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

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## 9. SOCIAL FOREST IN LANGKAWANA: FROM LICENSE TO SUPERVISION

### 9.1 INTRODUCTION

Chapter 8 sketched the historical and socio-cultural background of the Langkawana forest community and their forest tenure system. It also described the ways in which people tried to achieve tenure security, before they obtained a Social Forest license in 1999. This chapter continues by elaborating on the villagers' efforts to acquire a Social Forest license and the impact of this license on the security of community forest tenure. Was the Social Forest license which was granted to the Langkawana people by the Forestry Minister in 1999 indeed able to provide security of tenure for people in the legal, economic and social sense? What was the impact of the Social Forest license on the property rights in the Forest Area and on the actual security of tenure? How did the license influence people's perception of tenure security, and what happened to this perception when the license expired?

From previous chapters we learned that Social Forest policies and legislation over the years underwent ups and downs, depending on the ministerial regime that was in place. Interpretations, legislative implementation and practical application at provincial, district and local level changed over time (3.6, 5.4, 7.3). Consequently, this influenced the perception of Social Forest legislation of the inhabitants of Lampung themselves.

Whereas chapters 3 and 5 discussed how Social Forest legislation evolved at the national level, and chapter 7 how this was followed-up by regional legislation this chapter will follow the sequence by looking at the implementation at the grass-root level, notably at the Social Forestry license which was granted to the forest community in Langkawana.

The next section will address the establishment of so-called 'Forest User Groups' with the help of community facilitators (see 9.2). Section 9.3 discusses the Social Forest Licence granted to Langkawana in 1999, and section 9.4 analyses the negotiating process leading to this license. The way in which the license incorporated community property rights is discussed in section 9.5. The following section investigates the impact of the Social Forest license on the actual security of land and resource tenure in the Forest Area, and on people's livelihood and village economy (see 9.6). Section 9.7 describes what happened after the five-year license expired in 2004. Lastly, I will

discuss the changes in people's perception of tenure security, both when they obtained the Social Forest license and after the license expired.

## 9.2 THE DAWN OF HOPE: FOREST USER GROUPS AND THEIR RULES

Chapter 8 already explained that many Langkawana villagers had put their hopes for the future on the Forest Area. They were not able to leave the forest and seek for other agriculture land in *tanah marga*. However, there had not been any policy or legislation recognizing their rights. This changed in 1999, the year that they obtained a Social Forest license from the Ministry of Forestry. The process of obtaining the license started in the middle of 1998, when researchers of P3AE-UI – a research program in ecological anthropology of the University of Indonesia in Jakarta – visited the village. With the intention to carry out an applied anthropological research project in Sumatra, the researchers firstly visited some villages in Bengkulu, a province west of Lampung. The remoteness of the location made them decide to leave Bengkulu. On their way back to Jakarta, they stayed over in Lampung and met one of their colleagues at the University of Lampung. The Lampung researcher recommended them Langkawana as a research location.

Being warmly welcomed by the community leaders of Langkawana, the researchers decided to stay in the village. During their several months in Langkawana, the P3AE-UI researchers partnered with the University of Lampung and Watala – a leading environmental NGO in Lampung – for conducting research and facilitating the community to set up local institutions of forest management.

The researchers also became community facilitators (hereafter CFs). They supported the establishment of Forest User Groups (FUGs) in Langkawana and helped the groups in making group' rules of forest management as will be described below. In the first year of their presence, 1998–1999, the CFs brainstormed with the villagers about the urgency of setting up the FUGs for making and enforcing collective rules of preserving the forest including the resolution of internal conflicts. More importantly, they shared ideas regarding the need for strong cooperation among the forest users to undertake sustainable forest management and to enhance their internal solidarity to maintain their rights or access to Forest Areas. The latter was important since the villagers at that time were legally and socially vulnerable (see 8.7 and 8.8).

The discussions generally ended with the conclusion that the community needed some kind of government recognition. Yet, the CFs convinced the villagers that such a recognition would be easier to achieve if the villagers had shown themselves as responsible forest users and if they chose to collaborate with rather than confront the government. This was an entirely new approach of community facilitation in Lampung

at that time. Others usually supported forest communities and dwellers to act against the government.<sup>1</sup>

In short, the villagers agreed to set up FUGs. During 1998–1999 they established seven groups that were led by young villagers. The FUGs members were those who had plots in the Forest Area adjacent to the village. The decision to favour the plots as a basis for membership rather than the homes was based on the idea that plot-holders in the same area would have similar problems and needs, thereby increasing mutual self-help and cooperation. As such, one FUG could consist of people living in Langkawana as well as in the surrounding villages.

Considering the fact that Langkawana FUGs were newly established local institutions, the question rises as to whether they can be considered as organizations of forest communities or dwellers. My observations of the members of these FUGs tell us that in many respects they meet the criteria of a forest community, as described in 2.2. They lived nearby the Forest Area for a long time, at least across three generations. They had a forest tenure system as described in chapter 8. More importantly, the fact that they used to have social groups called *kampung* before they were relocated from the forest (8.2) did not weaken their collective awareness as ex-*kampung* members, even if some of them no longer lived in the same village. In this sense, we can see that the establishment of FUGs, rather than creating a new group of dwellers, revitalized the *kampung* communities in some parts of Radin Inten Park.

Following the establishment of the FUGs, villagers set up an umbrella organization called the Association of Groups for Managing and Preserving the Forest (*Gabungan Kelompok Pengelola dan Pelestari Hutan, GKPPH*). It coordinated the FUGs and acted as a liaison with external actors. They also set up a consultative body for the FUGs and their association, which was called the Consultative Groups' Forum (*Forum Musyawarah Kelompok, FMK*) and consisted of village functionaries and informal local leaders. The forum was established also to resolve conflicts among FUG members or between FUGs and outsiders. The composition of the forum's members led to stronger social legitimacy in conflict resolutions, because people usually trusted the decisions and advice of their local leaders.

Besides forming these groups, the people also established group rules, including those related to conflict resolution and forest management. It took nearly one and a half year to finalize the rules through a series of meetings. In the meetings the groups discussed some problems such as which activities in the Forest Areas they could accept

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<sup>1</sup> See again 7.2 (f) particularly the section describing the public pressure on resolving land conflicts in Forest Areas in Lampung. That most leading figures of the CFs were academics could be one factor why they opted for a collaborative approach. Another important factor was the personality of the CFs team leader who aimed at harmony rather than conflict.

or prohibit. The making of the group rules was based on these problems. The group rules regulated rights, obligations, and sanctions for group members and outsiders who used the Forest Area.

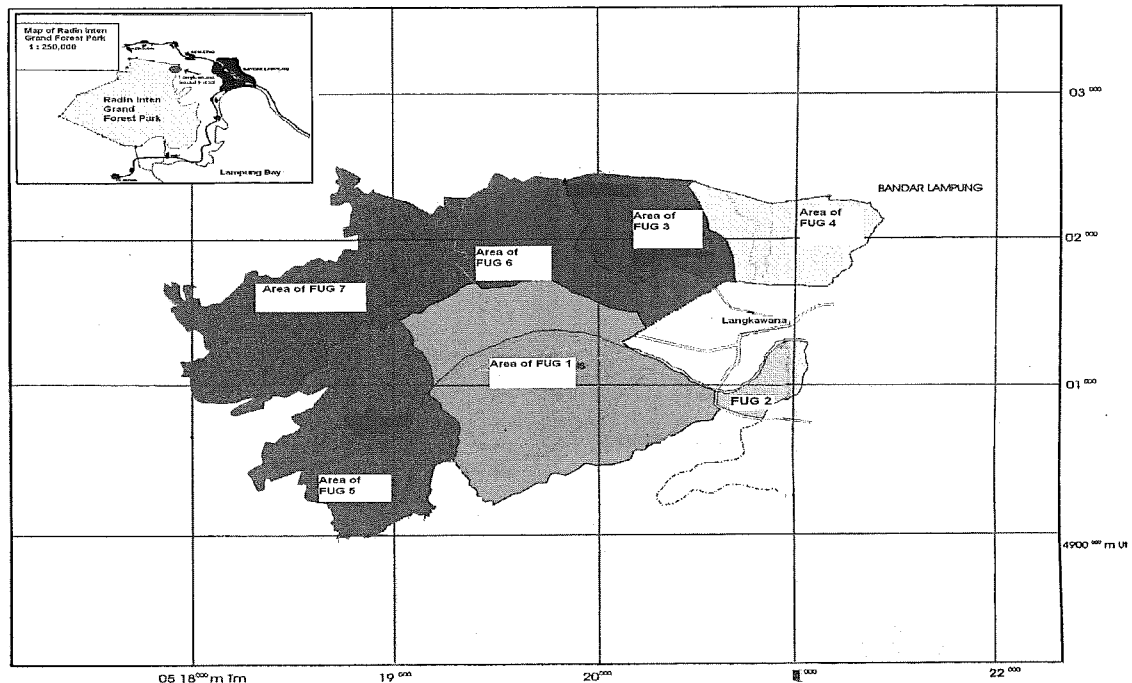
FUGs' members had four exclusive rights: first, group protection in the face of threats related to their existence and activities in their garden; second, user rights to land and forest products in their garden; third, voicing opinions in group meetings; and fourth, the right to vote for or be elected as group leaders. All members had to fulfil some obligations such as planting and preserving trees in their own gardens, preventing theft of forest products and tree cutting, informing theft and illegal logging to the group, and preventing or stopping forest fires. According to the group rules, without permission from the group people were prohibited to log and clear land for a new garden or expand the old one. Violations of the rules brought sanctions like warnings, fines, and the confiscation of gardens, to be controlled by the group. Litigation in the state courts would be used for enforcement as a last resort.

The existence of FUGs and their rules led to a decline of conflicts in the forest and increased enthusiasm to replant gardens with fruit-trees. Although at the beginning theft of forest products was commonplace, the rate of theft slowly dropped. As CFs and FUGs' leaders stressed the importance of maintaining social order and sustainable forest management through implementing FUGs' rules as a precondition to more security, forest-users realised the importance of obeying the group rules, if they wanted to manage the forest in the long term. The FUGs and their group rules became the new providers of forest tenure security for the villagers. Without any financial and technical assistance from the Forestry Service, self-financed reforestation in Radin Inten Park was begun (see 9.6).

### 9.3 SOCIAL FOREST LICENSE AND AGREEMENT

Since the start of the FUG process, the CFs kept forestry officials at national, provincial and district levels informed. They convinced the officials that Langkawana villagers were serious about preserving their forest. Due to large-scale occupations of Forest Areas and their overall weakened positions since the end of Suharto's period, the officials did not have much choice but to accept the CFs' ideas. Eventually, on 19 November 1999, the Director General of Land Rehabilitation and Social Forestry, on behalf of the Minister of Forestry and Plantation and on the basis of Ministerial Decree 677/1998, granted a five year Social Forestry license to Langkawana FUGs Association allowing its members to use 492.75 hectares of Radin Inten Park (see map 9-1).

Map 9-1  
Social Forest Area in Langkawana, 1999



Source: adapted from Watala 2000.

Confirming what has been described in 5.4 (b), the Ministry of Forestry and Plantation stated that the license was non-transferable and did not allow the licensee to request land ownership or other land rights in the Social Forest area. The FUGs Association was obliged to make a general management plan for the forest and an annual work plan of Social Forest management, to delineate the borders of the Social Forest area, to carry out forest protection and to pay forestry levies. In case the FUGs Association would not fulfil their obligations, sanctions such as the reduction of the licensed area of Social Forest or license annulment would be applied.

The five year licence was a temporary license. A complete Social Forest licence was to be granted for 35 years if the Association was able to fulfil the conditions as set by the laws and regulations. The most significant condition was the establishment of a cooperative. Article 5 (1) of Forestry and Plantation Minister's Decree 677/1998 on Social Forest stated that the Right of Social Forest Commercial Utilization (*Hak Pengusahaan Hutan Kemasyarakatan*) – the official name of the Social Forest license according to this Decree – was granted to local communities through their cooperatives. In 1999, Langkawana did not have a cooperative yet. It was therefore that the Forestry Minister only granted them with a temporary license.

Although the Ministry of Forestry agreed to a temporary Social Forest license, officials of the Ministry of Forestry's Regional Office in Lampung (hereafter Regional Office)<sup>2</sup> thought that the license was not enough. They demanded that the individual villagers signed declaratory letters (*surat pernyataan*) to restate their obligations as mentioned in the license, particularly the prohibition of claiming land within the Social Forest area as property.

The CFs, however, had different views regarding the declaratory letters. They believed that Social Forest policy and law was based on the principle of trust. Obliging people to sign those letters suggested that the government did not fully trust the people. In addition, by asking the villagers to sign the letters, it appeared that the officials wanted to transfer the responsibility of forest management rather than to develop a workable and equal partnership with the people. In addition, declaratory letters signed by individual villagers could imply that forest management would be an individual rather than a collective effort, and thus undermine collective action of forest management as promoted by the CFs. Some key actors amongst the CFs had also been involved in the making of Ministry of Forestry and Plantation's Decree 677/1998. They knew that the decree aimed at developing an equal partnership between people and government. To highlight this point, the CFs, having had some discussions with the people, proposed that instead of the declaratory letters the Regional Office and the Langkawana villagers would conclude a joint agreement of Social Forest management. They drafted the agreement and discussed it intensively with the Langkawana people and the officials of the Ministry of Forestry's Regional Office, who eventually accepted the CFs' proposal.

The Langkawana Social Forest Agreement detailed what the government and the people had committed to. In this agreement, both parties reinforced some of the conditions mentioned in the Social Forest license, such as that Social Forest would not change the status of the forest as state forest and people were not allowed to transfer their license to third parties. Then, the parties agreed to the following additional points:

- The government should facilitate the people in order to develop local rules regarding sustainable forest management in the Social Forest area;
- Both the government and people's representatives should carry out regular inspections of Social Forest management;

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<sup>2</sup> See 4.2 regarding the status of Ministry's Regional Offices before and after the effective implementation of Law 22/1999.

- Disputes between the government and the people should be resolved primarily based on consensus; disputes would only be settled in court if consensus failed.

This agreement was signed by the head of the Regional Office and the head of the Association and formally confirmed during a ceremony in Langkawana, where the Ministry of Forestry's representatives formally gave the Social Forest license to the Langkawana people.

#### 9.4 THE GRANTING OF THE SOCIAL FOREST LICENSE: AN ART OF NEGOTIATING THE LAW?

The Langkawana Social Forest license was issued after the enactment of Forestry and Plantation Minister's Decree 677/1998. As I explained in 3.6, *reformasi* was one of the factors pushing for the enactment of this national decree. The *reformasi* that took place following Suharto's resignation in the middle of 1998 also altered power configurations in most Forest Areas in Lampung (7.2 (f)). Many of these areas were occupied or re-claimed by the people. Forestry officials at Jakarta and Bandar Lampung who were powerless at that time finally accepted the idea of the CFs to implement the decree in Lampung.

The CFs played an important role in the making of the Minister of Forestry's decision to grant a Social Forest license in Langkawana. The license was a result of protracted negotiations between the CFs and the forestry officials. The CFs lobbied officials at the Ministry of Forestry and at the Regional Office in Lampung to obtain their recognition of the legality of people forest management. Given that past policies and measures such as enforced evictions had failed miserably and that people now indicated their commitment to conducting proper forest management, the officials were more open to listening to the people's wishes. In addition, due to the change of regime and political situation after Suharto, many officials competed to be recognized as 'reformist official'. Such conditions facilitated effective lobbying and good personal relations between the CFs and the officials at the central and local levels. Intensive personal communication was emphasized. The approach paid off in the end.

Successful negotiations thus marked innovation in legal advocacy for the forest community. However, now a legal problem of contrasting legislative principles came to the fore. Langkawana was the first community in Lampung to be legally recognized as managers of conservation forest. According to Law 5/1990 on the Conservation of Natural Resources and its Ecosystem, and the GR 68/1998 on the Area of Nature Reserves and Preservation, no agro-forestry activity is permitted in conservation forests. Article 52 of GR 68/1998 allows people to utilize the Grand Forest Park for research, education, support of cultivation activities, tourism, and cultural



preservation.<sup>3</sup> Similarly, Forestry and Plantation Minister's Decree 677/1998 on Social Forest, albeit it allowed a Social Forest license in conservation forests, limited the coverage of such license to recreational services, and breeding of wild species of animals and plants (Article 7 (4)).

There is no explicit provision allowing agro-forestry either in the conservation legislation or the 1998 Social Forest legislation. From the forestry officials' point of view, all agro-forestry activities were categorized as cultivation practices that were prohibited in conservation forests and allowed only in protection and production forests. This contradiction generated conflicting views within the Ministry of Forestry and Plantation. The Directorate General of Land Rehabilitation and Social Forestry that was responsible for granting the Social Forest licenses had a different opinion than other Directorates with regard to the Langkawana Social Forest license. For the former, granting the license was unavoidable since the people had proved their commitment to manage the Forest Area sustainably and they deserved to be legalized. Meanwhile, the latter thought that the license was in contradiction with Law 5/1990 and GR 68/1998. In the case of Langkawana, the Directorate General of Land Rehabilitation and Social Forestry successfully convinced the Forestry and Plantation Minister, Muslimin Nasution at that time, to issue the license.

Besides Forestry and Plantation Minister's Decree 677/1998 the Langkawana Social Forest license used GR 6/1999 concerning Forest Exploitation and Forest Produce Collection in Production Forest as its legal basis. However, in fact Langkawana Social Forest area not situated in a production forest but in a conservation forest, namely Grand Forest Park of Radin Inten. This might raise another question concerning the legality of the license. Interestingly, this legal issue did not receive much attention at the Ministry or in the academic world at time. The *reformasi* seemed to change the need of legal discussions to the need of seeking an instant policy solution for forest communities. The fact that the license of Social Forest was eventually granted to the Langkawana people was clearly the result of Nasution's political will.

As noted, the license for Langkawana was provisional, and valid for only five years, whilst the Forestry and Plantation Minister's Decree 677/1998 provided for a license for 35 years (see 5.4 (b)). In the legal sense, we can say that the license granting went against Decree 677/1998. Nevertheless, in my understanding there were certain social and political conditions leading to the Ministry's decision to only grant a five year license.

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<sup>3</sup> Specifically in relation to supporting cultivation activities, this regulation mentions that this includes activities for collecting, transporting, and using germ plasma, and wild animals. Cultural preservation activities which mostly related to archaeological excavations will be regulated by a ministerial decree.

It can be argued that the five year license for Langkawana Social Forest indicated remaining doubts of high-level officials at the Ministry of Forestry regarding the ability of the forest communities in Langkawana to sustainably manage the Forest Areas. However, there is another way to view these events. The Ministry faced a dilemma, if it tried to apply Decree 677/1998 consistently. The decree, as known, required forest communities to set up cooperatives before applying for a Social Forestry license. In the civil society's perspective, this was inconsistent with Article 2 (e) of Decree 677/1998 that allowed local communities to determine their own institution for implementing Social Forest.<sup>4</sup> The officials of the Forestry and Plantation Ministry finally came up with an intelligent solution. They did not insist on people having a cooperative during the phase of the temporary license, and said that during the five year duration of their license, Langkawana villagers could prepare for one. So, the temporary license became the Ministry of Forestry's solution to respond to civil society criticism of Ministerial Decree 677/1998.

Finally, referring to the answer of this section, the making of the Langkawana Social Forest license can be regarded as an example of negotiating the law. Two problems had to be overcome, namely the legal conflict with conservation law, and the lack of consensus about the license's duration. In the debate about the legality of the license at the Ministry of Forestry and Plantation, those who argued that the license was in contradiction with the conservation legislation doubted its legality. But others, who emphasized social justice, finally convinced the Minister to use his power to issue the license. The debate about the appropriate license duration revolved around a fairly clear provision of Decree 677/1998 which prescribed a 35 year duration, as discussed in 5.4 (b). This seemed sufficient in terms of legal tenure security. But, in practice the officials did not intend to implement this provision. The decision to only grant a five year license to Langkawana was largely a compromise between the officials' will and the pressure of the civil society groups.

## 9.5 INCORPORATING COMMUNITY PROPERTY RIGHTS INTO SOCIAL FOREST LICENSE

Chapter 8 looked at the forest tenure system of Langkawana villagers. The next step will be to discuss what has happened with this tenure system after the community obtained the Social Forest license. Did the Social Forest license change the community forest tenure system in Langkawana? Could people still apply their rights derived from the system as described in 8.4? Can we regard the Social Forest license itself as a kind of community property right? To answer these questions, we need to return to the concept of community property rights.

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<sup>4</sup> See 3.6 for the civil society groups' objections against cooperatives as the license holders of Social Forest.

According to the notion of community property rights as discussed in 2.3 (b), community property rights can originate either from state legislation or from the community itself. In the case of Langkawana, property rights originating from the community were widespread in the Forest Area (see 8.5). The Bantenese and Javanese transferred their traditional property rights from Java to the Gunung Raya forest. These rights, as noted, are mainly individual and non-absolute.

The granting of Social Forest did not change this type of property rights. Unlike the 1995 Social Forest license that distributed forest land equally among the forest villagers (see 5.4 (a)), the 1998 Ministerial Decree on Social Forest did not regulate the land distribution. But, inspired by their experience with Ministerial Decree 622/1995, some forestry officials in Jakarta and Bandar Lampung intended to also divide the Forest Areas into land parcels and distribute them among the villagers. The CFs who had done research into the community forest tenure system, convinced the officials that the proposed Social Forest area in Langkawana already consisted of land parcels with clear property rights among the villagers. The CFs suggested that the villagers would sketch out their gardens, after which they developed the sketch into a land tenure map (see one of the examples in map 9-2), facilitated by Watala, the aforementioned environmental NGO in Lampung. The CFs and some community leaders of Langkawana showed the officials the result. The map clearly demonstrated how the proposed Social Forest area was already divided into land parcels of forest gardens with clear boundaries and property rights.

The CFs argued that the Social Forest license had to take into consideration the community property rights. Rather than dividing the Social Forest area into equal land parcels, the forestry officials should grant a collective right of forest management and let the people practise their own property rights in that area. The CFs said that government intervention in community forest tenure would lead to social tension rather than integration. The forestry officials accepted the CFs' idea: the Langkawana Social Forestry license was granted to villagers collectively as represented by their FUGs Association. The license did not abolish the individual property rights which already existed in the Social Forest area.

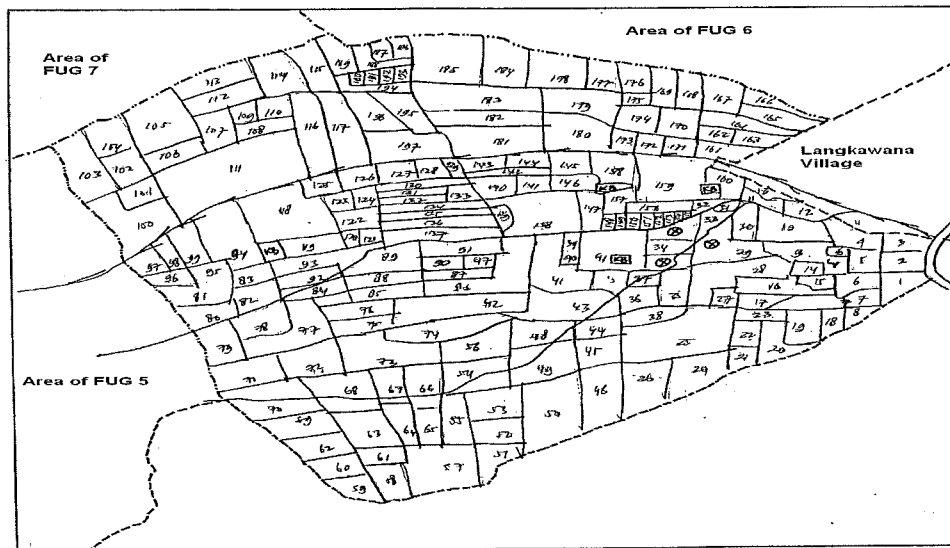
In this respect, the Social Forest license incorporated community property rights. As mentioned in 2.3 (b), incorporation of a right into a state tenure system, making it part of a state-legislated property arrangement model, does not abolish individual rights deriving from the community forest tenure system.

As such, Radin Inten Park held three types of property rights at the same time: the state's right to control the Forest Area, the collective property rights of the FUGs Association, and the individual rights of the villagers. Rather than contesting each other as occurred in the past, the three property rights now co-existed as multi-layered

property rights with the state right as the outer layer, individual rights of the villagers at the core, and collective FUGs' right in between.

This newly developed property arrangement in Langkawana Social Forest area contradicted the familiar property theory dividing property distinctively into state and private property. After the granting of the Social Forest license, such a distinction did not exist in Langkawana. Likewise, Langkawana Social Forest practices went against the theory of the evolutionists who believe that property evolves from open access to communal, and ultimately to private property. Instead, Langkawana demonstrates how property regimes also can develop from open access, to contested access of state and people's properties, to finally multi-layered properties of state, collective and individuals' property.

Map 9-2  
Land parcels in the area of FUG 1



Source: Sketch map of Tanjung Legi forest user group, Langkawana 1999.

## 9.6 BETTER SECURITY AND BETTER LIVELIHOOD IN THE FOREST AREA

Given the importance which this study attaches to security of community forest tenure, we are interested in analysing what happened in terms of actual tenure security – the second domain of tenure security as defined in 2.4 (b) – when Langkawana people eventually received the license. Did the license enable people to practice their property rights in and access to the Forest Areas? How did such a security lead to reducing conflicts – with external and among internal actors – and improve the livelihood of the villagers? What was the perception of tenure security of the most villagers, and in which sense did such perception match the actual practice of forest tenure (the third domain of tenure security, also see 2.4)?

As I described in chapter 8, people's perception of tenure security has been expressed in the discourse of '*aman*' and '*tenang*'. These terms imply that the most important aspect for people is that their rights are respected, that they obtain long-term access to the forest land and are free from the repression of the forest rangers. For the people, forest rangers were the main threat of tenure security.

This perception shows that physical security was the first key element in tenure security. As mentioned, a major factor contributing to such security was the absence of forest rangers in Radin Inten Park.<sup>5</sup> The Social Forest license indeed was successful in keeping forest rangers away from the forest. Even during the process of the license application, the rangers did not visit the forest, thanks to an informal agreement that had been made between the CFs and officials of the Provincial Forestry Service that no rangers would be sent into the Langkawana license area. The CFs had convinced the forestry officials that community-based forest management policies would be ineffective if people continued to experience physical insecurity due to the forest rangers' visits. A meeting with all forest rangers and CFs was held in order to inform them that the 'new era of state forest management was coming', and that the government had welcomed the people to manage the Forest Areas on the basis of Social Forest legislation. This meeting was important, because it set up a common ground for supporting Social Forest between the forest rangers and officials on one side, and the community and their CFs on the other.

The rangers disappeared, and people thought that this was the end of the main cause of physical insecurity in the Forest Area. Besides the rangers, other forest users posed a second threat to physical security of forest cultivation. Before the Social Forestry license was active, Langkawana villagers said that conflicts among forest users still occurred particularly because of theft of fruit, tree-cutting, or land claims. People usually 'lumped' the conflict (see 8.7), but, after Langkawana villagers established their FUGs, disturbances from other villagers gradually decreased. Apparently, the FUGs were successful in organizing collective protection of their gardens from outsiders' threats.

The FUGs' rules also inhibited group members from troubling each other. Latent conflicts that had formerly never been resolved were now reported to the FUGs. The FUGs' leaders – sometimes accompanied by the CFs and local leaders – resolved those conflicts by encouraging consultation leading to consensus (*musyawarah*) between parties. The FUGs' leaders could refer back to the group rules of forest management as mentioned above in order to settle the conflicts. Most conflicts were resolved by

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<sup>5</sup> People's dreadful experience with forest rangers has been described in 8.7.

consensus rather than by group sanctions. Villagers said that conflicts had gradually declined, even before the Social Forest license was issued.

The above stories illustrate that physical security was central in people's mind. The physical security that was previously introduced by the informal agreement between the CFs and forestry officials and by well-functioning FUGs and their group rules, was further strengthened by the Social Forest license.

The second element of tenure security that is also dominant in the view of the people was the opportunity to benefit from the land and resources; we may consider this as the economic element of tenure security. A young Langkawana villager said: "We are the ones cultivating and taking care of the plants on the land; thus it must be us who should harvest them."<sup>6</sup> This statement is illustrative of the importance of the economic element in tenure security. Villagers will feel secure if they are able to profit from the land and resources. There are at least two factors enabling economic security of forest tenure. The first is the opportunity to intensify forest cultivation, and as a result, increase the amount of forest products and make more profit from the products. The second factor is the high land and resource value. Social Forest license or other forms of legal recognition are meaningless if they are granted over worthless land or marginal resources (FAO 2007:9). In a FUGs meeting some days before the Social Forest license was granted, for example, a villager asked: "If I have a half hectare of land which is full of *sonokeling*,<sup>7</sup> what should I do with the land and what can I expect from the trees?"<sup>8</sup> Because of their small economic value Langkawana villagers are averse to *sonokeling* trees, a kind of timber tree planted in the forest during reforestation projects. The fruits from the *sonokeling* cannot be used, but the government prohibits people from cutting these trees. In addition, *sonokeling* trees have become the symbol of past oppression when people were forced to relocate and the government officials planted *sonokeling* in their gardens. People's aversion of *sonokeling* indicates that economic and social values of resources must be considered in analysing tenure security.

The Social Forest license coupled with well-functioning local institutions, notably the FUGs, and their group rules of forest management, has been successful in bringing physical security of forest tenure in Radin Inten Park. In turn, this enabled Langkawana people to intensify their forest cultivation and gain profit from their forest gardens. My interviews with villagers and observations of the villagers' lives before and after the granting of the Social Forest license strongly suggested that the poverty

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<sup>6</sup> Interview Jn., 20/10/2004.

<sup>7</sup> Indonesian rosewood tree (*Dalbergia latifolia*)

<sup>8</sup> Transcript of Langkawana FUGs meeting, November 1999.

rate had consequently declined.<sup>9</sup> The Social Forest license protected the agro-forest gardens against outside interference. This increased people's investment in land. Prior to obtaining the license, the villagers preferred to plant coffee, vegetables, and non-perennial crops such as bananas and beans; however, once they acquired the Social Forest license, they diversified and planted more cash-producing crops (table 9-1). Planting crops such as cacao, *durian* fruit, and rubber, the more popular plants in the agro-forest gardens, shows the farmers' growing investment in labour and time. In turn, as recognized by most forestry officials visiting Langkawana, this improved the quality of the forest in a very cost-efficient way. People conducted self-financed reforestation.

Table 9-1  
Major vegetation types and numbers in Langkawana agro-forest gardens  
1998–2004

Vegetation	1998	2004
Coffee	254,060	255,010
Cacao	7,932	151,553
Rubber	3,578	5,478
Fruit trees	29,072	59,974
Wood Trees	1,047	9,374
Bananas	11,918	47,854
Clove	383	3,562
Cinnamon	13	4,644

Source: Data processed from Langkawana FUGs 1999; field notes 2005.

With such variety of vegetation, the agro-forest gardens became the major source of household incomes. People use their forest-based incomes to send their children to school, build brick houses to replace their bamboo houses, buy motorcycles, and the like. The economy of the village changed. Table 9-2 shows some economic indicators in 1998 and in 2005, as stated by the people. It shows that people's standard of life improved significantly during this period, which coincides with the higher legal, physical and economic tenure security of people's forest gardens.

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<sup>9</sup> I did not collect quantitative data regarding the change of poverty rate in Langkawana.

Table 9-2

Village economic indicators in Langkawana, 1998–2005		
Indicators	1998	2005
Stalls	19	26
Middlemen	9	14
Brick houses	90	130
Cars	4	6
Motor cycles	20	65
Toilets	25	130
Education:		
• Drop-outs from elementary schools	65	33
• Elementary Schools	800	821
• Junior High Schools	552	534
• Senior High Schools	420	463
• University	2	6

Source: Field survey and field notes 2005.

These data strongly suggest that legal recognition, well-functioning local institutions, the situation of '*aman*' and '*tenang*' have been key factors in achieving legal and actual tenure security as perceived by Langkawana villagers. The absence of physical threats of forest rangers, the decline in conflicts among forest users and the increase of land and resource value resulted from successful implementation of forest user group rules of forest management and the Social Forest license. This success could not have been achieved without the improved collaboration between people, the CFs and the forestry officials.

#### 9.7 LICENSE NO LONGER VALID: DID PEOPLE'S PERCEPTION OF FOREST TENURE SECURITY CHANGE?

Based on Forestry and Plantation Minister's Decree 677/1998, Langkawana villagers enjoyed legal security of their forest gardens, but they were only able to enjoy such a security for five years. In November 2004, their Social Forest license expired. According to Ministerial Decree 31/2001 – a replacement legislation of Decree 677/1998 – the authority of licensing was held by provincial or district government. In this case, Lampung's Provincial Forestry Service held this authority. They decided not to extend the license since Ministerial Decree 31/2001 prohibited Social Forest licenses in conservation forest (see 5.4 (c)). For Lampung Forestry Service, the only legal basis for granting the license was Provincial Regulation 7/2000. However, Langkawana villagers refused the implementation of this Regulation. In their understanding, the Provincial



Regulation only provided yearly licenses (*izin tahunan*). This was very disappointing since they had passed the five years trial period with good results. Accordingly, they should have received a long-term license as previously promised by the government.

Provincial Regulation 7/2000 actually offered a ten year license for collecting non-timber forest products (see 7.3 (a)). Nevertheless, in practice the ten-year license was not granted since most forestry officials emphasized people's obligation of paying forestry levies that were collected annually. People understood that the annual levy was the same as the yearly license. This fallacy occurred because of several factors. Firstly, license and levy are legal concepts, which are abstract and not easy for the people to distinguish. Secondly, people interpret law mostly as the acts of state officials, not the words stated in legal documents. Since forestry officials frequently mentioned the levy, not surprisingly, people thought that the levy was an instrument to acquire legal recognition as they experienced with the community forestry license.

Langkawana villagers eventually accepted that the change of legislation had made legal tenure once again insecure. Their temporary license of Social Forest was no longer valid, and the long-term license was also impossible to achieve. How did Langkawana people perceive their tenure security without any license?

When attempting to learn about community perception, it is necessary to keep in mind that there is no such thing as a singular community perception. Thus, for analytical purposes, I divided the Langkawana villagers into three groups. The groups were formed based on the information people had concerning policy and legislation and their connection with the forestry officials. The first group had limited information on policies and legislation and were not well-connected with forestry officials. The majority of villagers fitted in this group. The second group consisted of people who had good knowledge of and information on policies and legislation but were not well-connected with forestry officials. The third group included those who had both good knowledge of policies and legislation and personal connections with forestry officials. Each group had different perceptions concerning tenure security.

For the first group, physical and economic security was most important. They did not express their unease with the expiry of license as much as they did when the forest rangers came or when they found their land planted with *sonokeling* trees. They regarded the license as a legal fact that provided legal security only, but what these people wanted was in the first place actual security. They were not bothered with the expiry of the license as long as they still had access to their forest gardens. For these commoners, the real and long-standing access to forest was the central condition of tenure security, regardless of the name or the legal format that the government instituted.

A slightly different perception was found in the second group, which generally consisted of FUGs' leaders and village elites with greater knowledge of policies and

legislation. For them, legal security was important even though physically their forest gardens were safe. They thought that the license would provide a stronger legal status. Unfortunately, they had limited capacities to obtain a license. They were not well-connected with the forestry officials. In addition, most of them suffered a mental block when communicating with the officials, particularly after some cases of logging occurred in 2000–2002. Some officials pointed fingers to the FUGs' leaders, whom they accused of not handling those cases (see chapter 10 for a further description). This traumatic experience made them lose confidence, when communicating with the leaders.

The last group argued that the license was not important at all. They were small in numbers but held important social status in the community, either as FUGs' leaders or a descendant of the first generation migrants. They had more knowledge of policies and legislation and were more experienced in negotiating the law with the government officials. They were also aware that legislation is unpredictable, particularly in the transitional period of *reformasi* and decentralization. Thus, they perceived law not always as the ultimate source of tenure security. One of the prominent figures of this group said: "Why we should follow the law when the government always changes it. The law is confusing, so it is better not to talk about it. Better to give the government evidence that we are serious about protecting the forest, no matter what the law says, because forest is our future."<sup>10</sup>

Those who were part of the third group had generally been intensively involved in the struggle for obtaining the Social Forest license. They knew that the license was a product of negotiation. Their way of thinking about the license was partly influenced by the CFs. Witnessing the great enthusiasm of the villagers to obtain the license, the CFs were concerned with the risk of abuse of the license. Therefore, the CFs continually encouraged the villagers to establish strong local institutions and to conduct sustainable practices of forest management before applying for the license. "Show your commitment to protecting the forest first, then ask for the rights", were said by the CFs to the community. This statement was important in forming the third group' ways of thinking about the Social Forest license. Their confidence in managing the forest without any legal recognition also related to their good personal relationship with the forestry officials, even with the top-level officials in Bandar Lampung and in Jakarta. They believed that maintaining the relationship would be the best way to acquire tenure security in a situation of legal uncertainty.

People may have had different perceptions concerning Social Forest license. Yet, in practice, after the expiration of the licence, nothing changed in people's attitudes to the

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<sup>10</sup> Interview, Sb., 28/10/2004.

forest gardens and their security of tenure. This was caused by the promise of 'supervision' by the Provincial Forestry Service and the fact that they had to pay forestry levies. Several months before the license expired, the Head of FUGs Association had sent a letter to the Head of the Provincial Forestry Service asking for an extension of the Social Forest license. The Forestry Service, through the Head of Regional Technical Operations Unit (*UPTD*) of Radin Inten Grand Forest Park Management, replied that the government was not able to extend the license since Ministerial Decree 31/2001 prohibited Social Forest licenses in conservation zones, including the Grand Forest Park. However, the Head of *UPTD* emphasised that people were still under supervision (*pembinaan*) of the Provincial Forestry Service even though they had no license, as long as they paid annual forestry levies as required by Provincial Regulation 7/2000 (see 7.4).

For people, the promise of *pembinaan* and levy payment became another source of tenure security. They generally believed that they could cultivate their forest gardens as long as the government's political protection through *pembinaan* continued and they proved their collaboration by paying the levy. During 2000 to 2005, Langkawana FUGs paid two million Rupiah yearly to the Forestry Service by way of levy. For this reason, people argued that they were complying with Provincial Regulation 7/2000. In fact, they made illegal payments since Provincial Regulation 7/2000 stated that the levy was only chargeable after the license had been granted. It is clear that the legal basis for collecting the levy has to be based on a valid license. When the Social Forest license is no longer valid and afterwards the government does not grant any license, any levies collected from the people were definitely illegal. However, despite the illegality, the levies combined with a stable social network of personal relations, still provided the people with more perceived and actual tenure security.

Developments since 2004 in Langkawana Social Forest indicated that people were returning to their strategy of 'every day forms of negotiations' in order to defend their forest gardens. The difference, however, now lies in the fact that they have more ammunition to win the negotiations. A villager said: "Although we have no license, we are still going into the forest. We have worked on the Forest Area land since a long time ago. We planted the trees on the land, so we should harvest the fruits. It would be dangerous to forbid us entering the forest at this moment."<sup>11</sup> The message makes clear that people have invested much labour and time in the forest as well as proved their commitment to protecting the forest. "We have assisted the government to forest the land without payment. It is us, who are the real Forestry Service,"<sup>12</sup> one informant said.

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<sup>11</sup> Interview, Im, 17/12/2004.

<sup>12</sup> Interview, Dm, 17/12/2004.

For this reason, the villagers thought that there were no sufficient grounds to be forced to leave the Forest Area. They stated that they would be ready for an open conflict, if the government would evict them again from the forest.<sup>13</sup>

## 9.8 CONCLUSION

The Social Forest temporary license granted by the Forestry Minister to Langkawana FUGs Association in 1999 ended the situation of contestating claims in Radin Inten Park. The high tensions due to clashing claims between the state and forest users as well as among the forest users declined. In turn, people welcomed the tenure security, which they generally perceived as a situation of '*aman*' (safety, security) and '*tenang*' (quiet, free from fear). The result was an improvement of people's standard of life as well as the quality of the forest itself.

The Langkawana Social Forest license has shown the possibility of a national policy of the Ministry of Forestry of incorporating a community forest tenure system. The legal arrangement in Langkawana Social Forest area, provides us with an example of multi-layered property rights. State property, collective management rights of forest users as set by the Social Forest license, and their individual ownerships of gardens comprised those layers. This situation was the starting point of developing a solid legal arrangement of property rights in the Forest Areas. Regrettably, Indonesian Social Forest legislation was not able to continue and confirm this system. Indonesian forestry legislation does not provide a legal basis for the people's right of use of state land. This has closed the opportunity for Social Forest to develop a new legal arrangement of property rights in the Forest Areas (see 5.4).

The facts that the license was only valid for five years and that forestry officials did not recognize it as a sort of ownership right, entitled Langkawana Social Forest license with limited legal security of land and forest tenure. It is unfortunate that even such limited security had to be ended in 2004. The license expired and the forestry officials did not extend it referring to the 2001 Social Forest legislation, which prohibits Social Forest licenses in conservation forests. Radin Inten Grand Forest Park, where Langkawana Social Forest area was situated, is legally categorized as a conservation forest.

The license definitely provided legal security for Langkawana people. Yet, tenure security follows from people's perceptions instead of a government's legal constructions. As such, the introduction and disappearance of the Social Forest license contributed partly to the tenure security of forest gardens of Langkawana villagers in Radin Inten Park. In addition, people enjoyed increased real physical and economic

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<sup>13</sup> Developments in Langkawana in recent years are described in the Epilogue.

security in the forest. In this sense, the absence of threats and disturbances of forest rangers and other forest users as well as opportunities to gain economic benefit from land and resources were key. Tenure security in Langkawana Social Forest area is based on a complex interplay of legal, actual physical and economic security as fitted with the villagers' perception, in which each relates and supports one another.

The extent to which the Social Forest licence was able to provide better forestry and better life for the people – indicated among others by the decline of conflicts and improvements of livelihood – depended on the way it successfully boosted physical and economic security and provided people with strong, clear, permanent and predictable legal security. The 2004 development of Langkawana Social Forest license shows that this situation was not continued following the end of the license. Legal security was no longer available. People had to seek 'security' not in a legal arrangement but in politico-administrative protection by local forestry officials. The promise of '*pembinaan*' or supervision of forestry officials and forestry levy became a new source of tenure security. If Social Forest policy and law in Langkawana was perceived as a blessed change due to its ability to strengthen people's perception of '*aman*' and '*tenang*', in the post-2004 period it became clear that very little progress had really been made. People's scepticism of the law grew undoubtedly. This is a burden on the development of forest tenure in Indonesia in accordance with principles of the rule of law (*Negara hukum*).