

FOREST MANAGEMENT POLICY INDONESIA

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Abstract

This article discusses of land and forest policies in Indonesia. The writer argues that there is a positive correlation between policy in the New Order's regime (*Orde Baru*) and big business (*konglomerat*) which is causing of ecological destruction and forest degradation that has been taking place since thirty years ago. On the contrary, local people, cooperative sectors (*sektor koperasi*) and local businesses do not have access to forest and land management. As a consequence, those parties have experienced poverty, social and economic injustice and the standard of living of the people has decreased.

Introduction

Forest management in Indonesia today is open to debate from various factions within the Indonesian community. Many observers such as Moniaga (1993), Parsudi (1995), Dove (1985), Tjitradjaja (1991), Haba (1998), etc. criticize forest management policies, because they benefit the Logging Forest Concessions (HPH), Industrial Forest Plantations (HTI) and big estate plantations (palm oil and rubber) with huge facilities. Meanwhile, the local people are experiencing catastrophic conditions and underlying factors of deforestation and forest degradation worsen. Current policies are linked with the idea that most HPH, HTI and big estate plantations contribute significant "income" to the government. The forestry sector is second only to the oil industry in foreign exchange earnings. Forest industries still maintain a significant role in Indonesia's economy today, generating 16 - 20 percent of total export earnings and employing about six million people (Sopari & Agus, 1993:115).

Timber and oil have become the two most important commodities in generating foreign exchange. Although requiring different treatment, both industries are extractive in nature. The timber industry has been run in much the same way as the mining industry. As a result, forests have been subject to exploitation, that is, gross discrepancies remain between the number of trees logged and those replanted or seeds renewed (Setiakawan, July, 1992). The perception on the part of shareholders, that there remain extensive areas of tropical forests in Indonesia, has facilitated and caused over-exploitation of the forests. At the same time, shareholders are either incapable of or unwilling to limit market pressures, and are equally unwilling to acknowledge or incapable of recognizing the limits of nature exploitation.

From the above description, it seems that Indonesian forestry policy has undergone a drastic change since the transition era from Soekarno to the Soeharto regime.¹ These changes followed the redirection of the economy, from one which previously was oriented towards the needs of the domestic market and attaining national self sufficiency (*berdikari*), to one which is almost totally dependent on the international market investment and aid from western foreign countries. As regards forest resources, previously used to satisfy domestic demand based more on the forest ecological function, big changes also occurred. Forest management gained an industry orientation, for the purpose of satisfying the demand of the international market, and as a result has become extremely dependent on it. Income gained from the foreign sector is for the market, and policy-makers are equally unwilling to acknowledge or incapable of recognizing the limits of nature exploitation.

In this regard, many non-governmental organizations (NGOs) which are involved in forest issues such as *Walhi* (Wahana Lingkungan Hidup) and *Skepfi* (The NGOs Network for Forest Conservation) criticize forest management practices, saying that sustainable forest management does not exist in Indonesia (Setiakawan, 1992: 3). The destruction of Indonesian forest reached 600,000 to -800,000 hectares annually according to the World Bank report in 1993. On the other hand, the great forest fire in 1997 which affected more than 3.5 million hectares, compared with just 1.8 million in 1983. Unfortunately, most HPH and HTI owners did not have modern fire-extinguishers, told by Nabil Karim, chief of Ecological Analyses (*BBC interview*, November 5, 1998). These huge forest fires and wide destruction of forests demonstrated that forest management in Indonesia is not professional when compared with that of neighboring countries. But serious impacts primarily have been suffered by rural communities in and around forest conservation boundaries (Mubyarto, 1992). Generally, the government has adopted forest policies that allow HPHs to operate in primary and secondary forests. Nowadays, even protected forests and conservation areas being changed in status from conservation to production forest through the Forestry Ministry's Decrees. Land susceptible to erosion or landslides, which should in theory be reservation land, is also opened for logging activities. The government itself has violated its laws, where 30 percent of every island must be protected for forest areas. Currently, every island in Indonesian, with the exception of Irian Jaya, has less than 30 percent of primary forests (see case study of forests in Java island).² Although 23 percent of Java island is designated as state forest, millions of rural people seek access to the land for fuel and collecting other forest products. Some 21 million people live in 6000 villages that claimed to be forest villages, and many of them clamor for limited opportunities to temporarily farm state forest lands targeted for reforestation. Most production forest on Java (over 60 percent of the total forest area) is kept under eighty-year rotation teak plantation and twenty-to thirty-year rotation pine plantation, despite these systems' low labor absorption and the island's growing population of land-hungry rural people (Poffenberger, 1990:220).

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Moreover, the concept of forest management developed by the Department of Forestry itself does not ensure conservation. Logging companies never comply with their own policies in consistently implementing forest management concepts. Concessionaires breach the limits of logging areas, illegal logging of small diameter trees is allowed, they do not replant or renew, they forge timber transport documents and log on steep land upland areas. In this respect, the management concept of Indonesian forests has failed. The government itself has recognized the failure through its own statements that logging 25 was only reported for million cubic meters of timber, whereas actual timber logged reached 33.5 million cubic meters. This means that as much as 835 million cubic meters of timber logged have not been subject to forestry tax (IHH) or replanting funds (DR). Consequently, the total losses occurred to the State reach Rp.255 billion (US \$ 125 million) in 1993.

This paper describes forest management policy from the perspective of people's participation since the New Order era (*Orde Baru*) 1967-1997 and land policies in Indonesia in the Dutch and Soekamo's periods.

Theoretical view

Political Participation: Modernization and Political Consciousness

As mentioned above, the forestry industrial sector in the Soeharto regime (1967-1997) was a second "income" source for government. Therefore, the forestry sector has a potential contribution to the Indonesian modernization. How is modernization related with political consciousness? Huntington, a political scientist describes modernization "as a multifaceted process involving changes in all areas of human thought and activity (Huntington, 1969: 32). Daniel Leamer (1958:438) once said that, it is "a process with some distinctive quality of its own, which would explain why modernity is felt as a consistent who among people who live by its rules." The principle aspects of modernization, "urbanization, industrialization, secularization, democratization, education, media participation do not occur in haphazard and unrelated fashion".

At the intellectual level, modernization involves the tremendous expansion of man's knowledge about his environment and diffusion of this knowledge throughout society through increased literacy, mass communication and education. Socially, modernization tends to supplement the family and other primary groups having diffuse roles with consciously organized secondary associations having much more specific functions. Demographically, modernization means changes in the patterns of life, a marked increase in health and life expectancy, increased occupational, vertical, and geographical mobility, and in particular, the rapid growth of urban population as contrasted with rural.

Those aspects of modernization most relevant to politic can be broadly grouped into two categories : (1) social mobilization, in Deutsch's (1961:494) formulation, is the process by which "major clusters of old social, economic and psychological commitments are eroded or broken and people became available for new pattern of socialization and behavior". It means a change in the attitudes, values, and expectations of people from those associated with the traditional world to those common to the modern world; (2) economic development refers to the growth in the total economic activity and output of a society. It may be measured by per capita gross national product, level of industrialization, and level of individual welfare gauged by such indices as life expectancy, caloric individual, supply to hospitals and doctors. Furthermore, social mobilization involves changes in the aspirations of individuals, groups and societies. On the other hand, economic development involves changes in their capabilities. Modernization requires both.

It seems to me, that the role of forestry sector, as related to political modernization, has two functions: from the economic perspective as an "income" contribution to drive national development; From the social perspective to accommodate individual and the peoples aspirations in order that they can improve their quality of life, and maintain sustainable forest management. In this sense, political modernization involves increased participation in politics by social groups throughout society. Broadened participation in politics may enhance control of the people by the government, as in totalitarian states, or it may enhance control of the government by the people, as in some democratic ones. But in all modern states the citizens become directly involved in and affected by government affairs.

A. Land Policy

This section deals with land policy in Indonesia, which covers 2 (two) main periods: the Dutch administrative and the Indonesian government's era respectively.

1. Land policy in the Dutch period

Under the Dutch administrative period, we had a terminology called *Domein Verklaring* (the Dutch controlled territory). The *domein verklaring* was used for land or territory that being put under the control of the Dutch ruler. In the *domein verklaring* scheme, the basic principle of power or authority was the colonial ruler's rights to control land in its territory (Indonesia). Authority, in this sense, was in the hands of the Dutch, and only limited to the land/area without landowners or landholders' certificate and that claimed by individuals or corporations.

Based on this concept (*domein verklaring*), the Dutch used their power to exploit land and natural resources in Indonesia. Through *domein verklaring*, there were rights such as *eigendom* (the need over land) and *erfpach* (the right to exploit land), concession rights and hired land rights. *Erfpach* in its latest development changed to become one of the Dutch tools to attract many foreign investors. By using *erfpach* scheme, foreign investors got various opportunities to exploit land as

well. This scheme differs from the *cultuurstelsel* (forced cultivation) system that was misused by the Dutch administration for its own benefits, because corporations at the time did not have full rights on agricultural or plantation estates as the Dutch government did.

In 9 April 1870, the Dutch Ministry for occupied territory, Engelbertus de Waal, issued the *Agrarische Wet* (Agrarian Law). The agrarian law that was later registered on *Indische Staatblad* No. 55 of 1870 (*Lembaran Negara*) benefited the Dutch most, rather than providing room for the Indonesians to use land for their needs. After the agrarian law operated for ninety years, eventually in 1960 under the Soekarno regime he issued a new agrarian law, thinking that the new law took the side of the public interest. Soekarno recognized that those individuals and corporations who owned a lot of capital could control more land. In so doing, the marginal groups (Soekarno often called them as *Marhaen*) would experience a severe life condition, because they were simply depending on capital owners who determined their future.

Therefore, through the People Representative Council (*Dewan Perwakilan Rakyat*), Soekarno proposed a new law that more focused on building social justice for the Indonesian people. The result was, in 1960 Soekarno's regime issued Law No. 5 of 1960 which was later known as *Undang-Undang Pokok Agraria* (Basic Agrarian Law/BAL). The BAL defined ownership of minimal and maximal land, including the state rights over land in its territory/area. This policy then became called the land reform program, which was issued by the Indonesian experts themselves to replace the *Agrarische Wet* introduced in 1870 by the Dutch government.

The BAL of 1960 consisted of the acknowledgment of the indigenous rights over land/customary land where they occupied and cultivated crops or plantations. The sort of recognition based on *adat* law that was existing and operating within the society. This meant that even though a *adat* community (*masyarakat adat*) possessed land without having land certificate officially, but its land ownership was still recognized as legal. In the early years after the BAL was introduced many Indonesians showed different attitudes towards this Law, as they viewed it as a form of socialism in principle, because it limited access and rights of individuals to have land.

With *adat* in this concept it means "The whole body of teaching and their observance which governs the way of life of the Indonesian people and which has emerged from the people's conception of man and world" (Koesno 1971:3). The question then was which group(s) of people that could be classified as *adat* community (*masyarakat adat*). According to Buhl (1994) features to identify an *adat* community are a) they have close attachment to ancestral territories and to the national resources in the areas they live, b) their self-identification is recognized by others as members of a distinct cultural group, and c) they have their own indigenous language, subsistence, customs and political institutions which are often different from other groups. Besides the concept of *adat* community, in Indonesia we find another term called *masyarakat hukum adat* or *adat* law community (see. Ter Haar, 1948). Officially, this terminology is based on the BAL of 1960 chapter 2 and 3, in Basic Forestry Law No. 5 of 1967 and in the government regulation of 1970 No. 5 chapter 6.

When Soeharto came to power in 1966, he either did not use the BAL of 1960 or refused it as a reference in handling land issues. This was proved in 1967 when the New Order regime issued some contradictory laws such as: the Basic Law of Forestry No. 5 of 1967 (*Undang-Undang Pokok Kehutanan*), Law of Forest Concession Rights No. 21 of 1970 (*Undang-Undang Hak Pengusahaan Hutan/HPH*). The Law No. 21 allows HPH owners to exploit forests and sell their products, without having responsibility to let the local people who live in and around exploited forests to collect forest products. People surrounding the HPH areas must ask permission from the security apparatus even to enter the forest areas, which very often causes conflicts in terms of the rights over land and forest, as often happens in Kalimantan Timur, Jambi and Bengkulu.

Issue of land appropriation in Indonesia and the increasing commercialization of land reflects a number of trends since the early of Soeharto's regime. Land reform and land redistribution is no longer the priority as it was in the 1960s. The New Order government focused on the importance of increasing agricultural production, which has created land more productive and increased its value to landowners. With increasing foreign investment over time, agricultural land has become useful for joint venture projects. In addition, the role of local land speculators also increase in numbers by buying land from people and then resell it with a higher price. Absentee land ownership is increasing as well, with good agricultural land being bought up by the urban middle class, as a form of investment and saving (Lucas 1990:7-8).

Tourism, footwear and garment industries are only three areas of foreign investments all require land in close proximity, and the big cities for hotels and factories. Land also needed for building government offices. In urban areas, conglomerates have expanded their business by buying land for office blocks, shopping centers and hotels. Furthermore, in rural areas conglomerates have increased their control for HPH and other big agricultural projects.

From the above description of land, we discover that realization of land policy in Indonesia is a complex issue. There reason is, some government institutions are involving in their policy, but the decision making to issue land permits is at the hand of the National Land Body (*Badan Pertanahan Nasional/BPN*). This complex issue occurs legally has its relation with the following matters. First, after BAL of 1960 was issued, the number of laws, regulations and instructions made it difficult to find legal solutions for land disputes. Second, institutions involved like the Legal Aid Body (*Lembaga bantuan Hukum/LBH*) faced difficulty in maintaining public awareness of new legislation being enacted at various levels. Government, on one hand, must defend individual rights over land, but simultaneously the government is also issuing land permits for various private and government projects that need more land.

2. The Basic Agrarian Law of 1960

This section will examine briefly the Basic Agrarian Law (*Undang-Undang Pokok Agraria/UUPA*) of 1960, that underlines land rights and land status in Indonesia. According to the Basic Agrarian Law (BAL) of 1960, the state or government on behalf of its citizens was responsible for the management of land, water, air and all natural resources. It was hoped that this policy could bring prosperity and social justice for all the Indonesian people (GBHN 1998). In BAL, communal property rights (*hak pemilikan adat*) were recognized as far as they did not in conflict with state's laws, and in addition BAL also provided some dimensions of rights for land, building, ownership and land exploitation.

Referring to Articles 18 of BAL 1960 there was stated that "For the public interest (*kepentingan umum*); the state and also the interest of the people land rights cannot be ignored. This should be properly done with the payment of adequate compensation in accordance with existing regulations" (Harsono 1971:431).

Based on the above explanation of the BAL 1960, we find one striking problem on the regulation for implementing the act, with the exception of the 1960 law on sharecropping and land reform which was never carried out. Consequently, on one hand, the concepts that deal with public interest were never spelled out, and how to provide adequate compensation for landowners whose land has been taken away by the government was not also defined.

One vital aspect of BAL that gave the state right to recognize people's land rights was all landholders should register their land, and asked for their land certificates from the Agrarian Office. Without having the official land certificate from the government, consequently the land status was insecure or considered absentee. Land in this status was easier to be seized by government or other parties. Although landowners possessed land certificates, because the state has a great power to seize the land needed for public interests (as it is very often argued), that land would lose its status from individual or communal properties to become government controlled land.

In BAL of 1960, people's *adat* rights are officially recognized. In contrast, as we find in some New Order regime's land policies between 1967-1979, *adat* land rights were not clearly spelled out. Those laws are: Law of Forestry (*Undang-Undang Kehutanan*) No. 5 of 1967, Mining Law (*Undang-Undang Pertambangan*) No. 11 of 1967 and Law No. 5 of 1979 about Village Administration (*Pemerintahan Desa*).

From the above explanations, it is clear that the BAL of 1960 provided much room for the state not only to manage land distribution, the need and allotment of land for people, but also administrate and establish inter-relations of regulations/laws and their rights over land as well. To get an overall understanding about the essence of the BAL of 1960, here I will underline four important points. First, BAL of 1960 provided the state with rights to control all the Indonesian national resources as it written in the 1945 Indonesian Constitution, Chapter 33, Article 3. The state controlled right was not the right to possess land as it stated under the Dutch Colonial laws (*domein verklaring*), but the state right was similar with communal land rights or customary land rights (*hak ulayat*) in *adat* law (cf. Konvensi ILO 169).

Secondly, the Indonesian state had the right to refuse foreigners to have land in Indonesia. Rights over land were only provided for Indonesian citizens without gender discrimination. Foreigners did not have rights or access to buy or own land. This policy was for protecting the Indonesian people, so foreigners could not exploit the own land and its resources, and locals would not become laborers in a land controlled by foreigners.

Third, the state had the rights to arrange the size of land blocks. The size of land blocks and its ownership were limited. This policy was taken to avoid the forming of new landlords who controlled an excessive land through pawning or renting systems. An assumption here to support a frame of thinking was that there was a correlation between low productivity and possessing small land holdings by the farmers. On the top of that, farmers or people who relied heavily on land would not be able to improve their income or standard of living, because they had no land and their production was under control of the landowners. Income discrepancies were closely-related with unjust conditions (*ketidakadilan*), and unjust conditions facing by the rural people would bring its negative impacts for the nation as a whole.

Fourth, the state was obligated to promote national productivity. Thus, landowners were encouraged to exploit their land more actively (BAL, chapter 10), so this would benefit themselves rather than possessing land and labor themselves as laborers. The BAL forbids landowners to neglect their land, or opened/cleared a situation where the landless were exploited by the landowners.

BAL of 1960 had its own particular purposes, the allotment of land for people, to carry out land for the tiller (*penggarap*) to avoid land speculation (*spekulasi tanah*) practices, that would hurt landless people. Furthermore, BAL of 1960 also strengthened and widened land ownership for all landowners who control unlimited land ownership (Mahendra, 1997:50).

3. Land Conflicts

This section will provide the background of some land conflicts. The level of compensation for landowners is very often a source of conflict. According to BAL of 1960, the government had to pay adequate compensation for the landowners whose land was taken for public or any other interests. In 1975, the Indonesian government via Ministry of Domestic Affairs Regulations No. 15 (*Peraturan Menteri Dalam Negeri*) established a Land Acquisition Committee (*Panitia Pembebasan Tanah*), to calculate the value of compensation for people who lost their land for various private and government projects. The problem here was, landholders were not part of this Committee, so the government via Presidential decision (*Keputusan Presiden*) could determine land compensation in accordance with its own consideration.

To some extent, the government did not pay land compensation for the people, because the government claimed that land seized did not have owners and land certificates. Unfortunately, there was no mechanism to settle disputes.

Landowners according to BAL of 1960 could not appeal to a court if they felt they had suffered financial loss, and the Permendagri No. 15 of 1975 did not provide this right. One clear example is land disputes experienced by the Kedung Ombo landholders who tried hard to seek justice via the courts against the government, but they lost their cases (Lucas 1990).

Land disputes in Indonesia in relation to government's development policies can be categorized as follows. The first type involves land disputes in terms of determination, function and resources involved (such as mining, plants and agricultural produces) that will be used for massive exploitation. One example is the conflict of the government and the company PT Freeport versus the Amungme Community in Irian Jaya, a consequence of the exploitation of gold and copper which did not benefit the local community. A similar land disputes is underway between the Dayak-Kentian of East Kalimantan and PT Kahold Utama which is seizing the local Dayak-Kentian land to establish an Industrial Forest Plantation (*Hutan Tanaman Industri*).

The second type involves land disputes regarding the government's program for self-sufficiency (*swa-sembada*). To achieve this national program in the agricultural sector, the government took over customary land (*tanah adat*) without paying adequate compensation. Negative consequences are experienced by thousands of landless farmers, because they have no power to against the corrupt policy. In addition, disputes farmers were forced to use chemical fertilizers and seed varieties with which they were not familiar.

The third type involves land disputes in agricultural estates because of the transferring and issuing the rights for using land and the introduction of nucleus plasma estates (*Pola Inti Rakyat/PIR*). Conflicts between landowners, HTI and PIR are occurring in North-Sumatra (Jaluran), East-Java (Jenggawah), West-Java (Badega), Lampung (Bangkunel), Toraja (Rindung Allo), etc. General patterns for taking over people's land include bulldozing vegetation and houses found on the land.

The fourth type of land disputes involving the seizing of agricultural land for tourism, housing, industry and factories. These sorts of conflicts happened for instance regarding the establishment of Olefin Factory. Land conflicts involving people in six villages also occurred in East Java because of the expansion of Cement's Factory in Gresik (Lucas, 1997:56).

The fifth type involves the confiscation of buildings simultaneously with the confiscation of people's land for public interests such as in the case of Kedung Ombo and Karang Tengah. These areas were taken over forcibly by the government or other parties involved without proper discussion with landowners.

The sixth type involves land conflicts between government and people relating to people's rights over land confiscated for erecting National Parks (*Taman Nasional*), protected-forests (*Hutan Lindung*), etc. The attitude of the security apparatus in these conflicts is linked to a policy called sustainable forest development (*Pembangunan Hutan Berkelanjutan*).

The following are major cases of conflicts caused by land policy in Indonesia: Pesisir Bukit people whose land was taken for Kerinci-Seblat National Park in Jambi; Amungme people in Irian Jaya who were forced out of their ancestral land which is now being used for Lorenz National Park; a similar case in Pulo Panggal, Lampung where the people's agricultural land was seized and declared a protected area for forest and fauna (*Wilayah Hutan Lindung dan Margasatwa*).

4. Economic dimensions of land

In Indonesia, there are a different systems of land rights throughout the country. Historically, Indonesia has two main sorts of land systems before a unified system was issued through the Basic Agrarian law of 1960. Those two types are as follows; first, the traditional *adat* rights where land can be transferred from one land owner to another person based upon local *adat* or cultural values operating in the society, without using official land certificates; and second, the Westernized system of written land titles and land regulations issued by the Dutch.

Considering the use of land in Indonesia, we find five economic features: first, the significant role of agricultural land for economic activities; second, two types of cultivation -- the extensive swidden type found in outer islands such as Kalimantan, Irian jaya, Sumatra and Sulawesi, and intensive cultivation as practiced in Java and Bali; third, the existence of many small land holders who produce plantation crops, rice and other crops known and cultivated by farmers; fourth, land for large landholdings; fifth, the agricultural sector, agricultural policy and planning in Indonesia (MacAndrews, 1986; 3-15).

5. Closing Remarks

Land plays an important role for human life. "Life also cannot be imagined without land. Life came from and through the land, and was manifested in the land. The land was not an inanimate 'thing'; it was, and is, alive" (Berndt 1982:1). From the above quotation we can make an assessment that to avoid conflicts over land, an institution or governmental body is needed which regulates land management and all aspects involved.

The Dutch government established the *Agrarische Wet* (Agrarian Law) when it reigned over Indonesia. That Agrarian Law was mostly prepared to benefit the Dutch government, rather than the indigenous people. Alteration in land management occurred when Indonesia gained its independence in 1945. The first president of Indonesia Soekarno in 1960 issued the Basic Agrarian Law, that he discerned would enable the Indonesian rural people to benefit. The Basic Agrarian Law actually guaranteed the rights over land for *adat* communities. But the demands of land development increased in the new era, when various development projects were expanded excessively. Consequently, pressure on the government and private sectors to clear and open new areas have caused land conflicts either with urban people or rural communities throughout the country.

Land conflict happens, on one hand, due to the government's policy of confiscating people's land without dialogue and paying inadequate compensation. On the other hand, land for the *adat* community (such as the *Sassi* principle in Moluccas) has a very special meaning, and can be understood not only by people themselves but also by the policy makers/government. When government or other parties plan to acquire traditional land for a variety of businesses and activities such as HPH, HTI or social forestry as occurs in Kalimantan and Sumatra, adequate compensation alone is not the main issue. The people's emotional and psychological links with their land are also important. Land, for the traditional peoples is also their identity and is closely linked with people's self-esteem. This perspective cannot be arbitrarily ignored.

Judging from various cases and experiences regarding land policy in Indonesia mainly faced by powerless people, there are two basic thoughts to be considered by the government, particularly by the National Land Body apparatus and some governments involved. First, the recognition of *adat* community rights to use their land as long as their intention to meet their mainly demands, should simply constitute a slogan or lip service. On the top of that, it is hoped that government in formulating its land policy would also respect the *adat* community's perceptions about its land. Second, the government should be consistent with its laws/regulations in defending the existence of traditional community land rights, rather than taking side with conglomerates or capitalists, which have victimized the powerless groups within the community for many years.

B. The Basic Forestry Law

This forestry law refers to "Act No.5 of 1967" which includes the text, "Forests are nationally owned resources and as one of the basic elements in national defense have to be protected and utilized for the benefit of the population." Article 1 Item 3 states that "Forestry is all activities connected with forests and their management." And it is emphasized in Article 1 Item 4 that, "Forest area is a special area which is maintained as permanent forest by Ministerial Decree." On the other hand, Article 5 Item 1 states that "all the forests inside the Indonesian territory, including their natural resources are controlled by the State." Article 6 Item b states that "Production of forest products and their marketing in order to meet the needs of the community in general, and especially the needs of development, industry and export." Article 7 Item 3 clearly emphasizes that "The Minister's determination mentioned under Paragraph 2 is based upon a General plan of forest areas which is used as a basis for consideration of forests as: Protective, Productive, Natural Reservation or Recreation Forests." Chapter IV on Forest Management in Article 13 Item 1 states that "The goal of Forest Management is to increase the production of forest products for the benefit of national economy and community welfare." Article 14 Item 2 states "The government may establish forestry enterprises in cooperation with other parties."

Based on the above description, the Basic Forestry Law, Act No.5 of 1967, encourages some enterprises to participate in the forestry sector by establishing Logging Forest Concession (HPH) companies; in many Indonesian provinces as a manifestation in the framework of economic development in New Order. For example, 557 HPH holders registered during 1970-1989 (Prospek, August 17, 1991) and these declined to 331 in 1998 (Suara Pembaruan, October 17, 1998). In contrast, Act No.5 of 1967 abolishes the traditional land rights under the "*hak ulayat*" (communal rights) and indigenous ecosystem of forest management. This management system is based on the community's knowledge about appropriate and productive land and natural resource use (Sandra, 1998: 121). For example, the Dayak Kenyah people could cultivate and harvest rice fields and rattan with their knowledge in Kutai region, East Kalimantan. In Central Sulawesi, for instance an indigenous community called the Kaili developed zoning and land use systems which designated areas known as *tana polidda* for rice fields and *tana pobondea* for orchards.

1. Logging Forest Concession

As mentioned above, that major actors of underlying causes of deforestation and forest degradation are HPH (Logging Forest Concession), HTI (Industrial Forest Plantation) and estate plantations (palm oil and rubber). This description attempts to identify one of HPH practices done by the Kalimanis Group and its negative effects on the environment. In 1993 the giant corporation, which was expected to play a major role in the national economic growth had conducted environmental crimes. It was accused not only of growing through bureaucracy-capitalism (growing bigger by special privileges) (Yoshihara, 1988), but also by profiting through various types of environmental damages.

The corporation (*konglomerat*, as is termed in Indonesia), Kalimanis Group (belong to Bob Hasan) followed other giant corporations in having corruption exposed, including Prayogo Pangestu's Barito Pacific Timber, Eka Wijaya's Indah Kiat Pulp & Paper, and Sukanto Tanoto's Inti Indo Rayon Utama. The giants were able to secure whatever projects they sought, due to the "bottom-up" system whereby it is easy to influence decision makers at the provincial level. The local government would support their application in obtaining concession areas. The naturally weak position of local government, then be used by the giants through the influence of the central government (Setiakawan, July-September 1993). One outcome was large-scale environmental damage.

According to data collected by NGOs concerned about sustainable forest development, such as Skephi, Walhi, and Pelangi,, the offenses conducted by Bob Hasan's Kalimanis Group were as follows:

1. P.T. Kiani Lestari of Kalimanis Group controls 3 operations of HPH in East Kalimantan, i.e. P.T. Kiani Lestari (350.000 ha), P.T. Santi Mumi (330.000 ha) and P.T. Timber Dana (161.000 ha). In compliance with regulations, they opened up plywood factory and facilities, i.e. Kalimanis plywood, Kiani Lestari Plywood, and Kalhold Utama Plywood. In this case,

Skephi suggested that the HTI-Trans operated by P.T. Timber Dana and P.T. Kalthold Utama with their contractors, C.V. Adil Makmur, appropriated 150 ha of land in Jelmu Sibak, Bentian, Kutai regency.

2. This piece of land has been a productive forest area, occupied and used by 35 families (since 1813) to make a living.

3. In undergoing the projects, P.T. Kalthold Utama has disregarded the interests of other parties, such as the indigenous people, village headman and LKMD (village social activities group). The village headman of Jelma Sibak had complained about the above incident (August 17, 1993) on behalf of the parties concerned.

4. Their contractors, CV. Adil Makmur, had ignored the indigenous people's sentiments. Bones (skeletons) of ancestors were dug and left scattered on the ground.

5. The people lost their sources of living. Materials losses were: sega rattan (7155 trees), setup rattan (398 clusters), Pulut rattan (2237 clusters), Botet rattan (202 clusters), Munau rattan (952 clusters), durian (*durio zibethinus*) (140 trees), meretam (280 trees), rambutan (252 trees), langsung (351 trees), Cimpeidak (1038 trees), etc. Some NGOs and especially Skephi protested and sent letters to Ministry of Forestry, Transmigration and National Land Agency (BPN), but no reaction has been made so far. Their main points of protest were:

1. Appropriation of *adat* land and eviction of indigenous people would hamper local ecological harmony.

2. The way Kalimantan Group handled the indigenous people was inhuman, and a violation of their human rights.

3. This abuse forms part of a systematic degradation of economical qualities towards poverty.

4. Technically the group had violated the Government regulation No.7/1990 whereby the company had to carry out timber estate activities on productive-land and was not entitled to rights on the land.

Although the NGOs protested and demanded that the group be reviewed and pulled out from occupying the land of local people the project still continues.

The second example is a concession that received by Barito Pacific Timber Corporation. During the months of July and August 1993, Barito Pacific Timber (BPT) had made the headlines in local and international mass media about its plan to float millions of its shares. The Capital Market Supervisory Agency (Bapepam) had already given to go-ahead for the sale of the share. The company which had various holding companies drew a great deal of attention from the press and the community. What was the reason? The reason was that BPT could not be separated from its owner, Prayogo Pangestu, who has been the source much controversy and was well known for his large companies, obtaining many facilities from government officials. [The issue has become hot news when P.T. Taspen, the Civil Servant's Pension Fund took over around 125 million Barito shares worth US\$ 177 million, while rumor owned it that Barito's debt amount to almost US\$ 1.809.523, around US\$ 428.571.428 which could be considered as a bad performance.]

This special treatment by the State-owned Corporation would automatically strengthen the capital structure of BPT. In the financial report of March 1993, the working capital of the company was raised to US\$450.3 million, compared to US\$ 265.1 million at the end of 1992. In this case, the same debt in its equity ratio could be relatively lower. At the end of 1992 the debt of PT BPT reached US\$ 584.2 million, while its capital reached US\$ 265.1 million. As of March 1993 the debt decreased to US\$ 560.3 while the capital increased to US\$ 450.3 million. Therefore, BPT's debt equity ratio had changed from 2.3:1 to 1:1. Apparently participation of the Taspen fund gave an impression that the Indonesian government supported BPT to fulfill the requirements to float its shares. It seems to me that we can classify this as too discriminative for the community and healthy competition.

These were quite controversial issues. Some members of the House of Representatives (*DPR*) and observers observed that by allowing BPT, with HPH (logging concession holder) concessions scattered all over Indonesia covering an area of more than 5 million hectares, to float its shares, it would mean letting the forests which should be controlled by the State to become the private assets. In contrast, Article 33, Paragraph 3 of the 1945 Constitution, states that "land, water and the natural resources shall be controlled by the State and are to be used for the benefit of the people."

The incisive criticism launched by the minister of Forestry Djarnaluddin Soerjahadikoesoemo in 1993 stated that HPH could not be considered as an asset (The Jakarta Post, August 23, 1993). The government could any time cancel the HPH concession, if it broke the laws. Based on that fact, the PDI (Democratic Party) faction of the House of Representatives urged the government to be more firm and stop Barito's plan to float its shares. In this case, the HPH issue was one reason. The other reasons were that the Barito's project, the HTI (timber estate) was the nation's and the people's asset. The project itself included the government's asset statement, and was financed by reforestation fund (*Dana Reboisasi*). It would be necessary to clear the company's asset statement before giving the go-ahead for the sales.

On the other hand, it was also in this context that Tito Sulisty, the chairman of Jakarta Intermediary stock broker union (IPEJ) said, that when a company like Barito, including HPH in its asset statement, was allowed to go public, investors would have less trust in money market share. Even the Barito's plan to go public has caused the decline in the price of some stocks. Therefore, on the first week of July, index of combined share price also declined to 1,052 points to 359,672 points, whereas the previous week it reached 361,050. Even the total transaction value also dropped to 55,514 thousand pieces value at Rp.227,903 million, compared to 94,696 pieces valued at Rp.483,532 million the previous week. Contribution of foreign investors dropped, and simultaneously some blue chips had plunged rapidly.

This means that Barito issue had generated negative impact on stock exchange growth in Indonesia, especially after Salomon Brothers, an investment Bank in USA resigned from its position as lead manager or lead foreign underwriter in the

sales of BPT's stock in international stock exchange. This was due to the fact that, BPT was considered not transparent enough and did not provide its investors with necessary information, for completing the due diligence to fulfill the requirements for the shares sales in USA.

The practice of HPH's holders are not fairly noticed a sustainable forest management, which replant action after over forest exploitation. The consequence of this policy causes of a global warming, flood, forest fires and marginalization of indigenous people who live in and around forest. That phenomenon invites some NGOs, intellectuals and other countries critique for topical forest management. The Northern Countries accuse developing countries of exploiting their forests excessively, causing the decrease of natural bio-diversity needed by the world for biotechnology development. Over the last 6 years (1992), several tropical timber boycotts and import restrictions were imposed on Indonesia:

1) Japan as the largest timber imported country, imposed a strict regulation whereby import tax of plywood and log are to be borne by consumers. Those consumers have to pay a higher price for those goods; 2) The Japanese *Obayashi Gumi* boycott the use of Indonesian tropical timber on its constructions; 3) The Cedar Pencil Inc Co and Hubson Co in California boycotted Indonesia timber. In addition, they submitted a petition to USTR (United States Trade Representative) stating that Indonesia violated Article 301 of Super Act on Subsidy; 4) Austria intended to enact eco-labeling in October 1992 while designing a compensation program in the form of reforestation fund in exporting countries; 5) The Netherlands and Switzerland demanded that eco-labeling proposed by ITTO (The International Tropical Timber Organization)¹ for year 2000, be put forward in 1995 following Austria's policy. In this case, it was predicted that eco-labeling practice will spread to other countries, since the Austrian initiative is supported by large NGOs such as Global 2000, Greenpeace Austria, RAN, RIC, WRM, ERM (representing 40 European NGOs and Siena Club (Setiakawan, No. 10, January-June 1993). On the other hand, on February 10-17, 1993, seven Austrian members of Parliament visited Indonesia. They intended to visit Kalimantan to look at logging practices and the damage of tropical forest caused by a huge fire. So their visiting did not have its ground on the invitation from the Indonesian Government as announced by the Forestry Minister, but assigned by the Austrian Government to look into forestry issues in Indonesia before the enactment of ecolabeling in Russia.

CONCLUSION

In Indonesia during the New Order period there was a misinterpretation and misconduct about the function of forests. Forests and their richness were controlled fully by government, and people who lived in and around forests did not have access to forests for their own needs. Today, the Department of Forestry and Plantation has a new awareness and is changing its policy from giving concessions solely to HPH, and starting to distribute rights to exploit forests for people.

This means that forests are now not seen as simply for the ruling class, conglomerates or the state. In other words, consideration issues of forest exploitation go in parallel with setting the foundations for social justice, income equity and prosperity for all Indonesian citizens. All forest resources should be mobilized to meet the basic need of the majority of the people, not only a small part of society such as the wealthy or capitalists as Indonesia has experienced for many years.

To achieve the National objectives, people to some extent should participate in forest policy and management from the very beginning. As seen in the past, the New Order Government played a very important role in exploiting natural resources in Indonesia such as mining, forest, etc., and giving only small a part to the people in regions where natural resources exist. This political decision can be traced to the New Order Government policies. Between 1967 and 1979, the New Order regime issued three key regulations: "Forest Regulations No. 5 of 1967, "Mining Law No. 11 of 1967 and "Village Administration Law" No. 5 of 1979. These three regulations have caused enormous conflicts between governmental bodies and forest concessionaires versus the local people in terms of land rights and access to use forest products in various parts of Indonesia.

To improve the living conditions of people who live in and around the forests and simultaneously provide land rights for local people, here I would like to suggest the following solutions. First, to alter the centralized policy practices in forest management by providing more rights for provincial governments (decentralizing) in handling various issues regarding forest management in their territories. In addition, joint programs and good coordination at the provincial levels are necessary to avoid over-lapping of governmental programs. Second, to open more opportunity for people to influence the process in any decision making policy on forest management. Third, to give more priority to local people in cooperation with local business (*pengusaha lokal*), local cooperatives (*koperasi lokal*) and NGOs, for protecting and utilizing forests for the sake of rural people. Fourth, for the Department of Forestry and Plantation to strictly control the replanting program (*reboisasi*), considering the current forest condition in coping with the destruction of the environment.

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END NOTES

¹ see Marshall Green (1990), *Indonesia: Crisis and Transformation 1965-1968*, Washington DC:

² see Peluso, Nancy Lee (1988), "Rich Forest, Poor People, and Development : Forest Access Control and Resistance in Java." Ph.D dissertation, Cornell University, Ithaca, N.Y., for a complete discussion of forest access control, the general historical circumstances leading to national state control, and some of the consequences of control.

³ See Richard Robinson (1977), *Capitalism and Bureaucratic State in Indonesia: 1965-1975*. Ph.D Dissertation in The University of Sidney, and Dorodjatun Kuntorojakti (1981), *The Political Economy of Development: The Case of Indonesia Under the New Order Government 1966-1978*, Ph.D dissertation, The University of California, Berkeley. And also see Yoshihara Kunio (1988), *The Rise of Ersatz Capitalism in Southeast Asia*. Singapore: Oxford University Press. Most of their ideas that corporate business (Business Konglomerat) in a New Order have close relation with state and they have special facilities in getting banking services, monopoly projects and treatments. New Order policy in the business sector has created some *Konglomerat* with many holding companies and a very dominant economic role in Indonesia. In contrast, small and medium businesses and cooperative sectors (sektor koperasi) are slowly developing and have difficulty in getting facilities.

⁴ The International Tropical Timber Organization (ITTO) is a commodity organization created in the early 1980s bringing together countries which produce and consume tropical timber to discuss and exchange information and develop policies on all aspects of the world tropical timber economy. According to a report (1998), ITTO has 50 members consist of 26 producers and 24 consumers including the European Community, which account for over 75 percent of the world's tropical forest and more than 95 percent of the international trade in tropical timber (see Castano, 1998: 88).