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

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10. RETHINKING FOREST TENURE SECURITY

10.1 INTRODUCTION

In 2007, FAO published a report entitled 'Tenure security for better forestry.' As with other publications (Deininger 2003; White and Martin 2002; Contreras-Hermosilla and Fay 2005), the report restates the significance of securing forest tenure to achieve forest sustainability. This book discusses legalization of community forest tenure by the state, either in the form of recognition, integration or incorporation, as a strategy to provide people with legal security of forest tenure. The Social Forest licenses issued since 1998 have allowed forest communities to manage Forest Areas. These licenses have demonstrated a remarkable potential for effective incorporation of community property rights into the state forest tenure system (see 2.3, 9.5).

In previous chapter we have seen how the normative tension between state and community forest tenure systems can be resolved by the Social Forest license. Yet, the question remains to which extent a licensed forest community is actually able to protect the Forest Area with their acquired legal rights and obligations and their local institution.

With the establishment of FUGs and their internal group rules and the granting of the Social Forest license, Langkawana became a policy model for community-based forest management in Indonesia some years after the New Order. The license contributed positively to the improvement of people's livelihood (see 9.6). As the relationship between access to forest and people's livelihood is obvious, it is expected that people will feel a greater incentive to protect the forest after having received the license. Nevertheless, things in Langkawana went differently.

Two years into its period of success, the environmental objectives of the Langkawana policy model began facing difficulties. In late 2000–2002, villagers started to resort to uncontrolled logging. This development seems to challenge the argument of a positive relation between the security of community forest tenure and social & environmental justice. So, should we still believe then that a legalized community forest tenure system and local institutions are central to forest protection? This chapter discusses potential reasons why the Langkawana Social Forest license and FUGs failed to effectively contribute to forest protection. The following section relates the actual facts of logging and subsequent sanctioning (see 10.2). Then, in section 10.3 we will discuss the main social, administrative, and political factors leading to the logging and their implications for the general notions of tenure security, forest governance and community development.

10.2 LOGGING IN LANGKAWANA

In August 2002, Tanjung Karang District Court in Bandar Lampung sentenced Arba, a Langkawana villager, to six months in prison because of cutting trees in Radin Inten Grand Forest Park without permission from Forestry Service.¹ Arba was arrested in April 2002 when forest rangers found him cutting *sonokeling* trees (see 9.6). A month before Arba's case, the district court had made a similar decision for Warno, another Langkawana villager who was caught bringing in charcoals from the forest.²

By arguing that Arba had destructed state-protected forest as well as harmed other communities, the district judges referred to Article 50 (3e) of the Forestry Law 41/1999 in conjunction with Article 78 (5) and (15) of that law.³ Meanwhile, the judges sentenced Warno to four and a half months in prison on the argument that he was carrying forest products without having legal documents. In this case the district judges used Article 50 (3h) in conjunction with Article 78 (7) and (15) of Law 41/1999⁴ Arba and Warno who did not receive any legal aid during their court sessions, decided not to appeal against the district court's decisions.

Arba and Warno were the first in Langkawana who had to deal with a state court because of their forest utilization. Although the forest rangers and the regional government had blamed the villagers of illegally living in Forest Area and cultivating the forest land for decades, none of the villagers had ever been sentenced. Chapter 8 described that prior to the implementation of the Social Forest legislation in Radin Inten Park, enforcement of Forestry Law usually ended in negotiations between forest rangers and villagers rather than in a court procedure (8.7). The fact that the cases of Arba and Warno occurred after Langkawana had received the Social Forest license, was highly surprising.

¹ District Court Decision 459/PID/B/2002/PN.TK.

² District Court Decision 458/PID.B/2002/PN.TK.

³ Article 50 (3e) states: "No one is allowed to cut trees or harvest or collect any forest products within the forest area without holding any rights or license issued by authorised officials." Article 78 (5) states: "Whosoever intentionally violates the provisions of Article 38 paragraph (4) and Article 50 paragraph (3) letter (g), shall be liable to punishment by imprisonment up to a maximum of 10 (ten) years and a fine up to a maximum of 5,000.000.000 Rupiah (five billion Rupiah)." Article 78 (15) states: "Any forest products obtained by a criminal act and any equipment including means of transportation used in committing such criminal act as referred to herein, shall be confiscated for the State."

⁴ Article 50 (3h) forbids anyone to transport, control, or posses forest products without any legal documents. Article 78 (7) states: "Anyone who intentionally violates Article 50 paragraph (3) item h shall be subjected to imprisonment of maximum 5 (five) years and penalty of maximum 10,000,000,000 Rupiah (ten billion Rupiah)." Article 78 (15) see footnote above.

Yet, Arba and Warno were not the only two villagers who logged in the forest. Grand-scale tree-felling, involving many villagers had started about a year after the issuance of the license. Why did the people conduct such uncontrolled logging, in spite of the prohibitions enacted in their Social Forest license and in the internal rules of their FUGs?

The logging incidents in Langkawana generated debates both in Lampung and in Jakarta. Many high officials of the Ministry of Forestry raised doubts about Social Forest legislation. It seemed to them that Langkawana was trapped into the dark footsteps of Social Forest practices in Central Kalimantan (see 3.6). Lampung forestry officials who opposed the policy of Social Forest now had evidence of the communities' lack of responsibility to manage Forest Areas.

For civil society organizations in Lampung who had opposed Social Forest, the logging incidents in Langkawana confirmed their position that the only solution would have been to grant full ownership right of the land to forest communities. Although community-based forest management has been on the top of the agenda of environmental NGOs, not all of them hold the same approach. To some Lampung NGOs, academics and farmer organizations, Social Forest policy should be refused primarily for its failure to change the status of Forest Areas from state-controlled to people's ownership. As their main purpose was to see land ownership returned to forest villagers including *adat* communities they saw Social Forest as inappropriate legislation. By arguing that without recognition of private ownership rights on forest land, there were no incentives for the people to keep the forests, Lampung NGOs and farmer organizations said that Social Forest legislation eventually was nothing but a legalization of destructive forest activities in Lampung.⁵

Besides criticizing the inability of Social Forest to foster the expected reform of forest land tenure, Lampung NGOs and academics as well as their Jakarta colleagues also questioned the responsibility of community facilitators (CFs) who had worked with Langkawana villagers to set up their FUGs and assisted them to obtain the license. In fact, the facilitators had ended their activities in Langkawana before the logging started.

Whereas government officials, NGOs and academics continued to seek for a culprit who could be blamed for the logging, the people's voice remained unheard. The way the villagers regarded the logging and for what reasons they engaged in it were questions, which remained unexplored in the public debates. To external analysts it

⁵ For other arguments of Lampung environmental NGOs on Social Forest policy see Galang SHK vol.1, January 2001.

seemed easy to explain the logging; they observed the situation from outside and drew a conclusion based on their own perspectives. But, this often leads to bias. To avoid more distorted conclusions, this section explores the villagers' point of view with regard to the logging that occurred. In the next section we will then further analyze the causes of logging.

Langkawana villagers explained that the logging was actually part of a nature project which did research into the domestication of butterflies, with the support of the Provincial Forestry Service. The project was part of an eco-tourism program. It was initiated on some forest plots owned by a villager, who acted as the Forestry Service's representative in controlling the Forest Area. Called a '*mandor*' by the villagers, the man agreed to allow his plots to be used for this project. He asked his son to cut down the *sonokeling* in his garden. *Sonokeling* is a commercial timber tree planted in Radin Inten Park through reforestation programs. Unexpectedly, after cutting the trees in his own garden, the *mandor's* son continued to cut trees in others' gardens. Meanwhile, the Forestry Service did nothing to stop the logging, although the forest rangers frequently visited the *mandor's* house or gardens. This convinced other villagers that the *mandor's* son was actually colluding with the rangers. They protested to the FUGs arguing that it was unfair to ask them to protect the forest, especially the *sonokeling* trees, if there were no sanctions for those offending the logging ban.

The FUGs leaders faced a dilemma. The villagers asked them to deal with the offenders but they had failed to persuade them to end their activities. The loggers spurned the FUGs' request since they assumed they were supported by forest rangers. The FUGs' leaders reported the case to the Provincial Forestry Service whom they pressed for a resolution. At first, the Forestry Service did not want to get involved because they thought that the FUGs, with their Social Forest license, should take the responsibility to protect the forest. But, as logging continued, the Forestry Service promised to handle the case. They organised meetings with the loggers. The CFs who had ended their activities in Langkawana some months before the logging were re-invited to these meetings. However, progress was slow and the meetings did not result in a consensus. Then the Forestry Service dropped the case without explanation.

Logging, which had originally started for the butterfly research project continued and expanded. Other villagers were encouraged by the example of the *mandor's* son to log their own gardens. The FUGs leaders were unable to prevent or stop the logging; some of them even logged their own gardens too. Soon, felled trees scattered Langkawana Social Forest area. Some villagers burnt the trees to make charcoal and others used them as firewood.

In two years logging became uncontrollable and there were no significant and effective efforts to stop it. Only the arrest of Arba and Warno put an end to the logging. The arrests of the two villagers worked like a shock therapy for the loggers. They

temporarily ended their activities. The FUGs assisted by the CFs used this opportunity to hold another group meeting for reconciling conflict between them and the loggers as well as showing the government and public about the commitment of Langkawana villagers to discontinue destructive activities. Combined with a traditional Javanese ceremony namely *ruwatan*, generally aimed at driving away evil spirits and misfortune from people's lives, the meeting symbolized people's good will to manage the forest responsibly. Since then, the logging completely stopped. Unfortunately, the FUGs continued to be disempowered; this had other reasons, which will be described in the following section.

10.3 LESSONS FOR CONSERVATION, DECENTRALIZATION AND COMMUNITY DEVELOPMENT

Those who believe that legal tenure security in the form of full landownership is essential for sustainable forest management have argued that the logging in Langkawana took place due to the fact that the Social Forest license failed to endow people with the highest degree of legal security. People started to cut trees again, as the argument continued, since they were dissatisfied with short-term license and the limited rights. However, it is questionable whether this is the most plausible explanation. People's perceptions of tenure security as explored in 9.9 tend to go beyond this legal dimension. Langkawana people sought for tenure security which they described as 'safe' (*aman*) and 'free from fear' (*tenang*).

Langkawana people were generally grateful for their Social Forest license despite its limited duration. The most significant impact of such license, according to the people, was freeing them from the threat of forest rangers. As described in 9.6, there is increasing evidence of a correlation between the licensing, the contribution of forest gardens, and people's increase living standards. Strangely, the logging started again, when the forest rangers had left and people had started to enjoy larger incomes from the forest. Nevertheless, the perception of physical security was apparently not sufficient to restrain them from logging.

The same also goes for poverty and market intervention to explain the logging. It is difficult to argue that community logging in Langkawana was a poverty-driven activity. In certain cases it is probably true that poor people are trapped into illegal logging. Nevertheless, it would be wrong to conclude the same for Langkawana. During the logging which took place between 2000 and 2002, both poor and wealthy villagers were involved in logging. Interestingly, they undertook logging when most of them enjoyed a better livelihood than ever.

Langkawana logging also does not reflect an infiltration of market-based economy in forest communities – a theory, which is often assumed to lead to commoditization of forest resources. As known, Langkawana is a peri-urban village, where agricultural

trade has become an important pillar of the local economy. Trade is not unusual for the people. They sell their agro-forest products to middlemen. As for the trees, people felled them generally for making charcoal or firewood and sold them at a price that was lower than the fruits from the agro-forest gardens. A villager said that felling the trees and making charcoal were time and energy consuming activities. Yet, people continued to log trees and make charcoal. It becomes clear that this was not because they had no alternatives to earn a living.

The return to logging also indicates that the existence of local institutions as represented by the FUGs and their collective rules did not assure the community's intention to preserve the forest. How then should we understand the logging? The following narratives portray four main factors contributing to the logging practices in Langkawana. Each factor inspires us to rethink some of the notions generally applied in community-based forest management, conservation programs, decentralization and community development.

(a) People's responses, interests, and the failure to listen to them

The first analytical statement on Langkawana logging must be that the logging was a response by the people's to the government's inconsistency in law enforcement. Langkawana villagers felt they were treated unfairly, when the provincial forestry officials did not respond to their complaint about the logging carried out in the butterfly domestication project. Many villagers complained that the forestry officials often reminded them to act according to the Forestry Law, but that they turned a blind eye to the logging occurring in the location of butterfly project. The officials neither warned nor sanctioned the logging carried out by the *mandor's* son. People thought that the forestry officials discriminated against them. Such feeling of resentment encouraged people to log, even though they knew that it was against the law and the Social Forest agreement (9.3).

The second reason for continued logging was people's perception of forest resources available in the Social Forest area. People did fell the trees, but it would be misleading to say that they logged rashly. In fact, there were selective about the logging, as they only cut *sonokeling*, the tree species that they disliked. Chosen by the government as the tree species for reforestation projects, the *sonokeling* is a clear example of the so-called scientific forestry approach in forest conservation. As Scott says, forest conservation that is directed by this approach attempts to make forest a monoculture landscape, or in Scott's term as 'a virtual ecology', thereby denying diversity (Scott 1998:14-9). Scientific forestry simplifies the forest as a single-commodity producer. Wood becomes central in this regard due to its higher contribution to state revenue. The planting of *sonokeling* in Radin Inten Grand Forest Park reflects the state's exercise of power in order to make an ecological attribute of the forest compatible with its own interests.

The people's own choice of species was completely ignored. For Langkawana villagers, the *sonokeling* absorb too much water from the soil, to the detriment of other trees. More importantly, this species has less economic value. Compared to fruit trees, the *sonokeling* contribute little to people's household incomes. The trees do not provide people with sellable or usable products. Meanwhile, they are the only tree species that is prohibited to be cut. Thus, people gained few benefits from the *sonokeling*. However, most of their gardens were planted with *sonokeling* when they acquired the Social Forest license. "What can we expect from gardens full of *sonokeling*?" was a common question people raised.

As such, *sonokeling* became the target of cutting because they constrained people in increasing their forest-based income. Freeing forest gardens from *sonokeling* would allow the fruit trees to grow well and provide people with greater economic benefit. For the poor, this could mean survival; for the wealthy, the cutting could lead to an even larger income

Langkawana villagers had another reason to cut *sonokeling*. The *sonokeling* was a symbol of past oppression when people were forced to move from their homes and gardens due to the planting of *sonokeling* during the reforestation projects conducted in the 1980s. People's resistance to reforestation projects was expressed among others by silently burning the *sonokeling* roots. One by one, they successfully cleared their gardens from the *sonokeling*. Still, this did not satisfy them, since many gardens were still covered by *sonokeling*. Thus, when the *sonokeling* was cut for the butterfly project, people felt that it was the right time to free their gardens from this disliked tree.

These accounts point out how important it is to consider people's preference of plant species in Social Forest Areas. People have stronger incentives to protect the forest if the plants are of their choosing; that is, that they may fit with their needs and their good experiences with the plant in the past. Recognizing people's choice of plants seems to have become a main principle in Social Forest legislation in post-New Order. Minister of Forestry and Plantation's Decree 677/1998, echoed by Ministry Regulation P.37/2007, for example, states that Social Forest legislation is based on 'the principle of biodiversity and cultural diversity'. The legislation implicitly recognizes diversity of species planted in Social Forest Areas, as chosen by the people.

Yet, seeing how the principle works on the ground is more complicated than how it is formulated in the legislation. In Langkawana, the Social Forest license allowed people to plant trees based on their preference. Nevertheless, this was eventually meaningless because the license was granted for land full of *sonokeling* and it was forbidden to replace the trees with species they preferred. *Sonokeling* was untouchable because forestry officials perceived them as state property, simply because they grew in state forest and had been planted by the government during its reforestation programs. Thus, legalizing people's freedom to decide what they prefer to plant is not

sufficient without taking into consideration the extent to which the real conditions support this principle.

The FAO states that one key principle of successful Social Forestry relates to making valuable resources available to the community. Government often offers marginal resources such as degraded land or forest with few commercial resources to be jointly managed with local communities. Certainly, this does not generate an incentive to protect the forest. As such, providing valuable resources to communities is the key (FAO 2007:13). Nevertheless, it should be noted that the word 'valuable' itself is open to debate. What is formulated as 'valuable' is economically, socially and historically constructed. Thus, it may have different meanings for different actors, in different times and for different resources. As is the case in Langkawana, people's resistance to the *sonokeling* was not caused solely by its low profitability, but also, as mentioned, by its symbolisation of a history of repression and eviction in the Forest Area. Logging in Langkawana must be seen from this standpoint.

The cutting of *sonokeling* in Langkawana confirms people's response to government inconsistency with regards to enforcing the law and their resistance to the past government practices in which people had been maltreated in forest management. As already described in 7.2 (e), preserving Forest Areas by victimizing people was common for New Order Lampung forestry policies.

However, the *sonokeling* cutting also taught us another lesson. As Li says, delegating forest management to local communities does not guarantee forest protection, if the results of such management are designed and assessed by outsiders who use indicators which neglect people's perspectives (Li 2002:270-2). All Social Forest legislation has obliged people – as the licensee – to protect the forest.⁶ In this sense, forest protection means that no tree is allowed to be cut without approval from the government. Most forestry officials have accepted that the success indicator of Social Forest is the absence of tree-felling. Realizing that wood-cutting was a central indicator of successful Social Forest management, the CFs reminded the people continually to act as the best local forest managers by, among others, avoiding wood-cutting. The facilitators said that it was necessary in order to convince the government of their commitment to preserve the forest. State legalization of people's access to forest, they said, would depend on the willingness of people to carry out good forest management (9.2). This topic had dominated the CFs' discussions with the people in 1998–1999, particularly in the preparation of FUG rules. In addition, the facilitators actively assisted the FUGs in handling one or two cases of logging which occurred prior to the granting of the Social

⁶ Article 13 c Minister of Forestry and Plantation's Decree 677/1998; Article 56 Minister of Forestry Decree 31/2001 and Articles 25 and 26 Ministerial Regulation P/37/2007 on Social Forest.

Forest license. Both the facilitators and FUGs' leaders were successful in enhancing people's 'conservation awareness' at that time. Logging as well as forest land clearing decreased significantly. Instead of logging or clearing forest land, Langkawana villagers were eager to plant their forest gardens at their expense (table 9-1). Their efforts of re-greening the forest by planting tree species they liked – mainly fruit trees – were phenomenal in contrast to governmental reforestation programs that cost more money but had less success. Thus, when grand-scale logging started in Langkawana, it was shocking, particularly because the contrast with the success of the new efforts to maintain the forest was so sharp.

Debates between the FUGs' leaders, the CFs and forestry officials as well as other NGOs primarily focused on the issue whether logging was acceptable or not. Unfortunately, one thing was forgotten. Using the logging rate as an indicator for assessing the success or failure of Social Forest does not make sense without discussing whether all villagers accepted the indicator or not. Some Langkawana villagers felt treated unfairly, as they were judged by outsiders as being incapable of performing good forest management without considering what they had planted on Radin Inten Forest. An increasing number of fruit trees had been planted in the forest after the Social Forest license had been acquired. But, this seemed overshadowed by the *sonokeling* cutting. Outsiders commonly believed that people had cut all the trees, but usually they had not. As mentioned, they were selective in their logging with the *sonokeling* being their primary target. People had their reason to cut the *sonokeling*; but no outsider tried to understand that reason.

This discussion eventually leads to some lessons. Firstly, following Li, I believe that externally-driven efforts to design better resource management in any model of community-based forest management, that ignores local preferences and experiences, will fail. Secondly, expecting that community-based forest management will fit conservation agendas is unrealistic if the notion and indicators of conservation are not compatible with the people's perspective (Li 2002:272). When people are expected to conserve the forest but are ignored with regard to their own needs, a license will not create social & environmental justice but a burden. When this happens, the Social Forest license is an effective tool for exploiting people, particularly the poor, as they are asked to conserve the forest for the benefit of all, while they do not see an improvement in their own living standards.

(b) Unresponsive local bureaucracy

The previous section has shown that the provincial forestry officials, rather than responding to the FUG's request of ending the logging, put responsibility on the FUG leaders themselves, who were ill-equipped and powerless in handling the problems. The officials who were in charge of Radin Inten Forest considered implementation of

Provincial Regulation (*Perda*) 7/2000 concerning levy and license to harvest non-timber forest products as their main task. In a meeting held to find a solution to the logging problem in Langkawana the officials urged the villagers to resolve the problems on their own, and then swiftly moved on to spend considerable time on the next item on the agenda: payment of levies.

Langkawana logging has raised questions regarding the ability of the state to intervene in social problems of forest communities. These are also questions on decentralization and state responsibility in forest management. Which form of decentralization is best suited to serve social & environmental justice and how should state responsibility be defined?

The global trend of decentralization in forest management is constructed upon a common assumption of the positive impact of decentralization on forest management. It is assumed that decentralisation can foster local participation and more equitable benefit sharing from forest management at local level (Capistrano and Colfer 2005:302). In addition, it is generally believed that decentralization can also be a tool for handing down public control of natural resource (Ribot 2004:13). In short, decentralization has been expected to enable participatory, democratic, efficient, accountable, equitable, and flexible forest governance (Andersson, Gibson and Lehoucq 2006).

Certainly, this ambitious goal cannot be accomplished by all forms of decentralization. Ribot promotes democratic decentralization as the most appropriate form of decentralization in natural resource governance. A democratic decentralization, he says, will take place when central government transfers its power to representative regional and local government. Two attributes need to be embedded in the so called representative institutions, that is, accountability to the people and responsiveness to their needs (Ribot 2004:17-20).

Establishing an accountable and responsive institution is pivotal in decentralization; however, it would be hard to determine what type of institution is required. In his notion of democratic decentralization, Ribot believes that election of the leaders of regional and local governments is the best option. Governors, mayors, heads of districts are elected by the people. As such, they should be more accountable and responsive to the people. But are they really so? In certain cases, it may be true that such elected regional governments are socially accountable and responsible. Nevertheless, in many other cases, this is not necessarily so. Then, regional officials turn out to be more accountable to the central government, political parties or local elites, and subsequently responsive to their needs. Explanations regarding the reasons of unaccountable and unresponsive regional governments vary. Ribot and Turner point to electoral systems – that bestow political parties with a central role in regional government elections – and elite capture as the main constraints to democratic decentralization (Ribot 2004:26-9; Turner et al. 2003:69-71). Others emphasize that

governors, mayors, heads of districts are primarily local politicians. It is in their interests to gather political support and obtain financial rewards, and this directs them in decision-making and conducting forest governance (Andersson, Gibson and Lehoucq 2006).

Since governors, mayors and district-heads are key actors of regional governments, their policies, commitments as well as interests are important. Yet, the citizens are faced with the consequences of such policies, commitments and interests through direct interaction with lower officials in the local bureaucracy. Lipsky calls them 'street-level bureaucrats' (Lipsky 1980:3). They are responsible for the daily decision-making and activities, which should implement policies and laws that have been formulated at the higher level (Green 1997:52, 57). Their discretionary powers enable them to allocate benefits and execute public sanctions to the people. This makes the local bureaucrats important, also in determining the direction of decentralized community-based forest management policy. Therefore, an additional challenge to democratic decentralization is how to make the local bureaucrats socially responsive officials.

In the case of Langkawana the people, suspecting a conspiracy between loggers and forest rangers, generally believed that the street-level forestry bureaucrats were unresponsive. Indeed, making local bureaucracies in a country like Indonesia responsive to the people is not an easy task. They are not organizations that reflect what Weber called legal-rational authority and effective bureaucracy. Just like in the case of elected politicians, the social responsiveness of local bureaucrats has many constraints. One constraint consists of bad morality and corrupt behaviour. A second constraint is administrative ignorance. Another factor is lack of technical and financial support, as commonly expressed by the bureaucrats themselves. The absence of a grievance-handling mechanism in the forestry local offices that inhibits the bureaucracy to rapidly respond to people's grievances, is often mentioned as another reason.⁷ All these reasons explain the local bureaucracy's unresponsiveness. Yet, another constraint could be the burden of tasks within the bureaucracy. Wilson states:

No single organization, however, can perform well a wide variety of tasks; inevitably some will be neglected. In this case, the wise executive will arrange to devolve the slighted tasks onto another agency, or to a wholly new organization created for the purpose (Wilson 1989:371).

⁷ Chapter 2 discussed this as one of important factors constituting the protection of property rights (see 2.3 (a)). In Langkawana, the existence of a grievance-handling mechanism could also have a positive impact on protecting the forest. For further discussion regarding this mechanism see chapter 12.

Bureaucratic organizations that are targeted to accomplish too many tasks will be overloaded and finally deepen their social insensitivity. This constrains them in being more responsive to the people. The way in which the local forestry bureaucracy responded to logging in Langkawana reflects Wilson's words. As already mentioned, at the outset, the forestry officials were more interested in conducting the socialization of Provincial *Perda* 7/2000 than assisting people in handling the logging. The 1999 decentralization law had welcomed a greater authority of regional governments to self-regulate their communities and environment. An unintended consequence of this law was a growing use of authority of regional governments to multiply their benefits from forests rather than empower the communities. Increasing the amount of local revenue (*Pendapatan Asli Daerah, PAD*) to support regional development became the common goal of regional governments in many provinces, including Lampung. Many of them enacted tax-seeking regulations such as *Perda* 7/2000. To implement the *Perda*, the officials intensified levy collections in Social Forest Areas, as was described in 7.3 (a). Inevitably, they became tax-seeking officials, and as a result, their interest in resolving problems due to logging decreased. Officials now used the argumentation that based on Social Forest policy they now had complete trust in people's capability to self-manage the forest; so, they let the people struggle in handling the logging problems, even though they knew that people did not have the power to bring logging to an end.

In the dealings with the Langkawana logging cases, the power sharing between government and people as intended by community based forest management was distorted. The government officials were willing to share their burden rather than their power, while they continuously kept reaping the forest of its benefits and the people by collecting levies

Decentralization that emphasized increasing state revenue rather than people's empowerment put the people in a difficult situation. They have been transformed into actors who carry the main responsibility of state forest protection while at the same time being potential tax payers. Obviously, such decentralization will need to change if it were to contribute to just and good forest governance. Decentralization requires reform not only of legal powers but also of bureaucratic culture and behaviour. The question is how to make local bureaucrats responsive to the aspiration and needs of the people.

The call for a responsive bureaucracy is not compatible with the idea of a passive government. In the liberals' night watchman state the bureaucracy only collects taxes and maintains law and order, according to Wunsch and Olowu (cited in Seidman and Seidman 1994:155). Interestingly, in Langkawana the unresponsive bureaucracy merely collected levies without even maintaining law and order. In any case, a responsive bureaucracy eventually will face the challenges of community-based development, that had raised such high hopes when it as Esman states: "glorified the unrealized

potentials of grassroots communities and voluntary associations to empower their members and solve their own problems by self-reliant collective initiative" (Esman 1970:9).

The Langkawana logging shows the difficulty to maximize such potentials. Sometimes the self-reliant community is a utopia rather than a reality. In certain cases they are in fact dependent on the state. Therefore, Esman says that development policy needs to forge a pragmatic consensus between the ideologies of state and people-centred development (Esman 1970:11-3). As indicated by the Langkawana case, interdependence between government and people is unavoidable.

Yet, how must we define the state's responsibility in this way? Does it allow government officials to intervene in people's problems? If so, what is the limit of such intervention and what is its implication for the goal of people's autonomy, as promoted by the proponents of community-based development? An important lesson learned from the Langkawana logging is that state intervention in community-based forest management is warranted when serious environmental damage occurs and the community is not able to handle it on its own.

Can such an intervention be regarded as a government obligation? The Preamble of the 1945 Indonesian Basic Constitution states that the Government of the State of Indonesia shall protect the whole people and the entire homeland of Indonesia (paragraph 4). This means that if the public interest of protection of the Indonesian homeland and its citizens requires so, the government must take the main responsibility of forest protection. Protecting forest and the environment in general has human rights dimensions. Article 28 H (1) of the Indonesian Constitution, part of the section on human rights, states: "Each person has a right to a life of well-being in body and mind, to a place to dwell, to enjoy a good and healthy environment, and to receive medical care." Furthermore, Article 28 I (4) obliges the government to fulfil and to protect such rights by stating: "Protecting, promoting, upholding, and the full realization of human rights are the responsibilities of the state, foremost of the government."

Based on the Constitution, it is clear that forest protection is a state obligation. Consequently, the government holds the main responsibility to handle disturbances in state forest, no matter that forest management in such areas has been delegated to the communities. Law 41/1999 on Forestry also stipulates the government's central role in protecting the forest. Nevertheless, this law and its implementing regulations call the responsibility an authority of the government rather than an obligation. Article 48 (2) of the law states: "Forest protection in state forests shall be undertaken by government". Then, Article 3 of GR 45/2004 concerning Forest Protection states that protecting forests is the authority of central and regional government. Such an authority can be delegated to state-owned forestry corporations that manage Forest

Areas, *adat* communities and holders of forestry licenses (Article 48 (3) of Law 41/1999; Articles 8 and 9 of GR 45/2004).

What is the implication for Social Forest policy if forest protection, particularly in state forests, is interpreted as a government authority instead of an obligation? Firstly, there is the government's inclination to transfer this authority to forest communities while limiting the rights of such communities to reap benefits from the forests. Social Forest licenses that had been granted to forest communities, as described, offered limited security of tenure to the communities but burdened them with too many and sometimes unrealistic responsibilities of forest stewardship.

Secondly, as forest stewardship becomes a community obligation,⁸ the government will easily annul Social Forest licenses⁹ when it can blame the community of being incapable to protect the forest. It is not unlikely that the government will do so even without considering whether such incapability is due to the community's fault or just a consequence of other actors' activities, or government policies. When assessing the community's capability to protect the forest, the government tends to neglect its own counterproductive policies, as happened with the butterfly domestication project in Langkawana.

Thirdly, once the government's authority to protect the forest has been transferred to the community, the government is inclined to be passive rather than active in supporting that community. Article 11 of GR 45/2004 states that the government (central, provincial and district government) facilitates, guides, advances and supervises forest protection carried out by state-owned forestry corporations, *adat* communities and individuals. Then, Article 7 of the same regulation states that in order to carry out forest protection, central and regional (provincial, district and town) governments as well as communities undertake actions, of which some are to "enhance the effectiveness of complaint procedures in case of disturbances of forest security, take first action regarding such disturbances and enforce sanctions on the perpetrators." Yet, many of these stipulations are not carried out. The government does not have a clear policy on how facilitation, guidance and complaint mechanisms are to be realized. Besides, the government tends to be absent when forest disturbances are beyond control of the community.

The cases of logging in Langkawana demonstrate that although government intervention was certainly required, most forestry officials interpreted the cases as the

⁸ Article 13 of Minister of Forestry and Plantation Decree 677/1998; Articles 46 and 56 of Minister of Forestry Decree 31/2001; and Articles 25 and 26 of Ministerial Regulation P.37/2007.

⁹ Article 15 of Minister of Forestry and Plantation's Decree 677/1998; Article 57 of Minister of Forestry Decree 31/2001 and Article 33 (1f) of Ministerial Regulation P.37/2007.

community's lack of competence in managing the forest. This gave them a justification to annul Social Forest licenses. Such interpretations and justifications, however, may be flawed, as community behaviour is the result of a complex set of related factors. The government's own policies and activities are among those factors. Other factors have to do with the community's internal situation, such as the disempowered local institution described in the next section. As occurred in Langkawana, a government contradictory policy of butterfly domestication and the indirect support of some street-level bureaucrats of loggers were behind the uncontrolled logging. As such, it is unreasonable to put all the responsibility of forest protection on the back of the community. In this situation, the government needs to intervene. One way to make such an intervention effective is by changing the notion of intervention from government authority to obligation. Then, the intervention needs to originate from a request of the community in order to respect its autonomy. To this end, decentralization must be directed at enhancing the regional government's adequate and rapid responses to the need and aspiration of people. In this way, Social Forest policy would lead to just power sharing, rather than just burden sharing, in the management of state forest.

(c) Disempowered local institutions

Our discussion of logging cases in Langkawana cannot disregard the role of local institutions in forest management.¹⁰ Simply speaking, the cases show the incapability of FUGs to enforce their rules. What factors and what situations inhibited the FUGs to consistently enforce their internal rules with regard to forest protection?

Prior to obtaining their Social Forest license, Langkawana villagers established FUGs (see 9.2). The members were forest farmers living in Langkawana and the surroundings. Supported by CFs – academics, researchers and NGO activists – the FUGs developed group rules of forest management. The rules prohibited the FUG's members to log or clear forest land for making new gardens or expanding existing ones. At the outset, the FUGs successfully enforced their rules. Logging and land clearing decreased significantly. However, when faced with the logging that occurred towards the end of 2000, the FUGs appeared rather powerless. What had happened to the institution and its rules?

The FUGs had tried to handle the logging since it started during the butterfly project. Yet, as mentioned, the FUG leaders did not warn the loggers since they thought they were protected by forest rangers. As logging continued and inspired other villagers to do the same, the FUG leaders witnessed the developments without

¹⁰ See 2.5 (c) for the concept of local institution employed in this book.

any power to end it. A number of group meetings were held to stop the logging cases, but they all were unsuccessful. At the same time, a local newspaper reported the logging in Langkawana. This caused FUG leaders more panic and shame. As mentioned, they asked the Forestry Service for assistance in handling the cases. After receiving several complaints, forestry officials eventually inspected the forest and found the felled trees, some of which they brought to their office. This was followed by an outcry from the villagers. About two hundred villagers marched to the house of the FUG's association's chief, demanding the trees to be returned. The protest showed the villagers' lack of trust in the FUG leaders because the latter had re-invited forest rangers to the village. The protesters felt like toys of the forestry officials. This experience was traumatic for all FUG leaders as they lost all confidence in handling the organization.

Inevitably, in the wake of the logging the FUGs were disempowered. This was caused by two factors. Firstly, there was a serious problem of leadership in those organizations. Langkawana's FUGs lacked leadership capacity. Most leaders had poor communication skills and exhibited impatience, which decreased their power of persuasion.

Secondly, there was also a tendency among FUG leaders to abuse power and discriminate. Esman and Uphoff's classic book on local organizations identifies malpractice as one of the vulnerabilities of rural local organizations (Esman and Uphoff 1984:199-202). The malpractices in Langkawana clearly came up in the form of power abuse and discrimination in the enforcement of FUG's rules. When Langkawana became popular as a model for successful Social Forest policy, the FUG leaders suddenly became new elites in the village. They were young men and relatively new inhabitants, who had come to the village in the second or third wave of migration. Previously, they did not have an important position in the village such as the village government officials, religious leaders or entrepreneurs. But then, as FUGs' leaders they became important persons who could decide about the future of others in the forest. Some FUG leaders behaved more like bosses than representatives of the people. They used the FUG's rules as tools to exercise power. When they saw people clearing land, for instance, they warned people that their land would be seized rather than trying to discuss with them about the impact of land clearing on forest sustainability, and encourage them to participate in the project. Some also implemented group rules in a discriminatory fashion by enforcing the rules on people outside their own families or cliques. Thus, common people were frustrated when communicating with the FUGs' leaders and to some extent lost their trust.

When the FUGs' leaders tried to deal with the logging, they had already lost much of their legitimacy among the members. Instead they had invoked resistance of ordinary people to the FUGs. Continuing logging and demonstrating against FUGs'

leaders as mentioned earlier illustrates this resistance. Many villagers regarded the leaders as allies of the Forestry Service, whose interests were diametrically opposed to their own.

(d) Dilemmas of community facilitation

I have to restate that Langkawana FUGs were not created at the initiative of the community itself. The CFs – I was one of them – were central actors behind the establishment of the FUGs (see 9.2). How do we explain the disempowerment of such an institution which emerged as a result of external endeavours? When logging started in 2000 and the FUGs turned out to be powerless, should the facilitators have intervened again? What principles of community facilitation are conducive to empower local institutions? What does the empowerment actually mean?

An important lesson which can be drawn from Langkawana's experience is that community facilitation needs to go beyond providing forest communities with assistance to acquire a license, to build cooperation with the government in forest management, and to establish and build up a local institution. More importantly, it turns out that community facilitation is required to assist a local institution in fostering collective action within its community to manage the forest sustainably. On the basis of collective action, broadly defined as collective movement within a community to reach its common goal, is social learning: the process of sharing perspective, value, knowledge, and experience among actors in managing the forest. Buck, Wollenberg and Edmunds sketch social learning as a problem of communication and relationship building among actors by stating:

Social learning facilitates joint problem solving by fostering perceptions of interdependence, trust and mutual appreciation. It demonstrates to actors that they can benefit from working together toward agreed-upon goals, and generates confidence in further efforts at collaboration. (Buck, Wollenberg and Edmunds 2001:4).

Facilitating community means fostering social learning among community members. In this sense, facilitators must play a key role as catalysts of social learning. The facilitators in Langkawana realised the importance of social learning. They understood community facilitation as an effort to develop shared-learning and cooperation among community members for achieving prosperity and forest sustainability. The facilitators disseminated the principles of good local institution governance: transparency, participatory and accountability. The FUGs were motivated to achieve those ends.

The CFs spent more than two years developing this social learning in Langkawana. During that time, they encouraged the FUGs' leaders and members to strengthen their

collective action. Nevertheless, they were facing constraints when dealing with reality. Attempts of the CFs to enhance strong but wise leadership capacity had little success. The facilitators, in their meetings or casual conversations with the FUGs' leaders, frequently asked them to show their sincere attention to the people rather than behaving as if they were forest rangers. But, this was not sufficient to change the behaviour of the FUGs' leaders. The CFs believed that to develop openness and cooperation between the FUGs' leaders and the ordinary people required more time (P3AE-UI 2002:12-3).

Since mid-2000, the CFs had gradually started leaving Langkawana. They expanded facilitation in more villages located within and surrounding Radin Inten Park. The CFs had several reasons to leave Langkawana. Firstly, there was the demand for intensive facilitation from other villages. The CFs believed that to keep Radin Inten forest protected, a broader collective action of people to manage the Park in a sustainable way was necessary. For this reason, they accepted the request from other villages. Secondly, there had been strong criticism from other academics and NGOs regarding the duration of the CFs' activities in Langkawana. Staying in the village any longer, they said, would create too great a dependence. This obscured the goal of setting up a self-empowered forest community. In addition, after some two years of facilitation, the CFs observed that several FUGs' leaders were showing the capability to continue efforts of developing collective action in the village. Nonetheless, with others FUG cadres this kind of capability was sometimes less developed, perhaps due to the existence of the facilitators in the village. The FUGs' leaders used to ask the CFs for assistance, so in some respects the risk of dependency was real (P3AE-UI 2002:6-7).

The CFs eventually left Langkawana a few months before the logging cases started. Yet, this did not mean that there was no facilitating presence in the village at all. The first generation facilitators who were researchers of *P3AE-UI* – a research program on ecological anthropology at the University of Indonesia in Jakarta – and graduate students of the Department of Anthropology at the same university left Langkawana. They were replaced by a second generation, whom the villagers regarded as juniors, because they were fresh graduates from several Lampung universities who had previously served their internship as CF in Langkawana. In the view of the FUGs' leaders, the junior CFs lacked skill and insight. They believed that due to limited experience they were not capable of being catalysts of social learning. The junior CFs had difficulties mobilizing FUGs' leaders to develop collective action. They failed to correct FUGs' malpractices such as discrimination in group rules enforcement. They were unable to motivate FUGs' leaders to be good community leaders who as Guangxia and Lianmin state: "can act as motivators of social learning and collective action of forest management" (Guangxia and Lianmin 2001:121-2).

Seeing all the weaknesses of the facilitators, should they take responsibility for the disempowerment of the FUGs, and finally for the return to logging? Seeing the complexity of the situation, there is no straightforward answer to this question. Malpractice and weak leadership had disempowered Langkawana's FUGs in the first place. The facilitators eventually realized that two years of facilitation was insufficient to build the community governance that could curb malpractices of local institutions. To develop a socially legitimate local institution, it was essential that FUGs' members, village functionaries and local elite were willing to cooperate in an atmosphere of truthfulness and respect to others. Otherwise, legalization, in whatever form, would not help to get the communities to protect the forest. Unfortunately, fostering and supporting this type of cooperation was a time-consuming task, and there was no consensus about whether the length of the CFs stay was good, or just increased the dependence of the villagers (P3AE-UI 2002:6-13). Moreover, choosing between Langkawana only or scaling up the project to other forest villages presented the facilitators with another dilemma. The attempts of forest protection in Langkawana village would contribute less to forest management in Radin Inten Park as a whole, if other villages failed to cooperate. Therefore, leaving Langkawana in the hands of less experienced facilitators and paying more attention to other villages was a risky but unavoidable strategy of the CFs.

During the process it turned out that the CFs approach sometimes had unexpected outcomes. The CFs, for example, had never expected the increased malpractices and the weak leadership of FUGs' leaders. Yet, whoever did community facilitation in a situation such as found in Langkawana would face similar problems.

The main lesson from the Langkawana experience is that legalizing a community forest tenure system is only part one of a strategy to induce people to protect the forest. Facilitating a well-functioning local institution must be part two. The legalization can be compared to a skeleton that frames lawful activities of forest management. Meanwhile, the local institution functions like the flesh and blood that makes such activities run well and accepted by the community members. As such, it is necessary to empower local institutions so that they can foster social learning and collective action within the community without too much intervention from external actors. The essence of community facilitation is to assist people in empowering their local institution by following effective social learning. To this end, principles of social learning as highlighted by Upreti – the willingness of actors to cooperate, effective communication among actors, the participation of skilled facilitators, the positive influence of local elites and the appropriate agenda of community facilitation including the needs of the community – are essential (Upreti 2001:198).

10.4 CONCLUSION

From the developments in Langkawana it has become evident that legalization can foster legal security of community forest tenure, so that it is clear what the state allows and prohibits in forest management. It may help forest communities to defend and clarify their rights against external threats. Nonetheless, legalization of forest tenure has its limits, as it cannot determine how the community governs the allocation and management of land and resources and how it resolves conflicts emerging as a result of forest management. It is the local institution that allows the activities of forest management to run well and be accepted by community members. State recognition of the local institution is also required.

Nevertheless, villagers' attitudes to destruction or protection of the forest are determined by a complex web of social and economic factors. Even if villagers have obtained a license to lawfully manage state forest and obtained recognition of their local institution, they can still cut trees in the forest, as the Langkawana villagers did after acquiring their Social Forest license. Several factors would determine people's enthusiasm to keep the forest. Firstly, the perception of forest resource values in Social Forest area is a vital motive for protecting the forest. When Social Forest area provides them with profitable (future) resources, people will have stronger incentives to protect the forest. Secondly, people are reluctant to maintain forest resources which symbolize 'the enemy'. Langkawana villagers' loathing of *sonokeling* – government planted trees that displaced them from the forest or destroyed their houses and gardens – is an example of such collective enemy. Therefore, it is necessary to consider people's preference of plants in proposed Social Forest Areas.

Thirdly, people's behaviour towards forest takes place in response to government policies and actions. It is pointless to motivate people keeping the forest whilst at the same time government officials apply contradictory policies, resort to inconsistent actions or enforce the law discriminately. Social Forest policy requires steady government policies and actions to support forest communities carrying out sustainable forest management. It is unreasonable to impel the communities to protect the forest, while the government and other actors exploit this very same area. Similarly, it is unfair to burden the community with all responsibilities, whilst the government is not responsive to their needs and aspirations. Logging in Langkawana is also a manifestation of people's resistance to inconsistent government policies and actions as well as its late response to the problems of forest destruction in the Social Forest area.

Fourthly, as a local institution is pivotal, Social Forest policy needs to consider problems related to the empowerment of such institution. Transparent, accountable and participatory management as well as good leadership are essential to avoid malpractices of such local institution, such as power abuse and discrimination when

enforcing local rules. Lack of social legitimacy often emerges as a result of malpractice. This makes it difficult for the institution to hold responsibility to protect the forest.

As the final point, we cannot neglect the role of community facilitation, which is not always successful in promoting well-functioning local institutions. The importance of the role of community facilitators lies in assisting people to empower their local institution in order to enforce local rules that are based on principles of democracy and good governance. Facilitating the community is not as simple as assisting people to establish or build up a local institution or obtaining legal access to state forest. The complex process of fostering collective action to undertake sustainable and just forest management among community members, takes time. Meanwhile, community facilitation must avoid over-dependence of people on facilitators. How to reconcile these two objectives is the main challenge of community facilitation in Social Forest Areas.

The developments that have been discussed in this chapter indicate the need for a broader perspective of tenure security and community based forest management. It is necessary to supplement the formal approach – emphasizing the central role of the legalization of land and resource tenure and formal recognition by the state of local institutions – with serious consideration of the social, administrative and political realities at local level. As this chapter shows, the quality of forest resources as perceived by people, the role of government officials, particularly the street-level bureaucrats, and the role of community facilitators, are essential in this respect.

