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Free, Prior and Informed Consent: Emerging lessons from the Asia-Pacific region

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Outline of presentation



- Part A: Developing national FPIC guidelines




- Part B: Implementing FPIC: lessons learned



- Part C: Challenges, opportunities and recommendations

PART A: Developing national FPIC guidelines





Case study: Philippines

Congressional Hearing in 2011 in Bakun, Benguet, into irregularities in issuing mining permit

- The Philippines is still in the REDD+ readiness phase
- The right to FPIC is enshrined in the *Indigenous Peoples Rights Act 1997* (s. 59)
 - Government agencies cannot issue any concession, lease or license over an ancestral domain area without FPIC
 - This applies to carbon trading activities





Philippines (cont.)


- The legal right to FPIC is supplemented by FPIC Guidelines of 2006
- Two reviews being undertaken into the adequacy of these Guidelines due to past problems:
 1. A government-led review being conducted by the National Cultural Communities Committee (in response to House Resolution 887); and
 2. An NGO-led study is looking specifically at whether the existing Guidelines are suitable for REDD+ and whether they are a sufficient safeguard for indigenous peoples rights.



Best Practice Point!

Development of national (or sub-national) FPIC guidelines should begin with a review of existing consent process so that any weaknesses can be addressed when designing new FPIC policies and procedures, rather than perpetuated.

PART B:
Implementing FPIC –
Lessons learned

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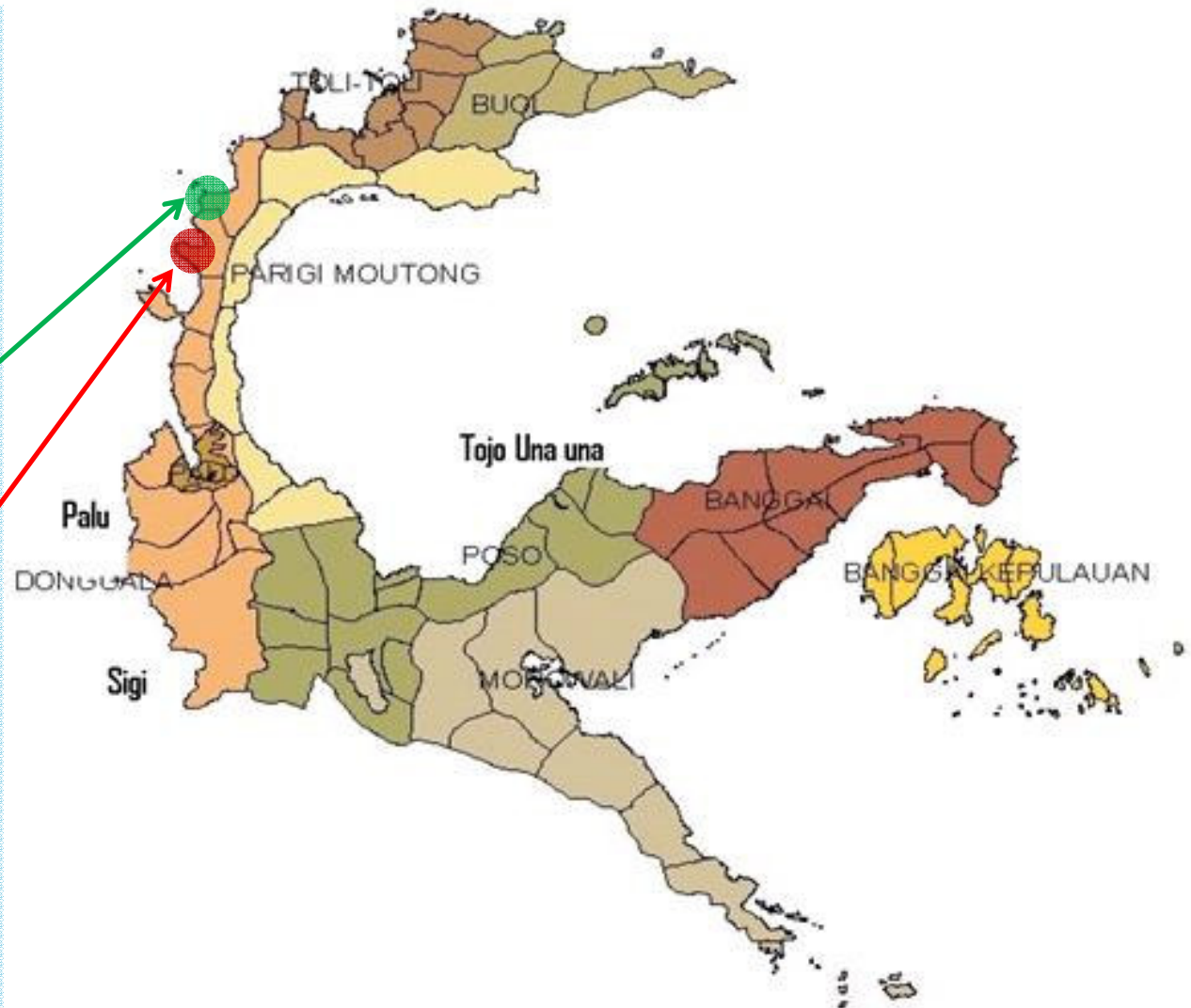


Case study: FPIC in Central Sulawesi

2 villages in
Central Sulawesi
province:

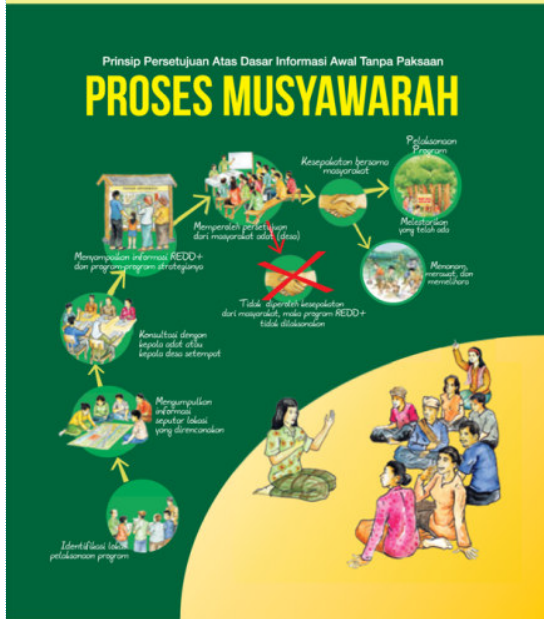
1. Lembah Mukti
Village

2. Talaga Village





REDD+ proposal for two villages



Masyarakat adat/lokal dan komunitas yang tinggal di dalam maupun sekitar kawasan hutan dihormati dan diposisikan sebagai mitra penting. Peran masyarakat itu diwujudkan dengan melibatkannya mulai dari perencanaan dan pelaksanaan REDD+.



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One of the brochures used in Central Sulawesi to explain the FPIC process

- Process led by local Forest Management Unit (FMU)
- FMU proposed replanting of degraded forest area with rubber and jabon trees
- In return, community was asked to:
 - help to stop illegal logging
 - prohibit hunting activities
 - plant in steep areas to stop landslides
 - make a village regulation about forest conservation and management.

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Results of FPIC trial

Lembah Mukti village

- Village 'agreed' to implement the forest rehabilitation programme
- Result: A Letter of Agreement was signed by the village negotiators and the FMU
 - In addition to rubber and jabon trees, community asked for nutmeg and durian to be planted
 - Community agreed to protect forest
- Established a platform to manage complaints and feedback

Talaga village

- Village said 'no' to consulting and engaging in the FPIC process
- An NGO had already been to the village and advised the community not to engage in REDD+
- About 50% of villagers grow cocoa, coffee and chili and were concerned that REDD+ would stop them from entering the forest area
- Result: FPIC process discontinued – later approached by NGO for further discussions



Lessons learned from Central Sulawesi

- Development and piloting of FPIC Guidelines
 - Need to build capacity of Working Group members who will draft guidelines and lead the FPIC process
 - When developing guidelines, need to include the actors that will be involved in on-the-ground implementation of Guideline
 - FPIC Guidelines are best tested in a location where there is a concrete programme that needs the community's consent
- Need to respect right of local community not to participate in discussions about REDD+, but be prepared to engage in further discussion, if requested (e.g. Talaga village)
- Include a mediator between community and Forest Management Unit



Next steps for FPIC in Central Sulawesi

Next steps:

- Evaluation of FPIC trial (May 2012)
- Finalisation of FPIC Guidelines for Central Sulawesi (June 2012)
- Identify a process by which FPIC Guidelines for Central Sulawesi can be formally adopted

Photo:

Timber extracted near Lembah Mukti village



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PART C:

Challenges, opportunities and recommendations





Challenges

- Developing national guidelines: not all countries realise that this should begin with a review of how existing consultation and consent processes are working
- Need for supportive domestic policy measures to support the right to FPIC
- FPIC for REDD+ policies and programmes v. REDD+ projects – understanding how FPIC works for broader policies and legislation
- What does FPIC cost, and how should it be funded?

Opportunities



- Developing FPIC processes for REDD+ presents countries with an opportunity to fulfill obligations to UNDRIP
- As each country develops its consultation process for REDD+ based on FPIC principles, this could be used as a model to improve existing consultation processes, such as for mining, natural gas/petroleum, or logging



Recommendations

- UN-REDD should develop an ‘FPIC toolbox’ to assist countries to develop FPIC guidelines and with implementation
- UN-REDD could provide additional guidance and technical support (e.g., preliminary review of consultation processes; capacity building for developing guidelines; budgeting exercises)
- UN-REDD should support countries to develop policies to support FPIC
- UN-REDD should work on ‘Developing the Business Case for FPIC’

Thank you for listening!





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 - Mr Jonathan Adaci, Director, ADO and NCIP, Philippines
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