

Experts held a roundtable discussion of community participation in spatial planning and the mapping of forest rights



Teamwork: Participatory mapping in action.

Photo: Albertus Pramono

Marcus Colchester, Forest Peoples Programme, roundtable chair: Community or participatory mapping started in Canada with the Inuit and has spread worldwide. We will discuss some of its challenges today.

Albertus Pramono, Indonesian Participatory Mapping Network (JKPP): In Indonesia the mapping authority lies with the Ministry of Forestry; in practice, the approach is very technical and there is little participation by communities. Local people will say, great, we now have a protected forest, but they don't know the legal consequences. In many areas, new boundaries make criminals of local people if they take timber. This is the sort of problem people are experiencing. We need a better way to involve people in mapping. At the moment it is very technical and distant.

Many NGOs are doing mapping with communities. They develop maps that are based on the claims of communities and which use their local knowledge. It is a way of showing outsiders that people occupy the land and that they have used it for generations.

The responses of governments to these maps vary but are generally limited because they have no basis in law. In some districts the maps are being accepted as a basis for negotiation, and they have also been used in negotiations with companies, but they have no legal foundation.

Gamal Pasya, Lampung Provincial Government (Indonesia): In my view, spatial planning is still conventional in Indonesia—it uses land suitability analysis in combination with crop requirements and indicators of agro-climatology and soil quality. To some extent, planners overlay the outputs of those analyses with 'geo-strategic' interests that meet a (possibly hidden) political economic agenda. This method does not consider land tenure as a variable of spatial planning; it tends to view the space as an empty room without human activity. As long as this is the case, problems will always occur on the ground.

Land-tenure indicators should be used in spatial planning, at least at the district level. This is not a big deal; it just needs political will. Village land-use planning is the ideal level at which community groups can engage and participate. To

support this, the government should re-evaluate its Act 26/2007 on spatial planning, which centralizes the hierarchy of spatial plans by stipulating that local-level spatial plans should refer to the upper-level spatial plan (e.g. district should refer to province, and province should refer to national). If we want to incorporate tenurial variables in planning we need to start at the bottom—in villages and customary areas (as stipulated in the former Spatial Planning Act 24/1992).

Mark Bujang, Borneo Resources Institute (BRIMAS): In Sarawak, one of the biggest challenges in proving customary rights is the limited documentation of customary land. There were attempts by previous governments to map customary land areas, but the irony is that with independence the state government stopped demarcating customary areas. Communities also have problems obtaining access to land-use planning maps and aerial photographs because they are in the domain of government and mostly restricted. So we do not have access to the data we need to show that development plans overlap customary land. Communities find it difficult to assert their rights and take legal action when they lack this basic documentation; they have to fall back on oral descriptions of their customary land boundaries.

In 2001 we had a breakthrough when, for the first time, a Malaysian court accepted maps produced by communities as evidence in a claim against a pulp-and-paper company. Since then we have had success in about ten court cases. Even in Peninsular Malaysia and Sabah there have been successes in courts using community mapping.

After the 2001 judgment, however, the Sarawak government enacted a law—the Land Survey Ordinance, 2001—that criminalized people who do community mapping. I have testified in courts several times and usually the government tries to discredit the maps. They say I'm not a surveyor, but so far the judiciary has been accepting our maps.

In the beginning the courts did not understand the concept of customary land tenure. There was a process of trial and error, and an education process for judges on what customary land actually comprises. We needed to explain to judges and other parties that customary land is not only confined to agricultural land, and once we had done that we started to get success. Another thing that helped convince the courts was agreement between an oral history and what was being shown on the map.

Maria Elena Regpala, Indigenous Peoples' International Centre for Policy Research and Education (Tebtebba): You mentioned education, Mark, and I think this is key. It's important that government officials at all levels are educated on customary land use and traditional knowledge. Without an understanding of rights it will be very difficult to recognize them.

Mark Bujang: The need for education extends to people in communities. Many do not know about their rights. Once they understand that they have rights they can move to secure them.

Maria Elena Regpala: Mapping can be a good tool, but it is important that all people in a community participate in the mapping process. If there is limited participation it is difficult to use the resulting maps. Involving all sectors of a community has the added benefit of making people more aware of their ancestral domain and therefore more interested in protecting and developing it.

Albertus Pramono: There are challenges in ensuring participation. Technology tends to distance people from meaningful involvement. We have to find ways to engage them in the process.

Maria Elena Regpala: In Tebtebba's participatory mapping work we do not rely on digitized maps. We build 3D model maps of the community, which are left in the communities so they can improve them over time. Even children learn from the 3D models in the community. Sometimes digitizing these maps is done by technical people, but the 3D model is accessible to everyone.

Joe Bryan, University of Colorado: Awas Tingni, a Mayangna indigenous community in Nicaragua, made a claim against the government for handing out a forest concession in its territory. Maps produced in conjunction with lawyers showed that the territorial land overlapped with two forest concession areas. They took the case to the Inter-American Court on Human Rights, which found that customary use and occupancy established property rights that the state has a duty to recognize. This was a major legal change in Latin America. It took seven more years for the community to get title to their land, and they lost a large part of their claim in the titling process.

One approach to ensure legal acceptance of participatory maps is for the NGO to invite government cartographers to be involved in the process. The government cartography office subsequently produces maps based on community data. This works when there is a good relationship.

It becomes difficult to reject participatory maps once they've been produced. The state may say they are not scientific enough, however. In order to address this criticism, mapmakers have used standardized methods to guarantee the accuracy and quality of data collected. This has made it harder to contest the veracity of indigenous maps on technical grounds. However, such efforts have tended to limit community participation by ceding more of the mapping work to experts, and nor have they guaranteed state recognition of claims. In contrast, experience shows that the more communities are involved in the process, the better prepared they are to deal with what to do once they get the title.

Marcus Colchester: This seems to be a common tension. The more participatory the process the better it involves the community, but the less the map is taken on board by government.

Mark Bujang: It is essential to have total community participation in mapping processes. In some cases the government wants to recognize customary land rights, but community participation is minimal and you end up with maps that the communities don't agree with, and this just adds to the conflict. So participation is important.

Joe Bryan: The quality of participation is the key, because it dictates what kinds of maps will be produced and how they will be used. It is also important to realize that no single mapping process can address all the problems a community faces, so you need to think carefully about why you're producing the map.

Comment from the floor: In India the Supreme Court has been playing a seminal role in giving sanction to customary areas, making it mandatory that they are mapped in planning processes. Consequently, micro planning exercises are being linked to wider-scale working plans, in a sense forcing governments to bring the maps into the public domain. This development has been made possible by a proactive judiciary.

Comment from the floor: I would like to raise the issue of boundaries. Our communities don't want boundaries defined by a line, because it will create conflict.

Albertus Pramono: This is a problem in my mapping too. In a survey you have to make a line, but lines can create another set of issues. Lines increase the sense of identity with an area and therefore the tension that arises when someone infringes those lines. How to deal with boundaries is still a big issue in Indonesia, because the understanding of space is very different in indigenous communities.

Mark Bujang: We have the same problem in Sarawak. When you bring a map to court you need to have a solid line. If you are unsure, the court will say "oh, you don't know where the boundary is". One answer is to show multiple claims to an area. We also use the *adat* system to resolve such issues.

