



INDIGENOUS EFFECTIVE AREA-BASED CONSERVATION MEASURES: CONSERVATION PRACTICES AMONG THE DAYAK KENYAH OF NORTH KALIMANTAN

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ABSTRACT

The Aichi Targets agreed at CBD COP 10 in Nagoya, especially Aichi Target 11, recognised that biodiversity conservation is also occurring outside government protected areas and that Other Effective Area-based Conservation Measures (OECMs) could significantly contribute to achieving effective and equitable conservation by 2020 and beyond. This paper argues that territories and areas conserved by Indigenous peoples and local communities, or 'ICCAs', are good candidates for OECMs when the customary law, traditional knowledge and local institutions are still strong and valued within the communities themselves. One such example of Indigenous conserved areas is *tana' ulen* or 'restricted forested land', a tradition found among the Dayak Kenyah people in the interior of Kalimantan, Indonesia. *Tana' ulen* are areas of primary forest rich in valuable timber and non-timber forest products with high economic value for the communities. They have been strictly managed by limiting access and activities under the rule of the customary councils and the customary chief. The identification of ICCAs like *tana' ulen* as OECM could provide an appropriate form of recognition and incentive for communities to continue to conserve these areas. The recognition, however, also needs to be matched by adequate and appropriate support, and communities' institutions empowered through access to information, partnerships and skills sharing for effective conservation and sustainable use.

Key words: OECM, *Tana' ulen*, Dayak Kenyah Indigenous peoples, appropriate recognition, forest governance

INTRODUCTION

It is now commonly recognised that effective and vital conservation is not only occurring in national parks and other government-managed protected areas. Millions of hectares of forests, wetlands and lakes, and coastland areas are governed by Indigenous peoples and local communities to protect and conserve natural resources and ecosystem functions, maintain the basis of their livelihoods, and ensure food security for present and future generations, as well as forming part of their spiritual values and religious beliefs.

When Parties agreed at the tenth Conference of the Parties to the Convention on Biological Diversity (COP 10) the Aichi Targets for the 2011–2020 decade, 'Other Effective Area-based Conservation Measures (OECMs)' were negotiated into the text of Aichi Target 11 on area-based conservation. This opened the way to the

recognition of 'other' conservation and actors like Indigenous peoples and local communities who hold strong conservation values and practise conservation of biodiversity.

Territories and areas conserved by Indigenous peoples and local communities (abbreviated to 'ICCAs') exemplify locally rooted conservation. In general, ICCAs can be defined as natural or human modified ecosystems which have significant biodiversity value and are voluntarily conserved through traditional laws and other means by Indigenous and local communities which depend on these resources culturally or for a livelihood. In general, ICCAs are for the most part commons or collectively governed lands (Kothari, 2006; Oviedo, 2006).

For Indigenous communities, conservation is neither just an environmental management category nor does it

only have economic value. Conservation is a holistic approach interrelated with sustainable use, and linking social, cultural, ecological and livelihood dimensions critical to the present and future of the community. ICCAs are recognised as a governance type ('Type D' on the IUCN Protected Area Matrix— a classification system for protected areas comprising both management category and governance). ICCAs are also potential candidates for recognition as OECMs as long as the circumstances are appropriate and the communities provide their free, prior and informed consent (FPIC).

Dayak Kenyah Indigenous peoples make their homeland in the upper reaches of some of the major rivers in the interior of Borneo along the border between Sarawak (Malaysia) and Kalimantan (Indonesia). It is in Kalimantan that the largest number of them now live. As forest-dependent communities, conservation and sustainable use of natural resources amount to the same thing for the Kenyah people: to care for the forest as a source of livelihood, food and good health, as well as cultural identity and the belief that forest resources, if well managed and governed, will sustain the community in the future. This approach is most evident in the tradition of '*tana' ulen*'. *Tana' ulen*, is *tana*, or land/forest, where use of resources is *m/ulen* or restricted (Eghenter 2003).

The tradition is still strong in the communities of the interior. For example, every Dayak Kenyah community in the District of Malinau, North Kalimantan, Indonesia, has at least one designated *tana' ulen* area. This results at the level of territory in a *tana' ulen* system of local conserved areas under Indigenous governance. They exemplify the conservation ethic of the Kenyah people and are an effective, area-based measure for the conservation of important biodiversity, and therefore are strong candidates to be OECMs (subject to FPIC).

POLICY AND SOCIAL CONTEXT OF INDIGENOUS CONSERVATION

Indigenous and community lands are estimated to cover 25 to 50 per cent of landscapes¹ or hold as much as 65 percent of the world's land area through customary, community-based tenure systems (RRI 2015). Indigenous Peoples and local communities manage at least 24 percent of the total carbon in the world's tropical forests (Rights and Resources et al 2016). We speak of ICCAs and Indigenous conservation when conservation results are the demonstrated effect of a governance system closely and uniquely embedded and influenced by strong cultural, spiritual and social

connections between people and nature, and these conservation practices exist within and outside designated and official protected areas. ICCAs are one of the IUCN protected and conserved areas governance types. Several motions at the IUCN WCC in 2016 addressed the recognition of ICCAs overlapping with government protected areas and the protection of ICCAs from destructive development.

Following the first reference to OECMs in 2010, the CBD COP requested the Executive Secretary to develop voluntary guidance on OECMs to provide scientific and technical advice on the definition, management approaches and identification of other effective area-based conservation measures and their role in achieving Aichi Biodiversity Target 11. The current definition of an OECM, as developed by the IUCN World Commission on Protected Areas, is: "A geographically defined space, not recognised as a protected area, which is governed and managed over the long-term in ways that deliver the effective in-situ conservation of biodiversity, with associated ecosystem services and cultural and spiritual values". The definition was largely retained at the recently held CBD Technical Expert Workshop (Feb 2018): "A geographically defined space, not recognized or reported as a protected area, which is governed and managed in ways that achieve the sustained and effective in situ conservation of biodiversity, with associated ecosystem services and cultural and spiritual values." Notably, this will likely further evolve after additional inputs by CBD Parties.

The draft definition seems to reinforce a fundamental shift in the understanding of conservation not so much based on intention for conservation, that is, whether conservation is the primary or secondary or ancillary objective of conservation actors, but instead result-based, i.e., the lasting biodiversity conservation results. These are made possible by strong conservation values and knowledge, and governance institutions, mechanisms and processes that effectively regulate the sustainable and equitable use of biodiversity. Governance becomes the key dimension in securing lasting conservation results. The latter also depend on the capacity of the conservation actors to exercise authority and responsibilities over conservation, and equitably share its benefits.

ICCAs and traditional conservation initiatives are dependent on the vigour of traditional knowledge and values, and the strength of the enforcement of customary law by the communities themselves. This is evidence of how social capital and natural capital are not only very high but also historically and effectively

interlinked. Indigenous peoples' and local communities' institutions thus need to be sustained and empowered through recognition, access to information, capacity building and skills sharing for effective leadership in long-term conservation and sustainable use.

'CONSERVATION' THE DAYAK KENYAH WAY

A *tana' ulen* is a forest area rich in natural resources and ecosystem services of high economic and cultural value for the local community, such as rattan (*Calamus spp.*), sang leaves (*Licuala sp.*) used for sunhats, and quality hardwood for construction (e.g., *Dipterocarpus spp.*, *Shorea spp.*, *Quercus sp.*). Access is restricted, and the type and quantity of products that can be harvested are also controlled. The size of a *tana' ulen* area varies from 3,000 hectares to over 12,000 hectares. *Tana' ulen* are an integral part of the whole Kenyah Indigenous territory and can be considered to represent the 'zone with highest protection level' of their territory.

In the past, *tana' ulen* functioned mostly as forest reserves managed by the aristocratic families on behalf of the entire community. The forest was considered a public good for which the aristocratic leaders were

entrusted to govern and administer the strict limitations to the area. Religious beliefs required the organisation of celebrations throughout the year to mark the agricultural cycle and other social occasions like the safe return of war parties and traders. The customary chief acted as prime host. He gave hospitality to travellers and delegations from other communities that visited the area. He also had to prepare the meals for the people of the community working in his fields. All these responsibilities implied that he and his family needed to ensure there was enough food, especially fish and game, for the guests. In addition to food, construction timber for multi-family longhouses was also an important resource found in the *tana' ulen*. As a norm, in every village, the chief designated a *tana' ulen* area. This also includes the times when the community moved or migrated to another area. Criteria for choosing a *tana' ulen* location were based on the following characteristics of the area: a good hunting ground; a stream or tributary good for fishing; valuable hardwood (for construction); rich in non-timber forest products (NTFP) with high economic value for local people. The boundary of a *tana' ulen* was the natural boundary of the watershed area that stretches to the estuary of the



View of the primary forest in the Tana' Ulen of Sungai Nggeng, Long Alango, Hulu Bahau, Malinau © Andris Salo

conserved stream or tributary. In general, *tana' ulen* areas are strategically located near the village so that their management and control are carried out effectively.

Nowadays, responsibilities for the management of the forest reserves have been transferred to the customary councils that together with the community manage *tana' ulen* forests according to customary law and traditional knowledge. Over ten *tana' ulen* have been documented, mapped and registered in the Bahau Hulu and Pujungan customary lands in North Kalimantan, under a strong Indigenous governance system. Some are now included in the Kayan Mentarang National Park, but others de facto represent examples of ICCAs that extend conservation of important biodiversity beyond the state protected area and contribute to national targets. Subject to local assessments, such areas are strong candidates as potential OECMs.

Beside the cultural and livelihood values, *tana' ulen* areas also effectively (size and limited use) conserve important biodiversity and ecosystem services. The forest of *tana' ulen* has never been cut down hence it is old-growth and primary forest. Moreover, access and use are limited to protect the resources for long-term utilisation. Special and strict customary regulations apply. For example, contrary to other forest areas in the village territory, the forest of *tana' ulen* may not be cleared to open rice fields. Collection of specific NTFP like rattan, *gaharu* (Agarwood) and resins is regulated

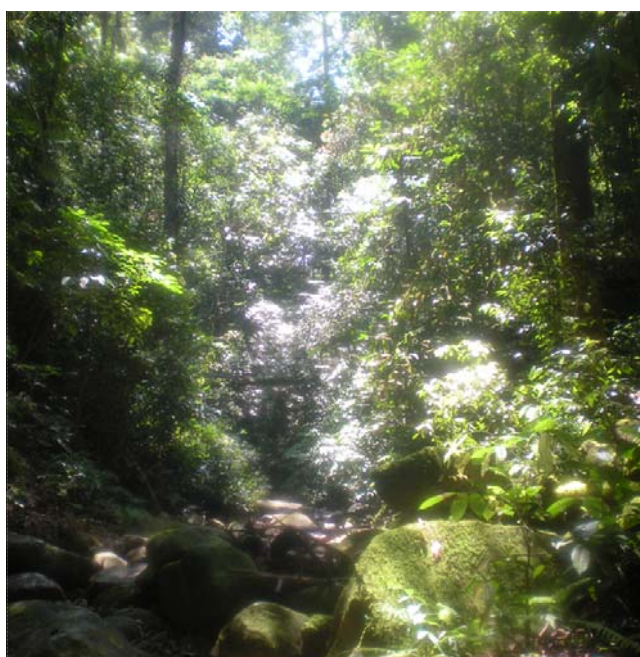
and restricted in terms of times of collection (only every 2–3 years, for example), tools and methods employed (no chemical poison may be used to catch fish in the streams, for example), and quantity and kind of products hunted (no wild cattle may be hunted and only five wild pigs may be killed on one hunting expedition, an example from the village of Apau Ping). Collection of certain forest resources is undertaken on a collective basis. Violations are prosecuted and fined according to forms of payments agreed by the customary council, either money or heirloom items like machetes (*parang*) or gongs. Fines are specific to the kind and gravity of violations.

The conservation practice of *tana' ulen* aims to secure sustainable and inter-generational use of natural resources by means of restriction, limitation and strict enforcement. Conservation is really part of the community livelihood strategy and integrated in the socio-cultural and ecological context of the community. Very importantly, the *tana' ulen* management is part of the larger land use plan of the territory.

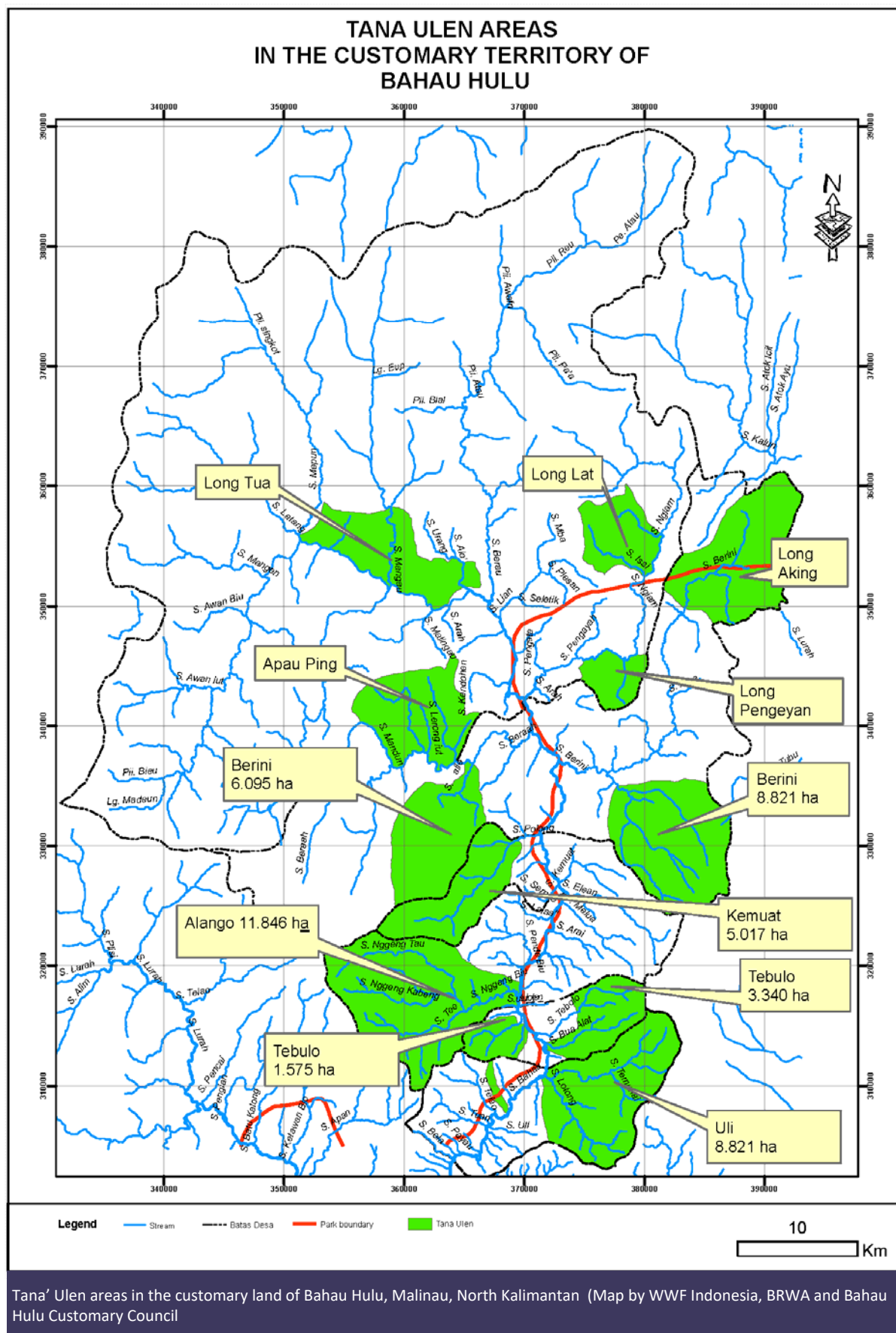
Governance matters

According to Kenyah traditions, it was the customary chief who decided when, and for how long, to 'open' the *tana' ulen* area to activities of the community like hunting, fishing or harvesting of NTFP such as rattan. The proceeds from the activities would be divided among all or would be used to hold large communal ceremonies or special community projects. Traditionally, there were also special allocations for the poorest and most vulnerable individuals of the community like widows and orphans.

More recently, the governance model has undergone a profound adaptation due to the process of democratisation of local leadership and widespread education and schooling. While the basic regulations for the use of products and the protection of the *tana' ulen* have not changed, the decision making and accountability for the management of the conserved forest have been transferred to the customary council. Nowadays, the council together with the community govern the *tana' ulen* areas and ensure that traditional values and knowledge are maintained. The change should not be seen as a sign of weakening governance. On the contrary, the transformation is an indication of the resilience and strength of the *tana' ulen* model that can adapt to changing circumstances and continue to secure conservation and sustainable use of the area. In all the six villages of the Indigenous territory of Bahau Hulu, *tana' ulen* areas are now under the responsibility of the customary councils, with the authority often



Tana' ulen forest of Long Uli © Yutaang Bawan



vested jointly in the customary chief and the head of the village. Only in the village of Long Alango, the customary authorities have decided to establish an additional management committee (*Badan Pengurus Tana' Ulen* or BPTU) in order to strengthen the protection of the *tana' ulen* and help the customary council in its responsibilities. The decision was also based on the need to secure the community voice in the management of the Kayan Mentarang National Park where their *tana' ulen* is located.

As set out above, customary laws are the basis of *tana' ulen* management and regulate the use of resources inside the forest area. They are based on principles of conservation and sustainable use. Regulations exist at village level and at Indigenous territory or *wilayah adat* level. They are not fixed norms handed down unchanged from one generation to the next. At annual meetings, which usually coincide with the harvest festival, members of the customary councils meet to discuss and update regulations, and deliberate on social matters and natural resource management. Modifications in the regulations is a form of 'historicity' of the Indigenous conservation model. They are often necessary because of changing circumstances, the negative effects of intensified harvesting pressure by outsiders, and/or other changes in the natural environment and economic conditions.

Tana' ulen areas still exhibit intact forest and high levels of biodiversity². There is strong compliance with the regulations by local people. While there is no formal monitoring system or tool used for measuring effectiveness, local people going to the forest can report changes in the availability of key species. They also monitor the presence of outsiders that might enter the area to look for *gaharu*. *Tana' ulen* is still a strong tradition among Dayak Kenyah communities, and forest values retain a central place in these communities. This provides an additional assurance that the traditional practice of conservation and governance model of *tana' ulen* will not easily disappear if the right support and appropriate recognition are provided.

Appropriate recognition matters

Tana' ulen are examples of effective Indigenous conservation that are not yet formally recognised in Indonesia. It is a kind of conservation governance that was created, developed and shaped by Indigenous people over time, based on traditional knowledge of the ecology of the local forest, hence effective. While each *tana' ulen* will have specific social-ecological characteristics, they show potential for being recognised



as OECMs or as a protected area under the governance of an Indigenous people.

Even more significantly, *tana' ulen* are examples of areas that are integrated in the broader landscape (Aichi Target 11: “.... integrated into the wider landscapes and seascapes”) as they are managed as part of the traditional territory zonation system. Looking into the future of *tana' ulen*, this element is critically important. It encourages us to take a landscape approach and recognise that the cultural and natural values of landscapes and customary territories are inextricably linked, and that local and Indigenous communities are central to effectively and equitably sustaining them.

From a local and traditional perspective, *tana' ulen* are recognised and effectively supported by regulations and the management decisions of customary councils. They represent models of more holistic conservation that integrates various aspects: livelihoods, food and water security, conservation and environmental security, and cultural identity. The social and cultural aspects that underpin the management system and governance model, and the ecological knowledge are still widespread in the communities. Moreover, since a few years ago, villages have started drafting and endorsing more formal village regulations with the purpose of providing additional legal protection, although only at local level, and strengthening protection of *tana' ulen*

areas. This signals the strong commitment of the community to stand by the tradition of *tana' ulen*. The communities have also mapped the entire territory and the *tana' ulen* within it. These are additional steps taken in the face of new threats to the security of the community territory in the form of road construction and oil palm plantations, but also the uncertain and weak implementation of collaborative management in the Kayan Mentarang National Park.

In their paper, Jonas et al. (2017, p. 64) explore the question of “under what conditions recognition as OECMs might make a positive contribution to territories and areas conserved by Indigenous Peoples and local communities (ICCAs)”. Drawing on this approach, it is useful to ask whether the recognition of a *tana' ulen* as an OECM would make a difference in terms of ensuring the sustainability of the traditional governance model and the conservation of important biodiversity?

Increasingly, ICCAs are under threat, predominantly from external factors, but also from internal ones. In the case of *tana' ulen* areas in the interior of Kalimantan, the threats have been from the increasing number of outside commercial collectors coming to the forests of the interior in search of *gaharu* and entering conserved areas illegally, that is without the approval and knowledge of customary authorities. Expanding mining and forest conversion for oil palm plantations have resulted in higher competition over resources that threaten traditional management practices by Indigenous and local communities. Development plans aiming at improving infrastructure and access for the communities of the interior can also threaten *tana' ulen* areas when planning is not undertaken together with the communities and the latter are not meaningfully consulted on the trajectory of the planned road, often cutting across the most valued forest of the communities including *tana' ulen* areas.

During repeated documentation sessions, several of the guardians of *tana' ulen* expressed their concerns and identified formal ‘recognition’ as a way to promote security and long-term protection for the areas. The same concern became a key recommendation at the *Tana' Ulen* Congress held in Tanjung Selor (North Kalimantan) in 2015. Some of the customary leaders of the lowlands where exploitation and land grabbing has been highest conveyed the urgency of legal recognition to secure their land and threatened *tana' ulen* areas. Besides provincial and district regulations, being recognised and reported as an OECM might provide a means to support long-term security for ICCAs that

Indigenous and local communities are protecting against unwanted destructive development.

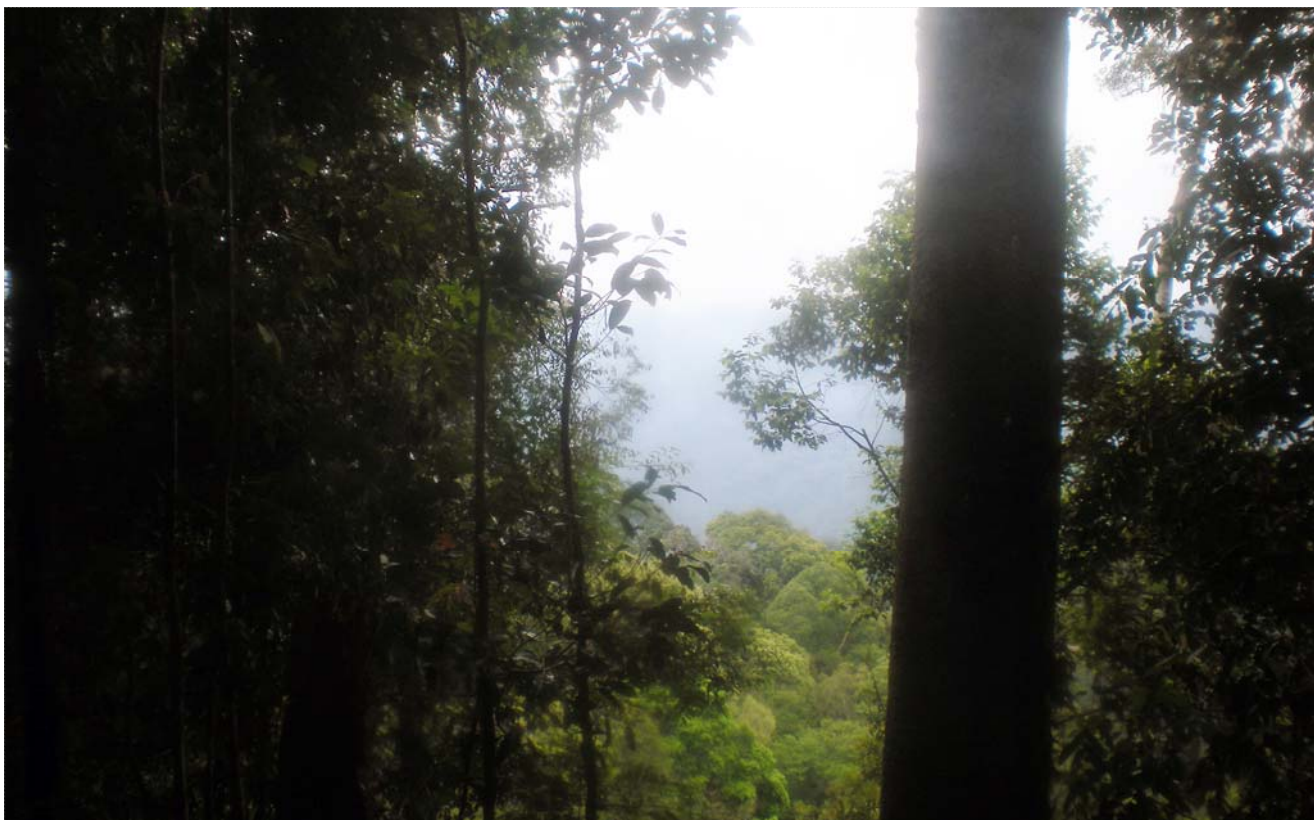
From a rights perspective, the recognition of specific *tana' ulen* as OECMs would be the realisation of the economic, environmental, social and cultural rights of the Dayak Kenyah communities. Their recognition can balance the need for protecting critical forest areas and biodiversity while securing the rights of local and Indigenous peoples (cf. Colchester 2007). The recognition of the right of a group to devise their own institutions and participate in the management of resources would increase the legitimacy of rules devised and agreed upon by all stakeholders and rights holders, and strengthen compliance (Ostrom, 1999, 2008).

The dilemma of conservation versus development is never far away from the conditions of customary communities, especially when threats in the form of mining, exploitation and conversion happen around and inside their areas and territories. Communities aspire to economic development but also have the right to choose which development path to follow, including the choice for sustainability through community initiatives that add conservation and social value to forest commodities and natural resources to increase benefits for those communities.

Two factors become essential in making sure that the recognition is appropriate and results in effective and equitable security of the Indigenous conserved areas like *tana' ulen*: one is the internal solidity and strength of the community conservation governance, and the other is the support and reward that recognition as an OECM could provide.



Kenyah women during a ritual celebration in Long Berini
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A view from the mountain ridge of the *tana' ulen* of Long Uli © Yutaang Bawan

Presently, *tana' ulen* areas and their communities greatly vary in terms of their resilience and internal cohesion. Their strength as traditional conservation initiatives depends as much on the existence of international and national legal instruments as much as on the strength and vitality of the customary institutions and governance mechanisms, the vigour of regulations and values of the communities themselves, and the solidity of the connection between the communities and their *tana' ulen*. In their own words, much depends on “how strong and committed we are”. Local institutions need to be sustained and strengthened, and empowered through information, innovation, capacity building and skills sharing, to ensure that local champions of conservation are empowered and effective conservation practices are sustained. As the Kenyah people say, the security and sustainability of the community depends on the respect for their forest values among the present and future generations: “There is no Dayak community without forest.”

If *tana' ulen* areas and similar Indigenous OECMs are recognised and counted as a national contribution to Aichi Target 11, they need support in return. When assertions of exclusionary rights are complete and there

is tenure certainty, the traditional governance system based on common property and communal control remains strong under pressure from rising resource values. Indigenous conserved areas “should be offered stronger security and protection from many of the overpowering phenomena (mining, oil and gas concessions; large infrastructures; palm oil, sugarcane, eucalyptus and other biodiversity-desert monocultures; intensive grazing; industrial pollution...” (Borrini-Feyerabend, 2016). An effort to provide recognition and support to Indigenous OECMs would establish conditions similar to the formal protected area system whereby biodiversity conservation is recognised as a public good and enabled by financial and technical support. It would amount to a more meaningful and equitable ‘counting’ of biodiversity contributions towards Aichi Target 11.

Recently, there has been a mounting policy momentum in Indonesia that could open the way to a more inclusive conservation approach and help ensure that all key actors who share similar conservation values and conservation practices are recognised and meaningfully engaged. As part of the agrarian reform agenda, the government is also committed to promoting the recognition of forest areas by Indigenous peoples (*hutan adat*), following the Constitutional Court decision in

2012 that customary forest is not state forest and constitutes a separate category of forest rights. In this context, the recognition of *tana' ulen* areas and similar traditional conservation governance practices as OECMs can contribute to improving long-term biodiversity and sustainability for all. Recognising and engaging the guardians of *tana' ulen* and other conservation actors and practices may be the only way to achieve Aichi Target 11 and to improve the management of protected areas to be effective and equitable.

CONCLUSIONS

If communities support the idea of recognition of *tana' ulen* as OECMs, most likely they expect to obtain security and the right support for their local practices and institutions in return. As stated by Jonas et al. (2017), "recognition by government and the incorporation of ICCAs in existing legislative frameworks and schemes is not a panacea, and due attention should be paid to ensuring that the communities retain control over their institutions and processes, and are informed and involved in planning and decision-making". Guaranteeing respect and recognition of rights is a necessary precondition, but other human and social dimensions like communication, dialogue and relationships also need to be considered and transformed. These dimensions might not be regulated in policies but can be strengthened by mutually agreed-upon rules of engagement based on respect for local culture, understanding of the history and socio-economic conditions, and nurtured by respect and trust. Building mutual accountability and equitable partnerships between the guardians of *tana' ulen* and the state managers of protected areas is essential to ensure appropriate and equitable recognition of *tana' ulen* and other Indigenous conservation practices as OECMs.

ENDNOTES

¹ Statement by the ICCA Consortium to the 17th Session of the UN Permanent Forum on Indigenous Issues, United Nations Headquarters, 19 April 2018

2 Kayan Mentarang National Park. In the Heart of Borneo (2006) WWF Indonesia and Danida. Monitoring reports and data collection conducted at Lalut Birai Tropical Forest Research Station, Long Alango, Hulu Bahau, North Kalimantan, 1992–2010.

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PEOPLES' AND LOCAL COMMUNITIES' CONTRIBUTIONS TO
CLIMATE CHANGE MITIGATION

RESUMEN

Las Metas de Aichi acordadas en la COP 10 del CDB en Nagoya, especialmente la Meta 11 de Aichi, reconocieron que la conservación de la biodiversidad también está ocurriendo fuera de las áreas protegidas establecidas por el gobierno y que otras medidas de conservación eficaces basadas en áreas (OECM, por sus siglas en inglés) podrían contribuir significativamente al logro de una conservación eficaz y equitativa para 2020 y más allá. El presente artículo sostiene que los territorios y áreas conservadas por pueblos indígenas y comunidades locales, o "ICCA", son buenos candidatos para OECM cuando el derecho consuetudinario, el conocimiento tradicional y las instituciones locales aún son fuertes y valorados dentro de las propias comunidades. Uno de esos ejemplos de áreas indígenas conservadas son las *tana' ulen* o "zonas boscosas restringidas", una tradición vigente entre los pueblos dayak Kenyah en el interior de Kalimantan, Indonesia. Las *tana 'ulen* son áreas de bosques primarios ricos en maderas valiosas y productos forestales no maderables con alto valor económico para las comunidades. Se han gestionado de forma estricta limitando el acceso y las actividades bajo el control de los consejos consuetudinarios y los jefes de aldea. La identificación de ICCA como *tana 'ulen* dentro de OECM podría proveer una forma apropiada de reconocimiento e incentivo para que las comunidades continúen conservando estas áreas. El reconocimiento, sin embargo, también debe ir acompañado de un apoyo adecuado, y las instituciones de las comunidades deben ser empoderadas a través del acceso a la información, las alianzas y el intercambio de conocimientos para la conservación y el uso sostenible.

RÉSUMÉ

Les objectifs d'Aichi issus de la COP 10 de la CDB à Nagoya, et notamment l'objectif 11, reconnaissent que la conservation de la biodiversité peut se réaliser ailleurs que dans les aires protégées gouvernementales, et que d'autres mesures de conservation efficaces par zone (OECM) ont la capacité de contribuer de manière significative à une conservation efficace et équitable d'ici 2020 et au-delà. Cet article fait valoir que les territoires et les aires conservées par les peuples autochtones et les communautés locales, ou «APAC», sont de bons candidats pour devenir des OECM tant que leurs connaissances traditionnelles et leurs institutions communautaires demeurent solides et valorisées. On peut citer comme exemple d'une aire conservée indigène le *tana 'ulen* ou «forêt réservée», une tradition trouvée chez les Dayak Kenyah à l'intérieur de Kalimantan, en Indonésie. Les *tana 'ulen* sont des zones de forêt primaire riches en bois précieux et en produits forestiers non ligneux à haute valeur économique pour les communautés. Ils sont gérés de manière stricte sous l'ordre des conseils coutumiers et du chef coutumier, qui limitent l'accès et les activités. Le fait d'accorder aux APACs tels les *tana 'ulen* un statut d'OECM serait un moyen de reconnaître ces communautés et de les inciter à continuer à conserver ces zones. Cette reconnaissance, cependant, devrait s'accompagner d'un soutien adéquat et approprié, afin de rendre plus autonomes les institutions communautaires quant à leur accès à l'information, aux partenariats et au partage de compétences pour une conservation efficace et durable.