

# Avoiding Deforestation in Aceh, Indonesia: Land, Natural Resource Rights and Local Communities Project

## END OF PHASE REPORT Phase I, October 2008 – May 2009

June 2009



*Community members from Sare Mane Village, Pidie Jaya planting seedlings on the border of the Ulu Masen Forest (Aceh, Indonesia December 2008).*

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## 1. Introduction

This End of Phase Report is intended to provide an update of IDLO's 'Avoiding Deforestation in Aceh, Indonesia: Land, Natural Resource Rights and Local Communities' project (the Project) at the conclusion of the first phase of activities 1 October 2008 - 31 May 2009. The report includes an overview of the background to the project and then outlines Phase I activities and research findings.

## 2. Background to the Project

### 2.1 *Legal and policy framework: poverty reduction, natural resource management and climate change*

IDLO's Strategic Plan (2009-2012) recognizes that:

"In today's inter-connected world, a new set of global, cross-cutting challenges are demanding the attention of world leaders. These include climate change, scarcity of critical resources (e.g. land, water, and food), disease, economic instability and human security. These issues, while global in their scope, constitute grave threats to development progress either achieved or planned at the community, country-wide, or regional levels. Law and regulation partially and, in some cases substantially, can help solve these issues."

The relationship between poverty reduction and the management of natural resources is increasingly recognized as being part of a complex system in which legislation and policy decisions can have both positive and unanticipated negative consequences.

Unequivocal evidence of climate change and of the unprecedented and imminent threat it poses to the planet and to humanity was the impetus for the international community to address its anthropogenic causes: the emission of greenhouse gases (GHGs) into the atmosphere. The United Nations Framework Convention on Climate Change (UNFCCC) 1992<sup>1</sup> sets out an overall framework for international efforts to tackle climate change. It recognizes that climate change is a global problem which requires a coordinated global response.

Climate change constitutes the biggest long-term threat to development and to the achievement of the Millennium Development Goals. The developing world, which bears little responsibility for this ecological debt, is the most vulnerable to its impact. Climate justice requires that international, national and sub-national responses to climate change produce laws and policies which contribute towards sustainable development and poverty reduction outcomes in developing countries as well as climate change mitigation.

### 2.2 *Climate Change, Forests and REDD*

Deforestation, mostly in developing countries, is one of the main drivers of climate change – it is estimated to account for up to one-fifth of global carbon emissions, second only to the energy sector.<sup>2</sup> Deforestation, however, is currently excluded from the Kyoto Protocol's Clean Development Mechanism (CDM).<sup>3</sup> The inclusion of incentives to reduce reforestation

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1 The UNFCCC entered into force on March 24, 1994 and has been ratified by 192 countries.

2 Nicholas Stern "Review on the Economics of Climate Change" HMG, London, 2006.

3 While the Kyoto Protocol requires Annex 1 countries to account for carbon changes associated with afforestation, reforestation, deforestation and all land use activities undertaken since 1990, developing countries can only claim

has been controversial as it has been seen as a way to offset emissions from the energy sector rather than as an additional means of GHG mitigation. Technical uncertainties surrounding baselines, project leakage and non-permanence added to the debate surrounding mechanisms to reduce deforestation through the UNFCCC.

The general consensus is now that combating deforestation is essential to achieving climate change mitigation. A post-Kyoto (2012) agreement that includes a mechanism for reducing emissions from deforestation and forest degradation (REDD)<sup>4</sup> is proposed as a solution. REDD is based on the idea that developing countries will be compensated - either through overseas development assistance or by means of a market-based mechanism - to reduce deforestation and forest degradation within their borders.

### *2.3 REDD, tenure and local communities*

REDD is expected to result in the flow of billions of dollars from developed to developing countries.<sup>5</sup> These funds could be used to contribute towards broader goals of poverty reduction and biodiversity conservation in addition to climate change mitigation and adaptation objectives.

Over 800 million people, mostly poor and very poor, live in tropical forests or in rural areas close to forests, including 70 million indigenous people who largely depend on forests for their homes, food, fuel, health and culture.<sup>6</sup> Introducing REDD over land customarily owned, occupied or used by local communities carries significant risks for these communities whose livelihoods depend on the forested areas that REDD projects aim to protect (see Box 1).

#### **Box 1: REDD and potential risks for local and indigenous communities<sup>1</sup>**

Indigenous Peoples and local communities could face the following risks:

- Renewed or increased state and 'expert' control over forests through top-down processes.
- Exclusionary 'non-people' modes of forest conservation.
- Rapid zoning of forest lands without the informed participation of forest dwellers and other stakeholders.
- Unjust targeting of indigenous and marginal peoples as the 'drivers' of deforestation.
- Violations of customary land and territorial rights.
- Increasing inequality and potential conflict between recipients and non-recipients of funds.
- Unequal imposition of the costs of forest protection on indigenous peoples and local communities.
- Unequal and abusive community contracts.
- Land speculation, land grabbing and land conflicts (competing claims on AD compensation).
- Corruption and embezzlement of international funds by national elites.
- Potential conflict among Indigenous Peoples and local communities over acceptance or rejection of REDD schemes.

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credits generated from afforestation and reforestation through the Clean Development Mechanism (CDM), not from avoided deforestation.

<sup>4</sup> REDD was first introduced at the ninth Conference of the Parties (COP-9) by a group of scientists who developed the mechanism as a national approach to reducing deforestation and called it "compensated reductions".

<sup>5</sup> Nicholas Stern "Review on the Economics of Climate Change" HMG, London, 2006.

<sup>6</sup> Kenneth M. Chomitz et al, "At Loggerheads? Agricultural Expansion, Poverty Reduction, and Environment in the Tropical Forests" The World Bank, 2007.

Land rights and access to resources are at the heart of both Indigenous Peoples' and local communities' livelihoods. According to a recent report from the International Institute for Environment and Development (IIED) "Resource tenure – the system of rights, rules, institutions and processes regulating resource access, use and ownership – is vital to allocating the distribution of risks, costs and benefits".<sup>7</sup> The report states that:

"While insecure tenure makes local people vulnerable to dispossession as land values increase, secure resource tenure gives them more leverage in relations with government and the private sector. Insecure or contested resource rights may also increase risk for investors – reputation risks, for example, in relation to possible tensions with local groups."<sup>8</sup>

Indigenous Peoples representatives are concerned about the potential risks posed by REDD, and have recently expressed their position in the Anchorage Declaration 2009:

"All initiatives under Reducing Emissions from Deforestation and Degradation (REDD) must secure the recognition and implementation of the human rights of Indigenous Peoples, including security of land tenure, ownership, recognition of land title according to traditional ways, uses and customary laws and the multiple benefits of forests for climate, ecosystems, and Peoples before taking any action."<sup>9</sup>

For REDD to achieve both the sustainable development and poverty eradication objectives of the UNFCCC<sup>10</sup> and Kyoto Protocol<sup>11</sup> as well as their primary objective of climate change mitigation, it is essential that land and resource issues are addressed and that the voices and interests of local, forest-dependant communities are heard, considered and protected by law. The materialization of potential benefits or risks will depend on the particular design of REDD mechanisms, and on the legal and governance context of its implementation at national and local levels.

Now is a critical time for REDD. On-going negotiations are currently taking place in the lead up to the December 2009 UNFCCC Conference of the Parties 15 (COP-15) in Copenhagen where the international policy and legal framework for REDD is scheduled to be shaped. In parallel to these international efforts, forest-rich developing countries are in the process of formulating national and sub-national policy and legal frameworks which will enable them to host and benefit from REDD.

### 3. Aims and objectives of the Project

At a broad level Project seeks to contribute towards a better understanding of the issues and legal and policy implications of REDD for developing countries hosting REDD projects and their local, forest-dependent communities by:

- Strengthening the institutional, legal and regulatory framework relation to REDD; and
- Promoting an integrated approach to REDD through Good REDD Governance (see Box 2).

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7 Cotula, L. and Mayers, J. 2009. *Tenure in REDD – Start-point or afterthought?* Natural Resource Issues No. 15. International Institute for Environment and Development. London, UK.

8 Cotula, L. and Mayers, J. 2009. *Tenure in REDD – Start-point or afterthought?* Natural Resource Issues No. 15. International Institute for Environment and Development. Page v. London, UK.

9 The Anchorage Declaration was adopted at the Indigenous Peoples' Global Summit on Climate Change, Anchorage, Alaska, 20-24 April 2009. The Declaration is available online at: [www.indigenoussummit.com](http://www.indigenoussummit.com). Anchorage Declaration, Art 5.

10 UNFCCC, Preamble and Art 3.4 "The Parties have a right to, and should, promote sustainable development".

11 Art. 2.

### Box 2: Good REDD Governance

REDD governance refers to decision-making processes related to REDD, including how decision-makers use their power and how they are held accountable for their decisions. It encompasses the institutional and legal framework of decision-making processes at international, national, regional and local levels.

Good governance is increasingly recognized as central to development. It is a necessary condition for foreign investment and economic growth, social harmony and sound environmental management.

**Good REDD governance** refers to the principles of good governance and the rule of law as they relate to REDD, including the principles of effective participation, accountability, transparency, responsiveness, effectiveness, efficiency and equity. Good REDD governance encompasses the principles of Good Forest Governance, but goes beyond this concept to cover broader aspects of governance relevant to REDD.

Tenure has been recognized as a critical issue demanding attention, however, little on-the-ground research has been conducted in order to examine the potential implications of REDD at the local level. This IDLO's research conducted during I and the research publication which will be produced during II seeks to fill some of these gaps by presenting findings and analysis based on field research in an REDD project area and consultations with a wide range of stakeholders in Aceh, Indonesia.

More specifically and in the context of Aceh aims to, the aim of the research report is to:

- Document, review and analyze the existing legal and regulatory context in which REDD currently operates in the Indonesian Province of Aceh, with a particular focus on land rights and forest conservation and management;
- Collate the perspectives of a wide range of REDD stakeholders in Aceh, and promote exchange and dialogue between these stakeholders;
- Highlight issues relating to the interaction of customary *adat* law and the Indonesian national legal system as they relate to REDD; and
- Identify, through a series of recommendations, practical measures that may be considered to improve the implementation of REDD through laws, regulations and policies and at a project implementation level.

## 4. Research Activities

The following activities were conducted during I:

- *Preliminary field research*: field interviews conducted from 21-28 October 2008.
- *Multi-stakeholder Consultative Workshop*: 3 December 2008, Hotel Oasis, Banda Aceh.
- *Primary field research*: field interviews and focus group discussions conducted during December 2008.
- *Legal and research analysis*: conducted by the Project team January-April 2009.
- *Stakeholder consultations*: interviews with relevant REDD stakeholders in Aceh conducted February-April 2009.
- *Review of draft publication*: review of publication by three Acehnese experts on land, customary and forest law.

#### 4.1 Preliminary Field Research

The research aimed to identify and document the implications and issues relating to land and natural resources access and rights of indigenous and local communities in the context of forest conservation and avoided deforestation, in particular in relation to Reducing Emissions from Deforestation and Forest Degradation (REDD) projects. For this reason, the focus of the field research focuses on the Ulu Masen ecosystem, where a REDD project is being developed by the Government of Aceh in coordination with Fauna and Flora International and Carbon Conservation Ltd.

Preliminary field research was carried out from 21-28 October 2008. The Project and Research Officer conducted semi-structured interviews with community representatives, government officials and farmers in the following 10 communities situated in or near the Ulu Masen Ecosystem:

- Aceh Pidie District: villages Geumpang, Mane and Tangse.
- Aceh Barat District: villages Sungai Mass and Pante Cermin.
- Aceh Jaya District: villages Krueng Sabe, Lageun, Panga Pasie, Sampoiniet and Lamno.

#### 4.2 Preliminary Workshop

On 3 December 2008 a one-day preliminary workshop was held at the Oasis Hotel, Banda Aceh. The objectives of this workshop were:

- To introduce IDLO's Avoiding Deforestation in Aceh, Indonesia: Land, Natural Resource Rights and Local Communities Project and research;
- To provide information and conduct a preliminary discussion around the key issues relating to REDD, forest protection and land and natural resource management rights of local communities in Aceh; and
- To engage stakeholders to contribute to the project by sharing their views, knowledge and experiences.

40 stakeholders attended the workshop, including representatives from the Governor's office, the Department of Plantations and Forestry, the Syariah and High Courts of Aceh, local non-government organisations, international organizations and donors, and experts in Acehese customary law.

A panel of four experts presented on the following key issues related to the project:

1. *The Government of Aceh's Green Economic Development and Investment Strategy (Aceh Green)*, Mr M. Yakob Ishadamy, Head of Government of Aceh, Aceh Green Secretariat

Mr Yakob outlined the Government of Aceh's 'Green Economic Development and Investment Strategy for Aceh' (Aceh Green). The Aceh Green strategy aims to sustain peace and economic reconstruction in Aceh following 30 years of conflict and the 2004 tsunami disaster. Aceh Green focuses on sustainable development by integrating economic growth, renewable energy, community development, and conservation of natural resources. Primary conservation management (avoided deforestation/REDD) is a fundamental component of Aceh Green.

2. *REDD Background, Overview and Legal Implications for Aceh*, Ms Diasha Kashatri, Attorney - Budidjaja and Associates (IDLO Alumni)

Ms Kashatri provided a background and overview of international policy developments in REDD. She also discussed potential legal implications of REDD in relation to community land, natural resource rights and the environment in Aceh.

3. *Re-designing Aceh's Forests, Mr Bakti Siahaan, Coordinator, Aceh Forest Redesign Team*

Mr Siahaan discussed the work of the forest redesign team, which is mandated by Governor's decree to recommend laws, regulations, policies and re-zoning of forest areas to improve forest protection in Aceh.

4. *Challenges and Opportunities related to the Customary Management and Protection of Aceh's Natural Resources, Mr Sanusi M. Syarief, Customary Land Law Specialist*

Mr Syarief outlined some of the complex historical and legal issues which has led to weak recognition of *hukum adat* (customary law). Mr Syarief expressed the strong need to revitalize community/customary values and laws relating to forest management and to strengthen the role of communities in managing Aceh's natural resources.

#### 4.3 Stakeholder Consultations

In order to inform the research and ensure that future recommendations will be taken forward to the greatest extent possible, consultations were initiated with key stakeholders involved in issues relating to land and resource rights of local communities in Aceh. Stakeholders consulted include:

##### Public Institutions

- The Governor of Aceh's Office, Aceh Green Secretariat
- The Governor of Aceh's Office, Legal Bureau
- Department of Forestry and Plantations
- TIPERESKA (Aceh Forest Redesign Team)
- BRR (Aceh Rehabilitation and Reconstruction Agency), Centre for Environmental Protection and Conservation
- High Court of Aceh
- Department of Forestry and Plantations

##### Local Organisations/NGOs

- WALHI, Indonesia's oldest and largest environmental NGOs
- Demos: a local NGO involved in supporting the development of democracy in Indonesia
- Lembaga Bantuan Hukum (LBH; Legal Aid Organisation) Aceh
- Jaringan Komunitas Masyarakat Adat Aceh (JKMA; Network for Customary Communities in Aceh)

##### International Organisations

- Fauna and Flora International (FFI)
- Leuser International Foundation (LIF)
- USAID Environmental Services Program
- United Nations Development Program (UNDP)

#### 4.4 In-depth Field Research

In-depth field research was conducted in 12 communities living in the Ulu Masen Ecosystem during December 2008.

**Table 1: Field Research Locations**

Kabupaten (District)	Kecamatan (Sub-district)	Mukim
Aceh Besar	Jantho	Jantho
	Lembah Seulawah	Sare Aceh
	Seulimum	Lamteuba
Pidie Jaya	Meurah Dua	Kuta Rentang
Aceh Pidie	Tangse	Layan
	Geumpang	Bangkeh
	Mane	Mane
Aceh Jaya	Krung Sabe	Krung Sabe
	Sampoiniet	Kuta Baro
Aceh Barat	Sungai Mas	Tungkop
	Pante Cermin	Gunong Meuh

- *Questionnaire*

A detailed, semi-structured questionnaire was designed in order to guide interviews and FGDs (see annex 1). The focus areas of the questionnaire were shaped by the preliminary field visit findings.

- *Focus Group Discussions*

The Project and Research Officer conducted fifteen FGDs in 12 villages in and around the Ulu Masen Ecosystem (see Table 1). The FGDs were attended by a total of 148 participants which included village leaders, local government officials, civil servants, housewives, farmers, company employees, small-traders and entrepreneurs.



Focus Group Discussion, Sampoiniet Aceh Raya (December 2008)

4.5 Desk research

Desk research has been undertaken to situate the project within the current national and international legal and policy framework. The focus of this desk research is:

- International and Indonesian climate change law and policy, focusing on REDD.
- International law protecting land and customs of indigenous peoples and local communities.
- Customary and statutory land rights of local communities and indigenous peoples in Aceh and Indonesia.

4.6 Review

A full draft of the publication was reviewed by three experts in customary law, forestry and land tenure:

- Bapak Taqwaddin (Lecturer, Faculty of Law, Syiah Kuala University Banda Aceh) focussed on customary communities and forests;
- Dr. Ilyas Ismail, (Lecturer, Faculty of Law, Syiah Kuala University Banda Aceh) focus on customary communities and their rights to land; and
- Bapak Sanusi M. Syarif (Director of Yayasan Rumpun Bambu Indonesia, a Aceh-based NGO) focussed on customary communities and customary land in Aceh.

5. Findings and Publication

Key findings which emerged from the research in relation to land tenure and access to and management of forest resources by forest dependent peoples are to be published into a research publication in both Indonesian and English. A brief outline of the findings are outlined below:

<b>Land tenure</b>	Insecure land tenure at the local level. The majority of indigenous peoples and local communities living around Aceh’s forests do not have certificates of title to their land issued by the Indonesian Government National Land Agency (BPN). In many cases, indigenous peoples and local communities do hold customary or local forms of land documentation such as letters of permission to cultivate land issued by the <i>Keucik</i> (village leader), or sale and purchase agreements or inheritance documents issued by the local <i>Camat</i> (Sub-district Head) or Land Notary. These local forms of land documentation are often incomplete, with some landowners not having any documentation to their land.
	Land ownership records between different levels of government (village, sub district, provincial, national) are often inconsistent.
	No land maps identifying geographic areas of customary authority.
	Customary land boundaries are often identified through traditional methods of demarcation (for example, rivers, gorges, large trees, valleys etc).
	Customary communities have difficulty accessing new areas of land.
	There is a lot of abandoned or fallow land in Aceh as a result of the conflict. Two issues are exacerbating this: <ul style="list-style-type: none"> <li>• Unclear land ownership status (ie., uncertainty over who owns a particular area of land – government, company or individual)</li> <li>• Land status is clear and an owner is identified but the land owner does</li> </ul>

	not permit others to cultivate their land
<b>Access to and Management of forest resources</b>	Customary and local communities are highly dependent on forests for custom and economic sustenance
	Communities have limited information about land/forest boundaries and the status of forests.
	Sign boards are the main form of demarcation used to identify protected forest boundaries. These boards are often very widely spaced, making it difficult to determine precise boundaries of protected forests.
	Low level of involvement of communities in the process of forest management led by government including in decisions about the issuing of HGU, HPH and HTI.
	Community access to forests is restricted by government authorities responsible for managing the ecosystem.

## 6. The 8th Meeting of Asia Forest Partnership & AFP Dialogue 2009<sup>12</sup>

The Asia Forest Partnership (AFP) Dialogue 'REDD and Combating Illegal Logging' was held on 28-29 May, 2009, event hosted by the Government of Indonesia in collaboration with CIFOR. The aim of the Dialogue was to examine the links between mechanisms to compensate countries for reducing deforestation and forest degradation, and efforts to combat illegal logging and the associated timber trade. If countries that are planning to implement REDD mechanisms cannot control illegal logging, REDD plans in practice could falter.

Patricia Parkinson presented at a parallel working group on 'Community: REDD, Illegal logging and forest-dependent communities'. This session drew on views and experiences from the region to elaborate on the major issues concerning forest-dependent people in relation to REDD and illegal logging. These issues included:

- Raising community awareness of REDD;
- Building capacity of communities to respond to REDD threats and opportunities;
- Clarifying forest tenure and ownership of carbon rights within the REDD framework;
- Addressing the need for meaningful participation of communities in processes to formulate and implement REDD demonstration activities and national REDD frameworks;
- Enhancing livelihood opportunities for communities as part of avoided deforestation strategies;
- Developing equitable and sustainable financial distribution mechanisms;
- Facilitating interactions between communities and concessionaires under REDD;
- Employing and rewarding community-based forest management for climate change mitigation.

<sup>12</sup> The dialogue was held in Bali on May 27-29, hosted by the Indonesian government in collaboration with CIFOR with financial contributions from the governments of Japan and Switzerland and the USAID RAFT-TNC Program, GTZ, the EC-Indonesia FLEGT Support Project, WRI, IGES and DFID. For further information about the AFP Dialogue see: [http://www.asiaforests.org/index.php?option=com\\_content&task=view&id=199&Itemid=9](http://www.asiaforests.org/index.php?option=com_content&task=view&id=199&Itemid=9)



The event was attended by a diverse range of stakeholders in tropical forests who shared information, established partnerships and proposed recommendations to policymakers. Outcomes of the dialogue are to be shared with international processes related to REDD, including the UN Framework Convention on Climate Change and the UN Forum on Forests.

## 7. Project II – June -October 2009

Planned activities for Phase II include:

- 1- Finalization, translation and launch of the research publication in English
- 2- Training and Technical legal support Needs Assessment on REDD for the Government of Indonesia
  - International Carbon Markets
  - REDD mechanism and REDD projects
  - Attracting REDD investment.
  - Sustainable Forests Management for REDD.
  - Drafting REDD laws and regulations
  - Land rights and land use in REDD context
  - Community issues and participation.
3. Capacity building for the Government of Indonesia.

The topics of the seminars will be determined in collaboration with the Government of Indonesian, and as a result of the findings of the Training Needs Assessment (point 1). They may include some or all of the issues listed above at point 2.

4. Capacity building workshop for civil society on REDD and land tenure

Topics include some or all of the issues listed above at point 2, selected for their relevance to civil society.



## Annex 1: Questionnaire with abridged English translation

### Questionnaire

#### 1. Tanah adat

- Menurut apa yang saudara ketahui tentang tanah adat?
- Menurut saudara Apakah tanah adat memiliki batas-batas?
  - Kalau iya:
    - apa batas-batas tersebut?
- Apakah masyarakat memiliki peta tentang tanah adat.
  - Jika iya:
    - siapa yang membuatnya?
    - Ada tidak masyarakat terlibat dalam proses pembuatan peta tersebut?
  - Jika tidak:
    - Apakah menurut saudara masyarakat perlu peta tentang tanah adat? Mengapa?
- Jika ada proses pemetaan tanah adat di wilayah gampong saudara, bagaimana cara terbaik melakukan pemetaan tersebut menurut saudara?
- Apakah saudara merasa tanah dengan status adat mampu/cukup dalam memberikan proteksi terhadap sengketa lahan?
  - Jika iya, apa alasan saudara?
  - Jika tidak:
    - Mengapa?
    - Apakah saudara punya cerita tentang tanah adat yang bersengketa?
    - Menurut saudara, apa cara yang terbaik untuk menghindari sengketa terhadap lahan adat tersebut.
      1. Sejarah gampong
        - a. Tertulis
        - b. Tidak tertulis
      2. Membuat batas-batas
      3. Membuat peta
      4. Lainnya\_\_\_\_\_
- Adakah syarat khusus yang harus dipenuhi oleh masyarakat untuk mendapatkan tanah adat?
  - Jika iya:
    - Apa syarat-syarat tersebut?
    - Bagaimana proses untuk membuat syarat itu?
    - Apakah masyarakat setuju dengan syarat-syarat yang sudah ada? Mengapa iya/mengapa tidak?
  - Jika tidak, mengapa?
- Menurut saudara, siapa yang berwenang untuk mengeluarkan ijin pengeloan tanah adat?
- Apa bentuk perijinan tersebut (surat keterangan keucik, dll)?
- Adakah masa waktu berakhirnya pengeloan tanah adat?
  - Kalau iya, berapa lama berlaku ijin pengeloan tanah adapt tersebut?

#### 2. Lahan tidur/terlantar dan Bukti/proses lahan yang boleh digunakan

- Menurut saudara, apa yang saudara ketahui tentang lahan tidur/terlantar?
- Jika saudara mengetahui adanya lahan tidur di sekitar wilayah saudara, bagaimana proses untuk mengetahui kepemilikan lahan tersebut?
- Jika ada lahan tidur/terlantar di wilayah saudara, apa tindakan saudara dalam hal pemanfaatan?
- Jika ada lahan tidur yang tidak jelas statusnya, bagaimana pemikiran saudara terhadap lahan tersebut?
  - Dilaporkan kepada pihak gampong/mukim
  - Dilaporkan kepada Pak Camat
  - Dilaporkan kepada Pak Bupati

- Dilaporkan kepada Dinas Kehutanan
  - Bagaimana pendapat saudara tentang pemilik lahan yang tidak berada lagi di gampong ini?
- 3. Status tanah**
- Apakah saudara mengetahui lahan yang ada di sekitar hutan dan batasannya, misalnya hutan lindung, hutan produksi, hutan Negara dan Tahura.
    - Jika iya, di mana mendapat informasinya?
    - Jika tidak, apakah solusi saudarah untuk mendapat informasi tersebut?
  - Bagaimana pendapat saudara jika ada hutan lindung yang dijadikan sebagai hutan produksi?
  - Apakah sudah ada sosialisasi tentang batas hutan?
    - Kalau iya,
      - Siapa meluakukan socialisasinya?
      - Bagaimana pendapat saudara terhadap hasil sosialisasi tersebut? Mengapa?
- 4. Kebijakan Pemerintah**
- Apakah saudara tahu tentang kebijakan pemerintah terhadap batas hutan lindung.
- 5. Peta-Peta dan batas-batas tanah**
- Apakah wilayah saudara sudah ada peta untuk batas-batas:
    - Lahan pribadi
    - Tanah gampong
    - Mukim
    - Kecamatan
    - Hutan konservasi
    - Hutan lindung
    - Hutan produksi
  - Jika tidak, apakah saudara menginginkan adanya peta:
    - Lahan pribadi
    - Tanah gampong
    - Mukim
    - Kecamatan
    - Hutan konservasi
    - Hutan lindung
    - Hutan produksi
  - Siapa yang bertanggung jawab untuk melakukan proses pemetaan wilayah gampong saudara?
  - Sejauhmana keterlibatan masyarakat dalam proses pemetaan?
  - Adakah proses legalisasi terhadap peta wilayah gampong sudah dibuat?
    - Jika iya:
      - Institusi mana yang melakukan legalisasi tersebut?
      - Dalam bentuk apa?
    - Jika tidak:
      - Apakah menurut saudara peta yang ada tanpa proses legalisai cukup atau tidak untuk mempertahankan batas wilayah gampong saudara.
        - Kalau cukup, apa alasannya?
        - Kalau tidak cukup, apa solusinya?
- 6. Proses Resolusi Sengketa tentang lahan dan akses terhadap sumber daya alam di masyarakat lokal**
- Jika ada masalah tentang status tanah saudara, ke mana saudara harus mengadu?
    - Kepala Desa, Mukim, Camat, BPN, dll.
  - Jika ada sengketa antara sesama pemilik lahan di gampong, bagaimana proses penyelesaiannya?
    - Melalui musyawarah gampong
    - Melalui Camat
    - Melalui Polisi

- Melalui proses pengadilan
- Apa alasannya?
- Jika melalui musyawarah gampong: Bagaimana prosesnya?
  - Jika tidak mendapatkan solusi di musyawarah gampong, apa tindakan saudara untuk menyelesaikannya? Menapa?
  - Apakah saudara setuju dengan solusi yang didapatkan dari musyawarah yang sudah ada? Mengapa iya/mengapa tidak?
- Jika melalui Camat: Bagaimana prosesnya?
- Jika melalui Polisi: Bagaimana prosesnya?
- Jika melalui proses pengadilan: Bagaimana prosesnya?

### **Abridged English Translation**

#### **1. Customary land**

- What do you know about customary land?
- Does this village have maps of land ownership boundaries?
- Are customary land boundaries included in this map?
- If there has been a land mapping process in this village, how was it conducted?
- If there was a land mapping process in this village, how would you suggest it should be conducted?
- Are your customary rights adequately protected and clear in order to avoid disputes over land ownership?
- How does someone in this community come into ownership of customary land?
- Is there written evidence of this ownership?
- Does a right to manage customary land expire? Explain?

#### **2. Unused or abandoned land**

- What do you know about abandoned land?
- Is there abandoned land in or around this village? If so, why?
- What is the process for identifying the owner of unused land if a villager would like to use it?
- If the ownership of unused land is unclear, who will you or other villagers follow up with (village leader, head of sub-district, head of district, Department of Plantation and Forestry, other)?
- What is your attitude towards people who own land in this village but no longer live in the village?

#### **3. Land status**

- Are you aware of the status and boundaries of different types of land in this area, for example: privately owned land, customary land, protected forest, plantation/production land?
- What is your opinion about forest land that has been converted into productive land for plantations?
- How does the community receive information about forest boundaries?

#### **4. Government regulations and policies**

- What do you know about government regulations and policies relating to protected forest boundaries?

#### **5. Maps and land boundaries**

- Does this area have maps of boundaries that indicate:
  - Private land
  - Community land
  - Mukim land
  - Sub-district land
  - Conservation forest
  - Production forest
- If not, do you think it would be useful to have maps indicating the above?
- Who has responsibility for mapping the boundaries of this village?
- If there have been mapping processes conducted, was the community involved?

**6. Dispute resolution processes in relation to land and natural resources at the community level**

- If a problem arises about the status of land, where will you first go to attempt to resolve the dispute?
- If there is dispute between land owners in the community, what is the process to resolve this dispute?

## Annex 2: The Project Team

The IDLO Avoiding Deforestation in Aceh, Indonesia: Land, Natural Resource Rights and Local Communities project (the Project) was implemented by a team based in Banda Aceh, with support from the Project Manager based in the Asia-Pacific Regional Centre in Sydney, Australia.



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International  
Team Leader and  
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Aceh



**Basyuni**  
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### Patricia Parkinson

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Patricia A. Parkinson, a French and Australian dual national, is Associate Program Legal Counsel at IDLO's Asia-Pacific Regional Centre and Manager for the Avoiding Deforestation in Aceh, Indonesia: Land, Resource Rights and Local Communities Project. She holds a Master of Public International Law from the University Toulouse 1, France, and a Master of Environmental Law (MEL) from the University of Sydney, Australia. Patricia joined IDLO in 2003 and has since worked on a range of environmental law, international trade law and judicial reform-related initiatives. These include managing a *Climate Change and Developing Countries- Asia Pacific Regional Seminar* (Sydney, Oct.08), a *Legal Framework of Water Resources in Asia Seminar* (Sydney, 2007), a research project on *Biofuels, Good Governance and Sustainable Development (2007)*, a course on *Environmental Law Enforcement for Indonesian judges and environmental law enforcement officers* (Sydney, 2005), Patricia was international trainer in a series of seminars in a range of provinces of Indonesia as part of an Environmental Law Enforcement in Indonesia training program (IASTP III, 2006, 2007). Patricia was IDLO's representative at the UNFCCC COP13 in Bali in 2007.

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Jane Dunlop, a New Zealand national, is the International Team Leader and Lead Researcher for the Avoiding Deforestation in Aceh, Indonesia: Land, Resource Rights and Local Communities Project. Jane's focus areas include customary, resource management and environmental law (particularly in relation to climate change). Prior to joining IDLO Jane was the Land Rights Coordinator for Oxfam in Aceh. Jane has also worked as an Environmental Planner in New Zealand. Jane holds a Bachelor of Laws with First Class Honors and a Bachelor of Arts in Geography from the University of Otago, New Zealand, and has been admitted to the bar as a Barrister and Solicitor of the High Court of New Zealand.

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Basyuni, an Indonesian national, is the Project and Research Officer responsible for undertaking field research with communities in the Ulu Masen Ecosystem. Basyuni has a wide range of experience working on issues relating to community and the environment. Prior to joining IDLO Basyuni was the Aceh Advocacy and Campaigns Manager for *Wahana Lingkungan Hidup Indonesia* (the Indonesian Forum for the Environment; or WALHI), Indonesia's oldest and largest environmental advocacy NGO. Basyuni has also worked as a Field Facilitator with the International Organisation for Migration, as a Team Leader for Oxfam's post-tsunami livelihoods programme, as a community mobiliser with Child Fund, and for a number of Indonesian NGOs working on conflict-related human rights issues in Aceh. Basyuni holds a Bachelor of Laws from Malikussaleh University, Lhoksuemawe, and Diploma of State Administration from Notokusumo Academic University Yogyakarta and Malikussaleh University.

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Kurniawan, an Indonesian national, is a Research Consultant to the project providing technical legal support on customary and Indonesian state law related to land and natural resource management. Before joining IDLO Kurniawan has worked on community land rights issues as Advocacy Officer with Oxfam Aceh; as Advocacy Adviser for World Vision where he published a book entitled *Tanah 'Untuk Hidupan yang Lebih Baik'* (Land for a Better Life); and as the Head of Advocacy for *Lembaga Bantuan Hukum Aceh* (the Aceh Legal Aid Organisation; LBH). Kurniawan holds a Bachelor of Laws from Syiah Kuala University, Banda Aceh.

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Fadhillah Hanum, an Indonesian national, is the Finance and Administration Officer for the Avoiding Deforestation in Aceh, Indonesia: Land, Resource Rights and Local Communities Project. Prior to joining IDLO, Fadhillah was the Finance Officer for Help Age International, as a Human Resources Officer for International Medical Corps. Fadhillah holds a Diploma in Accounting from the State Polytechnic College, Aceh and is currently in the final stages of completing her Bachelor of Accounting at the Syiah Kuala University, Banda Aceh.