the first time when the regional government began issuing IPPKs. These enabled communities to form partnerships with external investors and companies to obtain permits and extract timber from the forests around them. Communities received IPPK compensation fees and social benefits, such as public facilities and repairs to their homes.

Table 3. Bulungan District: Forest estate area and forest concession types

No	Forest Estate	Area (ha)	Area (ha)*
	Forest Estate		
1	Limited Production Forest (HPT)	305,178	
2	Production Forest (HP)	416,518	
	- total HPT and HP	721,696	767,738
3	Conversion Forest (HPK)	542,199	572,055
4	Conservation Forest	122,462	218,996
	Total	1,386,357	
	Concession Types		
	HPH large-scale forest concessions		
1	PT. ITCI Kayan Hutani	218,375	
2	PT. Inhutani I (Tanjung Selor Forest Administration)	374,859	
3	PT. Swaran Jaya Kusuma	44,000	
4	PT. Intraca	147,511	
	Total	784,745	
	IPPK small-scale timber concessions (592 permits)	59,200	

Note: *Based on District Regulation No. 5/2003 on Bulungan RTRWK

2.2.4 Forestry

Table 3 shows the extent of forest estates and types of forest concessions in Bulungan District. According to Minister of Forestry Decree No. 79/Kpts-II/2001 on the Division of Forest Areas Based on Appointed Forest and Waterways for East Kalimantan, the total area of forest land in Bulungan District is 1,386,356.54 ha.

Slightly different figures for the extent of forest estates and conservation forest are quoted by District Regulation No. 5/2003 regarding Bulungan District Spatial Plan (RTRWK) for 2001–2010, i.e. 15,587.90 km² divided into Areas for Forestry Uses (KBK) – 7,677.38 km² (767,738 ha), Areas for Non-forestry Uses (KBNK) – 5,720.55 km² (542,199 ha) and conservation areas – 2,189.96 km² (218,996 ha).

Seventy seven per cent of Bulungan District is forested, however this percentage falls to only 47% if forest conversion areas (HPK) are not included. Four active, large-scale HPH forest concessions (awarded by the central administration) cover 56.6% of forested land. The total area covered by the 592 IPPK permits is only 4.5% of forest land in the district. It is estimated that the majority of these IPPKs are located in areas set aside for forestry uses. Table 4 shows the area of land classified as ‘critical’ in Bulungan District, which is an indicator of forest degradation.

More in-depth investigations are necessary before we can conclude that forest degradation, as shown by the area of ‘critical’ land in the table

above, has increased since decentralization came into effect. Further research is needed to identify the root causes of rapid forest loss and degradation. The extent and location of degraded forest land (both within and outside areas officially classified as state-owned forest estate) indicates several possible causes, i.e. community shifting cultivation, forest fires and stubble burning, HPH forest concession activities, timber utilization permits (IPK) issued by the provincial government or IPPK permits issued by the District Head.

2.3 Research Method

The team conducted local case studies using qualitative techniques such as semi-structured interviews, group discussions and participant observation. Participatory workshops, seminars and appraisals were also used. Those interviewed were from the District Government Office (District Head, District Secretariat, Head of the Economics Section), the District Planning and Development Agency (Bappeda), the District Forestry Office, the Village Community Empowerment Office (*Dinas Pemberdayaan Masyarakat Desa*), the District Environmental Impact Management Agency (Bapedalda), the District Revenue Office (Dispenda), the Agriculture Office (*Dinas Pertanian*), members of the District Legislative Assembly (DPRD), the National Land Agency (BPN) and the district’s implementation units of the Ministry of Forestry, Non-governmental

Table 4. ‘Critical’ land in Bulungan District

Subdistrict	Area (ha)	‘Critical’ land			
		Areas designated for non-forestry uses		Areas designated for forestry uses	
		Ha	%	Ha	%
Sesayap	243,330	12,687.50	5.21	20,250.00	8.32
Sekatak	199,398	12,243.75	6.14	22,968.75	11.52
Peso	478,250	13,375.00	2.8	23,875	4.99
Tanjung Palas	701,510	15,500.00	2.21	25,625	0.37
Bunyu	138,050	857.00	0.63		0
Total	1,760,538	54,681.25	16	69,656.25	25.20

Source: District Forestry Services (2003, raw data, unpublished)

Organizations (NGOs), community and customary representatives and villagers from each of the village locations, and private companies involved in the forestry sector.

Interview data were triangulated through a review of secondary data such as legislation and regulations, government statistics, maps and other documents collected from regional government institutions (the Forestry Office, Regional Technical Implementation Unit (*Unit Pelaksana Teknis Daerah* – UPTD), District Revenue Office, District Planning and Development Agency etc.). The research team also spent a number of days in the district to observe government meetings and in the village sites to observe the daily life of the villagers. In conjunction with the latter, the team also made use of Participatory Rural Appraisal (PRA) methods, using cards and a problem-tree technique¹⁵, during village meetings and group discussions.

Two workshops were conducted, in the middle and at the end of the research period. They were designed to bring together stakeholders, discuss interim and final research findings, and agree on recommended options

for improving decentralized forest policy in the district.

The stakeholder analysis method was used to identify relevant parties involved in the decisionmaking processes, as well as those having interest in and affected by the district's forest policies; it aimed to explore the role and position of institutions or actors and their relative access to the policymaking centre and forest resource benefits. A brief spatial analysis¹⁶ was also used to identify the location of small-scale concessions through topographic, land-use or district spatial plans, land system maps and satellite images.

Attempts were also made during the research process to observe the possible use of the policy/participatory action research approach in different settings (at district and community levels) and draw both practical and theoretical lessons. A Local Advisory Committee (LAC) was formed, comprising the Secretary to the District Head, Head of the District Forestry Services, Head of the Regional Development Planning Board and a customary leader. The LAC's tasks included providing advice and direction to the research project.

3.1 IPPK Policies: Chronology, Distortion and Suspension of Authority

The transfer of authority over forestry from the central administration to the region governments began with Government Regulation No. 62/1998 on the transfer of Forestry Matters to Regional Governments. Several forestry matters were delegated to the districts in accordance with this regulation¹⁸. In the following year, Law No. 22/99 on Regional Governance was issued, and central government also issued Government Regulation No. 6/1999¹⁹. A key article in this regulation stated that district heads could issue permits for timber and non-timber forest product extraction in state-owned production forest areas to individuals, cooperatives and legal entities owned by Indonesian citizens.

Guidelines for issuing what were called ‘forest product harvesting rights’ (HPHH) were issued in a Ministerial Decree²⁰. Permit holders could harvest a maximum of 100 ha, within a certain volume limit; the permits were to be valid for one year. This new authority to issue small-scale permits was the most tangible manifestation of transfer of authority introduced in the decentralization era. As a result, district heads across Indonesia immediately drafted district regulations to enable them to act on this new authority.

The Minister of Forestry then issued another decree²¹ setting criteria and standards for forest utilization and timber harvesting permits (IUPHHK). This decree gave district heads the administrative authority to issue IUPHHK permits for areas of up to 50,000 ha²². Although he now had the authority, there were

no instances of IUPHHK permits being issued by the Bulungan District Head.

Table 5 below lists new IPPKs issued in Bulungan District following the decentralization measures. It also details the connections between different pieces of legislation, policy distortions and the total number of IPPKs operating each year.

Following up on new national regulations and laws issued by central government, in June 2000 the Bulungan District Government issued District Head’s Decree No. 196 on Issuing Timber Extraction Permits in Privately Owned Forests, Community Forests and Customary Forests²³. This decree recognized the existence of community forests (both privately owned and collectively owned by indigenous communities); it set out procedures for applying for permits, and outlined permit holders’ obligations to adhere to ‘prevailing rulings’ relating to timber concessions. These rulings were never specified. A number of further points in this decree are also worth noting:

- None of the decree’s articles reiterate the statement in Minister of Forestry Decree No. 310/1999 that the objective of issuing small-scale forest concessions was to fulfil the needs of local communities;
- Permit holders are legally obliged to replant areas they have harvested (Article 5, paragraph 7);
- No articles specify permit locations in relation to official state forest and non-forest areas. The Ministerial Decree asserts that permits can be issued only for areas not covered by other concessions and within

Table 5. Chronological summary of legislation passed on IPPKs and numbers and area of IPPKs from 1999 to 2003 in Bulungan District

No.	Year	Legislation passed	Number of Operational IPPKs	Area (ha)
1	1999	Government Regulation No. 6/1999; Minister of Forestry Decree No. 310/1999; Bulungan District Head's Decree No. 19/1999	39	3,740
2	2000	Bulungan District Head's Decree No. 196/2000; Bulungan Regional Regulation No. 17/2000; Director General for Production Forest Utilization (Ministry of Forestry) Circular No. 288/2000 and Minister of Forestry Decree 084/2000 on Suspension of District Heads' Administrative Authority	585	58,444
3	2001	Bulungan Regional Regulations No. 1 and No. 2 Note: No IPPK permits issued		
4	2002	Government Regulation 34/2002 annuls Government Regulation 6/1999; Minister of Forestry Decree No 6886/2002 Note: District Head stops issuing new IPPK permits, but continues to extend existing IPPKs and revisions	188	23,250
5	2003		189	18,234
6	2004	District Head stops issuing and extending IPPK permits (December 2003)		

state forest areas officially classified as Production Areas Designated for Non-forest Uses, or KBNK.

On 2 November 2000, exactly four months after Decree 196 was issued, Bulungan District Government, with the approval of the District Legislative Assembly (DPRD), issued District Regulation No. 17/200024, specifying procedures for granting and overseeing permits, structures, tariffs and permit fees as well as the procedure for collecting payment and fees for timber harvested from the IPPK areas. A number of key points may be made in relation to District Regulation No. 17:

1. This regulation, which focuses on the financial aspects of the IPPK policy, became law after the District Head's Decree. This means, in effect, that policies regarding the

financial aspects and contributions from IPPK permits were to be approved by the DPRD, and would therefore be subject to public scrutiny. However, there was no opportunity for public consultation on the social, environmental and economic aspects of the new policies; these were dealt with in the District Head's Decree, which did not have to be approved by the District Parliament.

2. The opening considerations of the regulation stated that it had been issued to supervise, control and observe the conservation of natural resources. However, its content relates solely to permit fees and the correct procedures for their collection and payment; no clear guidelines on conserving or sustaining forest resources were included.

3. Finally, articles on sanctions (Article 10) and criminal proceedings (Article 11) outline actions to be taken against permit holders who fail to pay fees on time and/or in accordance with the regulation. No articles mention any sanctions against permit holders who neglect to undertake their obligations relating to the conservation of natural resources, soil conservation or replanting.

As indicated in Table 5, as soon as the District Head's Decree came into force in 1999, Bulungan District Government started to issue IPPK permits. Local businessmen, investors and other parties from both villages and the wider subdistrict entered into partnerships and raced to obtain permits through the formal application process (the process is outlined in detail below). Further analysis of one of the permits²⁵ indicated some legal weaknesses, which meant there were no strong measures in place to ensure that permit holders prevented environmental degradation or conflict among various parties. Although one ruling states clearly that trees within 100 m of a river or 200 m of a natural spring may not be felled, the permit did not stipulate how trees found in sensitive buffer zones such as high topographical areas, steep slopes etc., should be maintained. In addition, the permit states that permit holders are obliged to plan and undertake 'conservation efforts' and would be subject to sanctions if they failed to do so. However, 'conservation efforts' are not specified, and no sanctions for failing to 'meet conservation requirements' are actually set out in the permit.

Permit holders are also encouraged to coordinate with Large-scale Forest Concession (HPH) holders in the forest surrounding the proposed location before they clear any land. This clause in itself suggests that the government was aware of the high likelihood that areas would overlap. Beyond this requirement, however, no other measures were included to prevent overlaps or conflicts over boundaries.

Eventually, overlapping concession areas became such a problem that on 29 June 2001

the Bulungan District Head sent a draft of an official letter intended for all permit holders to the DPRD and the branch office of the District Forestry Office in Bulungan Tengah Subdistrict, for their approval. This draft requested that IPPK permit holders cease all operations, leave active concession areas and not bring any heavy machinery into new areas. It is likely that this draft was prompted by pressure from the Ministry of Forestry, which had issued decrees seeking to claw back authority for issuing small-scale permits²⁶; the draft may also have been prompted by mounting international concern from conservation organizations and donors about the alarming levels of forest loss in the district. However, despite these pressures, the District Head issued a second letter a fortnight later annulling the draft request to halt activities. He cited 'editorial reasons and aspects of formal jurisdiction' for this apparent u-turn.

In the meantime, central government stepped up its efforts to halt the issue of small-scale concessions by district heads. It noted contraventions and deviations from the national policy and its objectives. Deviations included the failure to ensure direct community involvement, area overlap between almost all types of concession, ecological damage, failure to conserve forests and failure to preserve their economic value. It is worth noting that all of these claims had also been levelled against central government prior to decentralization. In 2000 central government issued a letter from the Director General for Production Forest Management²⁷ and Minister of Forestry Decree No. 084²⁸, suspending the district heads' administrative authority to grant permits; further decrees revoking district heads' authority over permit allocations were issued in February 2002²⁹.

Despite these ongoing attempts to revoke district authority, Bulungan District Government continued to grant or extend IPPKs. The District Head justified his actions by citing People's Consultative Assembly Decree No. 3/MPR/2000 on Sources of Law and Sequence of Regulatory Legislation. Using

this legal reference, he argued that ministerial or director's decrees issued by the Ministry of Forestry were lower in the legal hierarchy than Law No. 22/1999 on Decentralization and Law No. 41/1999 on Forestry. These laws were still in force, and both allocated different degrees of authority for the forestry sector to the district governments. As the district regulation governing the issuance of IPPKs in Bulungan referred to each of these laws as its legal foundation, the Ministry of Forestry did not have the power to revoke the District Head's regulation. In legal terms, the District Government firmly believed that timber production came under its own authority.

On a more practical front, according to interviews with several local officials, the IPPK policy was sustained because it was still felt to be a sufficiently good model for directly involving local communities and improving community livelihoods. Another influential factor was that one study³⁰ in Bulungan District showed that in contrast to the general public assumption that the small-scale concessions resulted in clear-felled forest, former IPPK areas showed great potential for regrowth, as thousands of seeds were left behind. It was likely that these forest areas had the potential to be reforested via natural regeneration, therefore the District Government concluded that the Ministry of Forestry's concerns about community livelihoods and the need to sustain forest resources for the future were also misplaced.

Ultimately, the reason why regional governments still issued permits, as Barr and Resosudarmo (2001) have pointed out, was because they realized that central government was unable to prevent them from doing so. This seems to have been the case in Bulungan District.

Nevertheless, during 2001 Bulungan District Government did stop issuing new permits temporarily (see Table 5 above). According to several interviewees, the reason for this temporary halt was that the District Government was concerned about irregularities occurring in IPPK operations in the field. Problems included overlapping

areas and several instances of conflict between villages over forest areas. Local government officials and politicians also implied³¹ that the temporary halt was prompted by the fact that the government was well aware that local communities were receiving only a minute share of the profits and benefits that investors were obtaining from timber sales.

In 2002, two years after the Minister of Forestry issued a decree suspending the authority of the district heads, the government finally issued Government Regulation No. 34/2002 on Forest Organization and Planning of Forest Management, Forest Utilization and Use of Forest Lands. This was a higher legal instrument than they had previously tried to use, and it was quickly followed up with a Ministerial Decree officially revoking the original decree that had granted district heads the authority to issue permits³².

Not surprisingly, District Government officials and other stakeholders in Bulungan District saw Government Regulation No. 34/2002 as a blatant attempt to retract the administrative authority of the district governments, a regulation that contradicted Law No. 22/1999 on decentralization. However, central government countered that the district governments' lack of capacity and readiness were sufficient reason to retract their authority. Article 42³³ of Government Regulation 34 explains that the minister would gradually and selectively delegate administrative authority for issuing small-scale concessions in natural and plantation forests to districts in the future, depending on their institutional capacity, vision and mission.

Nonetheless, it was a further two years before Bulungan District Government finally issued a decree³⁴ halting the issuance of new IPPKs and prohibiting any extensions of IPPK permits awarded after 31 December 2003. This decree cites a circular by the Governor of East Kalimantan in its opening considerations. In its final section, the decree states that further steps would be taken only after a clear delegation of authority from central government.

A final point which has yet to be cleared up relates to the apparently contradictory intentions behind the original IPPK policy. This contradiction was highlighted by local stakeholders during a research group discussion³⁵. The Ministerial Decree stated that small-scale concessions could be allocated only on production forest land slated for conversion to other purposes (settlements, estate crop plantations and other non-forestry sector uses). It also stated that once the area had been logged out, the land should be used to establish a plantation. In this light, central government's revocation of the district heads' authority on the grounds of conserving resources appears to be illogical, as the land in question would have already been slated for conversion to other uses (e.g., plantations or agriculture) by central government. In theory, all that the district governments were doing was implementing central government's own plan for the land.

3.2 Regional Autonomy and Division of Regulatory Authority in the Forestry Sector

Four years after the introduction of decentralization by means of Law No. 22/99, this research project found that one of the greatest barriers to effective forest governance under decentralization is the extremely unclear division of regulatory authority between central, provincial and district governments. Several forestry policies issued since the introduction of decentralization have yet to provide any clarity; on the contrary, they have mostly led to numerous instances of overlapping authority and further legal confusion. To a certain extent, the tug-of-war fought by granting and revoking regional authority has hindered government effectiveness in providing services to the public, which should be the essential goal of decentralization.

Observations and interviews in Bulungan District revealed the following problems relating to administrative authority in the forestry sector:

1. Ambiguity over administrative authority relating to restrictions laid down in several pieces of legislation such as Law 22/1999, Government Regulation 25/2000, Law No. 41/1999, particularly for affairs of governance beyond the five fields retained under central authority (international affairs, defence and security, judicial, fiscal and monetary affairs and religion, as stated in Article 7, paragraphs 1 and 2 of Regulation No. 22/1999).
2. Ministerial decrees are not covered by the official hierarchy of regulations, and the removal of hierarchical levels between provinces as autonomous regions and districts was not followed up with clear and consistent rulings on division of responsibilities (Regulation No. 22/1999 Article 4).
3. The East Kalimantan Provincial Government established a Regional Technical Implementation Unit (UPTD) to oversee forestry in Bulungan District; this unit is accountable to the Ministry of Forestry in Jakarta. This has caused administrative overlaps and confusion over responsibilities on the ground because the unit's remit duplicates that of the new District Forestry Office.
4. The Ministry of Forestry failed to coordinate with the District Government over its handling of HPH concessions in the area. The most notable case was the issuance of a ministerial decree³⁶ cancelling PT. IntracaWood's concession and ordering the company to cease operations immediately. The ministry planned to set aside this concession area specifically for research purposes. There was no coordination or even consultation with the District Government over this decision. As the company employed more than 5,000 people in its factory in Tarakan, the District Government was highly concerned about the socio-economic impacts of the ministry's decision. Nor was it clear whether the ministry had consulted with the central Department of Manpower, which should have been involved in a

decision with such significant employment impacts. In addition to this, the company already possessed an eco-label certificate for timber harvested on its concession, therefore the District Government felt that it was losing a sustainable local business. Eventually, the Bulungan District Head and the Mayor of Tarakan were able to obtain ministerial clarification about how the decision had been made by appealing to the parliament (DPR) in Jakarta to intervene³⁷. Ultimately, however, this situation has caused confusion and heightened tension between District and central government, with no resolution in sight when this research project was completed.

As a result of these key issues, the District Government feels the Minister of Forestry's continued control over forestry matters in the district has limited its own efforts to develop a strategy for forestry and estate crops. This has negatively impacted on its ability to realize its objective and mission to develop Bulungan as a centre for agroindustry for domestic and international markets. Local stakeholders felt very strongly that the coordination of activities and programmes and the division of authority between the district and higher levels of government had to be improved before they could hope to deliver more integrated and sustainable forestry management. They felt that this was particularly important in the forestry sector because of the sector's local economic, ecological and social functions, as well as its national and international value.

3.3 Permit Mechanisms

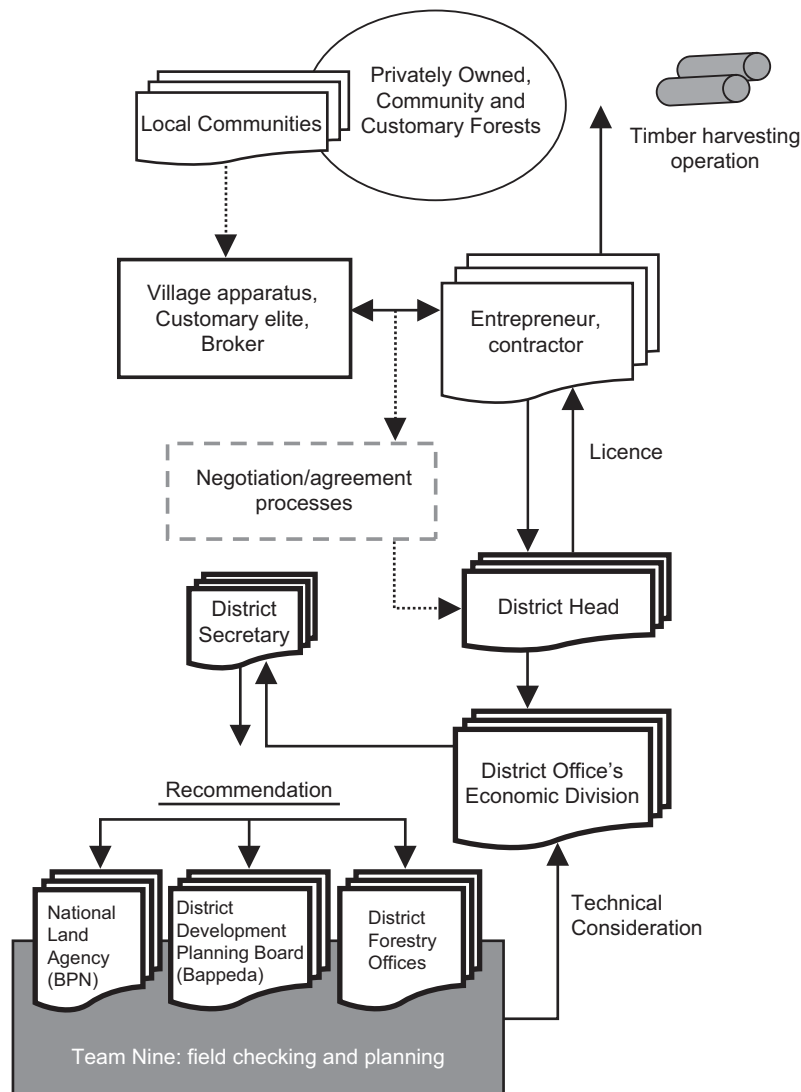
Minister of Forestry Decree No. 310/1999 and District Head's Decree No. 196/2000 set out guidelines for the procedures and mechanisms for issuing small-scale concession permits (IHPHHs or IPPKs). The main guidelines are outlined as follows:

1. Small-scale concession permits could be issued by the District Head to cooperatives or individual Indonesian citizens or legal entities wholly owned by Indonesian nationals;
2. Concessions could not be granted on HPH or other Timber Utilization Permit (IPK) concession areas and should only have been issued on forests slated for timber production or conversion to other uses.
3. Concessions could be granted for one year on a maximum area of 100 ha;
4. When harvesting timber, concession holders were prohibited from using heavy machinery, including tractors, logging trucks and chainsaws.

Furthermore, under District Head's Decree No. 196/2000, applicants had to provide legitimate proof of land ownership for privately owned forests, community forests and indigenous forests subject to concession applications (Article 2). Applications also had to include recommendations from local village heads and subdistrict heads, a contract between the applicant and community (represented by its village head), a letter of registration from the National Land Agency (BPN) and a letter of technical recommendation from the Forestry Office. The full set of procedures for gaining a permit is illustrated in Figure 2 below:

The first stage of the process generally took place at the community level. A local village or subdistrict official, someone from outside the village or an investor would encourage villagers who owned a forest area to submit a permit request and seek an investor who was willing to work with them. After obtaining approval and a recommendation from the local village head or customary head, the permit organizer then negotiated with the investors. At this stage, a partnership agreement between the company and villagers would be drawn up; some of these were witnessed by a public notary³⁸ but others were not. At this stage the subdistrict issued a recommendation.

Written applications with supporting documents were processed by the Economic Division and the District Secretary. The District Head then issued a letter requesting technical recommendations from institutions such as

Figure 2. Procedure for granting IPPK permits

the Forestry Office, the District Planning and Development Agency (Bappeda) and BPN. The District Head then asked a team, referred to as Team Nine (*Tim Sembilan*), to follow up the process. The team, established by the District Head, consisted of several district government institutions such as the Forestry Office, Village Community Empowerment Office, Bappeda, and provincial institutions such as BPN and Regional Technical Implementation Unit (UPTD). This group became involved in the planning process and prepared permits, checking the location and providing technical considerations to the District Head. Technical aspects investigated were the community's

proposed and claimed location, whether it was located in areas slated for non-forestry or production forestry uses, and whether the timber stock was suitable for the proposed logging activities.

Based on technical recommendations from the relevant offices, the District Head then decided whether or not to grant the concession to the applicant. With a permit in hand, a contractor could then begin operations.

In reality, even where local village officials or members of the customary elite were responsible for arranging permits and negotiating with investors, these people promoted not only the interests of the

community they were representing but also their own personal interests. In a number of cases, certain people from outside communities such as from the subdistrict, timber brokers etc. would also intervene in agreements.

Parties directly involved in the permit application process enjoyed the largest share of the profits. There was no transparency about how agreements were reached. In several cases, village officials or outside brokers organized permits directly with District Government offices, with little or no consultation with the village members. After obtaining permits, they then negotiated with businessmen or contractors to sell the permits on. This lack of transparency and weak community bargaining positions resulted in inequitable distribution of profits among communities, or between communities and investors.

A number of conflicts arose because of this unfair distribution of profits from both local IPPK concessions and central HPH concessions. For example, the Pimping Village Head wrote to the District Head demanding that the state-owned PT. Inhutani I Camp Pimping RKT HPH concession should be closed down immediately. He argued that the company was not including villagers in its workforce and often changed working partners without prior consultation with the community³⁹. Likewise all the customary and village heads in the subdistrict of Peso wrote to the District Head demanding that PT. Ikani, PT. Idec and other companies operating in their areas should be obliged to make a greater contribution to local community livelihoods⁴⁰.

Another weakness in the permit-issuing process was that the technical institutions were involved only in providing a narrow set of technical recommendations. Beyond this, they had no influence over whether an IPPK application was accepted or rejected. Other institutions, which should have been involved, such as the District Agency for Controlling Environmental Impact (Bapedalda), were not included in the process for issuing permits despite their clear environmental impacts.

3.4 Stakeholders in the Forestry Sector

Key stakeholders in forestry management in Bulungan District include the District Government, forest communities, the private sector, non-governmental organizations (NGOs) and others, each of whom have their own interests, relationship dynamics and levels of authority. According to Agrawal and Ribot (1999) the dynamics of relationships between actors depends on the history and social and political status of each actor. Stakeholders may also be differentiated from each other by their beliefs and objectives, the internal structure of their organizations and the rules to which they adhere. To further understand these stakeholders' interests, activities and their dynamic relationships, this research project identified actors and mapped their positions in relation to each stakeholder's relative access to centres of decisionmaking and benefits from forestry (see Table 6 and Table 7).

Table 6. Stakeholders' relative access to centre of policymaking


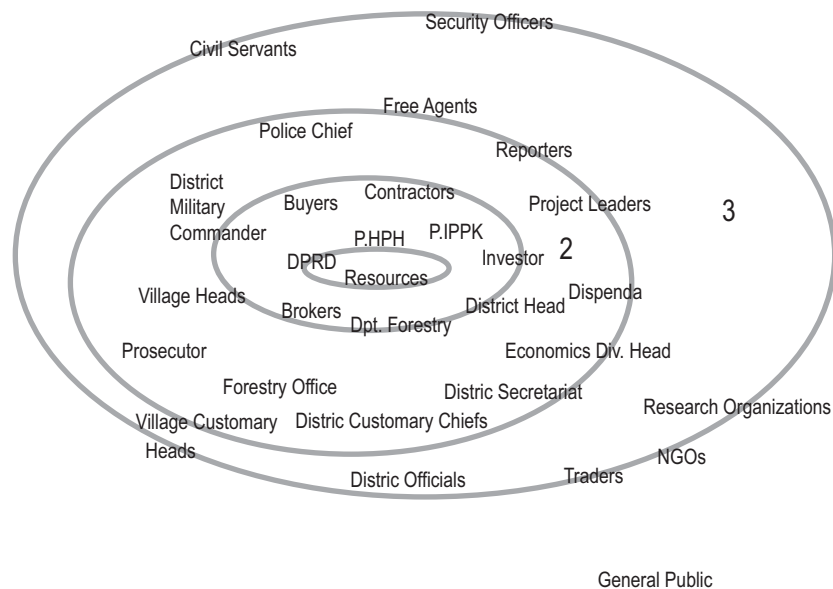
Level		Stakeholders
	I	Ministry of Forestry; Bulungan District Head; Bulungan District Legislative Assembly; Bulungan District Secretariat; Economics Section Head
	II	District Customary Organization; Bulungan District Forestry Office; Subdistrict Heads; Village Heads; Village Customary Heads
	III	Customary Community; Research Organizations; the press; NGOs

Table 7. Stakeholders' relative access to forest benefits (see also Figure 3)

Level	Stakeholder
I	HPH forest concessionaires; IPPK/IUPHHK investors; Brokers; National and international timber buyers; HPH forest concession and IPPK/ IUPHHK contractors; Ministry of Forestry; Bulungan District Head; Bulungan DPRD
II	Bulungan District Secretariat; District Economics Section; District Revenue Office; District Forestry Office; District Customary Head; District Project Leaders; District Prosecutors Office; District Military Commander; District Police; District officials; Newspaper reporters; Free agents; Subdistrict Heads; Village Heads; Village Customary Heads
III	Civil servants; Security officers; Research organizations; NGOs; Traders
IV	Local communities and the general public

Figure 3. Relative positions of stakeholders in relation to forest resources benefits


Our research with local stakeholders revealed that decentralization in general, and the local Timber Extraction and Utilization (IPPK) policy in particular, have had both positive and negative impacts on the District Government and communities in Bulungan (see Table 8).

4.1 IPPK Contributions to District Own-source Revenues (PAD) and District Finances⁴¹

The most significant impact of the new policy was that for the first time the District Government was able to raise funds for its own budget from forestry activities. IPPK concessions provided four sources of revenue: from direct fees, levies and taxes at the district level, and fees collected by the central administration and redistributed using national fiscal balancing mechanisms.

District Revenues

1. IPPK Timber Concession Contribution. Interestingly, District Regulation No.

17/2000 does not regulate this contribution. Instead, the regulation refers to an earlier district regulation (also No. 17) issued in 1998⁴² that stipulates a mechanism for the collection of third-party contributions or '*sumbangan pihak ketiga*' from various commercial activities, including forest concessions. This one-off payment for a forest concession licence was set at Rp. 200,000/ha. A third-party contribution is a voluntary contribution. Our research showed that companies did not always pay: records for 2000 and 2001 show that only 59 out of 618 concessionaires paid this contribution.

2. IPPK Log Export Tax (*Retribusi Ekspor Kayu Bulat*) tariffs were applied based on the type and volume of logs exported. Although this tax was in force for only 7 months, it generated a significant amount of district income (Rp. 7.6 billion). Export tariffs are set according to the volume and type of log exported. For example, the tariff for Dipterocarps was Rp. 120,000/m³.

Table 8. Stakeholders' perception of positive and negative impacts of decentralization

Positive impacts	Negative impacts
<ul style="list-style-type: none"> • Regional government has wider authority to determine forestry policy to suit local conditions • Simpler bureaucracy, quicker administration due to closer proximity • Communities have become directly involved in forest management • Communities obtain direct cash benefits from the forest resources around them • Communities receive social benefits and public services 	<ul style="list-style-type: none"> • Intensive conflict between government institutions, due to unclear division of forestry regulatory authority (e.g., between district government/Forestry Office and central government/ Department of Forestry and Regional Technical Implementation Unit (UPTD)) • Economic benefits of IPPKs were not shared equitably among communities • Occurrences of conflict among communities and between communities and investors • Changed community perceptions of <i>tana' ulen</i> (communal rights)

3. IPPK Log Tax (*Retribusi Kayu Bulat*). This is a volume-based royalty on each cubic metre of timber harvested, e.g., Rp. 25,000/m³ for mixed timber, Rp. 60,000/m³ for Dipterocarp species and Rp. 75,000/m³ for the most valuable timber.

Shared Revenues

4. National Forest Resource Rent Provisions (PSDH) and the Reforestation Funds (DR). These fees are also payable to the central administration on IPPK concessions. The central administration retains 20% of the PSDH, and distributes the remainder back across the districts and province. The province receives 16%, Bulungan receives 32%, and the remaining 32% of the PSDH⁴³ is distributed among all the other districts in East Kalimantan. Of the DR, the central administration should return 40% to East Kalimantan Province, which will then share the funds between all the districts in the area, including Bulungan. The remaining 60% is distributed to non-producing and timber producing districts.

Table 9 shows district revenue figures from third-party contributions and IPPK log taxes based on the number of permits operating, the area covered by the concession and the volume of timber produced between 1999 and 2003.

The total contribution of the IPPK policy (from district-generated and shared revenues)

was only 2.5% of the total regional income (Rp. 95.5 billion) in 2000. Its contribution in 2001, when the district imposed tariffs on log exports for seven months, increased to 3.9% of the total budget (Rp. 413 billion). The proportion of regional budget contributed from IPPK decreased sharply to 0.26% of the total budget (Rp. 587 billion) in 2002.

The IPPK policy significantly contributed to district-generated revenue. In 1999, the total district-generated revenue was less than Rp. 2 billion. In 2000, this rose to Rp. 4.7 billion, and IPPK revenues contributed almost 50% (Rp. 2.3 billion) of this total annual budget. Income from IPPK timber concession contributions and log tax alone increased sharply in 2001 to Rp. 8.7 billion, this time contributing 39.7% of the 'district own-source revenue' (PAD) (Rp. 21.9 billion). If the revenue of Rp. 7.6 billion received from log exports is included⁴⁴, the total contribution from IPPK in 2001 constituted 74% of the PAD.

In addition to PAD, the IPPK policy also contributed significantly to regional income from shared revenues. These were levied on IPPK concession holders, and central government then remitted a proportion back to the districts. The total receipts from shared revenues under this specially-allocated fund mechanism (DAK-DR) were Rp. 17.6 billion in 2001, Rp. 4.9 billion in 2002 and Rp. 30.4 billion in 2003.

Table 9. District revenue from third-party contributions and IPPK log taxes

No.	Year	Number of operational permits	Area (ha)	Production (m ³)	Actual revenue (Rp. 000)		Total (Rp. 000)
					Third-party contributions	IPPK log taxes	
1	1999	39	3,740	-		-	
2	2000	585	58,444	171,939.09	2,034,955	266,426	2,301,381
3	2001	618	62,940	809,785.15	5,791,645	2,953,539	8,745,184
4	2002	188	18,689	226,612.39	1,267,500	237,868	1,505,368
5	2003	189	18,234	404,214.22	302,000	187,806	489,806

Source: Bulungan District Revenue Office (raw data, unpublished)

Table 10. IPPK contributions to DR and PSDH transferred to central government and district income through DAK-DR and PSDH, for 7 of Bulungan's 13 subdistricts⁴⁵

Year	Production (m ³)	DR (Rp. 000)	PSDH (Rp. 000)	Total DR+PSDH* (Rp. 000)	District revenue from (DAK-DR) (Rp. 000)	
					DAK-DR	PSDH
2000	129,024.19	1,951,310	1,105,543	3,056,853		
2001	538,134.96	15,706,025	7,324,453	23,030,478	17,606,565	3,726,945
2002	226,612.39	27,300,175	12,623,724	39,923,899	4,904,112	5,488,349
2003	404,214.22	64,392,271	19,991,499	84,383,770	30,397,515	21,194,115

Source: Bulungan Forestry UPTD (2003). The total comprises receipts of DR/PSDH sourced from timber production of IPPKs in Bulungan District.

*Conversion from US\$ assuming a rate of US\$ 1 = Rp. 8.500. The table does not include large-scale HPH forest concessions issued by central government.

IPPK contributions to DR and PSDH transferred to central government can be seen in Table 10, which shows an increase in the total amounts of DR and PSDH from 2000 to 2002. These total contributions to DR and PSDH came only from IPPK timber production in the Bulungan UPTD region, and do not include timber produced from IPPKs in Sekatak, Sesayap, Sesayap Hilir, Tanah Lia and Bunyu Subdistricts or timber produced from large-scale forest concessions (HPH).

The most interesting point to note from the data in Table 10 is that although central government had suspended district heads' authority to issue IPPKs in 2000, and any permits issued after that time were considered illegal, a number of DR and PSDH payments were made by IPPK holders to central government after this time. Despite the fact that they had outlawed these permits, the central administration nonetheless redistributed the funds to Bulungan District Government through the DAK-DR mechanism. In fact the total DR and PSDH funds deposited with central government in 2002 and 2003 were relatively high, at Rp. 39.9 billion and Rp. 84.4 billion respectively.

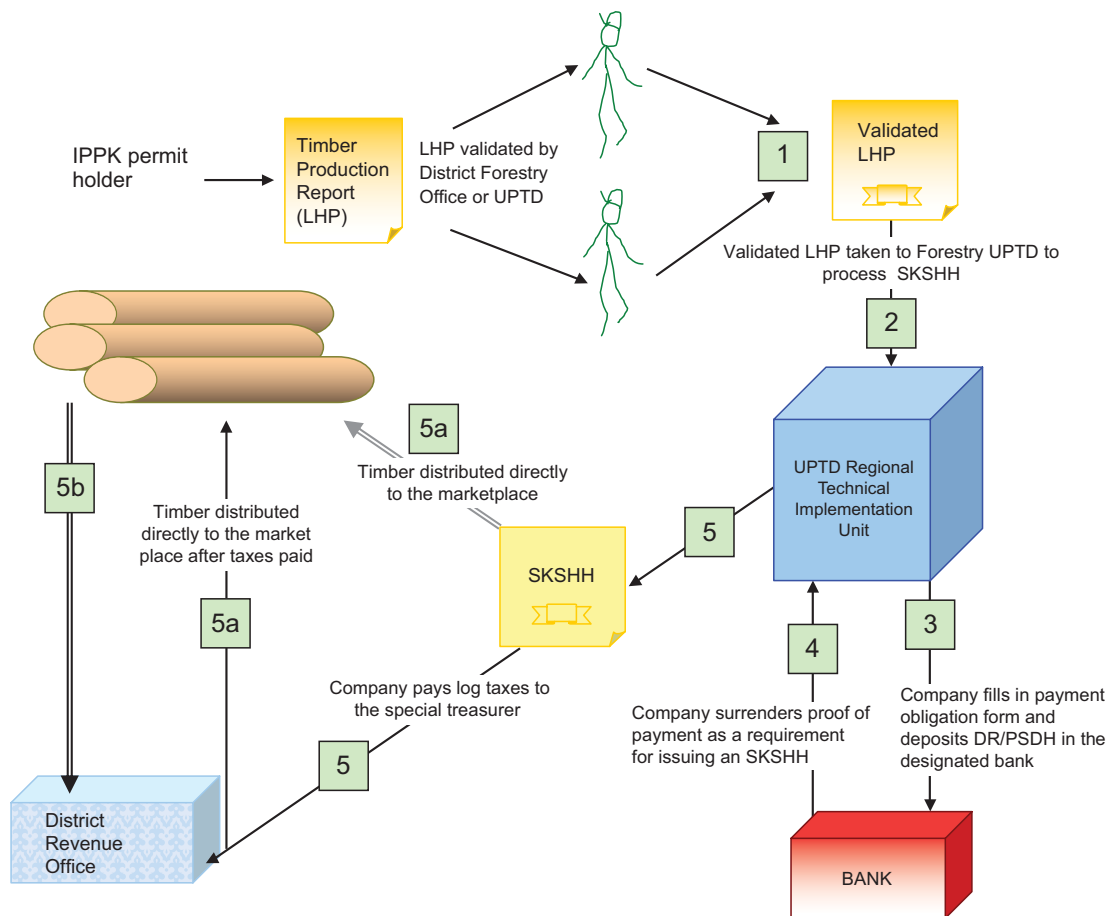
Our further analysis indicated that the small-scale concession holders should have paid more taxes and fees than the amount recorded as received by the District Revenue Office

(Table 9). Our calculations were based on the number of permits issued and the volume of timber produced from IPPK concessions, the total receipts due from the one-off, voluntary IPPK Timber Concession Contribution, and the short-lived IPPK Log Tax.

For Bulungan (excluding Sesayap, Sesayap Hilir, Bunyu and Tanah Lia Subdistricts), for example, total log production was recorded as 1,612,550.85 m³ for 2000 and 2003. Therefore, Bulungan District Government should have received IPPK Log Tax of between Rp. 40.3 billion and Rp. 96.7 billion, assuming that the fee charged for *Dipterocarps* was Rp. 60,000/m³ and for other species Rp. 25,000/m³. However, the receipts recorded in the district budget amounted to only Rp. 3.6 billion (Table 9). Similar discrepancies appeared between the amount due from timber concession contributions and the amount actually recorded in the district budget. The difference between what should have been paid and what was paid came to a total of Rp. 3 billion during 2000–2003.

One possible reason for the discrepancy was poor coordination between the processes for collecting district-level taxes and the process for authorizing timber transportation. Based on the prevailing national regulations⁴⁶, permit holders may market and transport logs only once they have received a letter

Figure 4. Mechanisms for issuing legal forest product transportation permits (SKSHH) and fee collection



Explanation:

1. According to District Head's Decree No. 196/2000, every timber businessman was obliged to prepare an Inspection Report (*Laporan Hasil Pemeriksaan*, LHP) in accordance with the prevailing rules of timber administration (*Tata Usaha Kayu*). The LHP was validated by a Validation Officer from either the District Forestry Office or the Ministry of Forestry's UPTD.
2. After validation, the LHP was taken to the Forestry's Regional Implementation Unit, which would then issue an SKSHH.
- 3-4 To obtain an SKSHH, a company had to deposit DR/PSDH in the designated bank. Here, the UPTD had an effective mechanism for making sure that DR and PSDH were paid, as showing proof of the deposit was one condition when an SKSHH was applied for.
- 5a With an SKSHH, a company could then distribute logs to the marketplace, or
- 5b The SKSHH was taken to the District Revenue Office (Dispenda) as the basis for calculating the fees that the company had to pay to the Receiving Treasurer.

from a licensing officer in the forestry office, authorizing a forest product transportation permit (*Surat Keterangan Sahnya Hasil Hutan* or SKSHH). District Regulation No. 17/2000 does not clearly stipulate the mechanisms and processes for revenue collection and payments. Article 9 of the regulation mentions that specific mechanisms and processes would be stipulated in a District Head's Decree. However, no decree specifying mechanisms and processes was ever issued.

The process for collecting the District Log Tax was not effective. The provincial authorities issued an SKSHH to a concessionaire once national taxes had been paid. This left the District Revenue Office with no mechanism to ensure that local taxes were paid (see Figure 4). District Regulation No. 17/2000⁴⁷ stipulated administrative and even criminal sanctions for non-payment. According to the legislation, permit holders who did not pay the District Log Tax on time should have been charged 2% interest on the tax due for every month of delay. Those who ignored their tax obligations faced at least 6 months in prison or a fine four times the value of the unpaid tax. In practice, the sanctions were never applied.

This unclear process for collecting taxes could be part of the reason for the difference between the income that the District should have received and the actual income recorded. There was no effective way of enforcing payment of the District Tax, or to improve coordination between the various agencies responsible for regulating tax payments to the District and national accounts. During a workshop organized by Yayasan Pionir, the Center for International Forestry Research (CIFOR) and the Bulungan District Government on 6 May 2004, participants agreed that there was very weak coordination between agencies in the Provincial and District Forestry Offices in regulating and controlling forest management and revenues. There was a consensus that coordination was especially weak in relation to the processes for authorizing timber transportation (issuing SKSHHs) and tax collection. Examples were given of how the

confusing hierarchy and unclear divisions of roles and obligations between different government agencies had caused delays in invoicing, collecting and recording payments from permit holders.

The policymaking process itself was another source of confusion. For example, the District Head of Bulungan issued a decree⁴⁸ authorizing IPPK 100-ha permits *before* the DPRD considered and passed regulations on the process for paying and collecting forestry revenue. In addition, although the District Head issued a regulation⁴⁹ in 2000 establishing the District Forestry Office, it was three years before the necessary implementing regulations laying out the office's function, roles and responsibilities were clarified in a letter circulated by the Head of the District Forestry Offices in January 2003⁵⁰. This led to confusion and overlaps because the IPPK permits continued to be issued – although there was no legal clarity on which office should regulate payments of forestry levies, monitoring and supervision of forest concessions, production reporting, etc.

Finally, there was also a lack capacity for financial administration at the district level. There were not enough qualified District Officers, and the officers who did work on financial administration lacked experience and training.

Delivering transparent, efficient and effective financial management in the forestry sector at the district level has been an uneasy challenge in the decentralization era.

4.2 The Impact of IPPK Policy on Community Income

Decentralization in the forestry sector was expected to give communities greater access to forest resources, both in terms of tangible and intangible benefits. According to the District Regulation on IPPK, communities, individuals or a registered company should all be allowed to receive small-scale timber permits. In reality, because of the rigid procedures and requirements for the application process, and

the capital outlay and experience required to manage a concession, most local communities had to leave the permit application process and the main role in concession management in the hands of contractors.

In agreements made with village authorities, businessmen or contractors would give the village communities a share of IPPK profits by paying them cash fees⁵¹ and providing social benefits such as village development, livelihoods opportunities and physical assistance. Table 11 shows the cash fees and social assistance that each village received from IPPKs and HPHs⁵².

Overall cash fees received by communities in Bulungan District from 2000 to 2002 may

be estimated based on timber production data (Table 12).

Based on these estimates, communities in Bulungan District involved in IPPK activities should have received fees of between Rp. 26.8 billion and Rp. 40.2 billion from 2000 to 2002.

Fee distribution patterns were different in every village. In Long Bang, Long Peso and Pejalín fees were divided equally among individuals, with equal allocation given even to babies. However, in Sekatak and Sesayap fees were divided among households and further divided for main families, new families, widow(er)s and youths.

Table 11. Fees and social benefits received by local communities in some villages

No.	Village	Fee (Rp. per m ³ on felled timber)			Social Benefits
		General	Development	Village officials	
1.	Long Tungu IPPK	30,000	10,000	5,000	Clearing land for housing Public meeting hall 2 generators
2.	Rt. Long Lembu IPPK	30,000	10,000	5,000	1 x 100 kWh and 1 x 50 kWh electricity generators, 2 generators for the church, construction of a jetty costing Rp. 50,000,000
3.	Long Peso IPPK	30,000	10,000	5,000	Village hall, road widening, piped water
	HPH	15,000	-	-	
4.	Lepak Aru IPPK	30,000	10,000	5,000	Village electricity
	HPH	20,000	-	-	-
5.	Long Bang IPPK	35,000	15,000	5,000	Clearing land for housing, village hall, electricity

Table 12. Estimated cash fee receipts from IPPKs based on Bulungan District Government's log production data

Year	Production (m ³)	Income from cash fees (Rp. 000)	
		(Rp. 30,000/m ³)	(Rp. 45,000/m ³)
1999	0	-	-
2000	129,024.19	3,870,726	5,806,089
2001	538,134.96	16,144,049	24,216,073
2002	226,612.39	6,798,372	10,197,558

From interviews and observations in the field, it was discovered that benefits were not always distributed in accordance with the agreements contained in signed contracts. The research team was told of several discrepancies and conflicts, both between communities and investor partners and communities and their own representatives (village officials, *adat* (customary) leaders). A common problem was that investors were not open about actual timber production volumes. Reporting lower volumes than their actual harvest resulted in disputes, as payments were based on volume. One cause of this exploitation was that communities had very

little capacity for monitoring and measuring production volumes. Another problem was that even where communities sent representatives to the felling locations to monitor activities, it did not guarantee that the communities' fees matched the volume harvested.

Ultimately, in the areas studied here, as Palmer (2004) noted from his research in Sekatak District in Bulungan, the level of profit shared with local communities depended on negotiation processes, companies' adherence to agreements laid out in contracts and good cooperation between the communities themselves.

5.1 Land Issues and IPPK

Administrative authority over land changed following decentralization. Presidential Decree No. 34/2003⁵³ transferred authority to district/city governments over the following aspects of land management: granting permit locations, procuring land for development, solving disputes over arable land, arranging damages and compensation for land allocated for development, determining land taxes, determining communal land and solving problems relating to that land, utilizing empty land and solving related problems, granting permits to clear land, and district/town land-use planning.

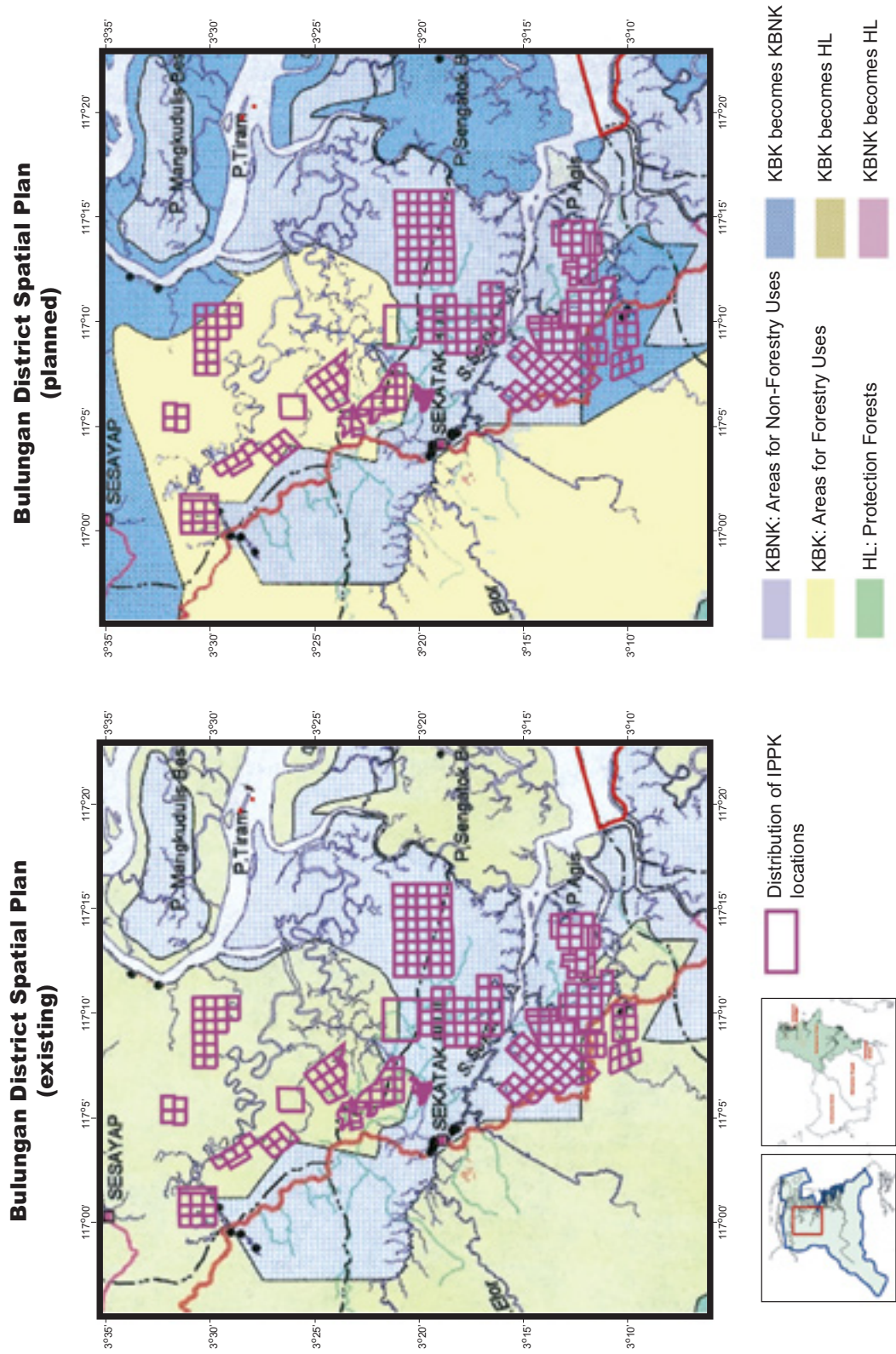
Along with this newly delegated administrative authority, the Bulungan District Land Affairs Office⁵⁴, which is an extension of the National Land Agency (BPN), still has extensive authority to process land certificates. This continued central control meant that District Government institutions were left with insignificant authority over land administration matters. Despite the extensive authority provided through the presidential decree, concerns about the limitations set on the District Government in controlling land management were raised by the section head and staff within the District Planning and Development Agency (Bappeda) office and the District Head's Office, during the interviews with the research team.

In relation to issuing IPPKs, the BPN played a part in recommending and registering potential IPPK locations. The BPN provided input to the District Head and became part of Team Nine, formed by the District Head to oversee the permit application process.

The Ministerial Decree⁵⁵ states that IPPK permits should be granted on areas designated for non-forestry uses and not on areas where concessions have already been granted. However, not one article in District Head's Decree 196/2000 mentions this provision. General provisions in the District Head's Decree⁵⁶ even state that forest concession rights may be allocated in production forests within state-owned forests. Article 2 of this decree states that an IPPK application would be accommodated as long as the proposed area was located in privately owned, community or customary forest and the applicant had legitimate proof of tenure. It made no reference to state-owned forests or to the centrally allocated classifications regulating permitted activities in different areas of state-owned forest land.

Our research demonstrated that most local stakeholders paid little attention to the official status of forest land allocated under IPPK permits. Once the land had been assigned to an IPPK, its official status became even more unclear. On the one hand, the Ministerial Decree stipulated that IPPK permits should be allocated only on areas outside the official forest area slated for conversion to other uses, and that the area should be established as a plantation once it had been logged. On the other hand, there was a general view among the local stakeholders that IPPK permits were to be used to manage timber resources in the same way as large-scale (HPH) permits enabled HPH concessionaires to manage forests for continued harvesting and replanting. There is a contradiction here.

Figure 5. Distribution of IPPKs (both existing and planned) in Sesayap Hilir and Sekatak Subdistricts in the Bulungan District Spatial Plan.



Source: Bappeda and Bulungan District Forestry Offices (2003, raw data, unpublished)

As a result, many IPPKs granted between 1999 and 2001 were inside state-owned forest and covered a total area of 62,940 ha (Suramenggala *et al.* 2001). Figure 5 shows IPPKs located within the state forest areas, where the state-owned company, PT. Inhutani 1, operated in Sesayap Hilir and Sekatak Subdistricts. The maps were produced by the research team by overlaying the District's spatial planning maps with maps of IPPKs (both existing and planned).

There is an indication that Bulungan District Government was aware of the potential for IPPK concessions to overlap with each other or with HPH concessions in production forest areas as the final stipulation on every IPPK permit required permit holders to coordinate with the state-owned PT. Inhutani before undertaking any activities. In its Procedures for Permit Applications section, this decree explained that a condition of granting a permit was that the holder should have a technical recommendation from the provincial Forestry Office or the Bulungan branch of the Forestry Office. This, in effect, meant that overlapping areas could have been reduced if recommendations from the Forestry Office showing whether the fact that 'a location was in accordance with provisions or not' had really been used as a reference for issuing permits.

Another map (Figure 6) indicates that IPPKs overlap not only with concessions managed by the state-owned company, PT. Inhutani, but also with those of a private company, PT. ITCI Kayan Hutani. The map shows IPPKs located inside PT. ITCI Kayan Hutani's HPH forest concession area. Table 13 lists a number of other IPPKs located inside this company's HPH concession area. In Malinau and Berau Districts in East Kalimantan, Barr *et al.* (2001) and Sitorus (2004) also found a similar phenomenon of overlaps between large concessions and IPPK areas.

To address the problem of IPPKs overlapping HPH concessions and estate crop plantations, in 2002 the District Government tried to move IPPKs located in state-owned forest areas to areas categorised as non-forest land. Relocation took place when concession holders applied for extensions to expired IPPK permits. Local discussions suggested that the District's motive was not only based on their concern about the heightened level of conflict between the IPPK holders and other concessionaires but was also related to the pressure they received from the Ministry of Forestry, which had begun to ask them to stop issuing these permits altogether.

We then further analyzed newly issued maps of IPPK areas and overlaid them with District Spatial Plans (RTRWK). The resulting map

Table 13. Companies holding permits for IPPK areas inside PT. ITCI Kayan Hutani's HPH forest concession area

Companies holding IPPK permits	
1. PT. Prima Wana Tama, Long Pelban	12. PT. Kayan Agung Sejahtera, Long Lembu
2. PT. Prima Wana Tama, Long Lejuh	13. PT. Eternal Bara Dinamika, Long Beluah
3. PT. Prima Wana Tama, Long Lion	14. CV. Limek Permai, Long Beluah
4. PT. Prima Wana Tama, Muara Pangean	15. CV. Kayan Jaya, Long Sam
5. PT. Prima Wana Tama, Long Lason	16. CV. Clivera Iping, Maro Setu
6. PT. Prima Wana Tama, Nahaaya	17. CV. Rimbun Hijau Berjaya, Maro Hilir
7. CV. Walet Setia Budi, Nahaaya	18. CV. Gloria Abadi, Antutan
8. CV. Walet Setia Budi, Long Telenjau	19. CV. Santakan Jaya Utama, Pejalín
9. PT. Kayan Agung Sejahtera, Long Tungu	20. CV. Kayan Jaya Bulungan, Pejalín
10. PT. Lestari Timur Indonesia, Long Tungu	21. PT. Prima Wana Tama, Long Bang
11. PT. Eternal Bara Dinamika, Long Lembu	22. PT. Putera Bengalun Wood Industri, Long Telenjau

Source: Map of timber extraction and utilization areas in privately owned forest in the PT. ITCI Kayan Hutani HPH concession area (Bulungan District Forestry Offices, 2000, raw data, unpublished)

Figure 6. IPPK areas inside PT. ITCI Kayan Hutani's HPH forest concession area

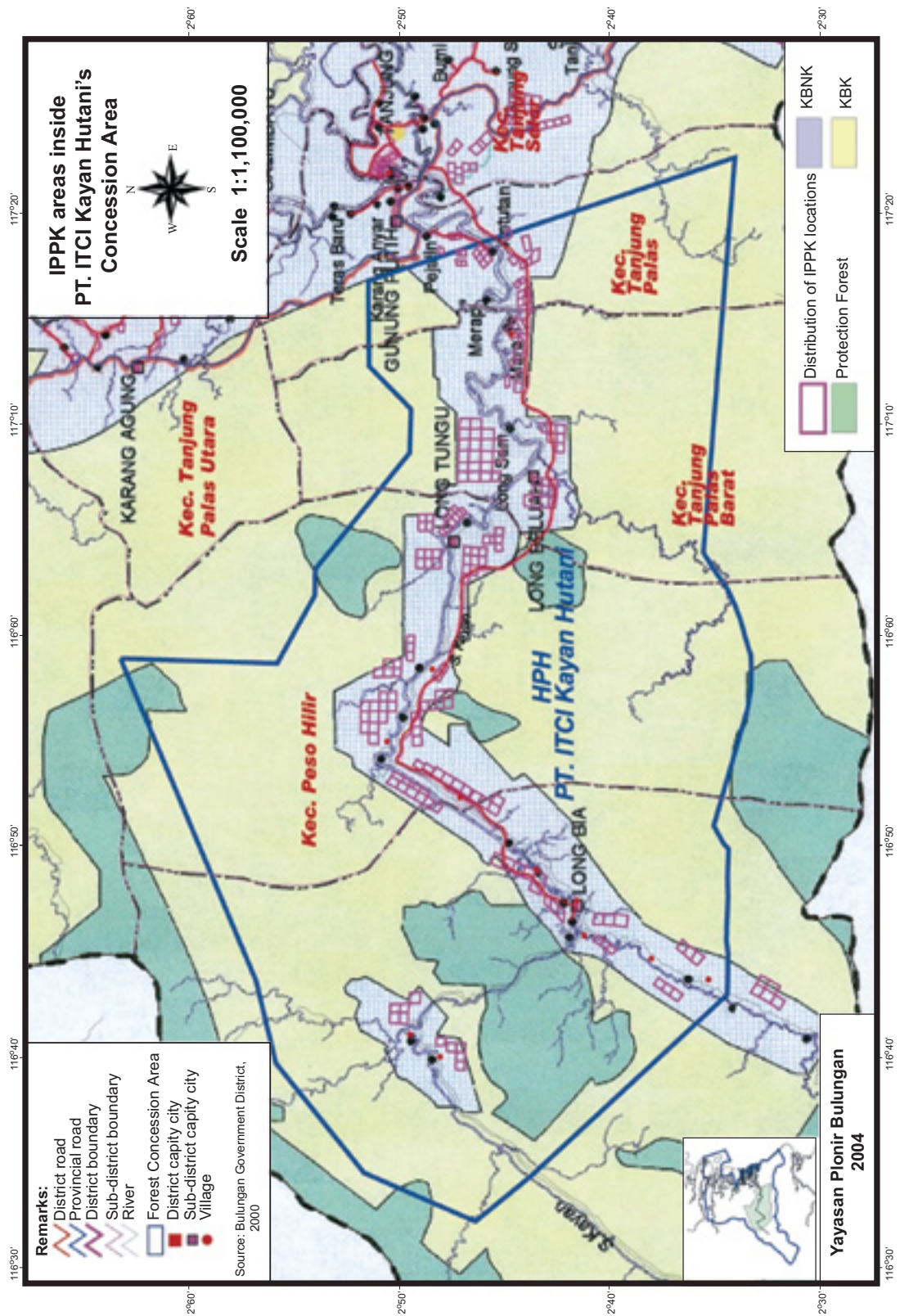
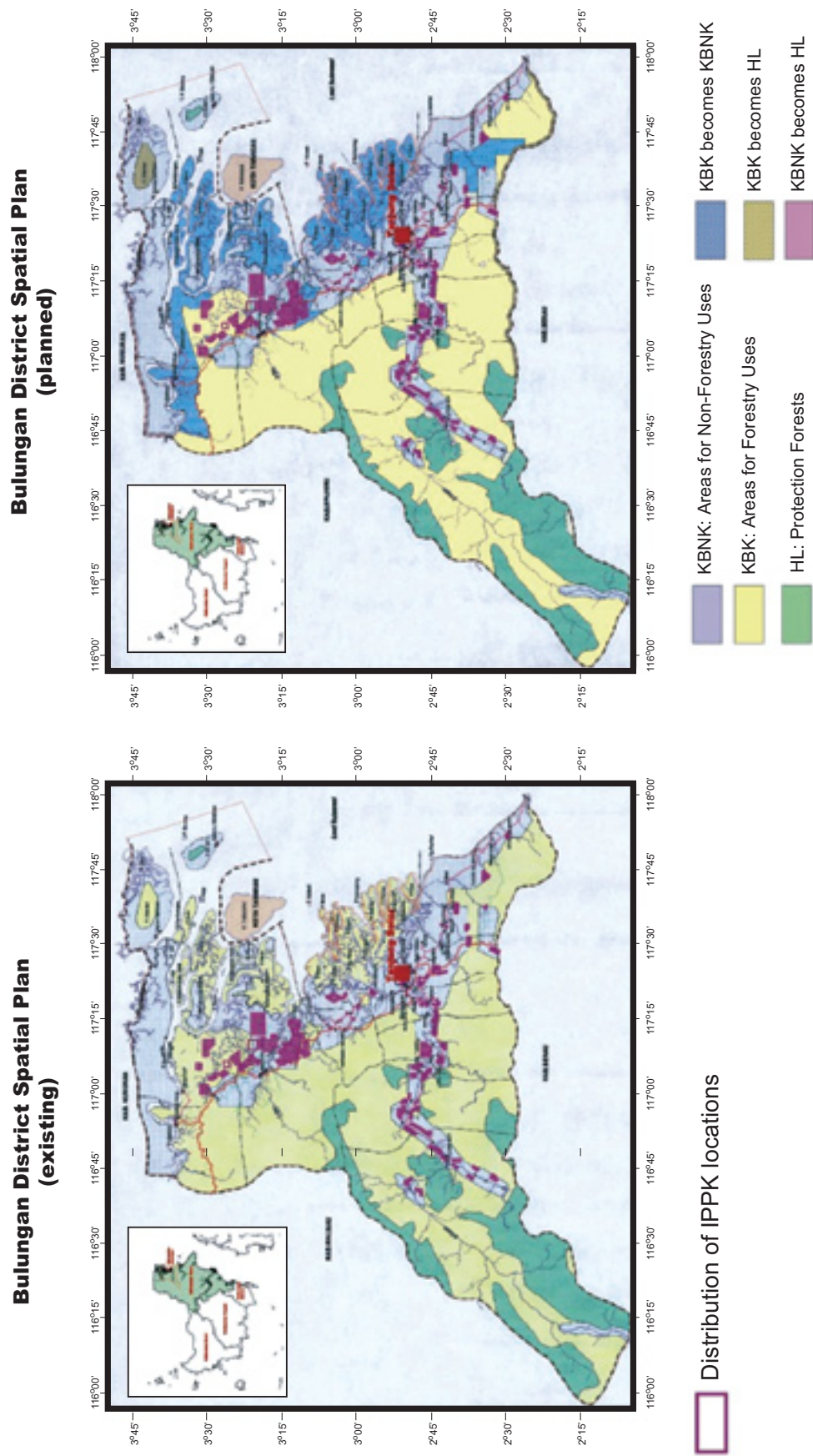


Figure 7. Distribution of IPPK locations (both existing and planned) in Bulungan District, East Kalimantan, on the District Spatial Plan (2003)



Source: Bappeda and Bulungan District Forestry Offices (2003, raw data, unpublished)

shows that the majority of IPPKs were located in areas designated for non-forestry purposes (Figure 7).

Further analysis using Landsat TM satellite images and land-use maps found that along the Kayan River catchment area IPPKs had been granted on scrub, fields, farmland and degraded forest areas with relatively low timber and economic potential (Figure 8). This shows that IPPKs were actually located in accordance with the rules of central government legislation⁵⁷, but it also led to allegations of permit violations, with holders harvesting timber outside agreed blocks in areas with higher timber potential. Suramenggala *et al.* (2001) demonstrated that these allegations were well founded.

The potential for land conflict between IPPK holders and local communities and between local community members themselves arose from inappropriate IPPK allocations. Likewise, village border issues, competing land claims, disputes about sharing the new timber profits or claims over indigenous forest land all led to conflict between different stakeholders competing for access to the benefits offered by the new timber concession system.

5.2 District Spatial Plan and Suitability of Land for Oil Palm

On 8 October 2003, the District Government issued District Regulation No. 5/2003. This regulation was intended to provide the framework for implementing the Bulungan RTRWK for 2001–2010. The spatial plan was drawn up as a guide to ensure compatible and optimal use of local land and resources in accordance with national and district policies. The Bulungan RTRWK was then submitted to the provincial and central governments so that they could check its compatibility with their own spatial plans.

The District Government put the job of drawing up the RTRWK out to tender. Once consultants had been appointed they conducted field surveys. The results of these surveys were later given to a technical team

consisting of regional government institutions (Bappeda, the Forestry Office, BPN etc.) and an advisory committee comprising the District Head, Deputy District Head, District Secretary and the Chairman of Bappeda. The District Government then invited numerous local stakeholders to comment on the draft at a local seminar. After several stages of deliberation and revision the final plan was delivered to the Legal Division, which then had the job of drawing up a regulation to implement it. The draft regulation was then submitted to the District Legislative Assembly (DPRD) for consideration.

Interviews and analyses of the contents of the new district regulation on spatial planning revealed that some local stakeholders felt that the process had involved several stages of socialization and public deliberation. As a result, these local stakeholders felt that the public had had plenty of opportunity to influence the plan. Nevertheless, a number of other stakeholders felt that there had not been enough public consultation during the drafting process⁵⁸. They also pointed out that not all the relevant stakeholders or institutions had been given a chance to participate in drafting the plan. This camp felt that the consultants' presentation paid little consideration to stakeholders' views and used incomplete or inaccurate base data. From interviews with the District Development Planning Board (Bappeda) we found that the preliminary stages of compiling the map had not involved local people in any meaningful way. Instead, consultation was limited to meetings with communities to hear their aspirations; it was not clear whether their views had influenced the final plan. It was only after the district regulation was issued that communities were given a real chance to comment. At this stage, the final decisions had already been made.

One interesting point to be made about this district regulation is that it offers limited opportunities for communities to participate in implementing and evaluating the impacts of the spatial plan. In its opening considerations it refers to a national regulation on procedures

for involving communities in spatial planning processes⁵⁹, however nothing in either regulation gives communities any opportunities or rights to play a part in controlling the way in which the RTRWK is implemented. The only article that touches on the subject of implementation and evaluation goes no farther than stipulating that local government institutions⁶⁰ should be involved in this process.

The map attached to the proposed RTRWK shows the District Government's plan to change the status of areas categorized as state-owned forest areas to non-state-owned forest in Tanjung Palas Timur and Sesayap Subdistricts. Such a change would bring the land under the control of the District Government, and outside central government's jurisdiction. Many local stakeholders involved in this research project suspected that this was related to the District Government's plans to develop large-scale oil palm plantations. At the time of writing, nine plantation permits had already been issued and another six were awaiting approval⁶¹. In Tanjung Palas Timur Subdistrict there were similar proposals for oil palm plantation permits. This indicates that business interests were more important than considerations of suitable and sustainable land uses in drafting the RTRWK.

The results of our land-systems analyses show that there are no fewer than 21 land systems covering 8 different physiographic groups in Bulungan District. Plains (532,224 ha), hills (297,574 ha) and mountains (431,257 ha) dominate the physiography. Mountainous areas are found in the west, and plains and hills are found in the central region. The eastern part or coastal region comprises mainly tidal wetlands, alluvial plains and terraces. Peat swamps are found in the Sesayap River catchment area.

However, despite the diversity of land systems in this area, our analysis (based on the BAKOSURTANAL 1988 Land System Map) shows the majority of land in Bulungan District to be unsuitable to oil palm cultivation (see Figure 9). Of the total area (1,795,884 ha), only about 8.6%, or 154,396 ha, is suitable for oil palm, with approximately 21.7% or

389,819 ha only suitable for large-scale oil palm estates, and 69.7 % not at all suitable for oil palm.

Many of the locations proposed for developing new oil palm estates are on land that cannot support oil palm. Regardless of this fact, the District Government is considering applications from companies such as PT. Unggul, which proposes to develop an oil palm estate in Tanjung Palas Timur Subdistrict, on undulating hills completely unsuited to oil palms. PT. Bagong has also made a number of proposals for oil palm estates on unsuitable land (see the red circle in Figure 9)⁶². Furthermore, PT. Loka Lestari Alam and PT. Central Cakra Murdaya have proposed the development of oil palm plantations on forest areas located on peat to a depth of more than 3 m. In addition to the fact that an oil palm plantation is unlikely to flourish on a substrate of 3 m of peat, according to national regulations peat swamp forests must be set aside as conservation areas.

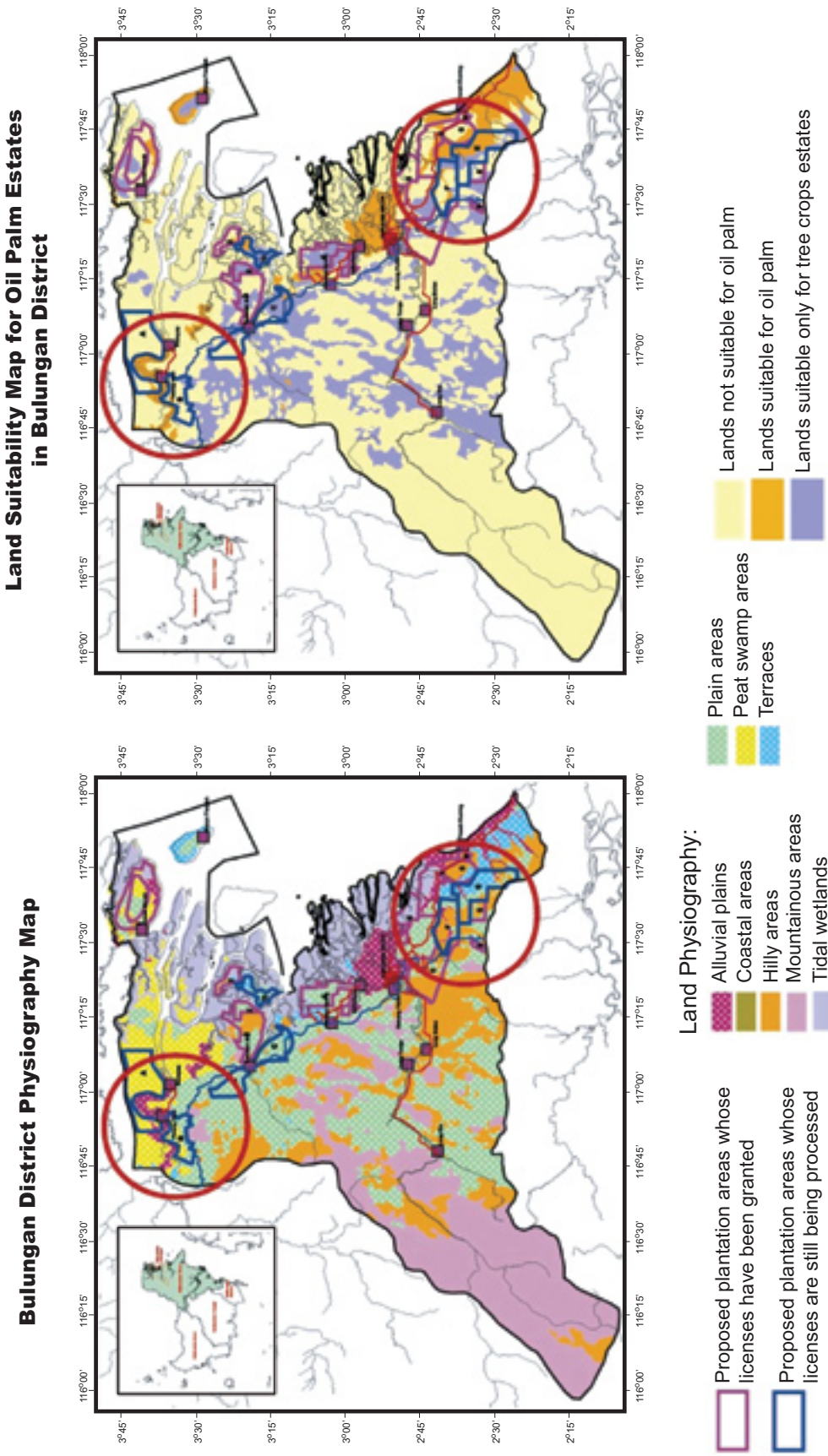
5.3 Forest Land Claims and *Tana' Ulen*

Although communities have gained access to forest resources through IPPKs, the new policy has not given them any opportunity to claim secure rights of ownership over forest areas. The IPPK policy was aimed more at exploiting timber resources than allocating rights to local people for sustainable forestry management in the long term.

District regulations regulated only procedures for issuing IPPK permits and collecting taxes/fees. The aim of granting IPPK concessions was to utilize timber from forest regions that would then be converted to plantation estates. In theory, logged-out IPPK concessions should be reclassified as land set aside for other (non-forestry) uses. However, there has been no move to convert the official status of these logged-out concessions.

The national legislation on small-scale concessions was intended to improve livelihoods and help lift forest-dependent communities out of poverty, however there are

Figure 9. Physiography and land suitability map for oil palm estates in Bulungan District, East Kalimantan



Source: BAKOSURTANAL's Land Suitability Map (1988) and Bappeda, Bulungan District (2003, raw data, unpublished)

no regional regulations or higher-level laws or regulations governing mechanisms for giving local communities secure tenure over forest areas or establishing processes to ensure that communities are the primary beneficiaries of small-scale logging activities. Instead, permits give them little more than a one-off access to timber resources. Once the resource is exhausted, they have no rights over the land left behind. This means that they will not have any rights to share in the profits from proposed plantations.

Although Bulungan District has drafted a regulation on spatial planning, it has yet to gain central government's approval of its RTRWK. This means that the RTRWK is not yet valid, despite the fact that the District Government is making moves to implement parts of it by issuing oil palm plantation permits on old IPPK areas.

Tana' ulen literally means 'land that is owned'; locally it is understood to signify community or customary (*adat*) ownership, husbandry and responsibility for managing land. The most accurate translation of *tana' ulen* may be 'a forest region or land that is controlled and owned by a local community, with resource management and use specifically regulated and protected by customary or indigenous governance systems' (Kahang 2003).

With the appearance of quick profits from IPPKs, the traditional concept of *tana' ulen* was diluted, as local communities' attitudes to customary claims over forest areas or forestland have changed. Communities were eligible for IPPK permits only if they could prove that they held indigenous land rights over the location proposed for a concession. However, this has made the status of customary, privately owned or community forest regions increasingly unclear. Claims were generally based on hasty agreements among village communities who were encouraged by external investors pursuing their own commercial interests. Claims were

not always based on legitimate, longstanding *tana' ulen* land rights. As a result, traditionally agreed and recognized boundaries between different communities' lands have become confused and contested. Suramenggala *et al.* (2001) discovered that control over village borders and forest regions resulting from this situation was quite irrational.

A village's claim over customary forest is heavily influenced by its inhabitants' capacity to negotiate with other villages or forest companies. Villagers with a higher capacity for negotiation and more power over resources usually dominate weaker members of neighbouring villages. These weaker villagers often passively accept decisions made by their more assertive neighbours by refusing to acknowledge borders or attend meetings. Villagers of the Punan tribe have problems negotiating due to their weak or total lack of representation in meetings, reluctance to negotiate with more powerful groups, and lack of organized preparation within their villages (Wollenberg *et al.* 2002).

Customary governance structures had begun to weaken, and the status of customary forest boundaries was already very ambiguous long before the appearance of IPPKs. In the past, communities respected natural boundaries as borders between their village territories, but this system was eroded when central government claimed ownership of almost all the forest areas in this district and allocated its own boundaries and categories of legal land use. It did this with no reference to the impacts on livelihoods or the rights of the people who already lived in these areas. Local people were subjected to a new law that denied any legitimacy to their traditional land ownership or resource management systems. As a result, overlaps between local communities' lands and HPH concession areas allocated by central government were already a common problem, which had led to conflicts.

6.1 Will Unclear Administrative Authority Still Be the Norm?

As we enter the fifth year of decentralization since the legal basis for decentralization was enacted in 1999, the principal obstruction to sustainable forestry development is still the unclear division of administrative authority between district and central government over forest management. We found that this lack of clarity over administrative authority weakened accountability between district and higher-level institutions. Research undertaken by the Center for International Forestry Research (CIFOR) at the outset of regional autonomy (2000 and 2001) identified the same situation.

A number of stakeholders in Bulungan identified possible solutions to this crucial problem. They felt that one answer would be to build up more effective and intensive communication between district and central government. This, they felt, would foster mutual understanding and, critically, trust between different levels of government. Observations and interviews revealed that although many civil servants share a desire to improve levels of communication and cooperation it is unlikely to happen whilst cross-sector conflicts of interest and money politics remain as serious obstacles.

One example of ineffective communication was the Ministry of Forestry's 'Strengthening Forestry Decentralization' programme. This initiative was established in 2000 as one of five priority issues in forestry, but we found that at the district level local officials and other stakeholders felt that the programme had no clear objectives or achievement indicators. Some district officials knew no basic facts

about the programme at all, far less to what extent it involved local stakeholders or if it was providing solutions for the basic problem of unclear administrative authority for forestry.

The framework Law No. 22/1999 on regional governance is currently being revised. Indications are that administrative authority will shift from the districts to the provincial governments, and governors' coordination roles will be strengthened under the revised version. The key question is whether revisions to Law No. 22/1999 will provide greater clarification on administrative authority in the forestry sector. Whilst our research demonstrated that unclear division of authority is the root of many of the challenges to effective forest governance at the local level, it is not clear that the revisions will tackle this issue. They may make it worse. Central, provincial and district government communication must be developed through dialogue forums, with principles of honesty and mutual trust to the fore.

6.2 Unclear Land Status and Incentives for Conservation

Several research papers have shown that clear property rights systems⁶³ can encourage communities to make use of their natural resources and benefit from their traditional lands. Guaranteed access to benefits is a powerful incentive for creating sustainable management of natural resources as well as providing numerous environmental benefits (Thiesenhusen 1997; Meinzen-Dick *et al.* 2002)

This research project found that a crucial barrier to effective forest management is the

unclear status of forest regions. The central, provincial and district governments have developed different spatial plans for the same areas. There is little coordination or communication between the different levels of government when it comes to planning for sustainable forest development. In some cases the provincial government (which is accountable to central government) and the district government are trying to carry out the same roles and tasks – causing confusion and creating loopholes for concessionaires when it comes to paying taxes. In addition to this, there is an inter-sectoral overlap of authority and interests, with different departments and agencies at all levels vying for control over valuable land and resources⁶⁴. Finally, each of these problems is compounded by the vast amount of contradictory legislation (mis)governing the forestry sector.

Considering the contradictory legislation regulating ownership and control over forest land and the urgent need to give local communities access to forest resources, immediate steps should be taken to redetermine the status of forest areas and pay greater attention to the livelihoods needs and traditional boundaries around customary forests. Acknowledging customary forests in the spatial planning process by taking economic, environmental and social issues into consideration would also be a step towards establishing land status and land tenure systems that will promote local development instead of putting barriers in its way.

6.3 Equitable Distribution of Benefits versus ‘Elite Capture’

This research project found many indications of ‘elite capture’ through different processes and at different levels, namely when the policy was drafted and formulated, when the policy was put into practice and when the benefits from forest resources were not shared properly among the local stakeholders. We refer here to ‘elite capture’ as the actions of individuals or groups who use their powerful position (in

either formal or informal structures) and their control over knowledge and information to influence the formation of laws, regulations, decrees and other government policies to their own advantage. Thus they obtain the greater portion of resource benefits at the expense of poorer and less powerful stakeholders.

Despite the original legislation’s explicit objective of empowering local communities and improving their livelihoods, the Bulungan District Head’s decision to issue a decree instead of a district regulation raised suspicion that the decree was designed to benefit certain well-connected parties. Limited access to information and policy processes and the total lack of transparency before the decree was finally issued meant that the public had no opportunity to inform the process or be informed about what implications the policy might have for district forest resources and related livelihoods. The way in which the Timber Extraction and Utilization Permits (IPPK) were distributed seemed to mirror the exclusive process for issuing large-scale concessions (HPH) under the New Order government before 1998, when concessions were granted to only a few individuals or companies that were linked to the powerful authorities.

Based on interviews with different local stakeholders, we learned that although the IPPK policy was supposed to provide local communities with greater access to resource benefits it was investors and timber brokers with links to district officials who captured most of the benefits. Some of the prime beneficiaries were also found to be businessmen and investors from neighbouring countries who had established close ties with district officials. This finding is mirrored in Sitorus’s political and economic analysis of the forestry sector under decentralization in Berau. Likewise, his research demonstrated that controls over small-scale logging concessions were in the hands of high-ranking officials who were related to *cukong kayu* (timber local businessman) and other opportunistic characters who took it upon themselves to broker deals with local

communities to take advantage of the new concession system (Sitorus 2004).

Besides contributing to District Government revenue, IPPKs have also had a direct financial impact on local communities. A number of villagers told us that they feel the social benefits, development assistance and direct cash payments from IPPKs are preferable to the impacts of HPHs in earlier times. They also felt that they had gained valuable experience through their direct involvement with investor-partners who harvested the forest products.

However, the cash fees of around Rp. 30,000/m³ – Rp. 35,000/m³ do not reflect actual amounts received by all members of local communities. Cases were often reported of partners breaking their promises to pay fees (in interviews with villagers from Sekatak Buji, Antutan and Pejalín). Besides which, not all profits paid by investors were distributed evenly or fairly by village organizers or customary community figures. Certain village elites received disproportionate benefits on timber from communal customary forests. Palmer (2004) also discovered clear examples of elite capture in his research in Sekatak Buji village.

Elite groups within impoverished communities were able to capture more than their fair share of the benefits from IPPKs because they were actively involved from the initial contact negotiation with investor partners right through to submitting permit applications to the District Head. Villagers were generally not involved throughout the whole process, despite several villages having records of preliminary meetings between village officials and villagers⁶⁵ to discuss and agree investors' offers. Subsequent processes in most research area villages tended to be very opaque.

A key conclusion here is that there should be some way of avoiding or at least reducing the likelihood of elite capture. If this kind of small-scale concession is to provide equitably shared benefits, efforts to make the policy formulation process as transparent as possible should be started from an early stage. Public participation should be encouraged in the

formulation and implementation of the policy, e.g., how the policy is drafted and deliberated. Local people should be involved in establishing what the probable implications are for the parties involved, who will benefit from the policy etc. They should also be involved in devising clear standards and mechanisms to regulate benefit sharing and ensuring that external investor-partners can be held to their promises and obligations. For example, the content of the policy should also pay attention to how the benefits will be shared among the parties involved, e.g., between the investors and local communities, and to how sanctions should be imposed in the event that one party breaks the agreement. Members of the District Legislative Assembly should play a critical role here in bridging aspirations between the public and government executives.

6.4 The Future of Community-based Management

Despite their community-based framework, IPPKs have had the same problems as other forest management models that have failed in the past (e.g., communal forests, community forests etc). The policy failed because it was not supported by clear rules or strong government assistance. It failed to consider community capacity or what would happen to communities after the resource was exhausted and the land reverted to government ownership, with its land-use status under dispute or unclear, to say the very least.

Furthermore, local people's perception of *tana' ulen* has changed from their being communal areas that should be used to fulfil collective community needs governed by local customary laws and norms to their becoming potential IPPK areas for exploitation by commercial interests. IPPK-‘owning’ communities and their investor partners had no long-term forest management plans and tended to be extremely exploitative in harvesting their forests. After an area had been exploited, the unproductive land that remained was simply abandoned. Communities then made new

claims for forest areas that still had timber-extraction potential, expanding the area of land eligible for conversion and threatening the existence of forest resources.

There are valuable lessons to be learned from IPPKs. In Bulungan District, local communities gained the least from the new permit system because companies or investors held permits issued by the District Head and controlled operations in the field. In the future, the government should strongly consider the benefits of offering permits directly to cooperatives or to subvillage and/or village cooperatives formed by communities living around customary forests. This would strengthen the communities' hand when it comes to negotiating a better deal for themselves in the future.

A strong recommendation would also be to give these local cooperatives clear and secure tenure rights over forest areas. Currently, they know that they will have no rights over a logged-out concession in the future. There is neither incentive nor support for them to develop sustainable approaches to forest management. If they have clear and secure tenure they will have an incentive to plan for sustainable and long-term resource management. Currently their options are limited to a one-off chance to sell timber exploitation rights to external investors.

Investor partners could still play an important role in supporting operations by providing start-up capital, training and equipment. Agreements between village cooperatives and investors should be as detailed as possible, covering not only sharing of profits but also obligations on both parties and strict penalties if any provision is violated.

The District Government has a vital role to play. It should be tasked with carrying out due diligence assessments of investors who seek partnerships with local communities to establish their skills and experience of working with local communities and verify the reputation and legality of their companies. Another key role for the District Government is to focus on empowering communities and strengthening community institutions and community capacity for forest enterprises, as part of its local development and poverty-alleviation activities. If necessary, the District Government could also be asked to mediate, witness and sign agreements made between communities and investors.

In all stages of this process, the principles of openness, accountability and stakeholder participation must come to the fore. In that way, not only village elites and investor partners but all community members will understand how deals are made, thus establishing local social control over the harvesting of their forests.

7.1 Conclusions

After almost five years of regional autonomy, since the original legislation was introduced in 1999, the division of authority and the rights and responsibilities of central and district governments remain unclear. Central government has become involved in a long and often fraught tug-of-war with regional governments over which has authority for forest management. This has emerged as a crucial problem, highlighted by this research project. Bulungan District Government used the newly granted authority to issue a policy on small-scale concessions (Timber Extraction and Utilization Permits – IPPKs). Despite the main goals of decentralization of giving local communities greater access to the benefits of forest resource use and management, lack of clear guidance on concession management and sanction enforcement and of capacity among the institutions responsible for implementation monitoring and controlling the IPPK policy has limited its success.

None the less, the IPPK policy has given communities their first opportunity to become directly involved in forest enterprises, and the communities have enjoyed a beneficial financial impact. However, the short-term nature of the policy and the inequitable distribution of benefits between communities and working partners have led to conflicts and further confused the problem of overlapping land boundaries and uses. IPPKs provided a substantial contribution to district own-source revenue (PAD) but not a sufficiently meaningful contribution to regional finances. Most of the District Budget's funds still come from profit sharing with central government.

As a result of the weak district tax collection mechanisms and ineffective imposition of penalties, significantly large discrepancies remain between actual income from taxation and amounts that should have been collected in accordance with the district regulations and decrees.

When Bulungan District Government finally stopped issuing IPPKs, its follow-up programme to establish large-scale oil palm estates in a district that is mostly unsuited to this type of land use demonstrates poor understanding on the part of government policymakers of the need to take full account of sustainable or successful land management principles.

7.2 Recommendations

All levels of government should work together immediately to clarify administrative authority and the responsibilities of central, provincial and district-level forestry institutions. A reporting mechanism and a hierarchy of accountability should be established, along with appraisals of forest management performance (including rewards or incentives and clearly defined sanctions). Alongside the need to clarify the division of authority between the central, provincial and district-level administrations there is a need to empower local communities; in the first instance they should be consulted to ensure that new policies take their existing capacities and skills-requirements into account. They should also be involved in developing clearer mechanisms for communities and partners to share and distribute benefits more equitably. The District Government has an

important role to play here in supporting local communities. Providing permits directly to communities through cooperative organizations could be one option.

Bulungan District Government, with central government support, should also implement a consistent and continuous public consultation process when making district forestry policies. This should advance principles of transparency (particularly in relation to fiscal management) and accountability at each stage of the policy-

making process. The District Government should also take account of environmental and social aspects when making policies on fee collection and spatial planning allocations. Apart from the need to strengthen village-level institutional capacity, the government also needs to provide communities with access to information and benefits, and clearly define the status of forest areas through rational, just and accountable mechanisms.

¹ District Head's Decree No. 196/2000 on Granting Timber Extraction Permits in Privately Owned Forest, Community Forest and Customary Forest.

² District Regulation No. 17/2000 on Timber Extraction and Utilization Permit Fees in Privately Owned Forest /Community Forest.

³ In this report, we refer to IPPK as either an IPPK *permit* when it denotes a licence given by the district to a company, local communities or individuals, or IPPK *policy* when it denotes a product of a district's policy-making processes.

⁴ District Regulation No. 16/2000.

⁵ Barr *et al.* (2001); Casson (2001a); Obidzinski and Barr (2003).

⁶ Soetarto *et al.* (2001).

⁷ McCarthy (2001a, 2001b); Casson (2001b).

⁸ Potter and Badcock (2001).

⁹ Suramenggala *et al.* (2001); Palmer (2004).

¹⁰ Barr *et al.* (2001); Andersen and Kamelarczyk (2004).

¹¹ Obidzinski and Barr (2003); Sitorus (2004).

¹² Yasmi *et al.* (2005).

¹³ District Head's Decree No. 522/86/Ek.Proda/2004.

¹⁴ This research project was conducted between January 2003 and June 2004.

¹⁵ A problem or problem-cause tree was used as a visual tool to narrow down and prioritize key problems in order to understand the underlying causes of complex problems.

¹⁶ The spatial analysis was not designed from the outset of the project but was conducted during the final stages of research, following a

request from local stakeholders – linked to an inspection by the Attorney General's Office, to further analyze the District Spatial Plan and to provide an objective appraisal of the impact of small-scale concessions on forest cover. This analysis was intended only to provide indicative results (relating to reviews of spatial planning legislation and concession locations), and was not comprehensive in nature.

¹⁷ The district is located between 116°20'45" and 118°00'00" E and 2°06'05" and 3°45'10" N.

¹⁸ Article 5 of this regulation stated that district governments were given authority over the following areas: regreening and soil and water conservation, natural silk management, bee management, private/community forest management, protection forest management, forestry extension, non-timber forest management, game management, forest protection and delivering training for local communities on forestry skills.

¹⁹ Government Regulation on Forest Concessions and Harvesting of Forest Products from Production Forests.

²⁰ Decree No. No. 310/1999, issued on 7 May 1999, which serves as an implementation rule to Article 22, paragraph 3 of Government Regulation No. 6/1999.

²¹ Ministerial Decree No. 05.1/Kpts-II/2000 on Criteria and Standards for Forest Utilization Permits and Timber Extraction Permits in Natural Production Forests, issued on 6 November 2000.

²² In Bulungan District there were no instances of 50,000 ha IUPHHKs being issued by the District Head (Bulungan Forestry Office).

²³ Article 9 of this District Head's Decree annuls the earlier Bulungan District Head's Decree (No. 19/1999) on Procedures for Granting Timber Extraction and Utilization Permits in Community Forests and Privately Owned Forests. The research team was unable to trace this decision, and there was a strong indication that did not come into effect until the new decree (No. 196) was issued.

²⁴ District Regulation No. 17/2000 on Fees for Timber Extraction and Utilization Permits in Privately Owned/Community Forests.

²⁵ District Head's Decree No. 522.11/303/EK.PRODA.I/2000 granted to one of the companies operating in the village of Antutan, Tanjung Palas Subdistrict.

²⁶ Minister of Forestry decrees referred to here include SK No. 754/2001 and 755/2001, on Issuing Timber Extraction and Utilization Permits and Issuing HPHH Permits in East Kalimantan Province respectively, as well as a Director General for Forest Product Development decree.

²⁷ No. 288/IV-PHT/2000.

²⁸ No. 084/kpts-II/2000.

²⁹ On 21 February 2002, the Minister of Forestry issued Decree No. No.541/Kpts-II/2002 on Revocation of Minister of Forestry and Estate Crops Decree No.05.1/Kpts-II/2000. Decree No. 541/2002 revoked the administrative authority of governors and district heads to grant HPH/IUPHHs after 31 December 2000.

³⁰ This study was conducted in 2000 and 2001 by Universitas Mulawarman in cooperation with the Bulungan DPRD and Yayasan Pionir Bulungan.

³¹ Based on interviews with several District Government officials including the District Head.

³² Minister of Forestry Decree No. 6886/2002 on Guidelines and Procedures for Granting Forest Product Harvest Permits (IPHHs) in Production Forests. Interviews with numerous parties revealed that the new administrative authority granted to the district heads to issue IPHHs was not particularly welcomed by the districts because it stipulated

limits on the amount of timber that may be felled (maximum of 20 m³ in one year; and harvested timber was only to be for personal use and not for commercial purposes). This decree also stated that Decree No. 310/1999 was no longer valid.

³³ We observed that most stakeholders paid little attention to this crucial article, which has been used by central government to justify its attempt to annul the decentralized authority. We also observed that no clear and genuine measures were taken to tackle the issue of how the institutional capacity, vision and mission of district governments should be enhanced. Central government also seemed to fail to issue an implementation rule for this.

³⁴ Bulungan District Head's Decision No. 522/86/Ek.Proda I/2004 dated 20 February. The Governor's Letter in question was No. 522.21/548/Proda.2.1/EK dated 29 January 2004 regarding Cancellation of Timber Utilization Permits (IPKs). Authors' note: IPKs mentioned here refer to IPPKs.

³⁵ In Tanjung Selor, November 2003.

³⁶ Minister of Forestry Decree No. 325/2003.

³⁷ As reported by a local magazine, *Mahardhika* (2003).

³⁸ For example, the Partnership Agreement for Extraction and Utilization of Timber in Long Telenjau Village, was signed on 13 September 2000 and witnessed by a public notary and land certification official.

³⁹ The Village Head wrote on behalf of all the villagers of Pimping on 13 March 2003.

⁴⁰ A letter signed by all the customary and village heads was sent on 2 May 2001.

⁴¹ One aspect of fiscal decentralization was that it provided sources for districts to collect and use their own revenue in accordance with district potential. The districts' authority to collect taxes and fees was provided for in Law No. 34/2000 – a revision of Law No. 18/1997 – and followed up with rules of procedure in Government Regulation No. 65/2001 on Regional Taxes and Government Regulation No.66/2001 on Regional Levies.

⁴² This district regulation was issued on 31 October 1998 and agreed by the East Kalimantan Governor in Decree No. 466/1999.

⁴³ Law No 25/1999 Article 6:5.

⁴⁴ For the short time that the export tax policy was active (February to June 2001) a total of 62,897.40 m³ of timber was exported, bringing US\$ 7,105,923.41 in foreign exchange and raising Rp. 12.9 billion in export taxes. Bulungan District Revenue Office reported that it received Rp. 7.6 billion from log exports.

⁴⁵ Data not available for Sekatak, Sesayap, Sesayap Hilir, Tanah Lia and Bunyu Subdistricts.

⁴⁶ Ministerial Decree No. 126/2003 on Forest Product Administration.

⁴⁷ District Regulation No. 17/2000 Articles 10–11.

⁴⁸ District Head's Decree No. 196/2000.

⁴⁹ District Regulation No. 16/2000 and District Head's Decree No. 66/2001.

⁵⁰ District Forestry Office's circular No. 522.21/67/DISHUT/II/2003 dated 14 January 2003.

⁵¹ Cash fees were calculated according to cubic meterage of timber extracted, the amount depending on negotiations between community representatives and businessmen or contractors, hence the varying fees from village to village. Average cash fees in study locations varied between Rp. 25,000/m³ and Rp. 35,000/m³. Contractors paid fees to communities after logs had been shipped and made the payments through village officials or people representing communities in the partnership, usually people having connections with businessmen or village customary figures.

⁵² Data on compensation paid to communities from HPHs is included for comparison.

⁵³ Presidential Decree on National Agrarian Policies. In addition to stipulating what authority over land should be granted to district governments, the decree also gave a mandate to accelerate the preparation of a draft bill replacing the former Agrarian Law No. 5/1960.

⁵⁴ Established based on Head of BPN Decree No. 1/89.

⁵⁵ Minister of Forestry and Estate Crops Decree No. 310/1999.

⁵⁶ Even though the title of District Head Decree No. 196/2000 was '*izin pemungutan*' (extraction permits), the term was not clearly defined in the general provisions section, and was clouded by the term '*hak pengusahaan hutan*' (concessions) (see points No. 15 and 16 from the general provisions section of the decree).

⁵⁷ Minister of Forestry Decree No. 310 on Guidelines for the Issuance of Forest Product Harvesting Rights (HPHH)

⁵⁸ One of the critics is a member of staff of the Regional Office of BPN in Tanjung Selor; he complained that despite his organization's primary function being land management, the appearance of the finalized plan was a surprise.

⁵⁹ Government Regulation No. 69/1996 Regarding Public Rights and Obligation, and Mechanism for Public Participation in Spatial Planning.

⁶⁰ Article 22 of the District Regulation states that evaluation of the spatial uses (i.e. against violation of the district rules, authorizing institutions and the spatial plans) will be conducted by a team comprising 'governmental apparatus' designated by the District Head's Decree

⁶¹ During a consultation process for provincial spatial planning in East Kalimantan, there were several strong requests to change the status of forest areas. Local governments including the Bulungan District Government were also reported to be in support of this attempt. There was a tendency among the plantation investors to fell timber before developing estates. Many cases indicate that they often failed to establish a plantation, their interest lying only in felling the timber for a profit (Anonymous 2004).

⁶² A proposal made in 2001 by the District Government for releasing a 20,000 ha forest area in the southern part of Bulungan District (Tanjung Palas Subdistrict) has not received a response from the Minister of Forestry. In the proposed Bulungan RTRWK it is apparent that

the proposed location has been allocated as an area for non-forestry purposes, while in the Estate Plantation Location Map the proposed location has been set aside for expanding PT. Bagong's oil palm plantation (based on an interview with the Secretary to Bulungan's District Head and checks on spatial planning maps produced by Bappeda, September 2003).

⁶³ Here property rights are limited not only to tenure but also to the right of ownership over resources.

⁶⁴ For instance, conflicting interests over forest regions are provided for in Land Affairs Regulation No. 5/1960, Forestry Regulation (UUPK) No. 5/1967 and Mining Regulation No. 11/1967.

⁶⁵ In Sekatak Buji, Pejalín and Long Túngu villages.

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The Center for International Forestry Research (CIFOR) receives its major funding from governments, international development organizations, private foundations and regional organizations. In 2004, CIFOR received financial support from Australia, African Wildlife Foundation (AWF), Asian Development Bank (ADB), Belgium, Brazil, Canada, Carrefour, China, CIRAD, Conservation International Foundation (CIF), European Commission, Finland, Food and Agriculture Organization of the United Nations (FAO), Ford Foundation, France, German Agency for Technical Cooperation (GTZ), German Federal Ministry for Economic Cooperation and Development (BMZ), Indonesia, International Development Research Centre (IDRC), International Fund for Agricultural Development (IFAD), Innovative Resource Management (IRM), International Tropical Timber Organization (ITTO), Italy, Japan, Korea, Netherlands, Norway, Organisation Africaine du Bois (OAB), Overseas Development Institute (ODI), Peruvian Institute for Natural Renewable Resources (INRENA), Philippines, Sweden, Swedish University of Agricultural Sciences (SLU), Switzerland, The Overbrook Foundation, The Nature Conservancy (TNC), Tropical Forest Foundation, United States, United Kingdom, United Nations Environment Programme (UNEP), Waseda University, World Bank, World Resources Institute (WRI) and World Wide Fund for Nature (WWF).

