Universiteit
Leiden
The Netherlands

Forest tenure in Indonesia : the socio-legal challenges of securing communities' rights

Safitri, M.A.

Citation
Safitri, M. A. (2010, December 15). *Forest tenure in Indonesia : the socio-legal challenges of securing communities' rights*. Retrieved from https://hdl.handle.net/1887/16242

Version:	Not Applicable (or Unknown)
License:	Licence agreement concerning inclusion of doctoral thesis in the Institutional Repository of the University of Leiden
Downloaded from:	https://hdl.handle.net/1887/16242

Note: To cite this publication please use the final published version (if applicable).

1. INTRODUCTION

"...Climate change affects us all, but it does not affect us all equally. Those who are least able to cope are being hit hardest. Those who have done the least to cause the problem bear the gravest consequences...[W]e have an ethical obligation to right this injustice. We have a duty to protect the most vulnerable."

(United Nations Secretary General, Ban Ki-moon, address at COP 13 of UNFCCC, Bali 12 December 2007)

1.1 THE GLOBAL AND NATIONAL DIMENSIONS

In December 2007, Indonesia hosted the thirteenth Conference of the Parties (COP 13) of the United Nations Framework Convention on Climate Change (UNFCCC, widely known as the Convention on Climate Change).[1] Parties of the conference successfully adopted the Bali Road Map as a guideline for international goals and rules for climate change adaptation and mitigation. Further agreements detailing the implementation of the Bali Road Map have been carried out in other COPs such as that was held in Poznan-Poland (COP 14, 2008) and Copenhagen, Denmark (COP 15, 2009).

---

[1] UNFCCC is an international convention on goals and rules for addressing climate change. One hundred countries became party to this convention. The COP is the highest decision-making forum of the UNFCCC's parties that is responsible for arranging international efforts concerning climate change adaptation and mitigation, including reviewing the implementation of UNFCCC and examining the commitments of parties of that convention. For details about the convention and its related agreements and conferences visit http://unfccc.int.

The UNFCCC and its COPs have raised international and national awareness about the role of deforestation and forest degradation[2] in the accumulation of global green house gas (GHGs) emissions, one of the major causes of global warming. The World Resources Institute (WRI) stated in 2000 that global deforestation was responsible for 18 % of GHGs emissions; some 75 % of world deforestation came from developing countries (Masripatin 2008:5).

The COP 13 in Bali agreed on an international scheme for Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (REDD). This scheme encourages developing countries to preserve their forest with financial assistance from the international community, particularly from developed countries. In this way, REDD is expected to foster the cost sharing of global environmental preservation, particularly between developed and less developed countries.

In 2008, at the COP 14 in Poznan, the notion of REDD was further developed. By assuming that REDD merely prescribed preventive actions to reduce GHGs' emissions, parties of the COP 14 agreed to also actively increase the carbon stocks from the forest. Since then the REDD has become REDD+, with a focus on both reducing emissions from deforestation and forest degradation as well as enhancing carbon stocks from the forest. Regenerating forest and enhancing forest rehabilitation by forest owners or users in developing countries are some of the activities of enhancing carbon stocks. At the time of writing, more than 40 countries are developing their REDD+ policies and setting up hundreds of REDD+ projects (Angelsen 2009:1-3).

REDD or REDD+ projects could be instrumental for eliminating the rate of deforestation and forest degradation. Yet, an important question is to what extent will these efforts benefit 'forest communities'[3] or other groups of people living in or nearby areas which the government has classified as forest? How can REDD or REDD+ projects express an ethical obligation – such as formulated by the United Nations Secretary General in the beginning of this chapter – to attain justice, socially and environmentally, for these people?

---

[2] This book employs a broad definition of the term deforestation, similar to that of Panayotou and Ashton (1992:19) who define it as the conversion of forest for other land uses including artificial forest plantations, agriculture and wasteland. The term forest degradation, as defined by the Food and Agricultural Organization (FAO) refers to changes within the forest which negatively affect the structure or function of the stand or site, and thereby lower its capacity to supply products and/or services (FAO 2004:26). In practice it is often difficult to distinguish these two phenomena since many cases of deforestation and forest degradation take place in the same area at the same moment. For such situations this study will use the term forest destruction. In general, this book applies the term forest destruction to describe both deforestation and forest degradation.

[3] This book has a specific understanding of the concept of forest communities (see 2.2).

Since the notion of justice is central in this sense, this book applies a specific definition of social & environmental justice. It refers to a situation in which a state or community normative system affords fair treatment to a community, either individually or as a group, in terms of obtaining a better livelihood through the products from the land without harming the environment or the economic interests of the society at large.[4] This book believes that the challenge for REDD or REDD+ projects is to fulfil such a justice.

This is a very hard task for national governments and the international community. Besides the alarming deforestation rate mentioned earlier, world forests have become arenas for conflict and violence. De Koning et al. (2008:6) reported that 242 million hectares of forests in the world have been conflict areas between 1990 and 2004 which impacted as many as 128 million people. Ineffective government control due to the remoteness and inaccessibility of forest, fierce competition over forest resources, unclear and overlapping property rights, and the unsuccessful integration of the interests of forest communities into national policies are underlying factors contributing to social tensions concerning forests (FAO 2005:116-7). In addition, poverty that leads to high population pressure on the forest is another source of distress. High incidence of poverty can be found in dense forests in Africa, Latin America and Asia (Rights and Resources Initiatives-RRI 2008:7).

Indonesia plays an important role in the implementation of REDD or REDD+. In May 2010, President Susilo Bambang Yudhoyono in a press conference before the International Conference on Climate Change and Forest in Oslo confirmed the Indonesian commitment to REDD+.[5] The central government of Indonesia enacted

---

[4] This definition shares much with a definition of environmental justice (cf. Bedner 2007:91). As the term environmental justice is also used to describe a social movement which protects the civil rights of the minorities from unfair state environmental policies (see Bryner 2002:32-53), for my research I decided to use the term social & environmental justice instead.

[5] In this press conference, President Susilo Bambang Yudhoyono said: "We build good political tradition that Indonesia is a consistent nation, state and government. Once again whether or not we are assisted, we are obliged to conserve the environment as good as possible ...[T]herefore, it will be fair if Indonesia uses its resources and budget not only for the environment or forests but also for the people's welfare" (http://www.antara.co.id/en/news/1274907070/president-indonesia-serious-about-managing-its-forests, accessed 27-5-2010).

REDD legislation and several regional governments[6] have initiated REDD projects.[7] However, this country has yet to deal with the environmental and socio-economic problems related to forestry.

In FAO rankings, Indonesia tops the list of Southeast Asian countries in terms of forest loss between 2000 and 2005 (FAO 2008:15). Next to deforestation and forest degradation, Indonesian forest has become well-known for poverty, conflicts, and violence (Lynch and Harwell 2002; Wulan et al. 2004; Wollenberg et al. 2004; Contreras Hermosilla and Fay 2005; World Bank 2006; Firdaus et al. 2007). The application of limited legal recognition of forest communities' rights to state forest land and resources therein, and the restricted access for these communities to such areas have been considered as potential causes of these problems.[8] This situation has been a great challenge for the Indonesian government to successfully fight deforestation and forest degradation and to mobilize forest communities to take part in programs to reduce forest destruction.

Recent literature on law and forestry development suggests that communities are generally unable to make any significant contribution to forest preservation projects, unless they obtain the sort of legal recognition that makes their land and resource tenure in the forests (henceforth 'forest tenure') more secure (Wily 2006; Christy et al. 2007; Ellsworth and White 2004). This would certainly also apply to projects that form part of the framework of REDD/REDD+. In a similar vein, REDD or REDD+ may lead to injustice if they are unable to strengthen forest tenure for local communities (Cotula

---

[6] The term 'region' is a translation of the Indonesian word *'daerah'*, which is a key concept in Indonesian public law and administration. The term *daerah* refers systematically to the two main sub-national layers of government, i.e. the provincial level and the district level. In this section the term regional government or regional policies and legislations is used to point to provincial and district governments with their policies and legislation. For further information about the system of regional government see for example Turner et al. (2003) as well as section 6.5 of this book.

[7] For institutional support, there is Presidential Regulation number 46/2008 on The National Council on Climate Change (*Dewan Nasional Perubahan Iklim, DNPI*). This council was established in order to coordinate the control over climate change and strengthen the position of Indonesia in international forums on climate change (Article 2 of Presidential Regulation 46/2008). For implementing REDD, the Ministry of Forestry has promulgated for example Minister of Forestry Regulation concerning the implementation of REDD's demonstration activities (Regulation P.6/2008) and Regulation P.30/2009 on The Procedure of Reducing Emissions from Deforestation and Forest Degradation. In addition, there have been some initiatives to set up REDD's pilot projects in Aceh, Central and West Kalimantan as well as in Papua (Down to Earth 2008). Then, to implement REDD+, President Susilo Bambang Yudhoyono stated that a national agency on REDD will be established immediately. For further reading about Indonesian policies and institutions related to REDD see Muhajir (forthcoming).

[8] Chapter 3 provides details about the historical and current perspectives of environmental and social distress of Indonesian forestry.

and Mayers 2009: Angelsen et al. 2009:xii). Thus, it is necessary for national policy and law to secure forest tenure of community.

This book contains socio-legal analyses of forest tenure security of communities as envisaged in Indonesian legislation concerning people's participation in managing state forests. This can be seen as one manifestation of an internationally-recognized policy paradigm of community-based forest management (chapter 3 details about this paradigm). Specifically, this study focuses on what Indonesian policies and laws refer to as *'Hutan Kemasyarakatan'*.[9] I will refer to this as 'Social Forest' policies, legislation and licensing.[10]

The topic of Social Forest was chosen for a number of reasons. Firstly, it is the most dynamic example of community-based forest management legislation. It was revised seven times between 1995 and 2010. It has been adjusted by every Forestry Minister from the cabinets under Suharto to those led by Susilo Bambang Yudhoyono. Through following such legislation, one can detect change and continuity in Indonesian community-based forest management legislation. Most legislation shows the government's commitment to the poor. However, by scrutinizing the changes in legislation, one can assess the extent to which the government has actually welcomed access for forest communities to land and natural resources in areas that is known in

---

[9] The Elucidation of Article 5 (1) of Law 41/1999 on Forestry states that *Hutan Kemasyarakatan* is a state forest managed mainly for empowering communities. This book uses the term Social Forest rather than community forest for translating *Hutan Kemasyarakatan* to avoid the mistaken interpretation that *Hutan Kemasyarakatan* is a community-owned forest. Another consideration is that the definition of *Hutan Kemasyarakatan* as provided by Law 41/1999 refers to the objective of forest management, that is, communities' empowerment. The term Social Forest comes closer to such a definition than community forest. In addition, the precise and common English translation of the Indonesian word *'kemasyarakatan'* is social and forest for *hutan*. These are the reasons behind my decision to use the term Social Forest for *Hutan Kemasyarakatan*.

[10] The term policy in this book follows Gordon, Lewis and Young's definition as a range of government activities of defining objectives, setting priorities, describing a plan and specifying decision rules (Gordon, Lewis and Young 1993:8). Policy can be adopted into state law. In this book state law mainly manifests itself as legislation, and as such the two terms will be used interchangeably. When policy has been adopted into law, the latter becomes an authoritative tool to legitimize a policy. In Indonesia, policy is often implemented through projects *(proyek)* which are sets of development activities with specific budgets. In implementation of policy or legislation, government officials in Indonesia often refer to operational decrees or policy rules. In this study a key legal instrument through which law provides people with rights and obligations, is the administrative decision, taken by an executive organ of the state. A common type of administrative decision is the license. Licenses, such as for example a Social Forest license, allow and prohibit people to carry out particular actions over certain things in a specific timeframe and under specific conditions.

Indonesian forestry legislation as 'Forest Areas' (*Kawasan Hutan*). These areas cover all land that the state through the Ministry of Forestry has been classified as forest.[11].

Secondly, since 1998, Social Forest legislation has been implemented in the form of licenses granted to Forest User Groups. The extent to which this licensing system contributes to their forest tenure security is worth investigating.

Thirdly, Social Forest legislation is applied in more provinces and greater numbers of Forest Areas than other community-based forest management models. Thus, it is easier to study the contribution of Social Forest legislation to social & environmental justice than of any other community-based forest management legislation in general.

Fourthly, Social Forest legislation can be found in national and regional legislation. Following the 1999 decentralization period, some districts (*kabupaten*)[12] enacted regulations concerning Social Forests or community-based forest management in general. Studying Social Forest policies and legislation may teach us how different levels of government – central, provincial and district – have coordinated or conflicted in applying the legislation.

Lastly, the recent Indonesian legislation on REDD states that REDD projects will also be implemented in areas where Social Forest licenses have been granted.[13] At the time of writing there have been no REDD or REDD+ projects implemented yet; however, by studying how Social Forest legislation and licensing are able to secure communities' rights, we can make a reasoned ex-ante assessment of how projects of REDD or REDD+ could possibly benefit forest communities in the longer term.

This book analyzes enabling and constraining legal, social and local political factors of securing community forest tenure in Social Forest legislation and its cases of implementation. To investigate the socio-political dynamics of the implementation of Social Forest policies and legislation, I carried out several case studies in the province of Lampung. It is a region where the problems of deforestation and forest degradation, conflicts over land and poverty have been particularly salient; yet, the policy of Social Forest was widely implemented, particularly in the post-Suharto era. The case study sites provide examples of places where legislation and licensing have been introduced which attempt to recognize legal access of communities to Forest Areas. The studies

---

[11] Article 1 point 3 of Law 41/1999 defines Forest Areas as specific areas that have been enacted and/or designated by the government to be permanent forest.

[12] The term district or *kabupaten* as known in Indonesian legislation refers to a level of regional administration below the provincial level. At the same level of district is town (*kota*). The district covers more rural areas than the municipality. The district is headed by a *bupati*; the mayor (*walikota*) is the head of a town.

[13] Article 3 (1) Forestry Minister's Regulation P.30/2009 on The Procedure of Reducing Emission from Deforestation and Forest Degradation (REDD).

show how such legislation and licensing impact the communities in achieving a better livelihood and preserving forest as well as to resolve land conflicts.

In this introductory chapter I describe a global and national background to demonstrate the urgency of studying community forest tenure in Indonesia. In spite of a decade of policy efforts and legislation of allocating state forests to people, the problems of Indonesian forestry which have been characterized by deforestation-forest degradation and social injustice are unresolved. In this respect, a comprehensive study on community forest tenure becomes essential. Chapter 2 will provide us with a conceptual framework on forest tenure and its related notions. This first chapter presents the research questions and methodology, and includes a short description of the sites of the case studies and an illustration of the limitations encountered in conducting this study.

1.2 Research Questions

This study investigates the extent to which Social Forest legislation and licensing in Indonesia and its implementation in the Lampung Province is able to provide forest communities with tenure security. It also describes how the implementation of such legislation and licensing can boost forest communities' incentives to protect the forest both for their own livelihood and forest sustainability. In addition, it also analyses which factors influence the ability of Social Forest licensing to resolve conflicts between forest communities and the government in addition to conflicts within communities.

I assume that practical problems emerge not as a consequence of the gap between the law in the books and the law in action but due to the weaknesses of the legislation's contents and lawmaking, distorted law implementation and the social characteristics and complexities of the areas where the law will be implemented. Though ambitious, this book attempts to analyse Social Forest legislation in full, meaning it will examine the dimensions of its legal contents, lawmaking, implementation and social impact and responses.

For this reason, the first set of specific research questions deals with national legislation: *How does present Indonesian legislation regulate state and community forest tenure? To what extent is this legislation able to provide secure rights for the state and the community? How has the national policy of community-based forest management been transformed into legislation? To what extent is this legislation on community-based forest management able to secure communities' rights? How has Social Forest legislation as part of the policy of community-based forest management developed since it was first enacted in 1995, what are the factors that influenced its development, and to what extent does it strengthen security of community rights on land and forest?*

Secondly, a set of questions will address the implementation of the national Social Forest legislation at provincial and district level. *How have national Social Forest*

legislation and community-based forest management policies in general been interpreted by and implemented through regional[14] *forestry legislation in Lampung in the period 1998–2006?*[15] *How have the decentralization laws influenced such legislation? How have social, and political factors in Lampung influenced regional regulations concerning community-based forest management in general and Social Forests in particular?*

The third set of questions relates to the community forest tenure system. *How has a particular group of forest communities in Lampung constructed and applied norms of forest tenure? What are the major characteristics of property rights in this tenure system? In the absence of the state's recognition of their forest tenure, how did the community seek for secure rights and access to the forest?*

A fourth set of questions deals with the ability of the Social Forest policy and legislation to enhance people's prosperity, forest sustainability and resolve forest conflicts. Such questions can only be answered through research in particular research sites. Success or failure will be determined to a considerable extent by the social and ecological features of the sites. *How has Social Forest licensing been able in particular sites to provide a better livelihood for forest communities and a better environmental condition of the forest as well as reduce forest conflicts at the community level? What are the factors and actors which have strengthened or weakened community forest tenure security in those sites? To what extent have the norms and actual practices of forest tenure constructed people's perception of tenure security?* From the answers to these questions, we may learn how in certain locations the security of community forest tenure can be instrumental in encouraging people to resolve their conflicts, improve their livelihoods and preserve the forest? However, this research does not presuppose that one uniform Social Forest legislation is able to offer a general formula for resolving all of Indonesian forestry problems. In particular in conflict-ridden areas – and there are many in Lampung – it is important to explore the limits of the Social Forest legislation in order to know where and when it may be well-implemented. Therefore the last research question is: *What are the limits of Social Forest legislation in resolving forest conflicts, if it is to be applied in areas with numerous land conflicts?*

1.3 RESEARCH METHOD

(a) Lampung as research site

My fieldwork research was carried out in Lampung, a province in the southern part of Sumatra. For several reasons, Lampung is an interesting site to study community forest

---

[14] See footnote 6 of this chapter for the term 'regional'.

[15] This period follows my fieldwork in relation to the implementation of Social Forest legislation in Lampung. For an update of the recent implementation of Social Forest legislation see the epilogue.

tenure and its legal, social, and environmental contexts. The Lampung Provincial Forestry Service reported in 2008 that 66 % of all forest in Forest Areas had been destroyed (Dinas Kehutanan Lampung 2008:2). In 2007, the Ministry of Forestry's statistics showed that from the approximately one million hectares of Lampung's Forest Areas, only 20 % is actually covered with forest (Ministry of Forestry 2008a). Poverty is an acute problem. Lampung is the second poorest province in Sumatra, and the eighth in the whole country. In March 2008, 20.98 % of the population was living below the national poverty line.[16] In addition, Lampung is known for its unresolved land conflicts. A survey conducted by the Consortium for Agrarian Reform showed that Lampung belonged to the top 10 in terms of numbers of land conflict in Indonesia (Fauzi 2001:103). Due to Lampung's history of migration, which has brought about different land claims from different ethnic groups, Lampung has more complicated land conflicts than many other areas. Finally, provincial and some district governments in Lampung have taken initiatives for forestry legal reform. They have issued provincial and district regulations concerning community-based forest management and Social Forest. Consequently, the emergence and implementation of such regulations in the decentralization period are interesting topics of study.

My fieldwork in Lampung was focused on a village named Langkawana,[17] located within the borders of a state conservation forest,[18] Radin Inten Grand Forest Park. The Park is situated in the western part of the provincial capital's territory, about 40 kilometres from the centre of Bandar Lampung. Additional research was carried out in three other villages, Gedong Gajah and Kebagusan in South Lampung District and Mataram Raja in the District of Central Lampung (map 1–1).

Langkawana is inhabited by Bantenese and Javanese migrants who have been coming to Radin Inten Park since the early 1950s. After having faced livelihood insecurity for decades due to the absence of government's recognition of their presence in settlements and gardens, in 1999 Langkawana villagers obtained a temporary Social Forest license from the Ministry of Forestry and Plantation for a five year period. When the license expired in 2004, the Ministry and the Lampung government did not extend it nor issue a new license. In the case of Langkawana, I studied the process by which a forest community experienced and perceived forest tenure security before and after they obtained a Social Forest license, as well as after its discontinuation.

---

[16] http://dds.bps.go.id/eng/brs_file/eng-kemiskinan-01jul09.pdf, accessed 11-8-2009.

[17] This book uses pseudonyms for villages and informants in order to respect their privacy.

[18] Chapter 4 will provide us with the legal definitions of various types of forests according to their functions of forest utilization as laid down in Indonesian legislation, including the 'conservation forest'.

Initially, I had come to Langkawana to take part in a community-based social empowerment project. The project, initially intended to be part of an applied anthropological research project, was carried out by the Program for Research and Development of Ecological Anthropology at the University of Indonesia (*Program Penelitian dan Pengembangan Antropologi Ekologi, P3AE-UI*), Jakarta. My role as a researcher and program manager in this project provided me with the opportunity to become a facilitator for the Langkawana people. This meant that I witnessed the whole process of obtaining a Social Forest license.

It should also be noted that Langkawana was the first forest community in Lampung that obtained a Social Forest license. The Langkawana community has Forest User Groups with group rules for forest management and internal conflict resolution. Such rules enable them to organize collective action for sustainable forest management. From a land tenure perspective, it is important to note that Langkawana's inhabitants all have similar historical claims on their gardens in the forest.

Since most Langkawana villagers are migrants who entered the forest more or less during same period, this begs the question: what would happen to Social Forest legislation and licenses if implemented in locations and populations with more heterogeneous tenure relations than Langkawana? Would such factors restrain Social Forest legislation and licenses? To explore this, I chose the aforementioned villages, Gedong Gajah, Kebagusan and Mataram Raja, as my other sites. I was alerted to the forest tenure problems of these villages by a regional newspaper, Lampung Post. Reports about the villagers' land claims to Forest Areas raised my curiosity, and I set out to visit the villages in 2005 and 2006. In the three villages, the communities turned out to be more complex than those in Langkawana. Gedong Gajah, Kebagusan and Mataram Raja are inhabited by at least three different groups of people. They consist of native Lampungese, migrants from Java and Bali who came to these areas during the colonial period or the early years after Indonesian independence, and the other, newer migrants whose occupation of the Forest Areas began much later, particularly during 1997–1999, a period when a severe economic crisis hit Indonesia (known as *'krismon'*) which was followed by the end of the Suharto's administration or *'reformasi'*. Land conflicts between indigenous people and migrants as well as conflicts between older and newer migrants emerged and continue to be unresolved for years. In addition, most forests have been converted into human settlements, paddy fields, sugar cane plantations, and even sandstone mining. Interestingly, some inhabitants dreamt of obtaining Social Forest licenses. In this situation, our question would be how could Social Forest licenses be implemented in places with such a fragile social and ecological basis?

(b) Data gathering: Opportunities and limitations

This study actually stems from a longer term involvement in research, advocacy and community facilitation. I have been carrying out research on community based forest management policies in Indonesia since the early 1990s. My first encounter with the topic of community and forest was when I was carrying out a research project on the impact of logging concessions on the changing of *adat* norms regarding forest management in East Kalimantan for my bachelor degree in 1992. This gave me a basic knowledge of Indonesian forestry policies and legislation including their changes under different political regimes. I had an opportunity to go into further depth on this topic when working as a researcher at *P3AE-UI* and coordinating a research project on policy at the national and regional level (including Lampung) for community-based forest management during the New Order and early *reformasi* period (1998–1999). Later, my activities with some Indonesian Non-Governmental Organizations (NGOs) for policy advocacy required me to consider ways of introducing legal reform, which enriched my previous understanding of the subject. Combining research and advocacy is interesting. However, even more exciting was to transform both into community facilitation; doing a participatory action research. Between 1998 and 2001, I had this opportunity in Langkawana.

By referring to my personal experiences, I intend to make clear that this book is based on more than just fieldwork for a PhD research in Lampung. The actual PhD fieldwork was carried out in May to December 2004, June to August 2005 and January 2006. Yet, this book should reflect my long term involvement in studying and advocating for Indonesian forestry policies, before and after that period. Interaction with communities, government officials, academics and NGO activists, either when conducting research, advocacy or community facilitation has not only provided me with piles of information, but also incomplete sets of data and puzzling questions which I wanted to address and clarify in my PhD research.

My main advantage of being a participant researcher was the opportunity to obtain 'first-hand data' through witnessing current events. This helped me to avoid, or at least limit, the type of distorted information from my informants typically found in research that only relies on 'post-event' data.

The 'first-hand data' that I collected during my involvement in community facilitation in Langkawana are the major sources for chapter 9 and 10. During this time, I had personal communications with dozens of villagers and attended community meetings. I recorded some information in a diary. In addition, I benefitted from the transcripts of community meetings, which were found at my former institution, *P3AE-UI.* Then, in 2004, when visiting Langkawana again, not as a community facilitator but as a PhD researcher, I updated the data by practicing standard methods of data

gathering in social research: interviewing and talking with three community leaders, three village functionaries, five Forest User Groups' leaders and dozens of ordinary villagers.

However, interviews and personal communication were not always conducted easily in Langkawana. In some cases, I found that my informants were hiding something. The fact that I was one of the community facilitators who had worked in this village before meant that some informants, notably, the leaders of Forest User Groups, were reluctant to openly state their perceptions on community facilitation and tended to hide facts. However, with the help of an exemplary young male research assistant, I was able to overcome these problems.

As part of my research in Langkawana, I also conducted a survey. The survey was used exclusively to support my qualitative analysis regarding the distribution of benefits from the forest after the villagers had obtained a legal recognition of their forest tenure. Interviews with villagers could not provide me with a clearer information about the contribution of the forest to people's household income. For this reason, the survey was carried among 50 heads of households or a 10 % sample of forest user households in Langkawana. This sample represented four categories of households using land in Radin Inten Grand Forest Park: (1) households owning[19] less than 0.5 hectares of land; (2) households with 0.5 to 0.99 hectares of land; (3) households with 1 to 2 hectares of forest land; (4) households owning more than 2 hectares of land. In analyzing this sample, I used the data of the Forest User Groups in Langkawana concerning the land parcels owned by their members in the forest (see table 8–1).

My knowledge and previous involvement with the community in Langkawana created a dilemma when carrying out the reseach and writing this book. As one who had been involved in community facilitation in Langkawana and policy advocacy, I often found it difficult to exercise academic restraint and distance vis-a-vis the community. It was a dilemma, for example, as to whether I would make public the fact that the community's behaviour did not always reconfirm the local wisdom in forest management. I found it hard to accept that, at times, after obtaining their Social Forest license, Langkawana people were still involved in logging (chapter 10). Similarly, it was difficult to believe that, as I found during my PhD research, the community facilitation which I had been involved in had not always been compatible with people's needs. It took me a lot of thought to decide whether this research project should publicise or overlook these facts.

---

[19] The land ownership as perceived by the villagers, not as formal ownership rights.

Eventually, I realized that this research project must seek the truth and address the unheard voices of the community. Its aim was not to provide a solely positive depiction of the communities and all the actors studied: the government officials, the community facilitators, and NGOs. With this project, I attempt to gain a critical understanding of the actors' actions by interpreting them as Kemmis and McTaggart (2000:587) say: 'socially, historically and discursively constituted actions'. Rather than labelling the actors as 'good and bad', this research project prefers to put local practices into their socio-legal contexts, and thus analyze how such practices have been caused by underlying factors.

Unlike my close involvement as participant researcher in Langkawana, I carried out rapid data gathering in Gedong Gajah, Kebagusan and Mataram Raja. I resorted to semi-structured interviews for my informants. During my three short visits to Gedong Gajah and Kebagusan and two visits to Mataram Raja I met mostly with *adat* leaders and village functionaries. I interviewed two *adat* leaders in Gedong Gajah and Kebagusan and one *adat* leader in Mataram Raja. I interviewed the village heads of Gedong Gajah, Kebagusan and Mataram Raja. In Gedong Gajah I also interviewed five ordinary villagers. In Mataram Raja, I held three interviews with ordinary villagers; however, I attended a focus group discussion where eight community leaders and village functionaries were present. Other information about Gedong Gajah, Kebagusan and Mataram Raja was retrieved from Lampung Post and from other literature.

My legal reseach as can be found in chapter 4, 5 and 7 was carried out by collecting and analyzing laws and regulations concerning land and natural resource management and regional autonomy at national, provincial and district levels. Data gathering was easier since some documents could be found on the websites of government institutions, and digitalized regional regulations were provided by a legal NGO in Jakarta, *Perkumpulan* HuMa, and a World Bank funded project, *perda online*. In addition, I was able to resort to some other legal documents, which I had collected during my past policy research at the national level and in Lampung province. As such, during my PhD fieldwork, I completed my collection of legal documents with material from the provincial and district legal bureaus and Forestry Services.

Because of the consideration that low level regulations and policy rules of state officials, in many cases, have the greatest impact in terms of policy implementation, I spent much time gathering these types of regulations as can be seen in ministers' or head of provincial or district governments' decrees, regulations and letters in chapters 4, 5 and 7 (see also appendix 1). My legal analysis of these regulations shows the consistency and inconsistency of legal provisions at different levels of legislation. As such, this study points to 'a real legal framework' on land and forest tenure in Indonesia. This fact is often hidden in studies on legal frameworks that usually focus on high ranked legislation, that is, constitutions, laws and government regulations.

For my legal research, I also studied court decisions. Three decisions of the Indonesian Constitutional Court on judicial reviews of laws on Electric Power, Oil and Natural Gas and Water Resources were analysed since they contain legal interpretations of a Constitution's article pertaining to the state's right of controlling land and natural resources. Then, two decisions of a district court in Lampung, Tanjung Karang District Court, were also studied because they are about criminal cases applied to two Langkawana villagers who used the forest (see appendix 2).

During my fieldwork in Lampung, I collected data from a host of government institutions at provincial and district levels. At the provincial level, I obtained documents from Provincial Forestry Service (*Dinas Kehutanan Provinsi*) and its Regional Technical Operations Unit of Radin Inten Grand Forest Park (*Unit Pelaksana Teknis Daerah, UPTD,* Tahura Radin Inten), the Legal Bureau of Lampung Provincial Government and the Regional Office of National Land Agency of Lampung Province (*Kanwil BPN*). I interviewed high-level officials in these institutions to understand their policies, the ways they implemented policies and legislation and their perceptions of the problems of forest tenure and conflicts in Lampung. In addition, I interviewed two members of the Provincial Council (*Dewan Perwakilan Rakyat Daerah Provinsi*), primarily to get to know regional regulations (*Peraturan Daerah, Perda*) and local lawmaking concerning land and forestry as well as local politics related to provincial-district relations and their impact on the making and implementation of regional legislation.

At district level, I obtained documents from the Forestry Service in West and Central Lampung Districts. I interviewed the head of Central Lampung Forestry Service and some lower-level officials, particularly those were responsible for the implementation of Social Forest projects. My interviewees in Central Lampung also included the head of the legislative bureau of the District Council and an official responsible for socio-cultural development at the District Agency of Development Planning. The former informed me about regional regulations and the practices of lawmaking at the District Council. The latter provided information about the district government policies on forestry and transmigration and all social problems embedded in the history of Central Lampung.

In West Lampung, my research assistant and I interviewed the head of the Forestry Service and some other officials including the lowest level officials, forest rangers. We also obtained documents from the legal division of West Lampung District Goverment. In addition to formal and planned interviews, much information was obtained during personal communications in some unplanned activities. I had many opportunities to obtain information about local politics and lawmaking in West Lampung, for example, from a one-day trip with a legal official of West Lampung District Government from Liwa (the capital of West Lampung) to Jakarta.

Interviews with regional government officials were carried out after I had visited the villages. The aim of this sequence was to get to know how the officials responded to local realities.

Information from civil society actors in Lampung was very helpful to build my understanding about the complex realities of forest tenure and conflicts. During fieldwork, I interviewed some NGO activists, from Walhi, ex-director of the Lampung Legal Aid Foundation and Watala. From those who were affiliated with Walhi and the Legal Aid Foundation, I received information about land conflicts in Forest and non-Forest areas. From the activists of Watala I obtained data and information regarding the implementation of Social Forest policy throughout Lampung. My Watala colleagues gave me information about the making of West Lampung district regulation concerning natural resource management since they had been involved in this regulation making. An advisor to the drafting of the regulation was a senior legal academic from the University of Lampung. I interviewed him to find out the basic idea behind the regulation and the lawmaking. Since information also came from a regional newspaper, Lampung Post, one of my interviewees was a journalist of this daily newspaper. He provided general information regarding Gedong Gajah and Mataram Raja.

In Jakarta, data gathering continued for years. I collected documents in the Ministry of Forestry and had corresponded with several officials. Communication with officials at this Ministry mostly took place when I took on the role, not of researcher, but of facilitator of a workshop or dialogue. During these events, I recorded their statements. Similarly, I recorded officials' statements published in newspapers/magazines. These statements reflected the government officials' positions and perceptions on issues related to their policies and legislation.

Information on legislation and policy change on the national and local level arrived at my desk almost every day from mailing lists and web-sites. While writing, I read the Lampung Post on-line almost every day. All of these supplied me with up-to-date information on legislation, policy and social problems on the national and regional levels. Obviously, this constant flow of information helped my research a good deal, although sometimes it also threatened to distract my research focus.

Conducting field work is not enough when studying Lampung in its wider historical and social contexts. A desk study of documents was an integral part of this research. Archive data of legislation in the colonial and post-colonial periods were collected. Similarly, books, articles and research reports related to the history of population, land and forests of Lampung were collected from libraries in Leiden and Jakarta and became the main source of chapter 6 and 11. Lampung forestry legislation, from the early years of Indonesian independence till the New Order, which I had

already studied when writing my Master thesis, was advantageous in enriching chapter 7.

The above overview of methods and techniques of data gathering in this socio-legal research shows a wide variation. In addition, I also collected data from various research sites. Although my research focuses on the implementation of Social Forest legislation in the villages, it does not rely on villages as its only sites. Sites vary from 'actual sites' such as village, government organizations and libraries, to 'virtual ones' such as web sites and mailing lists.

The process of data gathering in this research was to some extent a cyclical process rather than a linear process. I started with fieldwork then wrote papers and chapters. During my writing, questions often came up calling for more data and analysis. Richardson states that in qualitative research, writing is not 'a mopping-up activity at the end of a research project' but it represents 'a way of knowing' and 'a method of discovering and analysis" (Richardson 2000:923). Thus, additional data was often gathered while writing. Writing did not only lead to new data gathered, but also to reconsideration and sometimes revision of the research questions, the conceptual framework, and the structure of this book. For now, this process has been completed.

1.4 Structure of the book

A conceptual framework for community forest tenure is in chapter 2. Then, an overview of environmental and social problems of Indonesian forestry throughout history can be found in chapter 3. In addition, chapter 3 describes the development of government efforts to make policies and legislation welcoming forest communities to cultivate land and use resources in Forest Areas. Subsequently, there are four major parts on the laws and practices concerning forest tenure security for the communities. The first part relates to national policies and legislation on forest tenure and community-based forest management. In this part, chapter 4 provides an overview and analysis of the legal framework of forest tenure and management. Chapter 5 will discuss various legislative models for elaborating, and legitimizing, the Indonesian government's policies regarding community-based forest management, notably the Social Forest model. An analysis regarding the ability of each piece of legislation to bestow forest communities with legal security of forest tenure is also part of chapter 5.

The second part consists of chapters on regional development, policies and legislation in Lampung. Chapter 6 illustrates the socio-political and environmental contexts of Lampung's community-based forest management legislation and policies. Chapter 7 elaborates on the development of regional legislation and policies relating to people's legal access to Forest Areas.

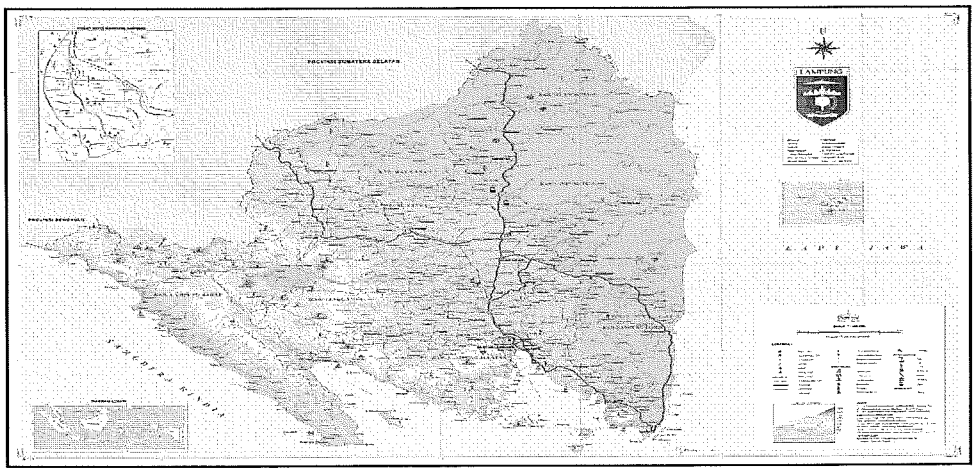
Part three focuses on empirical case studies regarding community forest tenure and the implementation of Social Forest legislation in Langkawana. In chapter 8, it is

observed how Langkawana villagers have developed and practiced their forest tenure system and how they have perceived their tenure relations in the absence of legal security of tenure. Chapter 9 discusses the process of granting a Social Forest license in Langkawana and analyses the extent to which such a license has given people forest tenure security in the real sense as perceived by the community. Chapter 10 analyses in which circumstances legal recognition of community forest tenure as reflected through a Social Forest license can successfully encourage community awareness of forest protection.

Part four relates to the specific obstacles to social & environmental justice when Social Forest legislation and licensing were to be applied in a conflict situation (chapter 11).

Finally, the concluding chapter summarizes the main findings of the research and discusses opportunities and obstacles for reforming community-based forest management, as well as the forest tenure system in Indonesia at large (chapter 12). In the epilogue, I have described recent developments of Social Forest policy and legislation in Jakarta and Lampung that cover the period from 2007 until the moment of finalizing this book in June 2010.

Map 1–1
Lampung Province



Source: http://www.bakosurtanal.go.id/bakosurtanal/peta-provinsi accessed 7-6-2010.