

**ADVOCATING FOR  
COMMUNITY-BASED FOREST MANAGEMNT  
IN INDONESIA'S OUTER ISLANDS:  
POLITICAL AND LEGAL CONSTRAINTS AND OPPORTUNITIES**

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**I. INTRODUCTION, DEFORESTATION AND DEHUMANIZATION IN INDONESIA**

Ten percent of the world's remaining tropical forest resources are in Indonesia, a figure second only to Brazil. Indonesia's forests are rich in biological resources (10% of the world's remaining flowering plants species, 12 % of mammal species, 16% of reptile species, and 17% of bird species). These forests are also home to tens of millions of Indonesian citizens. Many, if not most of these citizens are indigenous people with culturally rich and diverse customs and traditions. There are approximately 250 local languages and ethnic groups who live within in or adjacent to Indonesia's forest areas (Barber, Ariff and Purnomo, 1995 in Munggoro 1998). There is much uncertainty over the rate of deforestation in Indonesia. Estimates range between 700,000 and 1.2 million ha per year (Pramono 1991 in Moniaga, 1993). Regardless of the exact rate, the country is confronted with a serious deforestation problem that is attracting growing world attention.

The problem, however, is not new. Nor is it an isolated phenomenon. Rapid and growing deforestation rates in Indonesia are all too often directly linked to violations of indigenous and other local people's rights. This linkage has been regular occurrences in Indonesia, especially during the last three decades. As a result, Indonesia's deforestation problem is intertwined with and inseparable from the problems being faced by indigenous and other local people.

Forest ecosystems provide homes and sources of livelihood for a majority of the indigenous peoples of Indonesia. At the same time, indigenous peoples make significant contributions to the conservation and sustainable management of forest ecosystems, as well as to national well-being, cultural identify and sustainable development. (see e.g. Dove 1983., Padoch, 1994, Peluso, Curran, etc.)

Pursuant to legal authority based on the Basic Forestry Law (BFL) No. 5 of 1967, the Government of Indonesia considers indigenous territories to be state forest lands. As such, the legal rights of indigenous peoples to natural resources are legally clouded and their incentives for conservation and sustainable management are undermined (Moniaga 1993, etc.). The designation of indigenous territories as state forest lands has also resulted in conflicts between indigenous peoples and the government. Forest management in Indonesia is still dominated by large-scale exploitation activities undertaken by commercial forest

concessionaires. Many indigenous territories have been leased to companies for production activities without their prior knowledge or consent. Other territories have been annexed to conservation areas designated by the state, also without any prior local knowledge or consent. (ELSAM, 1997)

## II. INDIGENOUS RESOURCE MANAGEMENT AND TENURIAL SYSTEM

Indigenous communities have been practicing sustainable community-based ecosystem management for centuries. These systems incorporate local knowledge and beliefs that are based on the wisdom and experience of past generations. They also contribute to the economic well being of local communities, as well to the well being of the Indonesian nation. By growing paddy rice on their farms, sago palm in the *dusun sago*, as well as an array of other edible crops such as sweet potatoes, indigenous people are contributing to national efforts to achieve food security and self-sufficiency. Without support from any government-sponsored agricultural extension services, they have been cultivating rattan, rubber, and *tengkawang*, raising honeybees, and collecting swallow nests. Most indigenous communities have also been managing the resources communally, a fact that does not imply the absence of individual customary rights (Moniaga, 1993; Lynch and Talbott 1995). These communities rely on indigenous system of natural resource management, which include *adat* or customary laws for allocating, regulating, and enforcing property rights.

Indigenous ecosystem management systems are based on community knowledge about appropriate and productive land and natural resource use. Most indigenous communities have developed specific terms for different uses of land and other natural resources, including terms for different types of vegetation and tenurial arrangements. For example, in central Sulawesi an indigenous community called the Kaili have developed zoning and land use systems within their *adat* system. There are designated areas known as *tana polidaa* for rice fields and *tana pobondea* for orchards. *Tana popamba* refers to home gardens and herbs, *popa tana* to burial places, *suakan ntotua* to forests, *pancoakan rodea* to extractive forests, *viyata nubulu* to sacred areas, *suaka viyata* to sacred forests, etc.

Indigenous ecosystem management systems vary, and each community is different. Although well known within a community, there is little written documentation about indigenous natural resource systems, as well as traditional land tenure rights and practices. A collaborative customary land tenure study coordinated by the Agrarian Reform Consortium were conducted in 1997 with some indigenous communities in Bali, Lombok, West Papua, Central Sulawesi, East Kalimantan and North Sumatra. One of its major conclusions is the need to recognize and respect the pluralistic nature of Indonesia's indigenous natural resource systems and tenures. This will require Indonesia to develop pluralistic agrarian and forestry legal systems, instead of uniform ones.

The problems, rights and potentials of Indonesia's indigenous people, however, have yet to be officially acknowledged or addressed by the government.

At the same time, Indonesia's indigenous and other local people continue to play an important role in the conservation and sustainable management of the nation's forests. As Indonesia reels under a still deepening economic and political crisis, including spreading food scarcity, many indigenous peoples and communities are faring relatively better than other rural Indonesians. The Baduy community in West Java, for example, still has ample food stocks and reserves. Their rice barns are full. That this oasis of food abundance exists amidst spreading food scarcity is largely due to the Baduy's local knowledge and ecosystem management. They have been consistent in following the philosophy of their ancestors such as "lojor teu meunang dipotong, pondok teu meunang disambung." This can be translated as meaning: "things which are too long should not be cut off, and things which are too short should not be added to" (Halim, 1998).

Besides supporting local communities during the national economic and political crises, indigenous systems of eco-management have helped prevent recent forest fires from spreading in Sumatra, Kalimantan and Irian Jaya. They contribute to and help maintain soil moisture and local humidity, which in turn prevented some fires from spreading and entering indigenous territories.

### III. DOMINANT FOREST MANAGEMENT PARADIGM

Prior to the mid 1960s, the Indonesian forestry sector emphasized the extraction of teak from government plantations in Java. At the beginning of President Suharto's administration (commonly known as "the New Order") in 1966, forestry institutions were completely reorganized, and the Basic Forestry Law (BFL) No. 5/1967 was promulgated. It was, and continues to be, based on Article 33 (3) of the Indonesian Constitution of 1945, which empowers the national government to control, manage and administer all designated state forest lands.

The New Order administration early on identified dypterocarp trees families in the Outer Islands of Indonesia as a potential source of economic income for national development (Munggoro, 1998). The Government of Indonesia claims ownership of 113 million hectares of the Outer Islands, or nearly 90% of their total land mass, as designated state forestlands. The BFL provides the Minister of Forestry with primary legal jurisdiction, i.e. management authority, over these areas. Pursuant to this authority, many forest-based industries -- especially logging companies -- were granted hak pengusahaan hutan (HPH) or logging concessions on the Outer Islands (Moniaga, 1993). The Government of Indonesia then promulgated a series of regulations which enabled investors to exploit forest resources within HPHs in an unsustainable manner and without any heed to the lessons and insights of tropical-rainforest-management science. The ensuing extractive and rapid exploitation profited people living far from the forests and created massive socio-ecological problems all over the country (Munggoro, 1998).

The BFL also gives the Minister of Forestry authority to sub-classify designated forestlands under its legal control. Approximately 70% of the designated forestland may be allocated for exploitation purposes; the remaining 30% to be conserved.

There are four major sub-categories: (1) protected forests, (2) production forests, (3) nature conservation forests, and (4) conversion forests.

In 1970 the government began to develop a master plan for forest land use which it called the Consensus Forest Land Use Plan (Tata Guna Hutan Kesepakatan - TGHK). After the Spatial Law was promulgated in 1992 the central government required each provincial government, in cooperation with sectoral technical departments to prepare Provincial Spatial Plans (Rencana Tata Ruang Daerah) based on Kecamatan (sub-district) and Kabupaten (district) plans. The Provincial Spatial Plans are supposed to be more holistic and democratic. Once prepared, the provincial plans are also supposed to invalidate any overlapping TGHK. But in reality, the Department of Forestry still asserts management authority over forestlands covered by TGHK.

A majority of forestlands has been allocated for commercial logging (HPH) and industrial timber plantations (HPHTI-Hak Pengusahaan Hutan Tanaman Industri) for pulp, paper or other purposes. By 1991, a total of 57.9 million ha of forest land had been allocated to HPHs. A recent administrative decision meanwhile, expanded the Department of Forestry and converted it into the Department of Forestry and Plantation Development. This is likely to lead to an accelerated conversion of classified "converted lands" into large scale, commercial plantations.

#### **IV. SOCIAL FORESTRY POLICIES IN INDONESIA**

As mentioned earlier, most indigenous peoples and many other local, rural communities in Indonesia are directly dependent on forest resources for subsistence, for economic well being, and for other sources of livelihood and cultural identity. Existing national laws and regulation, however, do not promote their well being and interests. Nor do they provide sufficient legal space for local communities to promote their own interests. Aware of a growing number of conflicts, feeling pressured at local, national and international levels, and learning from trends in neighboring countries and globally, the Indonesian Government has begun, albeit in only a small way, to develop some regulations and programs which are more people-oriented.

The Department of Forestry and Plantation (DFP) has recognized the need to promote more community participation, especially in response to its failure to promote sustainable forest management. In formulating its programs, however, the DFP clearly differentiates between activities within designated forestlands and those that are outside. The application of many regulations is dependent on how a particular forest area is sub-classified, e.g., for protection, production etc. These policies have been developed with the assumption that the forest land designation and sub-classification has been finalized and will not change (Sirait and Fay, 1998).

Various so-called social forestry policies and programs have also been promulgated during the 1990s (Sirait and Fay, 1998). Some demonstrate a

transformation of official thinking, especially in regards to conservation, a concept that was traditionally limited only to forest resources. These days, the official definition of conservation has broadened and now includes economic, ecological and social aspects. Unfortunately, the transformation is still largely rhetorical.

Ongoing research at the International Center for Research on Agro-Forestry (ICRAF), has shown that government policies and programs related to social forestry can be classified into three regulatory groups (Sirait and Fay, 1998). These groups are based on regulations promulgated by the Directorate Generals of the Department of Forestry and Plantations. They are:

1. Directorate General for Land Rehabilitation and Reforestation;
  - 1). Hutan Rakyat - HR (Peoples' Private Forest)
  - 2). Hutan Kemasyarakatan - HKM (Community Forestry)
  - 3). Kawasan dengan Tujuan Istimewa - KdTI (Area with Distinct Purposes)
  - 4). Aneka Usaha Kehutanan - AUK (Diversified Forest Product)
2. Directorate General for Forest Production;
  - 1). Pembinaan Masyarakat Desa Hutan - PMDH (Community Development by Logging Concessionaires)
  - 2). Pengelolaan Hutan Alam oleh Masyarakat Tradisional - PHPMT (Natural Forest Management by Traditional Communities - or - Community Logging)
3. Directorate General for Forest Protection and Nature Conservation
  - 1). Kawasan Pemanfaatan Tradisional - KPT (Traditional Zone Management)
  - 2). Kawasan Penyangga - KP (Buffer Zone Management)

Brief descriptions comparing the different regulations and programs can be found in Annex-1. Social Forestry Policies and Program in the Outer Islands of Indonesia

In addition to these still evolving policies and programs, some foreign governments and institutions, in collaboration with the DFP, have established pilot projects such as the Social Forestry Development Program (SFDP) of GTZ in Sanggau, West Kalimantan, the Kesatuan Pemangkuan Pengusahaan Hutan - KPHP (Forest Production Management Unit) of the ODA of the British Government, and the Community Logging project of Harvard University in Gunung Palung, West Kalimantan.

None of the above mentioned policies or projects clearly define property rights issues concerning land, trees and other forest resources. The State's legal superiority is largely maintained, especially in identifying indigenous communities that may participate in the Kawasan dengan Tujuan Istimewa (Area with Distinct Purposes) -KdTI Program and in granting rights to these communities. None of the existing policies provide for the recognition of the customary, community-based rights of indigenous communities over land, forests and other natural resources. Except for KdTI, which explicitly mentions that it is

aimed at promoting further conservation of the repong damar system, all of the policies and regulations are biased towards mainstream conventional forest management. This bias is also reflected by the limited application of each policy to a particular forestland classification, such as PHPMT for the production forestlands, HR on the private lands and HKM on the critical lands. Indigenous community resource management systems, by contrast, are not classified simply on the basis of how the government classifies forestlands. This creates a serious constraint for promoting genuine community-based ecosystem management.

## **V. POLITICO-LEGAL CONSTRAINTS IN PROMOTING COMMUNITY-BASED SUSTAINABLE ECOSYSTEM MANAGEMENT**

In the spirit of 'reformation' an ad hoc coalition of students and NGOs named Koalisi untuk Demokratisasi Sumber Daya Alam - KUDETA (Coalition for the Democratization of Natural Resources) was formed in June, 1998. KUDETA was quickly able to identify major constraints that preclude the effective promotion of a just and democratic, community-based system for managing Indonesia's forests and other natural resources. These constraints include:

- the politico-legal concept of the Hak Menguasai Negara - HMN - or state control/eminent domain is the root cause of the de-legitimization of indigenous and other local, community-based rights over the natural resources;
- domination of conventional natural resources management regimes (sectoral approaches, exploitation orientation, etc.) has been systematically destroying indigenous knowledge and sustainable ecosystem management regimes;
- unequal legal access to natural resources at all levels;
- domination of a philosophy of developmentalism which is primarily based on economic growth and political stability;
- centralization of the decision making processes;
- lack of substantive democracy, and;
- anthropocentric approaches to natural resource management.

The concept of State Control Rights (Hak Menguasai Negara - HMN) has an especially powerful influence on agrarian and forestry policies in Indonesia. In reality, HMN vests the state with superior management rights over land, forests and other natural resources (Fauzi and Bachriadi, -). HMN is based on Article 33, Subsection (3) of the Indonesian Constitution of 1945, which provides that "Land, water and their natural riches are controlled by the State and are to be utilized for the maximum prosperity of the people." HMN was formally articulated for the first time in national legislation in Article 2 of the Basic Agrarian Law (BAL) No. 5/1960. It was interpreted to provide the central government with virtually exclusive authority to: (a) regulate and administer the allocation, use, supply, and conservation of land, water and air space; (b) determine and regulate the legal relationship between people and land, water and air space; (c) determine and

regulate the legal relationship between people and legal activities concerning land, water and air space.

As is proper for a newly de-colonized nation, the founders of the Indonesian Republic were eager to reform the colonial stelsel, including the land law. The enthusiasm for developing a new state was driven by the dynamics of different ideologies and socio-political power, which fueled the anti-colonialism movement. In the romantic environment surrounding the new state, the early leaders of the Republic were personified as an incarnation of the power of the people. The formulators of the BAL may never have imagined that the state would become an autonomous structure and/or a tool for the interest of investors, or that it would release itself from its ethical obligations, but this occurred all too often in the ensuing decades. Romanticism about the role of the state likely contributed to the formulation of the concept of HMN as the highest territorial rights over the land. Many legal scholars and practitioners still accept this romanticism, making parallels in understanding HMN and territorial rights among the indigenous communities, as conceived by Van Vollenhoven as *beschikkingsrecht* (Fauzi, 1998). In this context the changes made by the BAL in the colonial agrarian law, which were meant to provide legal protections for the people, were interpreted to provide superior legal power to the state.

Similar problems are evident in the BFL. In the context of forest resource management, one of the root problems constraining efforts to promote community-based management is the exaggerated power given in the BFL to the Minister of Forestry to control the forests. Other sectoral minister such as Minister of Mining and Energy and the Minister of Agriculture also have such legislatively created powers. These powers are based on the current state-centric interpretation of the HMN as it is articulated in the Article 33, Subsection (3) of the 1945 Constitution and further elaborated in the Basic Agrarian Law 1960.

The application of HMN, however, could be limited. By definition, HMN vests the state with an ethical obligation to promote "... the greater welfare of the people, with respect to the nationality, prosperity and independence of the people and the Constitutional State of Indonesia, which is independent, sovereign, just and prosperous." Among other things, this can be interpreted to mean that the power to implement HMN may be vested in autonomous regions and indigenous communities, in as much as it is deemed necessary and insofar as this does not contradict the national interest, according to the provisions of the Central Government." (Fauzi, 1998)

## **VI. TOWARD A NEW PARADIGM: DIRECT ACTION BY LOCAL COMMUNITIES**

Ongoing violations of indigenous peoples human rights, including usurpation of community-based legal rights to customary territories and natural resources management, coupled with rapid environmental destruction throughout the country, has prompted Indonesian civil society to promote a new paradigm. It

directly challenges the concept of HMN, including the central government's assertion of full legal authority to claim, control, possess and regulate all forest resources and forest land management systems (Munggoro, 1998).

Cruel behavior by government, the military and private companies has also generated much community resistance. This is manifested in various direct actions such as the burning of a number of industrial plantation compounds in West Kalimantan in 1993 and 1995, confiscation of logging concessionaire properties in Mentawai and Irian Jaya, and enforcement of adat-law sanctions by many communities against private companies and government officials in Kalimantan and Sulawesi. It also includes a class action lawsuit in a federal district court in New Orleans (USA). The suit was brought by an Amungme woman against Freeport McMoran, a US mining company operating in Irian Jaya. It alleges gross human rights violations against nearby indigenous communities over the last 30 years.

Despite facing intimidation and harassment, there are still a significant number of communities able to conserve and maintain sustainable community-based ecosystem management. This includes, for example, people in Krui, West Lampung, who develop the repong damar, the Batak in South Tapanuli (North Sumatra) with their salak, the Dayak in West Kalimantan with their traditional rubber gardens, the Dayak Bentian in East Kalimantan with their knowledge of rattan cultivation, and the Kaili people in Central Sulawesi with coffee farms. In most cases, these indigenous eco-system management regimes appear to outsiders as part of a "natural forest." While indigenous agro-forestry may have similar characteristics with natural forests, however, it is not merely a gift of nature. It is a product of human labor and commitment to sustainable ecosystem management (de Foresta in Munggoro, 1998).

## **VII. TOWARD A NEW ARADIGM: CIVIL SOCIETY MOVEMENTS**

There is also growing support in Indonesia's civil society movement for community-based forest management. This support is not limited to struggles for local autonomy and control over forests and other natural resources. It also includes gathering information and redefining knowledge on forest issues and civil society's role in advocating for democratic and sustainable natural resources management on local, regional and national levels (Munggoro, 1998).

Starting in 1993 with informal discussions and continuing in 1995 with an initial joint project for promoting community-based forests system management in Kalimantan, Sumatra and Jakarta/Bogor, a number of NGOs and concerned individuals decided to establish the Consortium for Promoting Community-based Forest System Management (Konsorsium Pendukung Sistem Hutan Kerakyatan - KPSHK) in early 1997. The primary activities consist of community empowerment, case study documentation and public education.

KPSHK's vision is to promote local people's sovereignty over natural resources, especially the forest, so as to achieve sustainable community-based



management. Based on this vision, KPSHK's goals are to: (1) revitalize, research and document sustainable community-based management activities; (2) identify and support natural resource management concepts that are based on local knowledge, are appropriate to the local ecosystems, and guarantee pluralism; (3) develop networks for advocacy and campaign purposes; and, (4) reform natural resources laws and policies, especially forestry related ones, so that they are based on respect of local peoples' sovereignty and recognize and protect human rights. See Annex-2. Key Result of the Project "Developing Community Based Forest-System Management Institution in Indonesia" for further description of the Consortium's framework.

Another network promoting community-based forestry is the Forum Komunikasi Kehutanan Masyarakat - FKKM (Indonesian Communication Forum for Community Forestry). It was established in mid 1997, with significant support from the Ford Foundation, to provide opportunities for academics, government officials, international organizations and NGO activists to communicate with each other and become more effective. In response to recent political changes in Indonesia a workshop was held in June 1998. During the workshop, FKKM formulated its vision, part of which is to promote "A just and democratic forest management policy for the welfare of local communities based on ecosystem and resource conservation".

Parallel with KPSHK and FKKM are other NGOs networks with different foci of interest but shared concerns regarding natural resources degradation and indigenous and other local community rights. Some of them are:

- **Konsorsium Pembaruan Agraria - KPA (the Agrarian Reform Consortium)**, which is a network of almost 100 NGOs. The focus of their work is to promote: (a) legal pluralism especially on land tenure as a way to protect the indigenous tenurial systems, and (b) land reform programs especially for the landless peasants.
- **Wahana Lingkungan Hidup Indonesia - WALHI (Indonesian Forum on Environment)**
- **Jaringan Tambang - Jatam (Mining Network)**
- **Jaringan Kerja Pemetaan Partisipatif -JKPP (Participatory Mapping Network)**
- **Jaringan Pesisir dan Laut -Jaring Pela (Coastal and Marine Network)**. Established in February 1998, it aims to empower sustainable community-based marine and coastal resource management in Indonesia.
- **Bioforum**, a network of NGOs established in 1994 during the Biodiversity Convention's Conference of the Parties (COP III) in Jakarta. Its focus is to monitor implementation of the convention in Indonesia.
- **Jaringan Pembelaan Hak-hak Masyarakat Adat - JaPHaMA (Indigenous People Rights Advocates Network)**, a network of NGOs and individuals founded in 1993 to promote and advocate for indigenous peoples' rights in a holistic way.

A synergic 'ad-hoc' coalition of NGOs and individuals networks concerning natural resources issues was formed after Suharto step down. The first action taken by the recently organized KUDETA (Coalition for the Democratization of Natural Resources) was to highlight the fundamental causes of natural resources destruction collectively through a peaceful demonstration at the Department of Forestry building in Jakarta. Since then a number of consultations have been conducted. The strength of this loose coalition is its progressive perspective in holistically thinking about natural resources problems in Indonesia, in contrast to existing sectoral approaches, and its indirect function as a informal coordination forum of the sectoral networks. As an ad hoc coalition, however, KUDETA does not intend to become a permanent institution.

## VII. CONCLUSION

Although community-based natural resource management is widespread in Indonesia, and has proven to be economically, ecologically and socially appropriate both for local and national interests, state laws and polices provide insufficient recognition, protection and support. Mainstream laws and policies on natural resource management are still dominated by: (a) a state-centric paradigm which provides the central government with exaggerated rights over natural resources which are, in turn, used to violate indigenous peoples' rights and to undermine their local knowledge for sustainable forest ecosystem management; (b) sectoral biases; and, (c) conventional natural resource (forest system) management sciences that overlook local capacities and contributions.

Existing so-called social forestry policies fail to provide sufficient legal recognition for community-based forest ecosystem management since there has not yet been a fundamental reformation of the Basic Forestry Law and it's implementing regulations.

There is growing concern within Indonesian civil society, including demands for fundamental reform of laws and policies related to natural resource management. This includes calls for: (a) a redefinition of the relationship between the state and local people, including the abolition of Hak Menguasai Negara - HMN (State Control Rights); (b) transforming forest management laws and policies to support pluralistic community-based natural resource management; and, (c) a democratic, just and equal allocation process.

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**Annex-2**  
**KEY RESULTS OF THE PROJECT**  
**"DEVELOPING COMMUNITY BASED FOREST-SYSTEM MANAGEMENT (CB-FSM)**  
**INSTITUTIONS IN INDONESIA"**

