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**‘Debating’ nature conservation: policy, law and practice  
in Indonesia : a discourse analysis of history and  
present**

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# **‘Debating’ Nature Conservation: Policy, Law and Practice in Indonesia**

**A discourse analysis of history and present**

**J. ARNSCHEIDT**

*'Debating' Nature Conservation:  
Policy, Law and Practice in Indonesia*



Leiden University Press

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# 'Debating' Nature Conservation: Policy, Law and Practice in Indonesia

A discourse analysis of history and present

PROEFSCHRIFT

ter verkrijging van  
de graad van Doctor aan de Universiteit Leiden,  
op gezag van Rector Magnificus prof. mr. P.F. van der Heijden,  
volgens besluit van het College voor Promoties  
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Julia Arnscheidt

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Semarang, Indonesia)

*Everything has beauty [...].*  
Confucius





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## List of Abbreviations

ABRI	Indonesian armed forces
AMAN	Indonesian indigenous peoples' alliance
Amdal	Environmental impact assessment
APHI	Association of Indonesian forest concessionaires
BAP	Biodiversity action plan for Indonesia
Bapedal	Environmental impact management agency
Bapedalda	Regional environmental impact management agency
Bappeda	Regional development planning agency
Bappenas	National development planning agency
BCA	Biodiversity conservation act
BCB	Biodiversity conservation bill
BMNP	Bunaken marine national park
BTI	Indonesian peasants' front
BTN	National park authority
CBNRM	Community-based natural resources management
DIM	Inventory of problems
DPR	Parliament
EMA	Environmental management act
FABRI	ABRI group in Parliament
FKP	Golkar group in Parliament
FPDI	PDI group in Parliament
FPP	PPP group in Parliament
GBHN	Broad guidelines of state policy
GLS	Good lawmaking standard
Golkar	Indonesian party of functional groups
IBSAP	Indonesian biodiversity strategy and action plan
ICDP	Integrated conservation and development project
ICEL	Indonesian centre for environmental law
IDR	Indonesian rupiah
INSELA	Indonesia Netherlands study on environmental law and administration
KKN	Corruption, collusion and nepotism
KLH	Ministry for the Environment
KNP	Komodo national park
KP	Public consultation
Lemhanas	National defence institute
LIPI	National institute of science
LKD	Village conservation institute
MP	Member of Parliament

MPR	People's Consultative Congress
NBO	Nature protection ordinance
NCP	National conservation plan for Indonesia
NGO	Non-governmental organisation
NRM	Natural resources management
NRM Act	Natural resources management act
Panja	Parliamentary working group
Pansus	Parliamentary special committee
Perpu	Governmental replacement regulation
PDI	Indonesian democratic party
PHPA	Directorate for forest protection and nature conservation
PKA	Directorate for nature conservation
PKI	Indonesian communist party
PPP	Indonesian islamic party
Propenas	
(since 1999)	National development plan
Rakornas	National environmental co-ordination meeting
Repelita	
(prior to 1999)	National development plan
SARBUKSI	Indonesian forestry workers' union
SC (see Pansus)	Parliamentary special committee
SKMA	Forestry highschool
SMU	General highschool
Timcil	Small team
Timmus	Drafting team
TNC	The Nature Conservancy
UNCED	United Nations Conference on the Environment and Development
USAID	United States Agency for International Development
VOC	United East India Company
WWF	World Wildlife Fund

Part I

Introduction and theoretical approach



After the small orange bus finally left the booming industrial town of Bontang and we passed the border of Kutai National Park, I could hardly believe what I saw. I had been warned by various people in Samarinda, the capital of East Kalimantan, and at the park's office in Bontang, that the park – protected for its biodiversity, especially the Dipterocarp trees – was not in good shape. Extensive fires had destroyed large parts of the park in 1997, and after the fall of the Soeharto regime in May 1998 a struggle for political control of the park broke out. But what I saw from the bus exceeded all I could possibly have expected. On both sides of the East Kalimantan Highway, which ran through the park and was in good shape, highly trafficked by busses, cars, trucks and motorbikes, there were hardly any trees to be seen. The forest seemed to have moved back a long distance from the road. In its place, at the roadside, was booming economic activity: small banana plantations, corn fields and vegetable gardens 'guarded' by 'no access' boards, neatly painted houses with colourful flowers in their front yard, buffaloes pulling huge tree trunks from the forest to more open spaces where sunburned men sawed them into smaller pieces, trucks waiting to be loaded with logs, and people in the middle of the construction of their new house. Occasionally, I saw wooden sticks indicating the new self-made borders for chosen but not yet cultivated plots. There was even a wooden sign advertising an overgrown and marshy plot for sale from a man named Rasid who could be found in the vicinity of some graveyard. In the middle of all this – sometimes hidden behind a new house, and far less well maintained than the new residents' homes – I discovered remnants of billboards listing the visitor rules for national parks and several ranger posts.

None of what I saw had anything in common with the images of tropical rain forest in Kalimantan travel guides or with any national park I had ever visited in Europe. Was this a national park at all?

Back home, when going through my field notes, interviews, and the policy documents I had collected, I began reflecting on the question of what national parks in Indonesia were actually about. How did they work, why, and to what end? This book describes the long and exciting journey I undertook to solve this puzzle. At the same time it documents how my own thinking on environmental protection in Indonesia developed through the time of field research, analysis and writing; how I moved away from looking at national parks from

a purely nature-loving perspective towards one that allowed for various alternative perspectives.

At the time I visited Kutai in 2000 I felt great sadness. I had come to Indonesia to conduct my research and had hoped to contribute to the environmental protection of this wonderful tropical country that had fascinated me since my first visit in 1987. However, once in Kutai, I began to wonder whether I had come to the right place at the right time. There seemed not much left to be protected and more people than not appeared indifferent towards this situation. Back in the Netherlands, it had all seemed so relevant. I had joined an Indonesian Dutch research project on 'Environmental Law and the Decentralization of Environmental Management in Indonesia' (Indonesia Netherlands Study on Environmental Law and Administration, abbr. INSELA) which had been initiated in 1996 and gained some additional relevance after the enactment of the 1997 Environmental Management Act. This project intended, among other things, to gain 'in-depth insight in the consistency of environmental law and the effectiveness of environmental management in Indonesia' as well as to assess 'the potential of decentralization for the formation and implementation of sustainable development policy at district level'. My part in the project became to study processes of policy and lawmaking in the field of environmental management. At that time I approached environmental protection in a broad sense. I paid several visits to the Ministry for the Environment (In. *Kementerian Negara Lingkungan Hidup*, henceforth KLH) and the Environmental Impact Management Agency (In. *Badan Pengendalian Dampak Lingkungan*, henceforth Bapedal) in Jakarta and collected materials about policies, projects and programmes. These focused on the need to raise an environmental awareness among the population and to influence – in policy terms, to 'co-ordinate and integrate' – all policymaking, including that of the sectoral departments of Forestry, Mining and Industry, in such a way that policies increasingly took into account environmental considerations. So, one of my initial questions came to be how effective KLH was in performing these core tasks. This question led me to various departments and their regional agencies and to a giant co-ordination meeting in Jakarta (which I describe in chapter 21).

However, once in the field, many people, including our Indonesian counterparts of the Indonesian Centre for Environmental Law (henceforth ICEL), tried to convince me that it would be more fruitful and relevant to focus on the implementation of policies and laws rather than on policymaking and lawmaking. One day an official in Samarinda working for the regional Bapedal office pointed to a large pile of documents and said:

'In Indonesia we focus too much on the administration. We plan and ask money to produce this policy and that report. And when we have done so we are satisfied. But in the end all this paper ends up here on this pile or on some shelf – unread.'<sup>1</sup>

---

1 Interview 10 July 2000.



Indeed, I had seen many of these piles of paper, and often, asking for a specific regulation or policy, had surprised officials – and given them a headache since they did not know where to search for it. If they found it at all, the paper would often feel sticky and smell of mould because of the humidity. Although this seemingly useless paper production kept fascinating me I finally agreed to turn my focus to the effectiveness of implementation.

At that time I had not yet decided whether to focus on nature destruction (green), pollution (brown) or marine (blue) environmental problems. All I knew was that I wanted to investigate how policies eventually played out in actual projects. In my search for suitable case studies I first collected data about some mangrove rehabilitation projects and developments in the field of coastal zone management in, among others, the Bay of Jakarta where I was situated. In the course of my investigations I paid a visit to Pulau Seribu, a small archipelago 45 km north of Jakarta. This was to be my first encounter with Indonesian national parks, which turned out to be an interesting field of environmental policy where implementation differed enormously from the theory behind policies and laws.

My new focus on the effectiveness of implementation was also in line with theoretical developments that had taken place from the 1970s onward. In that time and ever since scholars of public administration and development administration argued that too much attention was exclusively given to policymaking. This neglecting of implementation processes had its roots in the perception that implementation was merely a matter of routine administrative activity whereas policymaking was about decision making and politics.<sup>2</sup> The emerging countermovement in public administration, spearheaded by the seminal work by Pressman and Wildavsky, argued that it was not wise to separate policymaking from implementation as '[...] those seemingly routine questions of implementation were the rocks on which the program [we investigated] eventually foundered.'<sup>3</sup>

Keeping this in mind I chose two of Indonesia's first national parks as case studies: Pulau Seribu Marine National Park and Kutai. There, after some time, I realised that the many people I spoke to about national parks told me the same stories over and over again. Whereas some officials in Jakarta kept repeating that the park was functioning well, among most people living in the park area there seemed to be a consensus that the park did not work (In. *tidak jalan*) or did not work as it should (In. *tidak jalan seharusnya*). Park officials explained this to be the result of, among other issues, a persistent lack of money and a local population that was not yet aware of the urge to conserve nature in the park. Park residents, on the other hand, were less concerned about the park and frequently argued that they had to fill their stomachs, that the government constrained them in doing their work without providing any

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2 See, for instance, Grindle 1990.

3 Pressman & Wildavsky 1973, p. 143.

viable alternatives, and that they longed for more possibilities to participate in decision making. These stories made me realize that there was a huge gap between officials and residents and their respective ways of explaining the same phenomenon: an ineffective national park policy. Realizing this also reminded me in some way of the fact that the actors involved in policymaking and policy documents alike often had explained ineffective policy with partly the same and partly different stories: a lack of awareness among the population, a lack of co-ordination and integration, and a lack of sufficiently qualified human resources in the field. Strikingly, to whatever meeting, discussion or office I went during my field work, I heard the same stories again and again, phrased in the same words and using the same abbreviations. This made me realize that they were more than just stories somehow linked to reality. They seemed to possess some fundamental meaning of their own, all the more as they seemed to play some role in avoiding the need to search for and provide more considered explanations and in preventing actors from genuinely communicating with each other. So, I started to get the feeling that there was something interesting about these stories that I needed to unravel.

As these dominant stories kept crossing my research path in policymaking and implementation alike, I decided to analyze their role in *both* these processes and their outcomes. Again, theorists had already suggested looking at policymaking and implementation in an integrated manner in the 1980s. Two of them are of particular interest for their respective argumentation: first, Barrett and Fudge, who conceptualised policy and implementation as a continuum, the so-called 'policy/action continuum'. They argued that one can conceive of this continuum either as action and policy that keep influencing each other through a continuing sequence of actions and reactions or as a process in which various actors keep negotiating about policy and action.<sup>4</sup> Both of these conceptualisations proved useful for interpreting my observations in the field. The second author, Schaffer, is of interest for his attention to 'escape routes' in the field of public policy. In his view, focusing on either policymaking or implementation reflects a conceptualisation of policy as a dichotomy. This creates possibilities for politicians and bureaucrats alike to avoid responsibility since they 'can, and do [...], blame those who, for the purpose of the game, can be treated as being on the other side of the line.'<sup>5</sup>

The relevance of this argument becomes clear when we consider that not only actors in the field blame each other but also that academic studies analyse the ineffectiveness of policy in terms of 'obstacles to implementation', including

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4 Barrett & Fudge 1981. See also Barrett 2004 for a retrospective discussion of this movement. Lipsky worked this idea out in his study of street-level bureaucrats and their discretionary policymaking authority during the implementation of policies (Lipsky 1979).

5 Schaffer 1984, p. 157. Also cited in Sutton 1999, p. 23. What Schaffer still neglected, though, was that the same mechanism potentially applies to citizens as well. In his view, citizens suffer from 'actual problems' (Schaffer 1984, p. 181).

a lacking political will or sectoralism, as happens frequently in Indonesia. These studies provide actors with arguments to explain and justify their behaviour, and indeed, avoid responsibility. Schaffer concluded that only approaching policy as a whole could prevent us from creating new escape hatches: 'We suggest that policy is looked at as a whole "regime of practices" (Foucault, 1981), not in an exclusive, dichotomous or reduced way.'<sup>6</sup>

Of course, using arguments from exclusive studies of either the policy-making or the implementation process need not necessarily be a strategy to avoid responsibility. Actors may indeed see the lack of sufficient resources or of political will as the main obstacle to their effective performance. Still, following Schaffer's recommendation may help to better understand and improve policy, law and practice.

Yet, most scholars still focus on either policymaking or implementation, though since the 1980s more frequently on implementation than before. In this study, however, I attempt to analyse nature conservation policy and law as a whole: the processes of policy- and lawmaking and implementation and their outcomes. I do so in order to gain as complete an insight as possible into both of these, to find explanations for how actors negotiate policy, law and practice in the field of nature conservation in Indonesia.

Because stories play an important role in these negotiations, they can best be studied through a focus on language. Language forms the key to how we construct the world around us.<sup>7</sup> After all, we normally think in language and all our interactions with others and interpretations of actions take the form of language.<sup>8</sup> To better understand how to analyse language in this study I will first introduce various more specific concepts.

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6 Schaffer 1984, p. 175. This is not to suggest we avoid differentiating between policy and action for analytical purposes but rather for approaching both as an integrated research object.

7 Following Berger and Luckmann, I do not argue that everything is socially constructed or 'nothing can exist unless it is socially constructed' but rather that our interpretation and experience of things, objects and events helps to construct our image of the world (Berger & Luckmann 1966). See also Hacking 1999, p. 24-25.

8 Many who are used to non-positivist, interpretive or discourse approaches would go even further and categorize actions as texts. What is meant by this is that we can construct any expression as a text in order to analyse it or to react to it. As is the case with any book, the reader then interprets what he reads. This interpretation can differ very much from the original intention. For instance, throwing a bomb can be 'read' as 'he wants to destroy me' or as 'I claim this piece of territory'.



## 2 Theoretical Approach

### 2.1 DISCOURSE

Over the past twenty years discourse analysis has become popular in academia. Scholars who engage in it have diverse backgrounds including linguistics, psychology, anthropology, sociology, history, political sciences, law and the study of public administration and policy.<sup>1</sup> Due to this variety scholars define and study discourse in very different ways. As my study is to be situated in policy analysis I will limit the following introduction to discourse to earlier discourse analyses in this field and only where necessary cite studies from other disciplines.<sup>2</sup>

Even within the field of policy studies the definitions and studies of discourse differ.<sup>3</sup> Foucault has inspired most scholars in this field.<sup>4</sup> This is not to say that he or his approach dominate the academic field of discourse analysis. We may differentiate between those scholars who, trying to adopt a 'Foucauldian attitude', try to replicate his work and those who use some elements of his work.<sup>5</sup> One scholar belonging to the second group is Maarten Hajer who gained international recognition with his discourse analysis of the politics of the Dutch and British acid-rain controversies in the second half of the past century.<sup>6</sup> He combined insights of Foucault with those of Davies and

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1 For an overview see Van Dijk 1996.

2 For information on how this approach has developed and on what elements of earlier approaches it is built see Fischer 2003 and Hajer 1995. In Indonesia, to my knowledge, a limited number of discourse analyses have been undertaken so far. One has used Hajer's definition as well (Wittmer & Birner 2005). Others, often without a clear analytical framework, include Ramage 1993, Li 1996, Persoon 2002, Arifin 2003, Dove 2003, Peluso 2003, Znoj 2004, and Galudra & Sirait 2006.

3 For an overview of policy studies and discourse approaches see Fischer 2003; for a comparative application of three different approaches see Ockwell 2001; for law and discourse analysis see Black 2002 and Lange 2005.

4 He is well-known for his 'genealogical' or 'archaeological' studies in which he traced the historical roots of specific concepts, such as 'madness' and 'sexuality' (Foucault 1975, Foucault 1980; see also Foucault 1971 and Foucault 1972).

5 For a discussion of how various scholars struggle with Foucault's work that comes to this conclusion see Klemm & Glasze 2005.

6 Hajer found among others that the post-1970 emergence of the new concept of ecological modernisation succeeded to bridge gaps between the economic and ecological discourse (Hajer 1995).

Harré, and Sabatier<sup>7</sup> and created a theory that appeared both accessible, and suitable as a point of departure for this study. He defined discourse as a

‘specific ensemble of ideas, concepts, and categorizations that are produced, reproduced and transformed in a particular set of practices and through which meaning is given to physical and social realities.’<sup>8</sup>

There are three key elements in this definition: first, a specific ensemble of ideas, concepts and categorizations, second the fact that these are being produced, reproduced and transformed in a set of practices, and third that we make sense of what we see and experience through them.<sup>9</sup>

Remembering the above-mentioned importance of stories in the Indonesian policy debate and the focus of policy and law on problems and solutions I further searched the literature for well-matching analytical sub-categories which came to replace Hajer’s ‘ideas, concepts and categorizations’ as discourse-markers. As I will elaborate below, in this study I will search for frames, stories, arguments, and practices<sup>10</sup> to identify discourses. With the help of stories, arguments and practices we can reconstruct the frames which people use to make sense of physical and social realities and analyse how they explicate and struggle for the dominance of their frame.

In the field of policy studies, using a discourse perspective means to conceive of policy – and action in this study, as discussed above – as a political struggle.<sup>11</sup> Simply how a problem is defined determines who is causing a problem and who is given the authority to solve it. In terms of power this is crucial. The struggle is then about the power to dominate the discussion in terms of the definition of problem and solution, about making a particular discourse dominant or hegemonic. This is of particular relevance in a policy field where several discourses meet. After all, there is not only an ecological discourse which plays a role in a political field as environmental politics<sup>12</sup> or more specifically nature conservation, but also an economic and a social one, to mention but three.<sup>13</sup>

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7 Hajer 1995, p. 42-72. See below.

8 Hajer 1995, p. 44.

9 Cf. Tennekes 2005, p. 15. Tennekes has used Hajer’s approach to analyse the discourse of ‘good governance’ in the Dutch and German development co-operation in Africa. His clear explanation of the approach is a valuable contribution to the literature. His attempt to further develop the concept of ‘practices’ in Hajer’s definition, however, lacks this clarity.

10 See the second element of Hajer’s definition.

11 Fischer 2003.

12 Hajer 1995, p. 61. Hajer speaks of inter-discursivity.

13 Exactly which discourses an analyst identifies depends on his or her data and how he or she makes sense of them. This is certainly not to say that discourse analysts will identify different discourses from similar data. So far, there is one other study of Indonesian (and Thai) protected areas that is based on Hajer’s discourse approach (Wittmer & Birner 2005). The authors of that study identified a conservationist, an eco-populist and a development-

Where actors actively engage in such a struggle their motivations can vary from a want for power to proving that they and their ideas and convictions are morally right.<sup>14</sup> However, that this struggle is being fought is not something that actors are necessarily aware of. On the contrary, it is a way of conceptualising and describing a social reality rather than the actual motives of the actors.<sup>15</sup> As such, discourse analysis is a frame – a way of making sense of the world – in itself.

Where, then, does the struggle take place? The struggle for a dominant discourse in the nature conservation policy in Indonesia takes place everywhere people produce relevant texts or practices that can be read and interpreted by others.<sup>16</sup> This book forms part of this struggle, as do conversations in a national park in Indonesia between fishermen and park rangers, a parliamentary debate on the issue, the contributions of a nature conservation NGO, repeated unlawful practices by park users and so forth. However, for a better understanding of how to identify a discourse let us first turn to its four sub-categories.

### 2.1.1 Frames

The first sub-category of discourse is ‘frame’. In order to make sense of the social world around us, thus of the social phenomena we see, want to understand and explain to others, we look through so-called ‘frames’.<sup>17</sup> Such a frame is informed by our present knowledge, beliefs and values. These have been formed by ‘ideas, concepts and categorizations’<sup>18</sup> of past experiences that help us to interpret new events. However, frames do more than help us make sense of the world. They also construct a reality by erecting walls beyond which we don’t look.<sup>19</sup> By doing so, they enable us to ‘select out some parts of reality at the expense of others’ in our thinking and to ‘define problems,

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alist discourse. I identified similar ones but because of the farther-reaching scope of my study and the bigger amount of data I further differentiated these three discourses and identified additional ones. In section 5.2 I describe the methodology I used in this research. The fact that also scholars are not free of frames is discussed in chapter 3 and in appendix 1.

14 Cf. Tennekes 2005, p. 14.

15 Tennekes 2005, p. 14.

16 See also Yanow for the merits of interpretive analysis (Yanow 1993).

17 This concept was introduced by Goffman in 1974 (Fischer 2003, p. 144). Better known is the application of the concept by Rein and Schön who used it to explain ‘intractable policy controversies’ (Schön & Rein 1994).

18 See above for Hajer’s definition of discourse.

19 The choice for a certain frame implies the construction of a problem and definition. In this, frames differ from the concept of various perspectives on the same problem: looking at reality through a different frame means that ‘the problem itself has changed’ (Fischer 2003, p. 144-5 citing Rein and Schön).

state a diagnosis, pass judgement, and reach a conclusion'.<sup>20</sup> In other words, we only see a part of the world around us: we miss everything that falls beyond our frame. A person looking at a pile of logs on a boat on the Mahakam river in East Kalimantan, for instance, might see proof of forest destruction; looking through another frame someone else might see a source of income; a third person might see a reason for jealousy and anger since he lacks access to this source of income. Each of these frames may instigate another decision about what kind of action to take. As will become clear throughout this book, interpreting logs as an issue of nature destruction is only one possible interpretation among many. Other possibilities include interpreting them as a symbol of creating order in the forest to increase its productivity, as a symbol of economic opportunity since cutting the trees requires labour and thus creates employment, or as an issue of unequal opportunities since only a few people have access to the forest and its exploitation. We thus need to realize that one and the same phenomenon can be interpreted in various ways. One argument of this book is therefore that if we see something – in this case, logs – we should ask whether our first reaction is the only possible one or whether there are other ways to think about and debate it.

All the different frames construct different problems. In addition, they position people in relation to other people and their environment.<sup>21</sup> Is nature a resource or something that needs our protection? Do we need managers or a redistribution policy to make the problem disappear? The frames provide different answers to questions like these and as such help to reinforce or challenge existing social and power relationships for people and their environment.

Frames can be differentiated at various levels of abstraction. The most abstract level is the scientific frame. Although a linguist, a biologist, a philosopher and a political scientist are all scientists, they use different frames which can be differentiated at a lower level of abstraction. Within these various disciplines we can find different frames again. So, not all scientists automatically use the same frame. However, some frames we use more regularly than others as long as we are consciously or unconsciously convinced of their truth. In addition, the context often determines which frame we use to look at reality.<sup>22</sup>

Since frames determine how we look at the world around us, the concept of frames is also useful in the context of policies and laws and the actors

20 Fischer 2003, p. 144.

21 Fischer 2003, p. 83 citing Hajer. Hajer and Fischer link the issue of subject positioning to stories (or 'storylines'). Sluiter and also Tennekes (Tennekes 2005, p. 12 following Rein and Schön), on the other hand, discuss positioning in the context of frames. Sluiter (Sluiter 2005, p. 13) states, for instance, that once we have chosen a frame such as war 'we can immediately assign roles: there are clear enemies. This [positioning] allows for acts of violence against them.'

22 Discourse analysts with a psychological background are primarily interested in these context dependent varieties. See, for instance, Potter & Wetherell 1987.



involved in their design and implementation. We may differentiate two levels. At one level, policies and law reflect a certain frame in their definition of problems and solutions. Such frames may include the assumption that policy and laws are necessary instruments to effectively and efficiently solve problems or that they belong to a modern state. At another level, policymakers and other actors who engage in a policy debate consciously or unconsciously choose a frame. By doing so, they choose to neglect other possible frames. Thus, the frame they select determines what they consider to be 'the facts' on which they will base their 'normative prescriptions for action'.<sup>23</sup> For instance, if an official working in a national park chooses a common 'development' frame to interpret his work situation he is likely to primarily see a shortage of money and the need to engage in more development projects to raise more. On the other hand, a citizen may see the same situation in terms of laziness due to a frame of governance, i.e. certain ideas about how government officials should work. As a consequence he may define the solution in terms of how to improve the officials' performance, and thus in terms of this very governance frame, too.

Looking at these examples raises the question of what role interests play in this context. Do citizens choose this particular frame because they have an *interest* in good governance? Do officials choose a 'development' frame because they have an *interest* in extra money? To some extent they do. They may use these frames to promote their interests.<sup>24</sup> But due to their constructive nature frames also shape those interests: they determine what actors see as *being* in their interest.<sup>25</sup>

These two mechanisms and the fact that frames are 'usually tacit'<sup>26</sup> – often chosen unconsciously and therefore play no role in debates – make that frames tend to be persistent: 'It is, after all, very difficult "to think out of the box", so if the "box" is our "frame", we tend to interpret future happenings in that same light.'<sup>27</sup>

This is true primarily in the case of unconsciously chosen frames, though. In the case that we consciously choose a frame (because we think that it makes the most sense of what we see or as a strategy to pursue our interests) frames do not need to be persistent. After all, they form a strategy and are only of use to us as long as we think that they help us to achieve an end. In the event that they no longer serve us we can exchange one strategic frame for another.

Even in the case of unconsciously chosen frames, we do not need to stick to them until the end of our days. Hajer showed convincingly that the underlying beliefs and values are 'vague' and rather 'unstable' givens that can easily

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23 Fischer 2003, p. 144.

24 Schön & Rein 1994, p. 29.

25 Schön & Rein 1994, p. 29.

26 Schön & Rein 1994, p. 23.

27 Sluiter 2005, p. 13.

be influenced through language, for instance 'new story-lines [which] create new cognitions that may give people a new idea about their potential role and the possibilities for change'.<sup>28</sup> This is to say that we can at any time, consciously or unconsciously, choose another frame that might overlap with our former frame or even be completely different from it. However, in the event that the new frame is compatible with a more abstract level of our old frame it is likely that this happens sooner.

Taking over a new frame may happen unconsciously when we hear a new story which 'sounds right'<sup>29</sup> or attractive to us, or consciously when we 'reflect' on our frames. In the latter case we must be aware of the fact that there are other possible frames to look through which define problems differently and position us and others differently.<sup>30</sup> According to Schön and Rein this would be one way to resolve intractable policy controversies. A first step towards such an awareness of frames would be to unravel and explicate the different frames in a policy debate. One of the intentions of this study is to do this for the field of nature conservation policy and law in Indonesia. Before doing so, however, we need to consider more theoretical concepts: stories, arguments and practices. It is through them that we explicate our frames.

### 2.1.2 Stories<sup>31</sup>

Stories form the second sub-category of discourse. While frames determine what and how we see, stories serve to communicate our version of what 'is' or what 'happened' and why. As such they are often simplifications of a complex reality. Another important aspect of stories is that they link the present situation to the past as we 'from infancy [...] learn how to interpret and understand new narrative stories through older ones acquired in the course of socialization and lived experience'.<sup>32</sup> So we compare the stories we hear or tell to earlier stories, including experiences that we carry with us in the form of stories.

Stories can be long or short. Their most important elements are characters and their actions and motivations. Stories may be complete with a beginning, middle, and end and a plot that connects them.<sup>33</sup> However, they may also be incomplete and lack some of these elements. They may, in an extreme case, consist of only one word that is capable of invoking a whole, albeit not literally

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28 Hajer 1995, p. 71.

29 Hajer 1995.

30 Schön & Rein 1994, p. 44.

31 There are various terms in use for stories, including 'narratives' (Fischer 2003 and Roe 1994) and 'story-lines' (Hajer 1995, p. 56, 63).

32 Fischer 2003, p. 162.

33 Fischer 2003.

the same, story for an audience.<sup>34</sup> This is especially the case when stories get accepted and repeated in public, and thus ‘get a ritual character’ and become ‘tropes’.<sup>35</sup> For instance, saying ‘project’ would make many Indonesians immediately think of some version of a story about corrupt government officials who enrich themselves through development projects.

In the context of policy, stories and their interpretation by others serve to construct and communicate what people see as the problem of a situation and whom they hold responsible for it.

Reading this may suggest that stories in most cases constrain actors as they define them and their actions as problematic. However, one has to realise that stories can be enabling as well.<sup>36</sup> Often they are both. As this study will show, the story of national parks in Indonesia was constraining for the parks’ inhabitants who were defined as a problem, while it opened a great opportunity for entrepreneurs who could suddenly exploit these areas for tourism and for conservation NGOs that could position themselves as influential policy actors.

As stories also point to issues needing further thought or action<sup>37</sup> they form a link between problems and solutions, between what is and what ought to be.<sup>38</sup> Here arguments come into focus.

### 2.1.3 Arguments

Arguments, the third sub-category of discourse, have in common with stories and frames that they position people in a certain way. However, as Fischer notes, there is a major difference between stories (which he refers to as narratives) and arguments:

‘Whereas a narrative ties together a story with a beginning, a middle, and an end through the device of a plot, an argument is structured around premises designed to logically lead to conclusions. The narrative, moreover, is a mode of explanation designed to tell us what happened and what it means. While one can argue about “what is”, especially in empirical argumentation, argumentation is the form employed to persuade an audience that something “ought” to be the case: that is, a particular action should – or should not – take place, that an event should be interpreted in one way rather than another and so on. Put simply, narratives are primarily designed to deal with an “is”, although they can include a moral

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34 Cf. Hajer 1995, p. 62.

35 Hajer 1995, p. 63.

36 Cf. Hajer 1995, p. 64.

37 Fischer 2003, p. 163.

38 Fischer 2003, p. 145 citing Rein and Schön 1977.

usually treated as a given. When it comes to making the case for an “ought”, we offer arguments.<sup>39</sup>

This difference between these two concepts is important. It helps in the analysis to differentiate between descriptive and normative data. However, doing so requires caution. Often, stories and arguments are built around each other to make an audience draw certain conclusions or to prepare them to accept a particular story or argument.<sup>40</sup>

Just like stories, arguments can take the form of a single word. ‘Development’ or its Indonesian equivalent ‘*pembangunan*’ is the most important example in the Indonesian context. Such words are often contested concepts which nonetheless are presented as ‘consensual hurrah-words’.<sup>41</sup>

#### 2.1.4 Practices

The fourth sub-category of discourse concerns practices. In Hajer’s definition, the idea that what I have called stories and arguments, with their underlying frames, are being produced, reproduced and transformed by a particular set of practices takes a central position. Such practices can take the form of words or actions. An example of practices belonging to a regional autonomy discourse would be the unlawful building of houses in a national park and the silent or explicit support for it by a regional government. It cannot be stressed enough that this definition implies that discourse is more than words alone, and discourse analysis, therefore, must be more than an analysis of words. As do stories and arguments, practices reflect discourses. Not including them in the analysis would mean neglecting a significant part of any situation. Practices may sometimes tell us more than words about the frames people use to make sense of reality and the struggle they have with others about it. This is especially the case where routines rule the thinking and behaviour of actors, i.e. where people act rather unconsciously and therefore struggle to articulate their ideas. Practices can also tell us more than words when actors feel that deeds are more convincing than words. In many cases, for instance, actors feel unable to engage in a lingual discussion because of a strong feeling of inferiority that can result from marked differences in education and a cultural focus on hierarchy.

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39 Fischer 2003, p. 181. Attention for arguments in policy analysis has become known as the ‘argumentative turn’. The seminal book in this tradition was by Fischer and Forester Fischer & Forester 1993. They focused primarily on the argumentative role of policy analysts, though. In this tradition, the focus is on normative statements, i.e. on arguments about what ought to be.

40 Cf. Fischer 2003, p. 181.

41 Cornwall 2007, p. 472 citing Chandhoke. Cornwall herself uses the term ‘buzzwords’.

Practices form part of the struggle for discourse hegemony in various ways. They can be used as arguments, for instance, when people do not dare enter the struggle with words. They can be used in support of arguments, for instance, when people feel that their words alone are not strong enough. But they can also become part of the struggle when others interpret them as arguments to which they want or need to react, for instance, in cases where no direct debate is taking place.

In addition, practices can inform us about the extent to which actors either use a discourse strategically<sup>42</sup> or have internalized it in their daily behaviour. During my fieldwork I observed many situations in which actors said one thing and did another. In addition I collected many statements from people accusing others of this disconnect between words and deeds, using words primarily to present themselves in an unrealistic normative way, or to present the norm as reality. One ranger in Pulau Seribu told me, for instance, that in his subsection there were no problems at all. 'Yes, in former times, 70% of the fishermen used poison for fishing and it cost me much work to convince them to stop using it, but in the end I succeeded!'<sup>43</sup> Yet, many other people, including other rangers and even fishermen, accused him of not speaking the truth and of being concerned about his personal wealth rather than doing his job. For them, his statement reflected that he did not consider it important to speak the truth and that it was perfectly acceptable to say one thing and do another. In my terminology, for them his statement reflected a practice of 'keeping up appearances'.<sup>44</sup> Presenting reality in a normative way is then an example of a practice that takes the form of words but in combination with other practices tells us more than the author would intend. In conclusion, in order to judge about the dominance of a discourse it is important to consider both words and deeds.

## 2.2 SPECIFIC AND UNSPECIFIC DISCOURSE

Before we get a deeper understanding of how the struggle for discourse hegemony is being fought we need to return to frames and their relation to discourse for a moment. Within one discourse several frames can coexist.<sup>45</sup> So, within a policy field the political struggle does not only take place between

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42 The finding that various actors in Indonesia do so will form one of the red threads throughout this book. It is supported by the study by Wittmer and Birch that discourses can facilitate collective action and can be considered 'a type of "political capital"' as actors can use it in a strategic way to improve their situation (Wittmer & Birner 2005).

43 Interview 29 November 2000.

44 I borrowed this term from Vickers (Vickers 2001). Cf. Riggs who observed 'formalism' to be an important characteristic of societies developing from traditional into more heterogenic 'prismatic' ones. (Riggs 1964).

45 Cf. my earlier remark on frames of a different level of abstraction.

the subscribers of certain discourses but also within a discourse: between the users of different frames. Here it is useful to differentiate between specific and unspecific discourses: the number of frames within one discourse and the extent to which a discourse forces its participants to use a particular frame indicate its degree of specificity.<sup>46</sup> We can thus conceptualise a discourse as having more or fewer underlying frames<sup>47</sup> with corresponding practices. Tennekes explains this as follows: the more frames that exist and are allowed in a discussion, the less specific<sup>48</sup> a discourse is, and the less one should speak of a discourse.<sup>49</sup> On the other hand, the fewer frames that are accepted the more specific a discourse is, and the more one can speak of discourse. In the latter case, certain frames are more dominant over others than in the former case. If there is only one frame that is accepted in a discussion, that frame is hegemonic.<sup>50</sup> In the struggle, proponents of an unspecific counter-discourse may gain dominance over a particular discourse but then the struggle will continue within a discourse community to make it more specific.

### 2.3 PERSONAL POWER AND DISCURSIVE STRUCTURES

What, then, determines the specificity of a discourse? Who or what determines how many and which frames (with their stories, arguments and practices) are accepted in a discussion? Power plays a key role in this context. In this study, different from the Foucauldian approach, power can be either personal or impersonal.<sup>51</sup> As there is always, in every context, a power structure, there may also be powerful people who may want to force us, threaten us, or make us think that it is in our interest to reproduce a certain frame<sup>52</sup> or that no alternative is available. Likewise, the one in power can exclude us if he fears that we are unlikely to reproduce a particular frame. He can do so through a formal exclusion from the discussion, for instance through a newspaper ban,

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46 Hajer uses the term 'structuration' (Hajer 1995, p. 60). However, to keep the definition as simple as possible I prefer to differentiate discourses in terms of their specificity. Hajer neglects this aspect of his definition.

47 Cf. Tennekes 2005, p. 14.

48 Tennekes uses like Hajer the term 'structured'.

49 In discourse analysis, for instance, many frames coexist and there is little structure in terms of obligatory definitions and methods. So, in this case one would speak of a weak discourse. Legal discourse would be an example of a very specific discourse.

50 Tennekes 2005, p. 14. He also refers to Fischer 1995.

51 Cf. Tennekes 2005, p. 13.

52 Lukes called this the 'third dimension of power' which is much more hidden but also often much more effective than force since it makes us think that we act in accordance with what we want ourselves. As the 'first dimension of power' he sees the potential or actual power to force a decision, as the second dimension the potential or actual power to force a non-decision (Lukes 2005).

or by defining the agenda and speech situation in a particular way,<sup>53</sup> such as in a governmental programme to raise awareness where the roles are such that the government lectures and the people listen.

In addition to this personal form of power, there is the impersonal power of discourse. This can be conceptualised as a kind of structure or set of rules, inherent to a discourse, which influences our thinking<sup>54</sup> and defines what is and is not acceptable within the discourse. Such a structure can, for instance, take the form of words or concepts that call to mind a picture of wanted or unwanted behaviour or practices that can be powerful enough to influence the process of discussing itself. A discursive structure can also take the form of a limit on the vocabulary allowed in a discussion. Political correctness and the prohibition to discriminate are examples of such rules.<sup>55</sup> In addition, a discursive structure can consist of rules about who is to be blamed and praised. Here, discourse influences how we define problems and solutions. In sum, discursive structures can determine what we say and how we say it, as well as how we behave.

No matter whether powerful people or discursive structures determine this, the more people reproduce one particular frame the more specific a discourse, or an inter-discursive discussion, gets. Then, in a policy context, the more specific a discourse gets the more likely that it will become institutionalized in a policy, law, or certain practices. Hajer speaks then of 'discourse institutionalization', which is, according to him, the second condition (next to its specificity) a discourse must fulfil to become hegemonic.<sup>56</sup>

## 2.4 WHY ACTORS OBEY DISCURSIVE STRUCTURES: CREDIBILITY, ACCEPTABILITY AND TRUST

Having said this, the question of what determines the power of discursive structures arises. Why are the structures strong enough to make people reproduce a discourse in one case but not in another? Hajer offers three explanations for why actors reproduce a discourse: credibility, acceptability and trust.<sup>57</sup>

By credibility Hajer means that actors feel forced to reproduce a certain frame in order to remain credible in a debate: if they did not they would risk marginalisation. If, for instance, they did not obey the rules of political correct-

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53 Tennekes 2005, p. 13 citing Van Dijk.

54 Cf. Rabinow 1991, p. 51-75.

55 Another structure not dealt with in this study would be including words into, what Laclau has termed, a 'chain of equivalence'. Such a chain serves to reduce meanings of a word to those equivalent to other words in a chain. Combining conservation with state and authority, for instance, structures discourse differently from conservation combined with empowerment and human rights (Cornwall & Brock 2005, p. 1047).

56 Hajer 1995, p. 61.

57 Hajer 1995, p. 59-60.

ness, they would place themselves outside the debate and make it easy for others to accuse them of not using the correct frame. This concept refers then to the relationship between an actor and others. One example for this would be that Indonesian government officials feel forced to adopt the environmental or human rights discourse in the international arena in order to keep the ear of the international community.

Hajer's second explanation, acceptability, refers to whether an actor can accept the subject position a frame attributes to him, either because it is attractive to or necessary for him to accept it. Here we can think of tribal peoples, for instance, who reproduce a conservation discourse that portrays them as better custodians of nature than their government. Reproducing such a frame is, of course, attractive to them since it implies that they should have more authority over the area they inhabit. We may add a third dimension to acceptability, i.e. the capacity of a discourse to 'naturalise' or hide an ideology, which forms one of the major differences between the concepts of discourse and ideology.<sup>58</sup>

Trust, finally, means that actors tend to reproduce a story or argument if they have trust in its source. It

'refers to the fact that doubt might be suppressed and inherent uncertainties might be taken for granted if actors manage to secure confidence either in the author (whether this is an institute or a person) e.g. by referring to its impeccable record, or in the practice through which a given definition of reality was achieved, e.g. by showing what sort of deliberations were the basis of a given claim.'<sup>59</sup>

Although these explanations of credibility, acceptability and trust could suggest that reproduction is a conscious activity, this is only half of the story. Of course, in some cases, we consciously reflect on the positioning the frame of a discourse attributes to us and decide if it is in our strategic interest to reproduce it. In many other cases, however, reproduction of a story – and its accom-

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58 Jaworski & Coupland 1999, p. 34 citing Fairclough. Fairclough is an important representative of the Critical Discourse Analysis (CDA) School. This school is a reaction to discourse studies that just describe 'language in use' (Jaworski & Coupland 1999, p. 33). It is primarily concerned with the construction of ideology and propagates critical language awareness (Jaworski & Coupland 1999, p. 34). However, not only CDA links discourse to ideology. Fischer notes that the concept of political discourse 'has been developed to escape the problematic aspects of the concept of ideology, especially its relationship to the Marxist concept of "false consciousness".' He adds that in the meantime the 'relationship of discourse to ideology has become a complicated theoretical question' (Fischer 2003, p. 77). A parallel is undoubtedly the important role that ideas play in both discourse and ideology. Especially where they serve an actor to justify policy or action, or both, we can speak of ideology (cf. Otto 1987, p. 41). However, as said above, discourse is more than ideology especially where it succeeds in hiding the latter.

59 Hajer 1995, p. 59-60.



panying practices – will depend on whether ‘it sounds right’<sup>60</sup> to us or not. Reproduction will then often take the form of a routine reaction. In these cases we have internalized discursive structures in our routine behaviour. The more we have internalized them the more difficult to get them out of our system.

## 2.5 TRANSFORMING AND REJECTING DISCOURSE

Other than an increasing reproduction and an eventual institutionalisation of a frame or discourse, there are two options that we may consciously or unconsciously choose: transformation and rejection. The first, transformation, is comparable to what Halliday has called ‘appropriation’.<sup>61</sup> In the event that we cannot accept a certain frame in a discussion because it is for whatever reason not attractive to us, we may adopt the vocabulary of a dominant discourse but interpret it differently or transform its vocabulary to make it more acceptable. Here, stories, or single words that refer to a story, play an important role.<sup>62</sup>

Consider, for instance, the word ‘*Reformasi*’. Originally, this word referred to the story that the 32-year rule of General Soeharto and his New Order regime had come to an end in 1998. It referred to the fact that the Indonesian political system, characterised as an authoritarian regime because it attributed much power to the President and his cronies, the military and bureaucracy, and because it limited the freedoms of ordinary people, needed to be replaced with a system based on democracy, transparency and accountability. Although the discourse originated from an activist scene, soon enough bureaucrats and politicians of the establishment and the masses adopted the story. However, they interpreted the word differently from the activists. Although it started as a story with a rather specific frame – against Soeharto, his rule and everything that was associated with these two, including corruption, collusion and nepotism – Reformasi soon was transformed into an unspecific discourse allowing for a variety of frames, stories, arguments and practices.

Another example will serve to illustrate the second method of transformation: when after the revolution in the early 1950s the Indonesian administration tried to reorganise its control over the forests and other territories, bureaucrats soon returned to the discourses that had dominated this field during the colonial rule. However, to make this more acceptable, they had to transform them into nationalist discourses and thus to change their vocabulary slightly. As these two examples show, transformation can lead to various results: it

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60 Hajer 1995, p. 63, 67. According to Hajer, whether something sounds right depends on its plausibility, and the earlier mentioned acceptability and trust (Hajer 1995, p. 63). In this case, however, these are no conscious considerations.

61 Halliday 2003, p. 136.

62 Cf. Hajer 1995, p. 62-64.

can make a discourse more or less specific or it can adapt it to new circumstances.

The final choice we have in a discussion, next to reproducing or transforming a frame or a discourse, is to reject it. A precondition for this is that we are aware of alternatives, as we cannot think outside the boundaries of language and earlier texts determine how and what we think. If we are aware of alternatives we can choose between explicit and implicit rejection. In the former case we explicate that we are not willing to accept a given discourse. We may do so by using an alternative discourse and, if this is a rather common one, actively enter the struggle about discourse hegemony. This is easier than introducing rather unknown frames, stories and arguments (although these in the end may be the most promising in terms of social change). Tennekes lists three reasons why this may prove difficult: first, if one were to change the frames, stories and arguments in a discussion individually, one would not be understood by others; second, one can never be sure that others will interpret one's words as intended; and third, the way one acts in a discussion is always linked to one's identity.<sup>63</sup> This again illustrates, on the one hand, the impersonal power of discourse. Discourse forces us to stay within certain boundaries. If we don't, we exclude ourselves from the discussion. After all, 'linguaging'<sup>64</sup> remains a kind of 'collective action'<sup>65</sup> that one cannot change individually. On the other hand, it illustrates that in our communication we depend on others and their interpretation of what we say and do. This has important implications for our second choice: implicit rejection. If we implicitly reject a discourse others may not understand or may not show that they understand the rejection and then interpret our silence as acceptance. The final reason Tennekes mentions refers to a situation in which a certain discourse has long been accepted. If, in this case, a new story or discourse emerges it may seem difficult to us to use it since we so firmly identify ourselves with the old discourse. If our identity as a child, for instance, is linked to how our parents define the world, it takes years for us to find a new identity with new frames, stories and arguments as an independent adult. Still, as this example shows, this choice is not a hypothetical one.

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63 Tennekes 2005, p. 4-5.

64 Massier 2003, p. 30 citing Bakhtin. He introduced this term as an alternative for 'language use' to indicate that people do not use language as an instrument but that people speak, write, answer etc., thus perform language actions. This term fits neatly into discourse theory since it underlines that language is not something we use but something that is and acts.

65 Tennekes 2005, p. 4.

## 2.6 COALITIONS

Because it is very difficult to individually introduce an alternative frame, story or argument, actors often have to search for partners. Together, they can establish a coalition to stand stronger in the struggle for discourse hegemony. Hajer defines such a discourse coalition as 'an ensemble of (1) a set of story-lines; (2) the actors that utter these story-lines; and (3) the practices in which this discursive activity is based.'<sup>66</sup> This concept, Hajer notes, differs from Sabatier's concept of advocacy coalitions: The main difference between the two is that Sabatier's concept assumes much more stability than does Hajer's. Sabatier argues that individuals engaging in a coalition share a belief system. This is not necessarily the case in a discourse coalition since actors can interpret a story differently and reproduce it for various reasons and with various motivations. They may even form part of a coalition with contradictory beliefs or easily shift from one coalition to the other. In addition, Sabatier's concept attributes rather stable roles to individuals. In his terminology they are 'advocates' or 'brokers' whereas in Hajer's approach they position themselves or are positioned as, for instance, advocates in one situation and as brokers in another. In a discourse coalition approach, the emergence of a new story may influence the values and beliefs of actors while in Sabatier's theory people would need to rationally reflect on what is happening to change their insights.<sup>67</sup>

In sum, a discourse coalition is a loosely organised conscious or unconscious partnership around a particular story.<sup>68</sup> Consider the following example of a conscious discourse coalition. A tribal people have been forced by the government to resettle outside the boundaries of a national park. The people have moved back to the park since they regard the park area as their home. It has taken some time before they realised that finding the right story was an essential part of achieving their objective, i.e. to be allowed to stay in the park area. In the past they used to tell a story of being the traditional and thus rightful owner of the area, arguing for government recognition. However, the government refused to listen to their story and argument. Recently they heard a story from conservationists that they readily adopted in the hope that it would add weight to their voice: tribal peoples are better custodians of nature than governments. By reproducing this story they establish a discourse coalition with the conservationist movement and position themselves no longer as victims of a new regime but as a promising saviour of nature. In the end, what actors hope for those who consciously enter into a discourse coalition in a particular policy field is that it will make their voices

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66 Hajer 1995, p. 65.

67 Hajer 1995, p. 70-71.

68 In an unconscious coalition partners are not aware of it.

heard and that their ideas, their definitions of problems and solutions will institutionalise in policy and practice.

## 2.7 STORIES AND DISCOURSES

It has been said above that the more dominant a discourse or a frame becomes the more likely it will be that it will become manifest in a policy, a law, a practice, or a combination of these.

In other cases, it should be noted, it is a story that can institutionalise in policy, law and practice, such as the story of sustainable development. Such a story, which most probably is supported by a loose coalition of partners with various frames, is not necessarily part of a specific discourse. On the contrary, it is likely to be so unspecific that it appeals to many different people with different frames.

After institutionalization, however, the struggle over the definition of problems and solutions continues. This is the main reason I have chosen to analyse both policymaking and implementation in this study. After all, the existence of a nature conservation law or a departmental division for national parks does not tell us much about how a national park works in practice. A policy can be adapted to an emerging discourse without necessarily resulting in new institutional practices in the implementation. As this study will show, such a gap between policy and practice is especially likely to exist if the stories necessary to a policy agreement are too open to various interpretations to ensure specific practices or if discursive structures helped to prevent an open debate in the first place.<sup>69</sup>

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69 In his analysis, Hajer comes to a similar conclusion: although the policy discourse had changed, the institutional practices did not. He presents some explanations for this phenomenon, including that the story-line of acid rain allowed for narrow and wide interpretations and that certain 'discursive structures' helped to sustain existing institutions by preventing an open debate in the first place (Hajer 1995, p. 268-269, 274-275).

## Discourses reflected in the scholarly literature on nature conservation policy, law and practice in Indonesia

This study's main concern is not the question which discourses are reflected in scholarly literature on nature conservation in Indonesia. However, for two reasons I will pay attention to them in this introduction.

The first is that every scholarly analysis is in fact a story and an argument building on existing discourses and their underlying values. So is this study. It not only builds on the theoretical insights discussed in the previous chapter, but also uses the work of others who have studied nature conservation in Indonesia. This section serves to categorise the work of these authors and to thus position my own analysis.

The second reason is that few scholars explicate the values underlying their work, implicitly supporting science's claim to be value-free. This section intends to provide insight into the values behind the work of the scholars discussed in order to make clear how they have contributed to the debate on nature conservation in Indonesia.

The literature dealing with conservation efforts in Indonesia is mainly produced by biologists, geographers, foresters, anthropologists, political scientists, and some legal scholars. Some of these are not merely independent academics but also simultaneously practitioners or activists. Their discourses overlap to some extent with those in favour of and against conservation in Indonesia in its present form, which demonstrates their interconnectedness.<sup>1</sup> Often, their values can be derived from how they present facts, make sense of them, and which norms they prescribe. Others are scholars who above all are concerned with critical analysis: searching for nuanced explanations rather than for simplifications and remedies.

Just as critics involved in policy- and lawmaking and implementation do, most scholars agree on the persistent ineffectiveness of the Indonesian nature conservation policy. However, they disagree on the importance or feasibility of improving this situation.

There are three major – for this purpose rather idealised<sup>2</sup> – groups, two of which are normative coalitions. The first normative coalition argues in favour of making the present conservation policy more effective. The second strives for focusing on policy objectives other than conservation. Scholars

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1 Cf. Lowe 2006.

2 The lines between the groups presented here are not as sharp in reality. Many authors explain ineffective policy in terms of various causalities.

belonging to the third group are above all concerned with critical scholarship, assessing the solutions proposed by the first group or exposing hidden agendas of various actors involved in the making or implementation of Indonesia's nature conservation policy.

Many authors subscribing to the pro-conservation discourse agree on the desirability of nature conservation, even at the expense of people. They label changes in nature in negative terms, such as 'destruction' and 'crisis', speculating that these will lead to various disasters, including hunger and irreversibly destroying the possibility of finding new medicines. Their solutions seem to be based on the assumption that state and societal actors are open to persuasion through education, money or rights. Basically, they produce one or more of three main stories: that there is a lack of knowledge, a lack of resources, or a lack of rights and justice for certain societal actors. The argument within the first story is that certain actors of state and society need to be educated about natural processes and the disastrous effects of human conduct on nature, thus becoming more 'aware' of the need to alter their behaviour. Traditionally, many natural scientists use this argument. Interestingly, there is a trend toward defining the scope of necessary knowledge more broadly, beyond only environmental knowledge. Pet-Soede, for instance, pleads for 'presenting the economic picture' of nature destruction to make state resources for conservation available.<sup>3</sup> In addition to these pleas to increase the popular knowledge of the natural and economic value of conservation one author has argued for viewing conservation areas as serving public values such as spirituality, compassion and responsibility to differentiate them from the existing categories of state land.<sup>4</sup> The second story defines a lack of resources as the main problem. Authors subscribing to this story usually see some kind of development for certain actors,<sup>5</sup> co-management and outsourcing,<sup>6</sup> or re-centralisation<sup>7</sup> as solutions. They argue that if only actors were wealthy enough, or institutions strong, capable and wealthy enough, conservation policy would become effective. The third story, finally, defines a lack of rights and justice as the main problem of Indonesia's nature conservation policy. Authors thinking along these lines argue that if only certain non-state actors, either indigenous or all park residents, had more rights, ranging from various kinds of participation to property rights, nature conservation

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3 Pet-Soede, Cesar & Pet 1999; see also Cesar 1996, Burke, Selig & Spalding 2002 and Dutton 2005. The former Indonesian Minister for the Environment, Salim, also argued in this line. See also Azis & Salim 2005.

4 Jepson 2002.

5 See, for instance, Brandon & Wells 1992, Wells 1989, and Wells & Brandon 1992. For a general review of literature on Integrated Development and Conservation Programmes see Hughes & Flintan 2001.

6 See, for instance, Clifton 2003 and Pet-Soede, Cesar & Pet 1999.

7 See, for instance, Oates 1999, Terborgh 1999, Marifa 2005.

would become more successful.<sup>8</sup> It deserves mentioning that among these authors many struggle against the monopoly of the natural scientific knowledge system in the debate, stating that indigenous peoples define, make sense of and represent nature in ways different from natural scientists.<sup>9</sup>

The second group of authors, much smaller relative to the pro-conservationists, questions the morality of the goals of the Indonesian nature conservation policy, proposing alternative policy goals such as a focus on poverty and food security, and access to clean water, food and air, instead.<sup>10</sup>

Writings of the third group above all reflect a discourse of 'critical scholarship'. Often not explicit about their preference for conservation or other policy objectives, the authors fall into an optimist and a pessimist sub-group. Authors belonging to the first sub-group critically analyse proposed solutions and experiments in the field of nature conservation implementation, and comment, for example, that community based natural resources management, co-management and other proposed solutions have raised new issues deserving critical assessment.<sup>11</sup> Authors belonging to the second sub-group define the lack of political will and the existence of hidden agendas of both governmental and non-governmental actors as the major problems and therefore are pessimistic about the possibility of persuading actors to change their behaviour in favour of nature conservation. Basically, there are two versions: first, that extra-legal structures, mostly some kind of powerful personal relations, or the desire for power and money, or both, determine the conduct of actors;<sup>12</sup> or second, that conservation policy is a bureaucratic instrument that increases or maintains power and serves to make money.<sup>13</sup> Authors writing about these issues appear reluctant to propose specific solutions. Usually, they do not go farther than recommending a general addressing of the issues of power and corruption. One more specific recommendation in this context is to expose corrupt practices and support certification schemes.<sup>14</sup> Others again come to the conclusion that making conservation work in Indonesia would require formulating and agreeing on some kind of an ethical commitment.<sup>15</sup>

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8 See, for instance, Alcorn 1993, Brechin, et al. 2002, Dove et al. 2005, Elliot, et al. 2001, Lynch & Harwell 2002, and Safitri 2002.

9 See, for instance, Dove et al. 2005 and Zerner 2003.

10 See, for instance, Zerner 2000b.

11 See, for instance, Brosius et al. 1998, Brosius et al. 2005, Li 1996, Li 2000, Li 2001, Li 2002, Borchers 2005, Persoon & Van Est 2003, and Persoon et al. 2003.

12 See, for instance, Laurance 2004, Environmental Investigation Agency (EIA)/Telapak Indonesia 2002, McCarthy 2000, Obidzinski 2003, and Lowe 2006.

13 See, for instance, Peluso 1993a, Peluso & Vandergeest 2001, Galudra & Sirait 2006, Dove 1983 cited in Zerner 2000a, and Gellert 2005; compare also to the work of political economists, for instance, Robison & Hadiz 2004.

14 Fuller et al. 2004.

15 See, for instance, Lowe 2006 and Henley 2007. See Achterberg 1993 for a similar argument for the Netherlands.

The major concern of the present study is to make the debate on nature conservation policy, law and practice in Indonesia more transparent. Its ultimate objective is to point out how such policy can perhaps be improved – and in any case to clarify what will not work. The main value behind this concern, unsurprisingly, is critical scholarship: I try to lay bare and understand structures and strategies that determine the political struggle about nature conservation and either constrain or enable actors, rather than to engage in the debate on how to balance conservation, development and human rights. The conviction behind this approach is that these three values are equally valid and that it is not my task as an academic to prescribe anything, but rather to help actors in Indonesia to satisfactorily balance them themselves. It is prescriptive in its cautious optimism that ultimately a more specific discourse on how to debate nature conservation in Indonesia will be helpful to achieve such a balance.



Before progressing with the actual analysis I need to define some more concepts used in this book, to start with 'nature conservation'. Nature conservation is a term with a history, which – in some contexts more than in others – is associated with a whole social movement and that propagates a particular ideology (see part II). In this book I intend my references to 'nature conservation policy' or 'conservation policy' to be more neutral since they are the common terms in this field.

This book aims to make the discussion about nature conservation policy, law and practice more transparent. It describes ideas behind policies and laws regulating how citizens should treat nature. As part II will show, actors have defined 'nature' and the effects of various forms of its treatment by humans, differently.

In this context, speaking of 'the state', 'the people', etc. is problematic. Various scholars have called for more attention to be paid to this, for instance, the case of 'indigenous people'.<sup>1</sup> This study has taken this criticism into account by *zooming in* on 'the legislature', 'the state', and 'the people' in the various case studies. As a result it has found that officials working for the same agency subscribed to different discourses, some of them striving for professionalism and effective conservation while others being preoccupied with realising their personal objectives.

'Policy', in this study, refers to an oral or written statement made by and as a public authority about how to achieve a particular goal. This includes written documents, speeches, laws and other regulations.

The fact that I treat laws as a kind of policy is mainly inspired by the Indonesian case where the distinction between policies and laws has been blurred. Under the New Order, the Broad Guidelines of State Policy (In. *Garis-Garis Besar Haluan Negara*, abbr. GBHN), for instance, were situated in the legal hierarchy below the constitution but above legal acts.<sup>2</sup> Likewise, presidential speeches were more often referred to in the policy- and lawmaking processes than any legal act.<sup>3</sup> Many Indonesian legal acts, on the other hand, continue to show the characteristics of a policy: they are statements of goals rather than detailed descriptions of rights and obligations. Policies often end up on a pile

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1 See, among others, Eindhoven 2007 and Osseweijer 2001.

2 Ex MPRS Decree XX of 1966.

3 Cf. Bedner 2001, p. 29, footnote 112.

of documents. To make them authoritative they are transformed into legislation. Likewise, existing acts are 'reinforced' by issuing an implementing government regulation, a presidential or ministerial decree or a *circulaire*.

Defining law as a kind of policy, or policy instrument, is of course not to say that law is a synonym for policy. Treating them as almost equal is to deny the fundamental differences between the two. It is true that laws and policies are about goals and how to achieve them. But once a law has been enacted it has become more than just a policy. It has become a legally binding document which ideally attributes rights and obligations to actors and which must be complied with, enforced by the state and controlled by courts. As a consequence its influence reaches much further than that of other policies since any policies that follow – in theory – have to be based on the existing law.

What makes laws different from policies is, most importantly, that they form part of a system that at its core serves to regulate the behaviour of non-state and state actors. In the latter case they are intended not only to strive for policy goals but also to 'curb arbitrary and unjust use of state power':<sup>4</sup> they form part of the rule of law.

Entering the domain of the rule of law has consequences for what one may expect in terms of quality from such a special kind of policy. A discussion of the quality of lawmaking and legislation is relevant for the present case as Indonesia, claiming to be a *rechtsstaat* (In. *negara hukum*), has officially subscribed to the rule of law. Four groups that participate in legal discourse – legal theorists, socio-legal scholars, practitioners and scholars studying governmental policies on legislative quality – have argued for legislative quality and the necessity to define criteria for it.<sup>5</sup> The criteria proposed by these different groups vary. Legal theorists have primarily focused on legality, such as Fuller who has stressed that laws should be general, clear, consistent, accessible and never retroactive.<sup>6</sup> Socio-legal scholars, on the other hand, have stressed that laws must be designed in such a way that they can effectively influence human behaviour<sup>7</sup> and that rules should not only be clear and accessible but also realistic in a way that reduces the gap between the norms and reality to create the preconditions for 'realistic legal certainty'.<sup>8</sup> Prac-

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4 Bedner 2004, p. 1.

5 Van Rooij 2006, p. 33. Van Rooij provides a useful overview of the literature on legislative quality and discusses its relevance for enforcement and compliance. He argues that adequacy, feasibility, certainty and adaptability form the four major criteria for implementable legislation (Van Rooij 2006, p. 34-43). All authors cited here are also cited in Van Rooij 2006.

6 Fuller 1976, p. 41-43.

7 Seidmann 1978, Seidmann & Seidmann 1994, Seidmann et al. 1999, Seidmann et al. 2001, and Seidmann & Seidmann 2003.

8 Otto 2004, and Otto et al. 2004. As the other preconditions for realistic legal certainty Otto mentions that 'the administration follows these rules and induces citizens to do the same', that 'the majority of people accept these rules, in principle, as just', that 'serious conflicts are regularly brought before independent and impartial judges who decide cases in accordance with those rules' and that 'these decisions are actually complied with' (Otto et al. 2004,

tioners in the Netherlands and the European Community, for instance, have developed policies on the quality criteria legislation should meet.<sup>9</sup> Veerman, as a result of his study of such policies, has argued, however, there is no absolute quality standard for legislation. Whether or not the various producers and users of a law regard it as of good or poor quality depends on their respective expectations.<sup>10</sup> Eijlander and Voermans have listed a number of basic expectations<sup>11</sup> reflecting the rule of law discourse. These include that citizens expect an act to create clarity about rights and obligations, that governments expect an act to formulate the rules on the basis of which they can rightfully and authoritatively govern and that judges expect an act to enable them to decide disputes. These expectations in their turn can tell us much about how actors conceive of law and the *rechtsstaat*. What *should* a law, in their opinion, do? Should it merely create the preconditions to achieve a certain objective? Do they, for instance, conceive of it merely as a policy instrument? Or do they, to mention another example, conceive of law as a precondition for liberty and justice, meaning that law should ‘constrain Leviathan’.<sup>12</sup> And what do they expect law *can* do? Do they expect that law can effectively alter behaviour or do they have more symbolic functions in mind, including claiming authority, making a gesture, and rationalizing existing inequalities?<sup>13</sup>

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p. 123). In Indonesia, Satjipto Rahardjo is an important advocate for ‘*hukum progresif*’, a more realistic approach towards law. See, for instance, Rahardjo 2007.

9 See, for instance, Bracke 1996, Veerman 2004, and Voermans, et al. 2000.

10 Veerman 2004, p. 13. This conclusion is similar to Tamanaha’s ‘non-essentialism’ which argues that one cannot define concepts such as law, or - by analogy - legislative quality, in terms of its essence and therefore, one needs to analyse how various actors define it (Tamanaha 2000). Nevertheless, Veerman cites a number of legal, administrative and technical quality criteria of the Dutch policy on good legislation, including legality, effectiveness and efficiency, implementability and enforceability, simplicity, clarity and accessibility (Veerman 2004, p. 16). Recent research on the advice practices of the Dutch Raad van State revealed that compliability is another such criteria (Broeksteeg, et al. 2005, p. 531). The existence of these criteria has urged ministries to develop a number of protocols, tests and ‘quickscans’ (Veerman 2004, p. 33). However, these do not weigh up against the fact that the criteria are vague and sometimes conflicting, depend very much on forecasts and hide the diverging interests and rationalities of producers and users (Veerman 2004, p. 35). Another problem is that although lawmaking is a political act the control of legislative quality in the Netherlands is not so much seen as a political duty but left to the ministers (Florijn 2008, p. 3).

11 Eijlander & Voermans 2000, p. 17-18.

12 Radin 1992, p. 130. Hobbes used the name of this biblical monster for the absolute ruler he proposed to submit to in order to prevent chaos and anarchy. In this kind of thinking, law is thus conceived of as a system that should define limits to absolute power.

13 Edelman 1977 and Edelman 1987. Similarly, Cohn points at the possibility that ‘legislation may be a political show of power in response to crises or issues that attract strong pro-legislation forces’ (Cohn 2001, p. 480). Veerman differentiates between an instrumentalist, astounding, problem displacing, symbolic and value expressing and consolidating function of a law (Veerman 2004, p. 19-20). See also Schuyt who argues that since legislation fulfils many more roles than just an instrumental one and that the effectiveness approach is by definition of a limited value (Schuyt 1983, p. 178).

Mattei's differentiation between countries with a predominant rule of professional, political, and traditional law<sup>14</sup> may help to categorise the expectations different actors in Indonesia have of the *rechtsstaat*, law and policy. There is no country exclusively ruled by one of these patterns. In countries with a predominant rule of professional law legal procedure is binding on the government, and lawyers enjoy a high status. Aspects of political and traditional patterns of law are considered a 'pathology' and rejected. A predominant rule of political law is, among others things, characterised by decision-making that is determined by a final goal such as development, a weak judiciary and a strong police, and continuous legal reform with many transplants. In addition, as many state decisions depend on who one is rather than on formal rules, many people invest in building relations with powerful actors rather than exclusively seeking justice in court. Countries with a predominant rule of traditional law, finally, are described as possessing a structure of religious or customary law parallel to a techno legal structure. This means a reduced role for lawyers, as many other actors, such as wise men, are also entrusted with dispute resolution and decision-making. Furthermore, hierarchy and harmony are highly valued and sometimes legitimisation is sought in the super-natural.

That the expectations of various actors can and normally do differ is, of course, not to say that legal, technical or policy-related quality criteria are of no use at all.<sup>15</sup> It is good for any state to think about such criteria and to develop and implement a policy on law and lawmaking since such criteria can help to rationalise lawmaking and to improve its outcome or at least to explicate implicit standards.

The special characteristics of law mean not only that law differs from policy but also that lawmaking differs from other policymaking processes. It is the chosen members of parliament that deliberate about the goals and instruments to be included in an act. They represent the various interests in society and are entitled to weigh these interests and look for compromises. Due to the fact that an act has much more severe consequences for citizens and the state than a non-legal policy citizens may expect even more scrutiny, precision, and transparency from those involved in lawmaking than from those involved in other policymaking processes.

To ensure this scrutiny, precision and transparency lawmaking should meet the conditions of what I will call the 'good lawmaking standard' (henceforth: GLS). This standard builds on two of the few existing normative theories on lawmaking that are based on empirical research. The first one is the problem-

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14 Mattei 1997. The following section is based on this article.

15 Veerman 2004, p. 23.

solving methodology developed by Seidman and Seidman.<sup>16</sup> These researchers have focused their attention first on the legal drafters and then on legislators. In their view, drafters and legislators need to adopt a methodology that is 'based on reason' and 'informed by experience'. This means that drafters should accompany their draft with a research report to justify why they chose a certain approach and solution. Such a report should identify the difficulty at hand with a special focus on the causal actors and their behaviour, and offer a strategy to change their behaviour.<sup>17</sup>

Where the Seidman theory aims for legal effectiveness the second building block of the GLS problematises this very concept. Research by Aubert, later followed by Aalders,<sup>18</sup> has differentiated three types of effectiveness: political, substantive and formal. Legislation can be politically and formally effective without satisfying the demand of being substantively effective, meaning that legislation succeeds to achieve the intended objectives. Combining these two theories, my good lawmaking standard prescribes that lawmaking should be based on reason, informed by experience, and aim for substantive effectiveness.

To understand what conservation policy, law and action in Indonesia are about and how actors have been trying to maintain or change it, the object of this study is threefold: policies and law, policy- and lawmaking, and implementation. Consciously, the discussion in these three parts of the study has included both policy and governance discourses. Those related to policy, debate, for example, who causes nature destruction and who can and should prevent it, and include practices ranging from rangers patrolling an area to settlers constructing houses in a national park. By contrast, the governance discourses argue about who should participate in policy- and lawmaking and

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16 Seidmann & Seidmann 1994, Seidmann et al. 2001, and Seidmann et al. 1999. The other theories on lawmaking, and those on policymaking that are applied to the lawmaking process, aim to analyse and explain the process and its outcome. Luhmann, for instance, has argued that it is not so much the result of a process but the process itself that determines whether or not actors accept the result of a process (Luhmann 1969). Applied to lawmaking this would mean that as long as there were acceptable rules on lawmaking and legislators kept to these they could make whatever law without having to fear non-acceptance by the broader public. Lindblom with his theory of 'muddling through' (Lindblom & Woodhouse 1993) and Kingdon with his application of the garbage can theory to policymaking (Kingdon 1984) have attempted to explain outcomes by pointing either at the role that existing policies and negotiation play or at the possibility that solutions often look for problems. Snellen has argued that there is not one rationality that determines a process of policymaking but four, i.e. a political, economic, legal, and scientific rationality (Snellen 1987). For an overview of theories on policymaking and lawmaking and their applicability for law and development projects see Otto et al. 2004. For a discussion of such theories of lawmaking and their relevance for the Chinese context see Van Rooij 2006.

17 Veerman has supported it by arguing that 'most problems with legislation stem from a lack of knowledge and good 'policy theories' (Veerman 2004, p. 31) which are defined as the arguments and underlying knowledge for defining a problem and a solution (Van der Graaf & Hoppe 1996, p. 70). For an more elaborate overview of existing legislative theories and the argument to combine them see Otto et al. 2004.

18 Aubert 1967 and Aalders 1984.

implementation and how state officials should perform their tasks. Combining the study of both policy and governance discourses led to the discovery of patterns across two fields of study and linked the policy debate to the one on governance and the rule of law.

### 5.1 MAIN RESEARCH QUESTIONS

This study maps with a clear analytical framework historical and present discourses dominating the processes and outcomes of the policy field of nature conservation in Indonesia. From what has been said about discourse above follows that we have to search for explanations of discourse dominance in two directions: first, in the direction of actors; and second, in the direction of discursive structures. This leads to the following research questions:

- 1 Which dominant discourses can be reconstructed from policies and laws in pre-colonial, colonial and post-colonial Indonesia on the human treatment of nature?
- 2 How, i.e. with which stories, arguments and strategies, do relevant actors involved in the making and implementation of nature conservation policy and law in Indonesia struggle for discourse hegemony?
- 3 Which discursive structures constrain or enable actors in their struggle for discourse hegemony?
- 4 How does the struggle for discourse hegemony affect policy and law, policy- and lawmaking and implementation?

### 5.2 METHODOLOGY

To present as complete an overview of discourses as possible, while also intending to bridge disciplinary discourses, this analysis draws on studies from various disciplines including history, sociology of law, policy studies, political science, anthropology, geography, and conservation biology.

I collected scholarly articles and books about the pre-colonial times and policy documents and legal regulations, as well as all kinds of information about the debates about such policies and regulations and scholarly analyses about the colonial times and the era of independent Indonesia. I read these sources over and over again focusing especially on information about the conceptualisation of nature and on arguments about how humans should treat nature. Whenever I came across new arguments I kept looking for repetition in order to determine whether this indicated the emergence of a new discourse or the transformation of an existing discourse. During the course of my study I also kept reading newspaper articles on environmental issues made available

through an Indonesian clipping service and later on the weekly 'Indonesian Nature Conservation Newsletter'<sup>1</sup> initiated and distributed by Ed Colijn. These turned out to form a valuable additional source for the discourse analysis. During my fieldwork in 1999 (six weeks), 2000-2001 (10 months), 2001 (four weeks) and 2005 (two weeks) I gathered policy and legal documents and the minutes of the parliamentary debates on the Biodiversity Conservation Act of 1990, attended many of the mushrooming stakeholder meetings and discussions, and interviewed officials at the Ministry for the Environment, the environmental impact management agency, planning agency and Forestry Department in Jakarta and their regional agencies in Jakarta, Samarinda, Bontang and Sangatta. I visited the offices of Pulau Seribu Marine National Park and Kutai National Park in Jakarta and Bontang and the parks themselves. There I interviewed in formal and informal ways as many people as I could (due to time limitations in Pulau Seribu more extensively than in Kutai), including residents, park officials, officials of other agencies active in the parks, entrepreneurs, employees and guests, until I had the feeling that I heard only repetitions and thus had reached data saturation.<sup>2</sup> In addition, I observed what was going on in the parks and in the offices of the park authorities to see where interviews differed from observable practices. This information was again useful in follow-up interviews. All notes and material gathered in the field I treated as described above: I read and kept re-reading them in search of patterns of repetition of stories, arguments and practices. From these I constructed discourses. With regards to policy in this material from the field I often came across the same discourses that I had distilled from other sources. However, as the field data contained not only information on policy discourses but also on policy- and lawmaking and implementation and as I realised that integrating this material into my analysis would have much explanatory value I widened my scope of analysis to these discourses as well.

### 5.3 STRUCTURE OF THE BOOK

In order to find out which discourses dominate policy and law, policy- and lawmaking and implementation I have divided this study into three main parts, not including this introduction and the conclusion.

To answer the first research question I start by describing the main government policies, regulations and institutional arrangements regulating the treatment of nature from pre-colonial times until 2005 (part II). For each period of time, I first distil the main stories and arguments from the policies, laws and institutional arrangements. On the basis of these stories and arguments I construct seven discourses. Here, I pay special attention to the fact that stories

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1 This may be subscribed to via [incl.contact@gmail.com](mailto:incl.contact@gmail.com).

2 Guest et al. 2006.



have constructed nature as being in crisis only from colonial times onwards. Reasons for issuing rules about the treatment of nature have ranged from protecting resource claims to protecting nature against human action. Then I analyse the implications of the discourses for the positioning of various actors, i.e. their dependency on others, their roles, rights and obligations. Finally, I reflect as far as available sources allow on why and how people reproduced, transformed or rejected the arguments of the dominant discourses.

To trace the origins of conservation policy and law in the Indonesian archipelago I start my investigation in pre-colonial times (chapters 7 and 8). The fact that primary and secondary sources about how people conceptualised human-nature relations in this period are scarce makes this to some degree a dangerous endeavour. After all, in many cases, sources do not cover a whole region but give only a very local account of how people made sense of the world. Moreover, many sources are reconstructions themselves so one may wonder about their historicity or, in other words, to what extent they are constructs of the present. Nonetheless, used with a necessary caution they contribute to our understanding of what ideas and concepts dominated the thinking of at least the people that we know of. In chapters 9, 10 and 11, I proceed with an analysis of selected VOC<sup>3</sup> and colonial policies regarding the treatment of nature and the corresponding institutional arrangements. Chapters 12, 13, 14 and 15 deal with the discourses dominating the Indonesian policies and institutional arrangements, from the revolution in 1945 until the end of Indonesia's first President's Old Order in 1966, the New Order policies from 1966 until 1998, and the first years of the post-1998 *Reformasi*.

Where possible I used the policies as primary sources to reconstruct the discourses that dominated them. In many other cases, however, I relied on secondary sources regarding policies and the circumstances that produced them. Analysing the debates for all the policies and laws described in the historical overview on the basis of primary sources could have filled a number of books.<sup>4</sup>

The historical overview demonstrates that dominant ideas in policy and law about nature, its functions, problems and solutions have changed throughout time and have long been contested. At least from colonial times onwards the arguments of both the proponents and opponents of such policies and laws have remained nearly unchanged. The debate therefore has long been in 'deadlock' and thus earns the label of a 'dialogue of the deaf', in which all stakeholders talk without listening and put forward fundamentally different

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3 The United East India Company (Dutch 'Vereenigde Oostindische Compagnie') established in 1602 to reduce the competition between Dutch traders in the Indonesian archipelago (see, for instance, Ricklefs 1981, p. 24-25).

4 As an analysis of primary sources may reveal very different insights plead for more studies of this kind. Such studies could provide us with insights about policy and governance related discourses in these various periods as well.

but equally valid arguments.<sup>5</sup> An additional problem is that discourses about human treatment of nature have been used to claim resources, to show that one is in control of life, and only sometimes to solve problems. This illustrates the need for a thorough debate about the definition of problems and solutions and for the government to generate trust in its willingness to solve problems through policies and laws.

Research questions two, three and four are answered in both part III and IV. In part III, I analyse the primary sources of selected cases of policy- and lawmaking in recent history. The analysis of these cases enabled me to gain insight into the precise arguments and discursive structures that dominated the debate preceding a certain policy or act. I selected one case of New Order lawmaking, one case of Reformasi policymaking, and one case of Reformasi lawmaking. The New Order case (chapters 18-20), the parliamentary debates on the Indonesian Biodiversity Conservation bill (In. *Rancangan Undang-Undang Konservasi Sumber Daya Alam dan Ekosistemnya*) in 1990, is a logical choice since the act resulting from these debates has been forming the legal basis for national parks and other nature reserves in Indonesia. On the basis of the complete minutes I investigate stories and arguments related to policy, policy-making and implementation and the practices that dominated the process and in the end influenced the result, i.e. the act. The second case (chapter 21) is of another order. It is a national co-ordination meeting (In. *Rapat Koordinasi Nasional*, abbr. Rakornas) organised by the Ministry for the Environment in 1999, the very beginning of the *Reformasi* period after the fall of Soeharto's New Order, to discuss the past and make plans for the future. One of its purposes was to formulate a national environmental policy document that was to serve as input for the formulation of the Broad Guidelines of State Policy by the Indonesian People's Consultative Congress (MPR). I selected this case because it enabled me to compare two cases of policy- and lawmaking from two very different periods. In this book, this second case thus serves primarily to examine in what ways *Reformasi* policymaking differed from New Order lawmaking, or, in other words, what influence *Reformasi* discourse had on policymaking practices. The third case (chapter 22), finally, based on semi-structured interviews and secondary sources, is about the process of producing the new Natural Resources Management bill (In. *Rancangan Undang-Undang Pengelolaan Sumber Daya Alam*). This case is interesting because it shows the emergence of new lawmaking practices before a bill has been sent to parliament. The parliamentary debates have been postponed several times and will thus need to be analysed at a later stage.

Finally, I investigate processes of implementation in selected conventional national parks and national parks funded and influenced by donors just before and after the beginning of *Reformasi* (part IV). The first case, Pulau Seribu

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5 Van Eeten 1999, p. 2.

Marine National Park (chapter 25), forms the most comprehensive case study of the section. On the basis of interviews, informal conversations, document analysis and observations collected in two periods of fieldwork in 2000 and 2001 and a short visit in 2005, as well as available secondary sources, the case describes the park residents' increasing lack of trust in the government from its establishment in 1982 onwards and the park agency's difficulties in building partnerships with other actors. The case study of Kutai National Park (chapter 26) is also based on a short fieldwork in 2001 and on available secondary sources, including academic studies and newspaper articles. The struggle described in this chapter is of a much more visible nature than in Pulau Seribu as it examines whether the central or the regional government should be in charge of the national park. For the donor parks – Komodo, Bunaken, Lore Lindu, and Siberut – I focus on the fragility and exclusiveness of discourse coalitions between conservationists and indigenous communities and the struggle over the precise definition of co-management.

The analysis of various communication processes from 1990 to the present in parts III and IV reveals the persistent power of the *pembangunan* discourse's emphasis on harmony in Indonesia. The tendency of many actors involved in or affected by nature conservation policy to use discourse in a strategic way and to avoid arguing for problem-solving illustrates that the debate on nature conservation in Indonesia until 2005 was a debate without obligations. Explicating discrepancies between the words and deeds of actors and designing rules for more 'responsible' policymaking, lawmaking and implementation can help to make the debate more transparent and actors more accountable, and to increase the attention of all relevant actors for substantive effectiveness.



Part II

Dominant discourses reflected in policies and laws from pre-colonial times to the present



'From early history, the Indonesian peoples have always been practicing conservation. There have always been conservation rules, for instance, about not building houses or *sawahs* close to rivers. Konservasi is thus not an idea from the outside.' The retired former director of nature protection, Lukito Daryadi, looked out of the window of the gigantic complex known as Manggala Wanabakti, home to the Forestry Department. 'Only in 1972 a global idea has been added to that', he resumed. 'So all we had to do in Indonesia was to combine (In. *mengawinkan*) the ideas from within with the ideas from the outside. Actually that was not difficult.' Then Lukito turned around again and looked at me. 'Only the term *konservasi* is not known to many people in Indonesia. We need to socialise it. Especially in the regions there are not yet many people who know the term and its relevance.' – 'You know', he continued after a while, 'the biggest difference with the New Order period is that the government is no longer allowed to exert pressure on the people. *Konservasi* therefore now has to come from the people themselves. And yes, the people know its importance for if their house breaks down since the ground is eroding or something, they know. Maybe', the retired official went on, 'maybe we just listen too little to the old generation. The young people want to be modern, they don't ask advice from their parents and grandparents. So, a lot of knowledge gets lost. There is a generation-gap.'<sup>1</sup>

Lukito thus suggested that there were two major explanations for the fact that conservation policies in Indonesia did not have the desired effects. One, old indigenous knowledge about conservation had gotten lost. And two, after the fall of the New Order the government was no longer allowed to force people to abide by rules that would make conservation policies successful. However, Lukito's story also raised many questions. What exactly did he mean by 'practicing conservation'? What did he associate with the term 'konservasi'? And if Lukito was right about the young people wanting to be modern and thus not being interested in old ideas about conservation what role had the Indonesian governments played in this? Had they tried to base their policy and rules on this old knowledge to reverse this trend? Exactly which ideas did they try to combine and what exactly were they socialising as the meaning of *konservasi*?

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1 Interview 9 May 2001.

Finding answers to these questions requires a historical approach, and the conversation with Lukito had made it clear that there was not one conceptualisation of conservation that had existed from the early history to the present, shared by all people. Rather, as we will see, throughout history there have been various, often conflicting ways to make sense of natural phenomena that have led to an ongoing debate among various actors.

To create a better understanding of this debate, this part serves three main purposes. First, it presents a concise history of policies, law and institutions in the field of nature conservation for the Indonesian archipelago. Second, it introduces the main actors in the field of nature conservation policy and law in the area. Third, it describes and analyses the dominant thinking and argumentation of, above all, the ruling elites of the various periods in history about nature and how humans should treat it, thus answering the first research question of which dominant discourses on the human treatment of nature can be reconstructed from policies and laws in pre-colonial, colonial and independent Indonesia. Apart from this it provides background information necessary for part III on policy- and lawmaking and part IV on implementation which will do what this part can only do at the surface: analyse where and why actors reproduced, transformed or rejected a particular discourse (research question 2), with which stories, arguments and strategies various actors involved in the making and implementation of nature conservation policy and law have been struggling for discourse hegemony (research question 3) and in what way discursive structures have been enabling or constraining them in their struggle (research question 4).

As discussed in part I, the methodology for this part of the study has been to first collect information on policies and laws. For the pre-colonial times this was more challenging than for the later periods, as there obviously existed hardly any formal law and policy. Therefore, they had to be reconstructed. Anthropological studies from the colonial and post-colonial times and historical ones provided important sources. They have formed the basis for a reconstruction of objectives and arguments about rules in support of achieving these objectives. These studies describe which norms and practices of present and past times members of the communities under investigation constructed as inherited from their ancestors. Studies of one and the same region show that the norms and practices could vary from settlement to settlement, from community to community. Yet, there are certain characteristics that allow for generalisation.

After constructing, or, for the later periods, describing the policies and laws, the second step of the analysis was to distil and analyse the main stories, arguments and, where possible, practices, in order to formulate dominant discourses. Finally, where possible, information was collected on which actors in what ways produced, reproduced, transformed or rejected the dominant discourses.



As noted above, throughout history the policies and laws differed both in terms of objectives and in terms of the arguments that were used to justify them. The historical overview will show that stories and arguments were transformed or replaced by new ones especially when new political actors with major power claims entered the scene.

Before starting the actual analysis, however, some general remarks about how in the Indonesian archipelago the transition was made from *adat*, i.e. the 'local law ways'<sup>2</sup> or sets of local norms for human behaviour, to state law<sup>3</sup> are necessary.

The first category of policies and rules we know of are those based on animist beliefs that ruled the life of small communities that lived spread over the archipelago. These communities consisted of hunters and gatherers, some of whom, later on, temporarily or continuously settled in a certain area and started to cultivate land. Van Vollenhoven, the Dutch legal scholar who 'discovered' the *adat* law<sup>4</sup> in Indonesia, estimated that only from the eighth century onwards – three centuries after its arrival in the archipelago – a major institutionalised religion, Hinduism, started to influence the policies and laws in some parts of Indonesia.<sup>5</sup> Islam on the other hand would not gain influence before the fourteenth century. Importantly, the arrival and increasing influence of these and other world religions did not mean that animist beliefs disappeared. On the contrary, many Indonesians who converted more or less adopted the new beliefs and practices in a way that came to co-exist with older beliefs and practices. In line with that, Van Vollenhoven observed and empha-

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2 This notion is borrowed from Kolff 1992, p. 205. Kolff defines local law ways for pre-colonial India as 'different authorities (councils, individuals) presiding over different sets or relations, mainly within the village or the endogamous group, and using different sanctions: down-to-earth ones like fining, beating, and public shaming; and supernatural ones such as ritual expiation or, perhaps most effectively, as it entails stoppage to a family's marriage prospects, outcasting.'

3 See also on this matter Sonius 1993.

4 For the Netherlands East Indies, the Dutch legal scholar Van Vollenhoven has studied and compiled local rules, or 'adat law' as he would call them. Adat law or customary law is contested in terms of concept and methodology. It has proven hard to draw a line between custom and law. Still, among social scientists the dominant view has become Malinowski's who argued that every society has law in order to maintain order (Ubink 2008, p. 24). Among lawyers a narrower definition of law is common, reducing it to law enforceable through state institutions. Consequently, scholars have debated how to study customary law. Ter Haar argued that it should be studied through 'the decisions by the group's authorities, in situations of conflict' (Sonijs 1993, p. 27). Holleman and Van Vollenhoven argued that adat law comprised of social norms with sanctions attached to them. For the debate between Llewellyn and Hoebel and their followers and Holleman whether one should concentrate on trouble-cases or also on trouble-less cases in one's analysis of customary law see Slaats & Portier 1992, p. 10-11 and Ubink 2008, p. 25-26. However, for our discussion, the debate about whether or not adat law is law is of a minor importance. Regarding the methodology, the authors of my sources seem to have taken the latter approach, thus including trouble-less cases as well.

5 Van Vollenhoven 1918, p. 4.

sized that converts did not, or not necessarily, abandon their *adat* in favour of Hindu or Islamic laws.<sup>6</sup> It is more likely that people attempted to combine rules from various normative systems. Wilken, for instance, mentions that in a Javanese village once a year the same people made offerings to Islamic saints and local spirits, including the spirit of the first cultivator of the ground.<sup>7</sup>

This is not to deny that new religions influenced policies and laws on the human treatment of nature. But these new beliefs were more vivid among ruling elites or those who used them to challenge the existing elite than among people without such power claims. According to Van Vollenhoven, indigenous – and, one might add, colonial rulers – issued new rules whenever they disliked local rules and practices.<sup>8</sup> Apparently, local people often protested against such new rules, claiming that they conflicted with their *adat*. However, Van Vollenhoven notes that sometimes they also protested in situations where that was not the case,<sup>9</sup> and thus attempted to use their *adat* as an argument against the legitimacy of their rulers.

The most notable difference with many of the rules that followed these early local laws was that they were increasingly less locally grown and enforced. Therefore the ruling elites of the early states, the colonial state and the independent Indonesian state that issued them had to put much more effort into persuading the local peoples to comply with these new rules. New rules were imported or imposed, or both, and designed as rules for a larger territory, the whole colony or, later, the independent state.

Another difference was that imported rules also had to be written down. This is not to say that local rules were never written down. But according to the prominent colonial Dutch scholar of Islam, Snouck Hurgronje, writing local rules down was often a symptom of their decreasing acceptance. After all, ‘law that everybody knows and respects, why should that be codified in a small community?’<sup>10</sup>

On the whole, this part of the study identifies seven discourses that have dominated conservation policy and law in the Indonesian archipelago throughout history. The chapters will present their main conceptualisation of nature and man-nature relations, their main stories and arguments, policies and regulations, and data about which actors reproduced, transformed or rejected it. The conclusion will display clear patterns of continuity and change in the arguments and strategies that the various actors have used when debating nature conservation. As several discourses soon came to co-exist, actors have been able to ‘shop’, i.e. to use arguments for strategic objectives without

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6 Van Vollenhoven 1918, p. 15-16.

7 Van Ossenbruggen 1912, p. 221. This phenomenon of absorbing and merging all kinds of outside influences is normally indicated with ‘syncretism’. See also for the mixing of Islam with local religions on Java, Madura, Kalimantan, Sumatra, and Sulawesi Brakel 2004.

8 Van Vollenhoven 1918, p. 112.

9 Van Vollenhoven 1918, p. 112.

10 Cited in Van Vollenhoven 1918, p. 93.

necessarily being convinced of their truth. Others, like Lukito, the former director of nature protection cited above, have tended to reproduce certain elements of transformed discourses that sounded appealing to them, but perhaps without being fully aware of their histories. Both uses of discourse make clear that evidence has not been the determinant factor for discourse reproduction or transformation. In rejecting a discourse, on the other hand, evidence-based arguments have played the main part.



In pre-colonial times, policies – defined in this book as objectives and the instruments to achieve them – and rules regarding the human treatment of nature were largely unwritten and local. Examples of such policies and rules are those of groups of shifting cultivators or of settlers who started to cultivate a certain area. The first Austronesian inhabitants are believed to have come to the archipelago around 6000 BC. From what time onwards and how they developed policies and rules on nature is unknown. However, once they did come into existence, they were passed on from generation to generation, sometimes until the present. As a result, the text below builds on examples from both past and present.

### 7.1 POLICY

The policy underlying the earliest rules we know of in the Indonesian archipelago, prescribing a particular treatment of nature, primarily aimed at keeping the spirits who owned and inhabited the land that was used for hunting or cultivation favourably disposed to them.

### 7.2 RULES

In order to achieve this aim the communities constructed rules on the treatment of nature. These rules have formed and in some contexts continued to form part of the local *adat*. They can be subdivided into two categories: the early rules that had their origin in animist beliefs and were directly related to relations between humans and spirits, and the later rules that still used the same spiritualist arguments but aimed to regulate inter-human relations.

Rules belonging to the first category were about respecting the habitat of spirits. These rules included that old inhabited trees were not to be cut and that dark forests and certain mountains were not to be visited.<sup>1</sup> In some areas such old beliefs have continued to exist. In Kerinci, an area in West Sumatra, for instance, communities told Bakels that their ancestors had laid down in

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1 Van Ossenbruggen 1912, p. 219.

a 'pact' that 'bound the people to the gods (now the Islamic god), to each other, to the spirits of the forest, and to the wild animals',<sup>2</sup> that access to forests was bound to rules, such as putting a leaf behind one's ear. Schefold mentions for Mentawai that access to and hunting in the spirits' habitat was allowed but that the spirits in a meeting with a representative of the human community had demanded a small part of the prey for themselves.<sup>3</sup> Osseweijer observed customary rules in Aru, such as behaving respectfully when gathering resources at sea.<sup>4</sup> On Java, some rules prohibited any human access whatsoever to forests that were regarded as 'sacred' (Ja. *angker*, In. *keramat*).<sup>5</sup> On Borneo, particular species of birds could not usually be hunted. They were seen as important omen birds.<sup>6</sup>

Rules belonging to the second category aimed for a peaceful and harmonious life in the village and at sea. Often they regulated the access to and exploitation of certain resources, such as the Moluccan *sasi*, which could be harvested only during limited open seasons.<sup>7</sup> Others protected a particular tree, such as the '*Koompassia excelsa*, known variously as *tapang*, *sialang* or *tualang*, which hosted the giant bee'.<sup>8</sup> Such rules intended to reserve a resource or forest for a community or individual. Van Vollenhoven mentions, in Borneo, Timor and Papua for instance, the habit of people of signing trees as reserved.<sup>9</sup> The right to reserve land, sea or resources was closely linked to what Van Vollenhoven coined '*beschikkingsrecht*', usually translated as communal 'right of avail' or 'right to dispose'.<sup>10</sup> This right, possibly obtained through a contract with the local spirits as mentioned above, grants a community or its representative the authority to decide what ought to be done with a piece of land, sea or resources in an area and by whom. It differs from the concept of ownership that was or continues to be believed rests with spirits and deities.<sup>11</sup> As the rules of this second category were also linked to spiritualist sanctions, such as illness (see further below), we may regard them as a transformation of the early spiritualist discourse.

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2 Bakels 2003, p. 74; cf. Lehman 2003.

3 Schefold 1985, p. 376.

4 Osseweijer 2000, p. 68.

5 Boomgaard 1992, p. 46. Sacred forests are also mentioned in Suwarno, Simarmata & Ahmad n.y., p. 261-266 for West Java, South Kalimantan, Central Sulawesi, and East Nusa Tenggara.

6 Hose & McDougall 1993, p. 57.

7 Harkes 2005, Kissya 1993, Osseweijer 2001, p. 114-115, Van Vollenhoven 1918, p. 418, Volker 1921, p. 293-295, Zerner 1998, p. 537.

8 Kathirithamby-Wells 1998, p. 928.

9 Van Vollenhoven 1918, p. 9, 324, 418, 430, 454.

10 Van Vollenhoven 1925, p. 9-10.

11 Van Vollenhoven 1918, p. 485.

## 7.2 RECONSTRUCTING DISCOURSE: STORIES, ARGUMENTS, AND PRACTICES

What can such rules tell us about the spiritualist discourse that may have existed and to some extent have dominated the pre-colonial times? First, there were the stories about how to make sense of the world. Such stories, later collected by cultural anthropologists in their areas of research, dealt for instance with the origins of ethnic groups and the founding of a particular village or community. Although these stories may have changed through the course of history we may assume that they provide us with some information about how hunter and gatherer societies used to make sense of the world. For the case of Aru, Osseweijer reports that Aruese believe that their ancestors had to flee Enu, their island of origin, in boats and that those who could not flee became fish, dolphins, and sharks, who are now the keepers of the marine resources.<sup>12</sup> Schefold wrote down Mentawaiian stories that tell about the cosmos consisting of two separate domains: one belonging to human beings, the other to the spirits. The latter is invisible to humans. It forms a 'special world, hidden from men, a culture of the beyond'.<sup>13</sup> Likewise, Aragon described for Central Sulawesi that this other world is inhabited by powerful 'unseen guardian deities, often referred to as "owners" or "lords", of an area'.<sup>14</sup> In many regions, including Toraja (Sulawesi) and Bali,<sup>15</sup> communities thus believed or continue to believe that all land is owned by local spirits or gods.

Another important kind of story was about the link between a human and a tree, plant or animal. The soul of a human being was believed to be able to be transferred to a tree, plant or animal for the protection of the person's life. Whenever something happened to the tree, plant or animal the life of the person was in danger.<sup>16</sup>

With the help of such stories about a spiritual world people have long been making sense of natural phenomena: fish that were at times abundant and then at others not, deer that sometimes hid and sometimes were easy to find, aggressive attacks by wild animals, fires, volcanic eruptions, or the sudden death of a person.

Not surprisingly, such stories were interwoven with arguments about how to treat spirits and deities. One such argument spoke of the necessity for anyone who wanted to settle in a particular area to negotiate with the land-lords of the area an agreement about the land's initial clearing and its transfer from the "wild" to the human domain'.<sup>17</sup> In many cases such an agreement was sealed with the marriage between a founding father of a community and

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12 Osseweijer 2000, p. 76.

13 Schefold 1992. The various meanings of the Indonesian word for Nature, *alam*, support this idea. It is used to describe concepts as diverse as world, kingdom, region, and hereafter.

14 Aragon 2003, p. 115.

15 Van Vollenhoven 1918, p. 363,485.

16 Van Ossenbruggen 1912, p. 296-298.

17 Aragon 2003, p. 116.

a local spirit.<sup>18</sup> In either case, the arguments served to make it clear to people from the outside that they could not just settle in that particular region because the landlords had already reached an agreement with the sitting settlers. As such, such stories also served other purposes, most importantly, to legitimise resource and power claims.

A second argument suggested compliance with the rules as a symbol of respectful treatment of the deities and spirits<sup>19</sup> and their world in the time that followed the initial settlement. If people complied with the above-mentioned rules and brought regular offerings<sup>20</sup> they would, for instance, be granted fertility for their land and themselves in return. On the Mentawai Islands people believed that the spirits would send certain 'streams of blessing' to those who complied with the rules.<sup>21</sup> What form this blessing took could vary from person to person: good health, material and spiritual welfare, or power. In addition, Lehman found that compliance with these rules 'ensured that there would continue to be communication between the two parties' that would eventually serve to keep things under control and to help avoid chaos and violence.<sup>22</sup> Wilken mentions that spirits were expected to provide the villagers with advice, help against other humans and evil spirits, and blessings for various activities such as hunting, fishing and agriculture.<sup>23</sup> Broch notes that in the case of the island Timpaus compliance has been seen as necessary to keep the cosmos in balance. But this is not to say that everything needed to remain untouched:

'Balance can also be obtained by replacing old species with new ones. The balance does not require stability in the sense that no changes in the ecological composition can take place. [...] balance is based on an equilibrium of good and evil forces.'<sup>24</sup>

This same idea was found by Osseweijer in Aru: there, people did not believe that marine resources could ever become truly extinct. At the most, the

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18 For an overview of founders' cults in Southeast Asia see Tannenbaum & Kammerer 2003. Cf. Bakels 2003, p. 73.

19 Aragon describes that the transfer from the spiritual world to the human world often, if not always, resulted in the emergence of a new type of spirit, the so-called ancestral spirits of those individuals 'who made successful agreements with the guardian deities' Aragon 2003, p. 116. These then came to share in reigning over the spiritual world together with the guardian spirits and had, just like the deities, to be treated with respect.

20 Kammerer & Tannenbaum 2003, p. 3.

21 Bakels 2000, p. 31 citing Bloch, 1986 and Schefold 2000.

22 Lehman 2003, p. 16.

23 Van Ossenbruggen 1912, p. 220.

24 Broch 1998, p. 211-212. This observation is important since many ecological philosophers tend to idealise Asian attitudes towards nature claiming that these are conservationist in nature. See, for instance, Kalland & Persoon 1998, p. 1-6. See also what has been said about the myth of the 'noble savage'.



ancestors' annex managers of the resources could temporarily hold them back or bring them to other areas.<sup>25</sup>

The other side of this coin was that non-compliance could have disastrous effects. As Zerner learnt on the Moluccas,

[w]atchful spirits listen, see and respond to the everyday practices as well as the ceremonial performances of the community. A fisherman's fate, as well as his luck in fishing – whether fish cluster about his net or disappear from sight – depends upon his relationship to these fractious spirits of the place'.<sup>26</sup>

Moreover, in other cases, people believed and sometimes continue to believe that non-compliance could result in disappearance, illness or even death.<sup>27</sup> In Pulau Seribu, for instance, a man told me in 1999 that people who went to the most northern part of the small archipelago did not return because the tiger spirit (In. *roh macan* or *macan halus*) living there prevented them from finding their way back out of the mangroves. Likewise, Volker has described a more historical case of the Moluccas where a boat carrying women disappeared without a trace. The people linked this disappearance to the local spirits. To grant these spirits a nice time with the women that they had kidnapped and to make them favourably disposed for the future the people decided to close the port at the foot of the mountain where the spirits were supposed to live for three months.<sup>28</sup> It is likely that the idea that non-compliance could lead to personal or natural disasters served to provide people with a sense of control where untamed nature was or continues to be perceived as omnipresent and powerful. They could try to reduce the occurrence of illness and the like by becoming 'better persons' who complied with the rules of the spiritualist discourse.

However, there were also exceptions to the rules on human treatment of nature. When animals, which according to *adat* rules were to be respected, attacked humans or their domestic animals, humans were allowed to kill them. In this case, according to the Dayaks in Borneo, the animal had shown to belong to a lower class and not to be worth being respected.<sup>29</sup>

In addition in these cases where rules did not apply, there existed possibilities to ask for exceptions, a traditional kind of 'license'. This had to be accompanied by certain rituals<sup>30</sup> to appease the spirits, which we may interpret as a form of discourse institutionalisation. These rituals were often only known

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25 Osseweijer 2000, p. 73-74.

26 Zerner 1998, p. 557.

27 Cf. Boomgaard 1992, p. 46.

28 Volker 1921, p. 295.

29 Hose & McDougall 1993, p. 57. Cf. the case of Kerinci where tigers had to pay with their life for entering the human domain and thus breaking the contract (Bakels 2000, p. 274).

30 Rituals often symbolise a re-creation of the natural world in the hope to maintain the natural order see for example Demaine 1978, p. 50.

to a group of experts, the *dukuns*, who thus needed to be consulted to mediate between their world and that of the spirits. Their successful performance of the required rituals would 'attract [...] the positive forces of luck, health and prosperity.'<sup>31</sup> However, not even the *dukuns* were obligatory. As McVey notes, the mediation of experts 'enhances rather than monopolizes contact with the world of the ancestors which is available to all.'<sup>32</sup> Often, therefore, even ordinary men could perform appeasing rituals, such as in Kerinci (see above), to indicate that they would 'behave respectfully' in the forest, and 'ask[ing] the forest spirits to give them some of their "cattle" [wild deer]'.<sup>33</sup>

In this case, treating the spirits politely therefore seemed sufficient to obtain the key to otherwise restricted areas or unavailable resources. That rules were interpreted loosely is also reflected in practices where actors more or less openly deceived spirits. Hose describes this, for instance, for some Dayak communities in Borneo that speak as little as possible about their intention to go hunting or fishing or use indirect language such as 'there are many leaves floating here' to mean that there are plenty of fish in the water. They do this in order to prevent the spirits from informing their prey of their intentions.<sup>34</sup>

In his discussion of Van Vollenhoven's work Sonius has characterised *adat* rules as 'directed towards harmony in the basic communities and [...] adverse to conflict', 'unwritten', and 'based on age-old traditions'.<sup>35</sup> This label, 'directed towards harmony', has often been interpreted to mean there was a general consensus on and thus no conflict about rules. One of the most prominent examples in this respect is the New Order government under Soeharto that attempted to ban ideological conflicts from politics by formulating harmony as a normative requirement for any process of decision-making (see part III). Likewise, proponents of customary law have in their struggle for its recognition portrayed it in such a way as to qualify it as an alternative to state law. However, as scholars of customary law have pointed out we cannot assume that *adat* rules were by definition acceptable to and accepted by all people concerned. Chanock, for instance, has noted for Africa that proponents of customary law construct it as the opposite of state law and thus as 'long-lived, [...] acceptable and right practice' despite the fact that the content of customary law is contested within local communities as well.<sup>36</sup>

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31 Schefold on Mentawai in Nas & Persoon 2003, p. 2. According to Schefold, 'this explains why people are so dedicated to the rituals for which they work hard and make a special effort, whereas they generally prefer to be easygoing.'

32 McVey 1993, p. 6.

33 Bakels 2003, p. 74.

34 Hose & McDougall 1993, p. 101.

35 Sonius 1993, p. 52-53.

36 Chanock 1989, p. 173, (also cited in Ubink 2008); see also Oomen 2002 for the case of South Africa. For recent cases in Indonesia see, for instance, Tsing 1999, Li 2000, Li 2007, and Bakker forthcoming.

What probably made them more acceptable than non-*adat* rules was the fact that they were unwritten and thus flexible to some extent. As Slaats and Portier note, one may wonder whether such rules had functions comparable to those of later, written rules: 'More often than not what seems to be a rule turns out to have the character of a principle or even only a general guideline for behaviour.'<sup>37</sup> Here, we also need to differentiate between communities with a simple social organization and more complex ones. The simple ones lack all kinds of institutions, such as priests, *dukuns* or *adat* councils that can define rules. Members of a simple community, therefore, can have very different ideas about the world and how to behave in it, even to the extent that they 'freely contradict [their] own statements'.<sup>38</sup> In communities with a more complex social organisation, on the other hand, there existed institutions specifically intended to formulate specific ideas. In terms of discourse we can see such institutions in two ways. First, they were the institutionalisation of a particular discourse, for instance a discourse on the relations between humans and spirits and how to uphold them. Second, once established these institutions played an important role in maintaining and guarding the discourse. They formulated specific ideas about concepts, policies and rules. As such they helped make the discourse more specific.

Yet, even in more complex communities the rules about human treatment of nature allowed for negotiations. This possibility was institutionalised in practices such as *musyawarah*,<sup>39</sup> *begundem*<sup>40</sup> or *runggun*.<sup>41</sup> We may assume that in the event that a person was accused of non-compliance with a rule regarding the human treatment of nature and so bore the responsibility for a consequent natural disaster he could defend himself or attempt to justify his behaviour in such a forum. The major aim of the process of deliberation was then to make sense of what had happened, to formulate a solution that was acceptable to all stakeholders, to restore harmony in the community<sup>42</sup> and to find a new balance in inter-human and man-spirit relations. In this, such institutions differed from the Western-type courts, which apply law and are based on the legal principle that similar cases require similar outcomes.<sup>43</sup>

So far, the analysis of the spiritualist discourse has shown that its main, fundamental idea was that nature was inhabited by spirits. These spirits had

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37 Slaats & Portier 1992, p. 6.

38 Hose makes this point in a more specific way about communities with and without priest-hoods Hose & McDougall 1993, p. 74.

39 For instance, among the Minangkabau in West-Sumatra as described in Von Benda-Beckmann 1984.

40 Among the Sasak on Lombok as described by Koesnoe 1979.

41 Sonius 1993, p. 33. Such institutions existed not only for dispute settlement but for all important moments in a person's life as Slaats and Portier have noted for *runggun* among the Karo Batak in North Sumatra (Slaats & Portier 1981, p. 189).

42 Slaats & Portier 1992, p. 17.

43 Slaats & Portier 1992, p. 17.

authority over resources and thus the well-being of humans. Treated in the right way, the spirits were inclined to help humans in their struggle of life. At the basis of this discourse was thus a reciprocal conceptualisation of man-spirit relations.

What 'treating the spirits in the right way' meant was locally defined. If rules existed, they were generally not rigid. There were exceptions and rituals to circumvent them. In other cases, it was common practice to deceive spirits. What made the rules flexible was the belief that people had the option of making excuses for wrong behaviour. What made the rules attractive was that they provided people with a sense of control. Modern conservationists' idea that resources can become extinct has not been a part of the spiritualist discourse.

Contrary to the ideas of some modern conservationists, the spiritualist discourse with its rules on the treatment of nature was not a discourse problematising human exploitation of nature. Rather, it was mainly a discourse that served to explain natural phenomena, to ask spirits and deities for spiritual and material blessing, and to claim and legitimise the access to nature for a certain community. The conservationist benefits that may have been occurring as a result of the spiritualist discourse have thus been accidental rather than intended.<sup>44</sup>

In order to make sense of natural phenomena it is likely that people sometimes accused others or a whole community of 'wrong behaviour'. However, how such an accusation was debated and negotiated very much depended on the local context and power configuration. Imagining a situation in which the causes of a natural disaster were debated, three main options come to mind: there was no disagreement at all, different stories were allowed to be told by different people or there was a power holder or group of power holders whose version could dominate the discussion.

It is unknown whether all communities in the archipelago had rules as described in this chapter. If they did, there are many examples of communities or members of communities who eventually forgot about them or developed other ideas about nature and man-nature relations. Nowadays we therefore find many communities in which the proponents of the spiritual discourse have to compete with proponents of other discourses. Osseweijer describes this, for instance, among the people in Aru, where at present many people do not behave according to the old rules. According to one tradition-minded informant 'they just go and see whether they are lucky in bringing back a good catch; they never tell you that bad behaviour, on the tidal flats and in the village, is sanctioned by the ancestors in the form of disappointing harvest, sudden bad weather, encounters with ancestral sharks [...] different people have different ideas.'<sup>45</sup>

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44 Cf. LeBlanc 2003, p. 25.

45 Osseweijer 2000, p. 69.

Those who still reproduce stories and arguments belonging to the spiritual discourse may do so for various reasons. One reason may be that people still believe in the ideas that form the basis for this discourse. Another reason may be that the modern conservationist movement in the 1980s started to portray indigenous peoples as traditional conservationists. As later chapters and part IV will show, tribal communities have readily reproduced such stories in an attempt to gain more access and authority over the increasingly scarce natural resources. In many cases this meant they had to adjust the spiritual discourse to fit new requirements.

Another case of reproduction involved institutions related to this discourse more than the discourse itself. Also from the 1980s onward, the Indonesian Ministry for the Environment has attempted to 'revitalise' the Moluccan *sasi* as a conservationist institution,<sup>46</sup> actually transforming it, despite the fact that *sasi* originally had no such background.<sup>47</sup>

However, many more developments and struggles have taken place in the Indonesian archipelago between the period that the spiritual discourse dominated the thinking of the people and these recent cases of discourse reproduction and transformation.

The first ideas that came to challenge the spiritual discourse were based on Hindu beliefs that increasingly influenced the region. That this religion produced more ideas on man-nature relations than Islam and Christianity need not surprise us considering that Hinduism originated from India, a country with a nature as comparably rich as Indonesia's. Even today, Indonesian leaders of Islam and Christianity are no active proponents of conservationist discourses (although conservationists have made several efforts to pull them into their camp). Discussions on conservation and the role of religion have resulted in supportive declarations<sup>48</sup> rather than in religious leaders actively spreading conservationist arguments. Among the imported religions, Hinduism takes thus a privileged position in this study. The next chapter will show that ideas that had their origin in Hinduism were increasingly used in contexts where the rather simple communities discussed above became more complex and were eventually incorporated into larger polities. Rulers of both small and large Hindu kingdoms, as well as persons who wanted to challenge the power of other local rulers, attempted to either spread new stories or adjust the existing local stories to their needs.

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46 Kissya 1993.

47 Zerner 1994.

48 For an article listing the attempts of former Indonesian Minister for the Environment Emil Salim and of LIPI in co-operation with the Worldbank see Mangunjaya 2008.



Hinduism came to the archipelago in the fifth century, while Buddhism came in the eighth. Hindu kingdoms ruled over Java from the fifth until the fifteenth century, starting with Tarumanegara in West Java, then Mataram in Central Java and finally Majapahit in East Java. In Sumatra, Sriwijaya was an important Hindu empire. But Bali is the only island of the Indonesian archipelago that has remained predominantly Hindu. Pre-colonial states in the Indonesian archipelago emerged in various forms and sizes. Most of them were small kingdoms that lasted only for 'the lifetime of one strong man', and few others were large enough to succeed in establishing a dynasty.<sup>1</sup> Kings tried to maintain authority by granting regional overlords considerable autonomy, building a personal cultus of glory and through military power.<sup>2</sup> An additional strategy kings used was to adopt loyal supporters as their children to cement loyalty in family relations.<sup>3</sup> The frequency of conflicts among followers of a kingdom shows that these strategies were not always successful. In general, we have to imagine a pre-colonial Indonesian Hindu kingdom as a patrimonial rather than feudal<sup>4</sup> state, led by a strong and smart leader who managed to temporarily<sup>5</sup> bind an 'entourage of followers' to him who in turn had followers with followers. Supported by these circles of followers a king could attack, incorporate or destroy other strong men with power claims.<sup>6</sup> In return for their support and loyalty a king would have to ensure the well-being of his followers. He would have to visit his followers over and over again and earn his legitimacy by demonstrating to them the benefits of his rule.<sup>7</sup>

The stories that formed the basis for the second discourse I want to discuss had to show that the rulers had a special connection to nature and thus to the spiritual – and increasingly the divine – and that they were therefore the ones to mediate between the divine and the human sphere. As McVey writes about early states in the Indonesian archipelago, the

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1 Schulte Nordholt 1986, p. 11 citing Locher.

2 Ricklefs 1981, p. 15-16.

3 Schulte Nordholt 1988, p. 33.

4 For definitions of both concepts see Weber 1976. For a discussion of these - contested - terms in the context of Java and arguments in favour of patrimonialism rather than feudalism see Holtzappel 1986.

5 Ricklefs 1981, p. 15, Schulte Nordholt 1988, p. 32.

6 Schulte Nordholt 1986, p. 11.

7 Schulte Nordholt 1988, p. 40.

'central image was that of divine power, conveyed through the king, radiating with diminishing force out from the capital and down the social hierarchy. Population accumulated around centres of power; cities were points of light in the darkness of human ignorance, sources of entry for the divine into the lower world of man. Raw nature is wilderness, the dangerous space beyond the light, which man traverses only with peril. People that live close to nature are of a lesser order, responding to the disorderly, animal aspect of humanity rather than the hierarchical discipline of civilization, man's reflection of the divine. Rural hinterlands are touched by order flowing from urban power centres, but to varying degrees; the more distant geographically and socially from the centre people are, the more they are children of darkness. The ruler's task is to preserve his alignment with the cosmic order and to cast his civilizing light upon his people, whose is to be instructed and obey.'<sup>8</sup>

This image differed, of course, from that at the core of the stories of the past. It reflects a strong Indian influence in the relation it established between power and some centre. In the Indian case, the centre of the cosmos was believed to be Mount Meru with the city of gods at its summit.<sup>9</sup> In its place, in Indian influenced areas in Indonesia, local mountains (but also increasingly cities and royal courts) served as a centre. In any such case, there emerged a difference between high, divine, light places and low, dark and wild places in nature.<sup>10</sup> The divine places were believed to not only possess an enormous power but also a certain order which humans tried to imitate in their cities. Any civilizing act was thus an attempt to come closer to the divine order. On the other hand, subjugating wilderness was believed to represent a coming closer to the divine and leaving the animal aspects of humanity and spirit-inhabiting nature behind. Not surprisingly, the new stories dealt then with this very subjugation of nature. Examples are stories that, under the influence of the Indian epic Mahabharata, described rulers as having conquered nature, for instance, in the form of killing wild animals. This was to show a person's power since uncultivated territories

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8 McVey 1993, p. 10.

9 Heine-Geldern 1963, p. 1-3.

10 McVey 1993, p. 10. Making this difference means something other than establishing a dichotomy of nature and culture; rather, nature has both dark and bright sides. It can be domesticated or remain untouched wilderness. Cf. Kalland & Persoon who state that in present day Japan, for instance, the same dichotomy can be observed. The Japanese tend to like the domesticated form of nature much more than nature in its wild form (Kalland & Persoon 1998, p. 5).



'were filled with [anarchic, chaotic, primeval] power [...] only a person who was extremely "central"<sup>11</sup> [and thus powerful] in himself could, by mediation and self-discipline subdue the [...] forces [living in them]'.<sup>12</sup>

These stories were thus to demonstrate a ruler's strength and – again – to legitimise his rule, which was of essential importance to mobilise manpower, and claim certain natural resources: Once a person had proven able to subjugate nature and the spirits inhabiting it he had shown his 'ability and right [...] to rule as king.'<sup>13</sup> But he would have to demonstrate this ability over and over again in order to stay in power.

## 8.1 POLICY

The kings or aspirant rulers that used Hindu stories in support of their power claim spread with these stories a new kind of policy on man-nature relations. This policy aimed at subjugating nature (and the spirits inhabiting it) in order to restyle it into something 'more civilised' and 'more valuable': a resemblance of the city of gods. Imitating the divine order was believed to, or at least portrayed as if it could, please the deities, which would reward inhabitants with material and spiritual blessing in return.

## 8.2 RULES

Of course, the emergence of states and kings went along with the issuance of new rules, including those regulating the treatment of nature. The most important ones in this respect were those that reserved nature for the royalty by granting it monopolies on certain forests or forest products.<sup>14</sup> Other rules prohibited the commercial trade of certain resources, while allowing sub-

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11 Gesick uses 'central' as a synonym for power based on the conviction in Southeast Asian polities 'that living beings were ordered along a continuum from the bestial to the sacred, [...] a circular conception of space in which potently charged centers were thought to radiate power outward and downward toward less-charged peripheries. [...] higher-status people were found in centers – were in fact conceived to *be* centers – and were surrounded by people declining in proximity to power and hence in status as one moved outward.' (Gesick 1983, p. 2).

12 Gesick 1983, p. 2.

13 Haynes 1998, p. 736; although called a 'king', or *raja*, such a leader was often no more than a chief and only gradually developed into a person of royalty with a court and bureaucracy (McVey 1993, p. 8). According to Bakels, rulers seem to have liked to demonstrate their power by demonstrating their superiority to tigers and other dangerous animals. Examples are the Javanese *Kraton*, but also former president Soeharto and some high generals liked to be portrayed in front of stuffed tigers (Bakels 2000, p. 16).

14 See, for instance, Kathirithamby-Wells 1998, p. 928 and Henley, 2005.

ordinates of the king to yield as much as they needed for themselves, often on the condition that a certain percentage of the yield was paid to the king as taxes.<sup>15</sup> Except for the royal reserves, there existed no prohibitions to clear forests. On the contrary, kings encouraged forest clearance and subsequent cultivation.

### 8.3 RECONSTRUCTING DISCOURSE: STORIES, ARGUMENTS, AND PRACTICES

We need to realise that issuing rules was, at least in the beginning phase of a state, nothing more than making claims. After all, in the beginning a king generally lacked the economic resources to keep his followers satisfied, to consolidate his power and to build up the infrastructure necessary for enforcement. So he had to try to influence his subordinates through belief.<sup>16</sup> One strategy was to present a story which still had some of the elements of the old stories in it, for instance, a story that presented nature not only as dark, wild and uncivilised but at the same time as a source of spiritual strength.<sup>17</sup> Another strategy was to delegitimize the old religions, and in particular their egalitarian elements, as superstition.<sup>18</sup>

If we turn our focus to the arguments inherent in the Indian stories, the first thing that catches our eye is that nature had become distinct from spirituality to some extent. Although nature still served as a source for spiritual power, it also had to be subjugated to the ideal that had come in its place: the city of gods with its own light, beauty and order. And it was from this divine city, not from the spirits who resided in nature next door, that the believers of this new story now had to expect material and spiritual blessing. As a consequence, they had to please these deities by imitating their order in the human world. In this sense, it was thus a 'divine will'<sup>19</sup> to strive for civilisation which was to come in the place of the dark wilderness. This argument we can understand easily: as peasants, especially those living far from the centre and close to the forest, viewed the forest as potentially dangerous but also as a refuge from state power,<sup>20</sup> kings would, of course, try to convince them that forests were something to be subdued or feared, rather than to be used as a shelter.

It is likely that kings also increasingly began to portray themselves, rather than distant deities, as the ones to take care of the material well-being of their subordinates. In this case, a royal monopoly was no longer necessarily some-

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15 Henley 2005, p. 241 citing Schrader; Boomgaard 2005, p. 227.

16 McVey 1993, p. 8-9.

17 McVey 1993, p. 11.

18 McVey 1993, p. 9.

19 McVey 1993, p. 11.

20 McVey 1993, p. 11.

thing that a king possessed because of his extraordinary relations to some deity and reserved for his own, and only indirectly for the community's benefit. It became a reserve for times of scarcity as the king had to ensure that everyone had enough to eat at all times.<sup>21</sup>

What practices and institutional arrangements resulted from this argument in favour of subjugating and turning away from nature and towards the capital of one or another ruler? First, it is likely that some of the old rules were maintained and others were not: in some cases it was to the advantage of a ruler to claim exclusive access to certain resources on the basis of existing restrictions, while in others he had to place new restrictions. Both led to the emergence of new institutions, including officials who had to guard the royal monopolies and officials who had to make sure that people paid their taxes.<sup>22</sup> In others, it was in a king's interest to get rid of old rules and to delegitimize old belief systems. Second, at least for Java, there is some evidence that rulers between the beginning of the 14<sup>th</sup> and 16<sup>th</sup> century had teak and other trees planted that were considered useful, including those producing pigments and tan.<sup>23</sup> This we might interpret as not only serving economic interests but also imitating the divine order as the trees were planted in rows with regular distances in between. According to Altona, there were also officials who were responsible for the forests. He cites old scripts kept in the office 'Sriwedari' in Solo that mention, at least from 900 onward, the existence of a '*toea boeroe*' (En. chief hunter), a '*djoeroe wanan*' (En. chief of the people living in the forests) who was also responsible for the wood supply, and several '*pangasalan*' who were responsible for guarding the forests and taking care of roads and bridges.<sup>24</sup> Third, to demonstrate his power, a king would travel every year throughout his kingdom, including the forested areas.<sup>25</sup> Related to this was the emergence of a hunting tradition by the royal class to demonstrate the legitimacy of royal claims to rule. In the Javanese kingdom of Mataram, for instance, kings would publicly hunt tigers to rid the country of these animals and to show their 'prowess'.<sup>26</sup> Fourth, it resulted in a new class of religious teachers who on behalf of a ruler had to convince people in the hinterlands of a capital to adhere to the new belief and the new ruler. Fifth, among believers it resulted in new loyalties. After all, the new belief placed them at a distance from nature given that despite its spiritual inhabitants it no longer

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21 Henley, for instance, cites an anthropological study which documents that the sago stands of Buol in Sulawesi were reserved for such ends (Henley 2005, p. 240).

22 See, for instance, Boomgaard who mentions, among others, 'forest overseers' ('*mantri pengalasan*') working for the court of Sultan Agung of Mataram (Boomgaard 2005, p. 227).

23 Altona 1927, Altona 1922, p. 465, 483-484, 506; cf. Boomgaard 2005, p. 227 and Boomgaard 1988, p. 62 citing Altona.

24 Altona 1922, p. 479.

25 Peluso 1992, p. 33 citing Pigeaud.

26 Boomgaard 2001, p. 109. In this book Boomgaard discusses in more detail the beginnings of these hunts on Java and their increasing ritual character.

secured their material and spiritual blessings. This was now the work of more distant deities and their earthly representatives, the kings. As a consequence, those who accepted a king no longer negotiated agreements with the spirits about access to nature but turned to their king instead and called on him for protection and welfare.<sup>27</sup> These new loyalties had as a further consequence that no one working for a king needed to be afraid to cut forests that had been seen as reserved for the spirits:<sup>28</sup> after all, as long as the king had ordered the cutting the responsibility for any consequences fell automatically upon his shoulders.<sup>29</sup> And while this trade of direct access to the divine to avoid direct responsibility for any consequences could have been experienced as an advantage, a sixth new practice was certainly not: according to Lehman, rulers now tended to limit the popular access to land to create an 'artificial scarcity of land [in order] to keep people where they [we]re'.<sup>30</sup> As such they established restricted areas to 'fix [...] manpower in place' in a sparsely populated area.<sup>31</sup> It is, however, doubtful that a ruler would succeed with such a strategy since he would have required an army to guard these territories.<sup>32</sup> In some cases, we know of kings that made their slaves or state officials safeguard their reserves.<sup>33</sup> Since a king had to make sure that people nevertheless stayed within his sphere of influence he would show 'material generosity' in return by offering "'feasts of merit.'" These sometimes involving the distribution of valuable import goods as well as food, drink and entertainment', food

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27 People who thought that he failed to take care of their material and spiritual welfare would replace or abandon him (Gesick 1983). Compare also for Moore 1978, p. 125, Scott 1985, p. 245, Kathirithamby-Wells 1996, p. 27, Kammerer & Tannenbaum 2003, p. 6, and Gesick 1983, p. 2. In Java, rulers needed 'to act without selfish motives, or *panrih*'. Passion and greed were thought to reduce the ruler's power (Christie 1983, p. 31 citing Anderson, 1972. It seems important to note in this context that often vertical ties between patrons and their clients dominated the scene (Schulte Nordholt 1991, p. 8). The fact that in such cases a ruler had to compete with other rulers in the same territory made it rather easy to turn away from the one to the other ruler.

28 On Java, for example, the swidden cultivators Kalang functioned as royal wood cutters (Kathirithamby-Wells 1998, p. 928).

29 Boomgaard 1992, p. 46.

30 Lehman 2003, p. 18.

31 Sources at the end of the first millennium A.D. though describe Java as 'relatively heavily populated' based on central Javanese inscriptions naming hundreds of villages (Christie 1983, p. 10). According to Ricklefs, the precise size of the population in pre-colonial times is still unknown. For the end of the eighteenth century it is estimated at around three million (Ricklefs 1981, p. 14). Reid estimates that in 1600 Java had a population of 3,4 million with a density of 25,7 people per square kilometre (Reid 1984, p. 152). For the argument that ruling in these times primarily meant control of manpower see also Schulte Nordholt 1988 and Schulte Nordholt 1991, p. 7-8

32 Cf. Poffenberger 1990, p. 9-10 who notes that there is 'little evidence to suggest these kingdoms ever effectively controlled much of the land they claimed'.

33 See, for instance, Henley 2005, p. 237,239.

for the hungry<sup>34</sup> and protection against violence, corruption, overly high taxes or labour demands.<sup>35</sup>

While this latter strategy was probably rather successful – the better a king took care of his subordinates and slaves the more compliance with the new rules –,<sup>36</sup> the former strategy of binding subjects to a king with new stories about a new belief failed regularly: especially in the margins of an emerging state

‘common folk generally would cling to the old ideas as both familiar and allowing themselves a much more direct role in the cosmos than that mediated by the king.’<sup>37</sup>

Even where people formally accepted new stories and thus converted to a new belief, including variations of Islam and Christianity, they would not necessarily change their behaviour. That was especially the case where people were left free to transform the new belief in such a way that the Islamic or Christian god could take over the position of the local gods.<sup>38</sup> In these cases, the extent to which people complied with the rules about how to treat nature depended on the pre-existing arrangements they had had with the local spirits and gods. In other cases, a new belief helped to reduce the fear people had had of the old spirits. Boomgaard notes that ‘under the influence of more orthodox Muslim preachers the fear for the “old” spirits [possibly] gradually decreased’.<sup>39</sup>

In sum, the core idea of the Hindu inspired subjugate-and-rule discourse was that a person who could subjugate both men and nature had the right to rule. With this right, he also had the right to hold certain resource monopolies. But he also desperately needed to provide for the well-being of his followers in order to keep them tied to him.

All people were encouraged to permanently cultivate nature. This was an important shift from the reciprocal spiritualist discourse of a respectful treatment of the spirits and their habitat in nature towards a discourse of the subjugation of nature. The latter had spirits living within nature and people who saw an explicit difference between a wild, dangerous and dark nature and a domesticated and restyled one and who had an outspoken preference for the latter. This meant, according to the stories belonging to this discourse,

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34 Henley 2005, p. 238.

35 Adas 1981, p. 229.

36 Schulte Nordholt 1986, p. 11; see for a discussion of peasant protests in pre-colonial Java Adas 1981.

37 McVey 1993, p. 9.

38 Cf., among others, Christie 1983, p. 31 and Bakels 2003, p. 74. In colonial times the Dutch missionaries would sometimes formulate criteria for real Christianity and prohibit certain pagan elements (McVey 1993, p. 21 footnote 33).

39 Boomgaard 2003, p. 308-309.

that when accessing nature people did not have to perform rituals and could forget about the taboos that had existed on certain species. This change must have resulted in a decrease of the protection of forest, sea and their species that had existed unintentionally before. Only the royal reserves were prohibited areas, limited to those people whom the king ordered to work there.

What made this new discourse unattractive to people who had had relatively free access to natural resources and had been working for themselves and their community was that it was in fact a discourse used to legitimise competing claims for resources, manpower and power. Kings attempted to position themselves as the representatives of the 'real' deities and declare proponents of the spiritual discourse as superstitious. In exchange for allegiance a king would provide for the well-being of his subordinates, either as the mediator between the people and their deities or as a king and patron. The price that people had to pay for this was high: they had to pay the king taxes or work for him, or both.

However successful in some areas, the new discourse came to co-exist with older stories and arguments. To what extent people used spiritualist arguments strategically or had internalised the ideas of either of these beliefs, and to what extent this influenced their behaviour is difficult to say. Most likely, the subjugate-and-rule discourse was strongest close to the capital of a kingdom. There, we may conclude, the new rules regarding the treatment of nature were complied with the most.

In any case, the increasing number of competing stories and the accompanying norms in the archipelago together with the possibility to move to another area enabled various actors to 'shop', i.e. to search for a patron or environment that served their needs the best: the better a ruler succeeded in convincing people that he took good care of them, for instance in terms of food supply in times of scarcity or not asking too much labour in return for cultivation rights, the more people were inclined to stay under his influence. If a king succeeded in convincing people of his benevolence, he had partly taken over the role of the old spirits and thus entered into a new relation of reciprocity with his followers. After all, people were willing to respect him in return for material – and maybe also spiritual – blessings just as they had been in their relationship with the old spirits. A key difference, however, is that showing respect to the king meant to work for him whereas showing respect to the spirits had primarily meant performing rituals.

Another difference between the two discourses was that under the spiritualist discourse, people had been able to circumvent rules as long as the community had tolerated it and as long as no natural disaster had been interpreted as caused by their non-compliance. Under the subjugate-and-rule discourse there were less restrictive rules concerning the human treatment of nature, but in their place more rules concerning the obligations to serve the king restricted people's freedom in another way.

The next chapter will introduce new policy and rules that were built on completely different stories and arguments, ones that contained a hitherto unknown sense of crisis. The main actors that produced, reproduced and transformed them were also new: from the mid-seventeenth century to the end of the eighteenth century Dutch merchants organised in the East India Company (Du. *Vereenigde Oost-Indische Compagnie*, hereafter VOC), and from 1800 onward the Dutch colonial state, and the natural scientists who were to become the main source of the knowledge on which the new policies and rules were based.





The rational forestry discourse was in part about themes that had been important for both previous dominant discourses: the bringing or keeping nature under human control and that blessings were expected to flow from nature to humans. Yet, at the core of the rational forest discourse lies another story about an ever unfolding production process and – simultaneously – a possible future crisis of resource supply which would need to be prevented through some kind of ‘management’ (Du. *beheer*). This story goes beyond the fear for possible food shortages discussed earlier and includes resources such as wood that were increasingly needed for construction. Different from the spiritual and the subjugate-and-rule discourse, the rational forestry discourse was thus about what we would nowadays call sustaining the exploitation of natural resources. Although indigenous kings and communities possibly managed their monopolies in some way, the sources on such pre-colonial practices are not precise about the arguments that underlay them. Nevertheless some present-day authors tend to reinterpret past practices in terms of sustainable management despite lacking evidence for such claims: Kathirithamby-Wells writes, for instance, that ‘tribal mores regulated economic activity to *guarantee* sustainable yields till well into this century [my emphasis, JA]’.<sup>1</sup>

The question that is at stake here is whether indigenous knowledge was deliberately used to attempt and achieve sustainability. As the first chapter has shown, although such practices may have been conducive to sustainability at times, it is unlikely that people were driven by a fear that resources could become depleted and thus aimed for sustainable management. Even in the case of the Hindu period in which rulers had teak and other trees planted it is questionable if they did so because they feared the end of wood supply and therefore employed management strategies or simply to restyle nature in a more ordered that made exploitation easier. One exception in this respect was the habit of maintaining or even planting trees in the vicinity of water sources that people in the same Hindu period apparently attempted as a way to sustain and protect them.<sup>2</sup> – But if management of or protection for anything other than this water source existed at all it in any case was not continued until the arrival of the VOC. Therefore, I situate the emergence of the

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1 Kathirithamby-Wells 1992, p. 27 citing Lian.

2 Altona 1922, p. 471.

rational forestry discourse in the Indonesian archipelago in the eighteenth century.

## 9.1 POLICY

The policy that the rational forestry discourse institutionalised was that cutting teak trees (and later, other types) was to be bound to scientific management rules to improve their productivity and to ensure that the supply was to survive the growing demand, that the 'Dutch Indian government *sustainably* [original emphasis, JA] could be assured of the benefits that this precious possession [of teak forests, JA] could produce'.<sup>3</sup>

## 9.2 LAW

The VOC mainly regulated the felling of trees, including instructions concerning a 'fixed minimum dimension of the beams to be delivered'.<sup>4</sup> Prior to 1777 there were specific 'forest ranges'<sup>5</sup> being exploited in this selective way. From 1777 onwards the VOC instructed the overseers to spread exploitation of the oldest and largest trees over all forests in a region. In 1808 a new instruction of the colonial administration of the Dutch East Indies introduced the idea of dividing a forest into parcels and clear cutting one parcel a year.<sup>6</sup>

A totally different kind of regulation concerned the closure of forests. In 1722, the company for the first time closed a forest in West Java. After that, the VOC closed more cleared teak forests for fifteen or thirty years, sometimes even longer.<sup>7</sup>

In addition, the VOC and later the colonial state attempted to increase the teak supply by stimulating the replanting or sowing of teak: in at least one case Boomgaard found evidence of an instruction to plant teak instead of other crops in empty forest spaces.<sup>8</sup> From at least 1795 onwards he found evidence for teak plantations.<sup>9</sup>

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3 Draaisma 1927, p. 156.

4 Boomgaard 1988, p. 69.

5 Boomgaard 1988, p. 69.

6 Boomgaard 1988, p. 69-71.

7 Boomgaard 1988, p. 72-73. According to Boomgaard, this kind of closure was more effective than the later colonial instruments developed for forestry management.

8 Boomgaard 1988, p. 72.

9 Boomgaard 1988, p. 72.

A regulation of 1857 prohibited the burning of the remnants of cleared forests since European foresters feared for fires.<sup>10</sup>

As later regulations served more than only rational forestry purposes, they will be discussed below.

### 9.3 RECONSTRUCTING DISCOURSE: STORIES, ARGUMENTS, AND PRACTICES

The policy and rules mentioned above correspond to a set of stories, arguments and practices with an underlying set of ideas, concepts and categorisations. An analysis of the ways this discourse differed from its predecessors first shows that its proponents conceptualised nature differently from the proponents of the spiritualist and subjugate-and-rule discourse. For them, nature did not need to be subjugated to demonstrate power over it and to legitimise rule. It is also no longer considered a place to live, a habitat.<sup>11</sup> Instead, it is *purely* considered as a resource for the benefit of the VOC (and later the colonial state) and judged according to its economic value,<sup>12</sup> which is reflected in phrases like ‘clearing’ (Du. *opruiming*) of the ‘stock’ (Du. *voorraad*) of forests.<sup>13</sup> In a way, nature is still conceptualised as the opposite of civilisation. However, the difference with the subjugate-and-rule discourse is that here nature does not need to be subjugated and restyled in order to gain power but only needs human help to maintain and even improve its performance. This conception reduced forests to the parts that were of direct use for the VOC and later the colonial state.<sup>14</sup> The 1777 decree mentioned above reflects this conception as it applied only to teak and not to other kinds of trees ‘from the destruction of which nobody suffers.’<sup>15</sup> Destruction of economically less interesting tree species was thus nothing to be concerned about. Scott has argued that the new reductionist conceptualisation resulted in a simplification of nature and a subsequent reduction of its elements and former practical uses:

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10 This Javanese custom was being practiced for a variety of reasons, including to scare off dangerous animals, to make the ground more fertile and to help the teak to regenerate, as teak was ‘supposed to sprout more easily if heated before being sown or planted’ (Boomgaard 1988, p. 71-72). The fact that burning was only prohibited in 1857 despite the debate that had been going on over the pros and cons prior to this date (Boomgaard 1988, p. 72) may be related to the fact that in 1849 the first German foresters were brought to the archipelago (Peluso 1990, p. 34).

11 Scott 1998, p. 13.

12 Again, this is thus not to say that nature was not being considered a resource before. After all, kings and ordinary people had been exploiting nature for their own needs and for trade. However, the proponents of the rational forestry discourse told different stories about nature and argued in favour of another treatment of nature.

13 See, for instance, Van Deventer 1908, p. 280.

14 Cf. Scott 1998, p. 12.

15 Boomgaard 1988, p. 61.

'From a naturalist's perspective, nearly everything was missing from the state's narrow frame of reference. Gone was the vast majority of flora: grasses, flowers, lichens, ferns, mosses, shrubs, and vines. Gone, too, were reptiles, birds, amphibians, and innumerable species of insects. Gone were most species of fauna, except those that interested the crown's gatekeepers.'<sup>16</sup>

This new frame of nature was accompanied by new stories. One story that comes to the fore is that the demand for teak was increasing – timber was not only one of the most important construction materials for, among other things, building ships, offices, fortifications and warehouses,<sup>17</sup> – and that production therefore needed to increase as well. In order to achieve such an increase in production the VOC sought solutions in a shift from exploitation of ranges to entire forests, from selective felling to clear cutting, and in the establishment of teak plantations.

Another related story narrates the worst case scenario, the end of the supply of teak. One fact that fuelled this story was that by the end of the 17<sup>th</sup> century the north coast of Java – and probably also other parts – was, in present-day discourse, 'badly deforested'.<sup>18</sup> It seemed that forests were cut at a faster rate than they were able to recover or to be grown at plantations. That caused the VOC to temporarily close forests.

When teak forests could no longer satisfy all demand for timber, since timber was increasingly also needed as an energy source for other actors, such as the mining industry and the railways,<sup>19</sup> even reserves of wildwood were established. Those in the lowlands were especially meant to 'guarantee a sustainable supply in the needs of wood and other forest products'.<sup>20</sup> Those in the more mountainous regions were attributed other functions as well and will be discussed in the following chapter.

Later on, from the second half of the 19<sup>th</sup> century onward, the solution for overexploitation was sought for in scientific forest management, introduced to the archipelago by German foresters. The colonial government had invited them there in 1849 because it was in their country that the new science of

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16 Scott 1998, p. 12-13. Although Scott describes the consequences of the introduction of scientific forestry in Europe (from 1765-1800), which was - as we will see - imported to the Indonesian archipelago only at a later stage in the form of German foresters, the same ideas underlying this new discipline are reflected already in these early VOC regulations and practices. Apparently, the conceptualization of nature as resources and the sense of a crisis of wood shortage gained dominance in Europe and the archipelago around the same time.

17 Kartasubrata 1985, p. 168.

18 Ricklefs 1981, p. 83.

19 Te Wechel 1931, p. 698-703.

20 Fokkinga 1934, p. 150.

forestry had been developed from 1787 onward.<sup>21</sup> One of the promises of their new science was that managing forests in a controlled scientific way would ‘help nature’<sup>22</sup> in order to sustain yields and thus economic profits from them. Moreover, it promised, if applied correctly, to increase the production and productivity of forests by, among other things, standardising the distance between trees and tidying the forest up by removing old, deformed trunks (Du. *zuiveren, verwijderen van afgeleefde en misvormde stammen*). The goal of forestry was to manipulate and eventually improve forests in the human interest by simplifying them. The colonial administration embraced scientific forest management as it seemed to provide the tools and knowledge required to achieve the goal of sustainable yields.<sup>23</sup>

The introduction of scientific forest management also resulted in new categories. At first, of course, there were the categories of ‘valuable’ teak (In./Du. *djati*) and ‘worthless’ other trees, collectively stamped as ‘jungle wood’<sup>24</sup> (Du. *wildhout*). Later on, the concept of management made it necessary to create new subcategories, such as ‘production forest’, ‘forest reserve’, ‘wasteland’, and later, ‘protection forest’, which made it possible to regulate allocation of forests for various purposes. Wastelands, for example in south and east Borneo, became ‘available for allocation to foreign capitalists for development of mines or cash crops’.<sup>25</sup>

Forests from this point on were places in need of scientific management based on working plans for cutting and replanting which, in its turn, required prior mapping and classification.

The introduction of concepts, categories and the like did not, however, mean that the rational forestry discourse was dominant in all forest affairs. The history of the Forest Service (Du. *Dienst van het Boschwezen*) illustrates this. Eventually this would become the most important organisation in the field of nature management as in these days the term nature usually meant forests. In its beginnings, however, it was far from stable or powerful. It was first established in 1808 on the initiative of Governor General Daendels. Raffles, during the British interregnum, however, considered it too ‘expensive and unnecessary’.<sup>26</sup> The second attempt to build up the organisation lasted from 1816 to 1826. After the Java War from 1825-1830 and the subsequent intro-

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21 Peluso 1992, p. 7 citing Mantel; see also Scott 1998. Scientific forest management was thus practiced in Indonesia earlier than, for instance, in the United States of America where it was introduced only from the 1890s onwards (Hays 1959, p. 28).

22 Van Deventer 1908, p. 283.

23 As Scott has argued, scientific forest management did more than that: it entailed a by-product which was very attractive to states: as it made yields predictable it also enabled the state to raise taxes on harvests Scott 1998, p. 11.

24 I borrow the term ‘junglewood’ from Boomgaard.

25 Potter 1988, p. 127-128.

26 Peluso 1992, p. 47.

duction of the cultivation system<sup>27</sup> forest control was transferred to a deconcentrated rule by 'residents',<sup>28</sup> which led to a variety of local regulations. Only from 1865 onward did the Forest Service come to hold the power to centrally regulate and manage nature.<sup>29</sup> Still, its officials remained critical of the reluctance with which the colonial government allocated funds and personnel for forest management. According to Draaisma, especially prior to 1897 the lack of money and manpower made 'good management' (Du. *behoorlijk beheer*) impossible: the Forestry Service did not have reliable maps, the resorts were too big with too few foresters and the forests were not accessible enough. Draaisma therefore concluded that there was too little money being allocated for 'feeding the chicken that was supposed to produce golden eggs'.<sup>30</sup> Its main task was and remained until the end of the colonial rule the exploitation of forests. As the following chapters will show, this was reflected in, for example, its lobbying for wildlife reserves (in which logging was allowed) instead of for nature reserves (in which logging was prohibited).

What made it difficult to institutionalise the rational forestry discourse was that the countervailing forces to any management approach were many. Those in favour of an unbridled exploitation, who either did not think about possible consequences or perceived short term profit as more important than long term supply, were to be found among entrepreneurs as well as within the colonial bureaucracy. At least between 1810 and 1865 they definitely dominated the decision-making. In 1799, the VOC went bankrupt due to corruption and mismanagement and transferred its affairs to the Dutch state. Then, from 1811-1815 the British ruled over the region. Sir Raffles issued licenses to private entrepreneurs for unlimited timber extraction.<sup>31</sup> It was an interregnum in which only one story seems to have dominated: the forests are here for our benefit so whoever wants and is able to exploit them may do so as long as he has asked for a license. Since there was no longer attention paid to the issue of a possible over-exploitation and a subsequent shortage in supply, we may interpret the interregnum as one in which the rational forestry discourse was not yet sufficiently institutionalised and lost its influence. The ones who had spread such rational forestry stories were no longer in a powerful position to reproduce them and those that may have reproduced them did

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27 This system was designed to cure the Dutch economy by obliging Javanese farmers to plant certain cultures such as sugar and coffee. For a good introduction see Fasseur 1992.

28 Boomgaard 1988, p. 76, Peluso 1992, p. 48. This was in line with a more general strengthening of the position of residents who became important actors in the implementation of the cultivation system (1830-1870).

29 Boomgaard 1999, p. 261. This needs to be seen in the context of a no longer sufficient teak supply and of the take-over of the liberal party in the Dutch parliament in 1862 and the end of the cultivation system this party favoured. Apparently, the liberals wanted a central organisation to regulate the distribution of access to land.

30 Draaisma 1927, p. 157-158.

31 Boomgaard 1988, p. 75.

not influence the thinking of the ruling elite. Instead, the new discourse entirely shaped and later reflected the interests of plantations owners: of course, the ability to easily obtain a license for unbridled exploitation made many entrepreneurs apply for one. Later, after the establishment of their logging and plantation enterprises, these entrepreneurs reproduced the discourse of unbridled exploitation to defend their interests.

The same discourse dominated the period of Dutch colonial rule that followed the British interregnum. Stories about the Indies portrayed the colony primarily as a paradise in which one could make fast money and which was fertile and large enough to produce all kinds of sought after products: spices, coffee, tea, sugar etc. The discourse thus favoured exploiting nature and simultaneously turning it into a production site for cash crops. To increase the production of cash crops the authorities in 1830 issued rules that obliged all peasants to produce exportable cash crops on one-fifth of their land and to sell these at fixed prices. When the colonial government became convinced that the cultivation system resulted in too much hardship for the indigenous population and thus should be abolished, a liberal period began. But this still focused on exploitation rather than on any kind of management to prevent overexploitation. Only the revitalization of the story about the increasing demand for wood and the possible end of its supply, and a new story about a possible crisis would eventually lead to the dominance of scientific forest management from 1865 onward and a new discourse on the human treatment of nature.





This story about a possible crisis originated from scientists of diverse disciplines.<sup>1</sup> Beginning in the 1840s, they claimed that cutting forests in mountainous areas would have disastrous effects on the climate and hydrology. To illustrate this, examples from floods and other natural disasters not only in Java but also in Greece, Northern Africa, France and Switzerland and other places were reported.<sup>2</sup> There were two theories, the ‘sponge’ theory and the ‘desiccation’ theory. To keep it simple: these theories held that cutting forests in mountainous areas would either result in floods or droughts.<sup>3</sup> Thus, to prevent both such disastrous situations, the scientists argued, forests covering the slopes of mountains needed to be protected and deforested areas needed to be reforested – at the expense of competing resource claimants, most notably cash crop producers and swidden farmers. What was new about these arguments was that they pleaded for protecting nature not for sustaining its direct exploitation (as had been the case with the teak forests) but rather for its capacity to protect humanity from disaster. The wild wood forests previously portrayed as ‘worthless’ were thus attributed a new role as part of public interest that had to be more valuable than the private interests of certain groups of resource users. For example, forestry inspector Ham – and with him many other foresters – put to the fore that it was in the ‘public long-term interest’ to protect forests not only for climatological and hydrological reasons but also for a sustainable timber production.<sup>4</sup> Private interests were, in Ham’s opinion, neither a warrant for forest preservation nor for establishing a ‘decent cultivation’ (Du. *behoorlijk gedreven landbouw*) in its place.<sup>5</sup> The value of forests was thus redefined from serving as timber in times of wood scarcity to serving as protector. Their new destiny was therefore not to be logged but to be left alone.

As floods and droughts were natural phenomena that were known to and feared by various groups of actors, the scientists adjusted their arguments to

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1 Boomgaard mentions the ‘naturalist’ F.W. Junghuhn, ‘professor’ W.H. de Vriese, and the ‘agricultural chemist’ P.H. Fromberg (Boomgaard 1994, p. 128).

2 Fokkinga 1934, p. 145-146.

3 Potter 1988, p. 32. For summaries of hydrological arguments see, for instance, Donner 1987, p. 142-147 and Galudra & Sirait 2006.

4 Ham 1908, p. 130,132.

5 Ham 1908, p. 133.

the respective needs of these actors. They argued, for instance, to convince farmers and cash crop producers that protection forests (Du. *schermbossen*) were needed to protect all cultivation areas in the lower regions, including irrigated agriculture and cash crop plantations.<sup>6</sup>

A final idea belonging to this discourse was that, just as in the case of rational forestry from 1850 onward, it was the forestry scientists who held the only valid knowledge about causes and remedies.

## 10.1 POLICY

The policy reflecting this new discourse thus aimed at protecting mountainous forests in order to protect humans from otherwise inevitable natural disasters.

## 10.2 LAW

The rules that were issued to achieve this goal reflect that the protection against disaster discourse did not gain dominance above exploitation or rational forestry arguments.

A first minor change with regard to non-teak forests was a new forest regulation for Java and Madura in 1865<sup>7</sup> that required the permission from the local authorities for the felling of even non-teak forests. We may interpret this regulation as a response to stories belonging to the new discourse. However, it seems to have been motivated instead by rational forestry considerations as the demand for wood exceeded the supply of the teak forests.

In 1874, a revised regulation gave the Governor General the authority to decide whether or not to preserve 'wildwood' forests.<sup>8</sup> However, only ten years later an ordinance specified which categories could be reserved, namely all forests above 5000 feet in West Java and above 4000 feet in Central and East Java. Their goals were defined in terms of protection against disaster and in terms of agricultural needs: to prevent flooding and to ensure a continuous water supply for irrigation. Likewise, forests on lower tops of less mountainous areas and areas around water sources and lakes could be reserved for climatological reasons.<sup>9</sup> Still, even after issuing this ordinance it would take another six years until the establishment of the first so-called 'protection forest' (Du.

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6 Fokkinga 1934, p. 150.

7 Art. 44 Indisch Staatsblad 1865: 96 (*Reglement voor het beheer en de exploitatie der houtbosschen van den lande op Java en Madoera*); 10-9-1865; came into force 1-1-1866.

8 Art. 30 Indisch Staatsblad 1874: 110 (*Reglement voor het beheer en de exploitatie der bosschen op Java en Madoera*); 14-4-1874. People had from now on also to pay for wood taken from the wildwood forests. Art. 33 Indisch Staatsblad 1874: 110.

9 Boomgaard 1999, p. 262; Fokkinga 1934, p. 151.

*schermbos*).<sup>10</sup> Foresters judged this ordinance of 1890 as insufficient since it had a mainly symbolic character.<sup>11</sup> As forester and future forestry inspector and lecturer Ham observed:

‘Idealists probably were satisfied that according to them much was done in terms of the oh so necessary forest protection; more practical people probably regarded it as rather innocent since it, except for limiting the establishment and expansion of kina and coffee plantations situated high up in the mountains, did not hinder anyone, and thus barely mattered and as it – above all – did not cost anything.’<sup>12</sup>

Contrary to these idealists and pragmatists, Ham and other realists with ideals were obviously of the opinion that forest protection was not to be achieved for free and that it was important enough to demand sacrifices.

An 1879 circular for the outer islands<sup>13</sup> followed by an 1897 ordinance for Java and Madura regulated the cutting of wildwood forests as well. Both also stressed the indirect economic benefits of forest protection, for example to the government’s coffee cultivation and local or state industries.<sup>14</sup> This suggests that economic arguments were either the most convincing to the government or at least thought of as necessary to find support for these new measures among their targets.

In sum, we can say that on average these regulations aimed at giving the colonial government the control over an increasing amount of forest land and the authority to decide what should be protected and how. The most interesting regulation in terms of protection against disaster was the one of 1874. However, its slow implementation suggests that the protection against disaster discourse was not dominant at all and that as a result other arguments were decisive for issuing the regulations mentioned above.

### 10.3 DISCOURSE REPRODUCTION, TRANSFORMATION AND REJECTION

The protection against disaster discourse was contested in many ways. First, there were actors that questioned the underlying analysis of the problem. Among them were the most outspoken opponents to the protection against disaster discourse, i.e. those actors with stakes in the cash crop production, who were mainly interested in their short-term profit, and their advocates in the colonial administration and parliament. They argued that cash crops were

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10 Boomgaard 1994, p. 128-129.

11 Aubert 1967.

12 De Haan 1936a, p. 75-76.

13 Circulaire No. 28 published in *Bijblad* No. 3156, 8 April 1879. Before that, efforts in these regions were aimed merely at the economically valuable trees (e.g. gum and camphortrees). See, for example, circulaire No. 1830 published in *Bijblad* No. 3452, 7 November 1878.

14 Art. 3 (2) *Indisch Staatsblad* 1897: 61 (Boschreglement); 9-2-1897; came into force 1-7-1897.

of more value than the wildwood forests. Even as late as 1934, when arguments in favour of forest reservation for the protection against disaster had gained more support in the Dutch Indies, members of the Volksraad protested on the planters' behalf that reserving forests created an obstacle for the transmigration of labour to places in the vicinity of their plantations.<sup>15</sup> The government replied that research had shown that there were other suitably sufficient areas left for this purpose.<sup>16</sup> Among the actors who questioned the urgency of the problem were also swidden farmers and their advocates. A resident of Palembang, for instance, argued that his observations could not confirm that shifting cultivation destroyed the forest.<sup>17</sup> Surprisingly, there were also some forestry scientists who, after a while, began to question the ideas that formed the basis of the forest reservation policy. One prominent example is forester B.W.P. Roessel who in 1927 and 1928 published articles in the forestry journal *Tectona* in which he argued that it was not the forest cover of a mountain that was determinant for the water supply of a region but rather its geological formation.<sup>18</sup> He backed his argument with quantitative data arguing that forestry science needed scientific argumentation instead of 'confessions of faith' (Du. *geloofsbelijdenis*).<sup>19</sup> This rebellious argument was not readily accepted by other foresters.<sup>20</sup> De Haan wrote in 1936 in retrospect that 'what Roessel wrote was not liked in our circles'. After all, there was a strong 'feeling' backed by subjective observations and through frequent repetition a 'communis opinio' that forests were indispensable for a region's water supply.<sup>21</sup> Still, critics agreed with him that methods needed to be improved to back up the hydrological hypotheses. Zwart, for instance, wrote that

'the article by Roessel will not change our protection forest policy in the short run. In this regard it is wise to be conservative since one usually only starts to appreciate forests when they are gone and one needs to be careful with scientific theories. What seems rationally plausible often appears to be wrong in practice. However, that does not take away from us the obligation to collect data considering that the economic interests at stake are very big.'<sup>22</sup>

Although agreeing with the methodological point made by Roessel, Zwart called for collecting further evidence before changing policies. As Galudra and Sirait have shown there were scholars who after some time accepted

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15 Volksraad 1934, p. 649.

16 Volksraad 1934, p. 651.

17 Galudra & Sirait 2006 citing Van Setten 1922.

18 For instance, Roessel 1927.

19 De Haan 1936b, p. 79.

20 De Haan 1936b, p. 79; Galudra & Sirait 2006.

21 De Haan 1936b, p. 80.

22 Zwart 1927, p. 1027.

Roessel's thesis and others who kept rejecting it.<sup>23</sup> I will return to this point and Galudra and Sirait's argument that foresters deliberately refused to accept Roessel's argument for political reasons at a later stage.

Second, next to those who contested the foresters' analysis of the problem, there were actors that had doubts about the solution that the foresters had formulated. Members of the Volksraad, for instance, argued that forest reserves formed a threat for indigenous communities living in the forests on the Outer Islands since a shortage of agricultural land was to be expected.<sup>24</sup> The government replied that it could not agree with this alleged crisis for the indigenous people and 'that reserving the forests which need to be protected was considered too important – in the first instance for the indigenous population itself – that we could tolerate the destruction of the forests that need to be protected'.<sup>25</sup> The government thus denied that its protection policy was causing problems for the population. It argued that, on the contrary, it was reserving the forests in the population's interest. The above-mentioned argument against forest reservation at the expense of land for transmigration offers another example of protest against the foresters' plea and in favour of protection forests. Likewise, regarding the best instrument for protection against disaster there was some debate going on between experts of forestry and agriculture. The latter argued that agricultural land use was as good a protection for soil as forest cover. Apparently, the foresters won this battle since protection against disaster remained under their jurisdiction. Last, but not least, there was an argument being made about who should be granted the authority to protect forests. Basically, there were three opinions about this matter. On the one hand, foresters were convinced that 'good' (Du. *deugdelijk*) forest management required forestry knowledge<sup>26</sup> and therefore liked to portray anyone lacking such knowledge as a 'layman' (Du. *leek*).<sup>27</sup> On the other hand, a commission that had been formed to advise the colonial government on the question of whether it was desirable to let go of the so-called *domein*-principle – that all land that was not claimed otherwise was to be regarded as state land – argued that indigenous communities should be given the authority over most forests according to the indigenous *beschikkingsrecht*, which had been ignored by the introduction of the *Domeinverklaring* in 1870.<sup>28</sup> The commission concluded 'that maintaining the domein principle will permanently threaten (Du. *bedreigen*) the Indonesian land law and that abandoning it is therefore desirable'.<sup>29</sup> Logemann, a member of the commission, argued in an article in the Dutch Indies' foresters' journal *Tectona* that ignoring the *beschikkingsrecht*

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23 Galudra & Sirait 2006.

24 Volksraad 1934, p. 649.

25 Volksraad 1934, p. 652.

26 For instance, Gonggrijp 1932, p. 268.

27 For instance, Bruinier 1924, p. 13.

28 Advies Agrarische Commissie 1930, p. 10.

29 Advies Agrarische Commissie 1930, p. 84.

would mean continuing to deny the existence of law 'at both sides' and endanger the 'livelihood' (Du. *levenszekerheid*) of indigenous peoples.<sup>30</sup> A modest middle position was formulated by, among others, forester Japing. He argued that acknowledging the population's rights on land would oblige the government to let the indigenous legal communities participate in all debates on 'all agrarian issues, including those that were for the time being above their ability to understand (Du. *bevattingvermogen*).'<sup>31</sup> He therefore pleaded for a 'limited *marga* forest management' (Du. *beperkt margaboschbeheer*), meaning that indigenous communities should be given the right to manage forests that served local interests such as timber supply and that played a role as agricultural land reserve, but the Forest Service should be granted the authority over all forests serving a more public interest, thus including the protection forest reserves. After all, only the government would want to invest in their maintenance and improvement.<sup>32</sup> 'Limited', he emphasised, was thus neither related to the size of the area nor the financial gain that was to be expected from the area. Instead, we may conclude, 'limited' was related to the question of what interest a forest served. Furthermore, he argued that knowledge played a role but acknowledged the possibility of giving indigenous communities this knowledge. Transfer of authority for forest management therefore needed to be 'prepared': the government needed to formulate 'general guidelines for management' and needed to monitor (Du. *behoorlijk toezicht*) management performance.<sup>33</sup>

In addition to criticism of the definition of problem and solution, there was finally the criticism that focused on the implementation of the protection against disaster policy. The main argument in this context was about discrimination. On the one hand, critics argued, the government kept listening to planters and their interests. It determined which forests needed to be protected while keeping in mind the maximum altitude for coffee plantations. Only forests above that altitude were to be protected.<sup>34</sup> In addition, the government did not stop leasing land in the mountains to cash crop producers and still portrayed Dutch entrepreneurs clearing wildwood as 'pioneers'.<sup>35</sup> On the other hand, it portrayed the swidden farmers as 'robber farmers'<sup>36</sup> and

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30 Logemann 1932, p. 509-510. It is important to note that he, in the long term, wished an end to the existence of *beschikkingsrecht* but considered ignoring it at that moment not 'wise' (Du. *verantwoord*). He also argued for limiting the *beschikkingsrecht* where the public interest demanded it, after deliberation and reaching an agreement with the local population about a compensation (Logemann 1932, p. 511-512).

31 Japing 1932a, p. 542.

32 Japing 1932b, p. 1585.

33 Japing 1932a, p. 545-546.

34 Fokkinga 1934, p. 151 citing Brascamp.

35 Potter 2003, p. 32.

36 A more nuanced perception was that only swidden farmers who opened new 'original' (Du. *oorspronkelijk*) forest areas in an unlimited way rather than returning to their old *ladangs* after a while were to be seen as robber farmers (Kools 1935, p. 26).

farmers who made their cattle graze in forests as equally harmful. Both groups were to be blamed for their allegedly detrimental effects on the ecology of the country.<sup>37</sup> This discrimination undermined the belief in the good intentions that the government claimed to possess. The Resident of Palembang, for instance, argued that if the forest reservation was in the people's interest the government should be consistent and not grant the same forests to Europeans involved in cash crop plantations or timber extraction.<sup>38</sup> The reason for this discrimination may have been either that the colonial government was not entirely convinced of the future crisis described in the protection against disaster discourse (see above)<sup>39</sup> or that the government considered European planters to be 'rational' whereas the indigenous farmers were seen as 'careless'<sup>40</sup> (Du. *zorgeloos*) and thus 'irrational' or 'not yet able to understand' (see above). Even most of those participating in the debate on forest protection who were more positive about indigenous land use thought that *ladang* farmers lacked the appropriate knowledge for forest and forest soil protection and feared that it was not possible to convince them to take good care of mountain slopes. Since they at the same time did not think that enforcing possible regulations to keep the land covered with plants was possible even they pleaded for establishing wildwood forest reserves at the expense of agricultural land for swidden farmers.<sup>41</sup>

In addition to making arguments against the implementation of the protection against disaster policy there were also communities that stood up against being forced to leave what they claimed to be the land of their ancestors.<sup>42</sup> Peluso has described this for a Dayak community: When the Dutch in the early 1920s began to establish a watershed reserve at the upper slopes of the Raya Pasi Mountain in Bagak, West Kalimantan,<sup>43</sup> they forced the people to move and prohibited them from entering the area any longer. This meant that the Dayak living in the area had to abandon their fruit trees and give up their rights to cultivate the land they claimed had belonged to their ancestors. This, however, they would not do voluntarily. It was twenty years before the colonial authorities succeeded in convincing them of the necessity to move, and even then it was only the threat of imprisonment that made the last families give up their resistance.<sup>44</sup> Not surprisingly, after the Dutch had

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37 Potter 2003, p. 38; Galudra & Sirait 2006 citing Van Eck.

38 Galudra & Sirait 2006 citing Van Setten 1922.

39 Cf. Boomgaard 1994, p. 128.

40 Fokkinga 1934, p. 177 describing a situation in the Cilutung river area, West Java.

41 Fokkinga 1934, p. 155 citing de Haan. Fokkinga was an exception in this respect. He pleaded for obliging indigenous and European landusers alike to plant bamboo and other perennials 'which come close to fulfilling the functions of forest' in regions which were not suitable for reforestation (Fokkinga 1934, p. 159).

42 Peluso 1993b, p. 30.

43 Officially established in 1932.

44 After negotiations with the Dutch the Dayak succeeded eventually to move the boundaries up the mountain, closer to the actual water catchment area (Peluso 1993b, p. 31).

left the area during the Second World War, the local people made new swiddens within the reserve.<sup>45</sup> But the effective threat or use of state violence made it in this case necessary for the Dayak community to obey the new rules.

In the words of a former Dutch forestry official, by the way, a comparable story sounds very different:

'For the benefit of a protection forest the Dutch had established reserves for the Dayak with the idea that these would protect the Dayak against the advancing flood [*oprukkende vloed*] of Malay people. That was a beautiful idea but the Dayak were smart guys [*slimme jongens*], too. They sold timber from the reserves to the Malay people. They themselves therefore increasingly moved upwards the slopes of the mountain. There they saw that things they had just planted were washed away by the first rainfall. So, in principle they were motivated to do something about it but then the Dutch had to leave...'<sup>46</sup>

In this story, the Dutch thought to have found a solution that was beneficial for both the Forestry Service and the Dayak community. However, they conceptualised the Dayak and their needs in a way too static and 'traditional' without taking into account that the arrival of the Malay people could create new behaviour in the Dayak. Furthermore, this story indicates that the Dutch, at least in some cases, did indeed try to transfer knowledge and that the Dayak were not opposed to protection arguments once they experienced erosion.

Also in other cases the local population readily accepted the discourse. Japing mentions, for instance, the Eastern coast of Sumatra where '*margas* established many reserves (In. *rimba larangan, hutan larangan*) after the government had explained their importance to them'.<sup>47</sup> According to Japing, acceptance depended very much on how seriously the government took the people.<sup>48</sup> In this respect he criticised the Forestry Service for too much arguing in terms of 'you guys make a mess of forest management, so stay away from *our* [original emphasis, JA] forests'.<sup>49</sup> In his eyes, it was the arrogance of the foresters rather than the unwillingness of the indigenous people that determined whether the latter would accept forestry arguments or not.

On the whole, when we consider which arguments were successfully made in favour of forest protection outside forestry circles, it seems that sustaining economic production and profit formed the major motivation for the institutionalisation of the protection against disaster discourse as it had in the case of the rational forestry discourse.

A new challenge for these economic arguments emerged when the last discourse that was going to result in new regulations on the treatment of

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45 Peluso 1993b, p. 31.

46 Personal communication, W.M. Otto, 3 July 2003.

47 Japing 1932a, p. 545.

48 Japing 1932a, p. 545.

49 Japing 1932a, p. 545.



nature in the Dutch East Indies brought two new values into the debate: pure science and romanticism.



From the beginning of the 19<sup>th</sup> century onwards bio geographers and medical surgeons became increasingly interested in the Indonesian archipelago. Bio geographers described tropical island environments and developed scientific evidence that the natural resources were limited.<sup>1</sup> Medical surgeons had a primary interest in tropical medicinal plants which led to the establishment of Botanical Gardens all around the world. This served to assess and classify the world 'globally and in terms of the Hippocratic agenda'.<sup>2</sup>

These scientists increasingly perceived tropical nature as a 'window to an ancient world', something which was still in a virgin state and therefore could 'provid[e] clues to the evolution of life itself'.<sup>3</sup> Although they were familiar with evolutionary theory and consequently aware of the fact that nature was changing all the time, these scientists attempted to study it in a static setting. For that purpose they pleaded for preserving at least parts of nature in its 'original' state.

By publicly introducing the idea of nature as a source of scientific knowledge from the end of the 19<sup>th</sup> century onwards they added a scientific value to the debate on how to treat nature. They did not define nature merely as something to exploit but as something to close for the broader public, to study in its original state, and to preserve for future generations.<sup>4</sup>

The scientists established a number of scientific institutions, such as botanical gardens, a Herbarium, the Zoological Museum, and the Laboratory for marine research.<sup>5</sup> However, these institutions, which reflected and reproduced the nature protection discourse, were of much less importance than the Forest Service. All that these scientific institutions got was an advisory role, which underlines the dominance of the rational forestry discourse. If the colonial administration had taken nature protection more seriously it could have strengthened the role of these scientists by making sufficient manpower and funds available for the Gardens to manage reserves in practice. Instead, in 1937, it appointed only one (!) civil servant to the Botanical Gardens for pro-

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1 Grove 1996, p. 6.

2 Grove 1996, p. 13.

3 Arnold 2000, p. 11.

4 Cribb 1997a, p. 403.

5 Dammerman 1950, p. 87. The oldest botanical garden had been established in 1817 at Buitenzorg (now Bogor).

tection against disaster and for nature protection. He had the job of monitoring the reserves, promoting the regulations on animal protection and, where possible, starting investigations.<sup>6</sup>

About the same time as the scientific movement for nature protection, a movement that promoted viewing nature from a romantic angle entered into the debate. In reaction to the industrialisation taking place in Western European countries members of this movement primarily aimed at re-valuing emotion. They did so to formulate a counter-argument to rationality, punctuality, productivity, technology and the like. In their counter-arguments nature came to play an important role. They portrayed nature as something to be admired and enjoyed and simultaneously as a source of moral improvement and inspiration.<sup>7</sup> These functions of nature, in the romantics' thinking, justified reserving certain natural areas for recreation: people should be allowed to enter nature not for exploitation but to be inspired, to enjoy and admire nature's beauty..

Some people, among them both scientists and romantics, even portrayed nature in feminist<sup>8</sup> terms: they pleaded to reserve nature in its 'virgin' form, and described it as 'fragile'<sup>9</sup> and thus in urgent need of protection.<sup>10</sup>

The romantics, who often had a scientific background too, organised themselves in non-governmental organisations (henceforth NGOs). The most prominent among these in the Dutch East Indies was the Netherlands Indies Society for the Protection of Nature (Du. *Nederlandsch-Indische Vereeniging tot Natuurbescherming*). It was established in July 1912<sup>11</sup> and played a major role in lobbying for the creation of nature reserves.<sup>12</sup> Its members mainly belonged to the European elite and often worked for the Forest Service or the Botanical Gardens.<sup>13</sup> The reason for the very low percentage of Javanese members was not so much a socio-economic one – the membership contribution was very low<sup>14</sup> – but rather political: if nationalists cared for the protection of nature at all they perceived the proposed and enacted conservationist regulations as another way of oppressing the indigenous population.<sup>15</sup> In addition, since conservationism was a new social movement, even under the Europeans the

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6 Dammerman 1950, p. 87-88.

7 See, for instance, Rousseau et al. 1997.

8 Arnold 2000, p. 12, Sawyer & Agrawal 2000, p. 5-13.

9 Peluso & Vandergeest 2001, p. 783.

10 According to eco-feminists, the use of metaphors such as 'virgin' underline the parallel to the patriarchal claim to need to protect their virgin daughters against reckless, irresponsible (often non-white) (Sawyer & Agrawal 2000, p. 15-21) males. 'Mother', 'birth', and 'nursery' are other metaphors supporting the feminisation of nature (Sawyer & Agrawal 2000, p. 21).

11 Recognized in February 1913.

12 Dammerman 1929, p. 22.

13 Dammerman 1950, p. 89.

14 Dammerman 1950, p. 81.

15 Cribb 1988a, p. 343.

attention for conservation was very low. As a consequence of these two factors, the Association's membership never reached the 1000 mark.<sup>16</sup> As a result the organisation had even less influence on policy than the scientific institutions. Although it applied for the lease of various pieces of land in order to protect them as nature reserves, the government did not regard it as 'strong enough' for this task.<sup>17</sup> Consequently, the society only got the right to manage a 6 ha reserve in Depok.<sup>18</sup> That it was still successful in promoting nature protection to some extent was mainly due to the fact that the colonial state was open to scientific arguments developed in response to problems encountered in the tropics<sup>19</sup> and, to a lesser extent, to support from NGOs outside the area. They began to form a network and to attempt to build international support<sup>20</sup> for the new discourse. In 1929 for instance, the Netherlands Indies Society for the Protection of Nature together with the Dutch Committee for International Protection of Nature<sup>21</sup> lobbied for the assignment of nature reserves in Aceh, North-Sumatra, West-Sumatra, Palembang and West Borneo.<sup>22</sup>

For many of those who reproduced the nature protection discourse, the survival of humanity was the main motive behind reserving nature, whether speaking medically (as for the medical surgeons), economically (as for the bio geographers and other natural scientists) or emotionally (as for the romantics). Based on their respective ideas they strove to find medicines to cure diseases, to discover the secrets of nature which could be manipulated in the interest of economic production, and to reserve nature as a source of emotional inspiration.

In addition, another argument also gained importance: that the survival of certain animals was important too. This was also backed by a broad range

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16 Dammerman 1950, p. 88.

17 Dammerman 1929, p. 23.

18 Dammerman 1929, p. 24.

19 Grove 1996, p. 475.

20 This was possible since conservationist NGOs began to mushroom all over the Western world. In America the Boone & Crockett Club was founded in 1887 by, among others, Theodore Roosevelt, President of the United States from 1901-1909 (Jepson 2002, Jepson & Whittaker 2002). In Germany, the first associations with the aim of nature protection had been established from 1875 onwards (Keiser 1949, p. 17). In England, even in 1865 the first of such associations was established (Keiser 1949, p. 19). In America it was the states that started nature conservation, for example with the establishment of state (the first in 1820) and national parks (the first being Yellowstone in 1872). Only in 1891 the first association was established (Keiser 1949, p. 19). The first Dutch association was only established in 1898. In 1905 the *Vereniging tot Behoud van Natuurmonumenten* followed (Keiser 1949, p. 22, 25). This happened in reaction to a lecture in Amsterdam given by a German forester, Hugo Conwentz, who toured Europe to promote 'his concept and vision of *Naturdenkmal*' - a concept which applied the protection of cultural heritage for the first time to nature and which combined it with patriotism - and which coincided with a conflict about the future of the Naarder lake (Jepson & Whittaker 2002, p. 136). See also Boomgaard 1999.

21 Established in 1925.

22 Dammerman 1929, p. 26-27.

of stories and related economic, cultural and emotional arguments. One rather new – and again romantic – story at the time was, for instance, that humans and some animals, especially the great apes, were possibly each other's kin and that preserving ecosystems could help to discover the missing link between the two.<sup>23</sup> This resulted for some in an 'obsession' to address 'the threat of innate animal instincts to the dignity and uniqueness of humanity' and to ensure 'the maintenance of morality and civilization'.<sup>24</sup> The position at the other extreme held that certain animals needed to be protected from over-exploitation to sustain the trade of them.

Finally, a story about increasing plant diseases caused by various insects provided an additional argument for protecting birds that were believed to be their natural enemies.<sup>25</sup>

The nature protectors had a clear picture of which activities posed a threat to achieving their goal. Among them were hunting activities,<sup>26</sup> agriculture and 'other forms of cultivation'.<sup>27</sup> In this, they thus differed from the proponents of the rational forestry discourse who, as we saw above, had enduring cultivation as their aim and maintained a discourse coalition with the cultivators. This attitude against cultivation and in favour of nature in isolation of human activities turned all persons involved in such activities into potential enemies.

Whenever such persons tried to make an argument against nature protection or in favour of exceptions, nature protectors would turn to scientific arguments to help defend themselves. If such persons then tried to base their own arguments on scientific knowledge, nature protectors would try to position them as untrustworthy. An example is the debate between those in favour of hunting and trading birds-of-paradise and those opposed to it. Cribb notes that hunters produced technical arguments that claimed 'even if all the males in their prime were removed from a local population by hunting [...] the species could still reproduce itself.' To this they added 'that males began to breed at one year of age, but did not attain their full splendour until at least four. If this were so, then, the future of the species was not at risk.'<sup>28</sup> Nature protectors argued on their turn that 'not enough was known of the distribution or population biology of the birds to assert that hunting did not damage the species'. The observations made by hunters they labelled as 'uncommon' and as not applicable in this very case.<sup>29</sup>

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23 Cribb 2005, p. 15.

24 Jepson & Whittaker 2002 citing Thomas 1984, Lowe 1983, Burrow 1966, Persall 1969 and Turner 1980.

25 Cribb 2005, p. 4 citing Leefmans; Dammerman 1919, p. 296.

26 See, for instance, the debate on the hunt of the birds-of-paradise as described in Cribb 1997a.

27 McCarthy 2000, p. 113 citing Dammerman 1929.

28 Cribb 1997a, p. 401.

29 Cribb 1997a, p. 401.

Likewise, cultural and developmentalist arguments that hunting, or forms of cultivation, would bring civilisation and development to hitherto uncivilised regions and their primitive inhabitants, were countered by disqualifying those making such arguments as an inappropriate civilisation force. Cribb cites an assistant resident as follows: 'The fact that there are any people left in New Guinea is certainly no thanks to the bird trade.'<sup>30</sup>

The colonial administration opted to search for a balanced policy, one that acknowledged scientific evidence about threats to nature but that tried to accommodate economic interests as well. Officials therefore tended to portray the various values of nature as not opposing each other but as rather complementary. In 1931 the chief inspector of the Forest Service, Ten Oever, stated for instance that the forests had been redefined from a '*winstbedrijf*' (En. enterprise aimed at economic profit) to a '*bedrijfsobject*' (En. economic object), which included the hydrological, climatological and romantic functions of forests.<sup>31</sup>

What helped to integrate various objectives and to find allies was referring to the notion of 'progress'.<sup>32</sup> This notion was an essential part of all discourses in the colonial period. It was thus a story in which all people from the West had a place and which was therefore conducive to coalition formation. After all, no one could be opposed to progress, and progress could be interpreted in various ways. For those striving for fast economic profit progress would mean an increase in productivity; for those in favour of rational forestry arguments progress would mean, among other things, to introduce management techniques to the field of teak exploitation; for proponents of the protection against disaster discourse the concept of progress would bring protection forests to mind (they argued that only when the forests in the mountains were protected nature would they not remain an obstacle to the region's progress and civilisation but become one of their main catalysts;<sup>33</sup> and finally, for people favouring nature protection progress would mean showing that one was not only interested in economic profit but also in moral

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30 Cribb 1997a, p. 401 citing Westermann; see for more details on the debate about whether or not to preserve primitive peoples in their original state and protect them from the outside world (Cribb 2005). In this paper, Cribb argues that the motivation for the Dutch to preserve the Papuans in their original state was to 'justify their indefinite presence in the Indonesian archipelago and [to] refute the nationalist claims that there was a single national identity' (Cribb 2005, p. 16).

31 Ten Oever 1931, p. 742-743.

32 This general concept also formed part of the discourse of the Ethical Policy, or *ethische politiek*. This policy was based on the feeling of a moral obligation to bring modernity to the people in the colony and economic interests to raise their welfare to create a better working force and a new market. It consisted of three main pillars: the protection of, mainly pittoresque, elements of the culture of traditional communities against modernization and capitalism, the expansion of education for Indonesians and welfare services for the 'strong' parts of the Javanese society (Cribb 1993, p. 226-234).

33 Arnold 2000, p. 15.

issues of preserving certain elements of nature for future generations for aesthetic or scientific reasons.<sup>34</sup>

This emphasis on progress, however, contained – from our present perspective – a patronising or even racist element. In pressing to make ‘the tropics truly productive, to meet the world’s (i.e. the north’s) expanding needs for raw materials’<sup>35</sup> the Europeans judged that the productivity was far below what was possible. In their eyes ‘there [was] a very big disproportion between the number of the indigenous people and the size of the areas [used by them]’, leading to the claim that ‘the West with its culture and techniques could [and was obliged to] teach the indigenous people how to live a better and easier life on less land’ and that ‘a part of the land [needed to be] allocated to a rational land exploitation under Western direction’.<sup>36</sup> In other words, the Europeans were convinced that what the land needed was *them* and their progress, order, and civilisation, all based on higher productivity, Western technology and scientific rationality. After all, ‘no progress [...] need[ed] to be expected from the present [indigenous] inhabitants’.<sup>37</sup> Whatever the word ‘progress’ meant to people, it left those who used it in the position to define their ideas as the best available at that time.<sup>38</sup> This legitimised all kinds of claims about defining objectives and the instruments to achieve them.

## 11.1 POLICY

Nature protection policy aimed for protecting certain territories for scientific and recreational purposes and certain species to prevent them from becoming extinct.

## 11.2 LAW

The rules that reflected the emergence of the nature protection discourse concerned the protection of animals and the establishment of reserves.

Regulating animal protection in the beginning was closely linked to the regulation of hunting activities. Regulations of this kind had their roots in,

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34 Cf. Cribb 1997a, p. 395.

35 Arnold 2000, p. 15.

36 ‘s Jacob 1945, p. xiii. This was a general perspective among colonizing nations (Agrawal, 1997). Cf. the expression of the ‘*white man’s burden*’ (Van Nderpelt 1993, p. 31) and the later ‘Ethical Policy’ (Du. *Ethische Politiek*). See, for instance, Cribb 1993 and Fasseur 2000.

37 Arnold 2000, p. 14 citing Belt 1888. The general opinion was that the tropical nature created conditions for an ‘easy, year-round subsistence in return for minimal labour’ which caused ‘indolence’ and ‘torpor’ and a lack of any stimulus for technical innovation (Arnold 2000, p. 6-7).

38 Cf. Shanin 1997, p. 66-68.



among other things, a warning given in 1890 by the former resident of Ternate, F.S.A. de Clercq and in 1895 by an official of the colonial department of Justice and 'amateur entomologist', M.C. Piepers, that birds-of-paradise were close to extinction.<sup>39</sup> Considering that, for instance, feathers of these birds were popular all over the world and that they were thus valuable, the colonial administration decided that something should be done to prevent such animals from extinction. However, the debate about what this 'something' should be took about a decade! Cribb described in his analysis of relevant materials in the colonial archives that scientific uncertainty about the degree of urgency and administrative considerations<sup>40</sup> formed the major obstacles for taking quick measures. Likewise, arguments in favour of protecting insect-eating birds and killing those that were harmful to farming efforts,<sup>41</sup> and in favour of the economic development of New Guinea<sup>42</sup> contributed to the slow pace of policymaking. Due to the long debate the first real measures had a very local character: in 1905 the resident of Ternate was advised to raise a bird tax and use his authority to limit the hunt by requiring a license for carrying firearms.<sup>43</sup> Cribb notes that in practice these measures intensified rather than reduced the hunting of the protected birds since the actual hunters had to hire equipment from license holders and to pay them back in pelts.

In 1909, at the initiative of the director of the zoological museum,<sup>44</sup> a much farther-reaching regulation was issued that much more clearly reflected that the nature protection discourse was – at least in terms of institutionalisation in regulations – gaining ground: the Ordinance for the Protection of Certain Wild Mammals and Birds.<sup>45</sup> This ordinance aimed at protecting all wild animals and birds in the colonial area.

Due to the opposition of hunters, farmers and plantation owners,<sup>46</sup> and probably also the realism of nature lovers themselves, the romantic perception of nature was, however, limited to its attractive aspects. Consequently, animals considered as dangerous or harmful were excluded from protection.<sup>47</sup> Two major exceptions were made: dangerous animals, including those that damaged crops, such as monkeys, and predators, such as tigers, and those that were considered not in need of protection were first. Traditional game and certain animals that required the permission of regional heads for hunting (such as

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39 Cribb 1997a, p. 388-389.

40 The colonial administration was not yet present in the western part of New Guinea which would make enforcement of any regulations unfeasible (Cribb 1997a, p. 389-390).

41 As promoted by the Botanic Garden's agricultural zoologist Koningsberger (Cribb 1997a, p. 391).

42 Cribb 1997a, p. 395.

43 Cribb 1997a, p. 393.

44 Dammerman 1950, p. 82.

45 *Indisch Staatsblad* 1909 nos 497 and 594, issued on 14 October 1909, came into effect on 1 January 1910.

46 Peluso & Vandergeest 2001, p. 785.

47 Boomgaard 1999, p. 285.

elephants and birds-of-paradise) formed the second exception. It is therefore no surprise that foresters could still report about how pleasant, for instance, a place like Palembang was for hunters since there were still many elephants, rhinoceros and tigers, 'the meat of which are regularly sold on the market of Palembang'.<sup>48</sup>

Another context that was completely closed for nature protection arguments was that of nature-caused human diseases such as malaria. In this context it was clear that nature was considered dangerous and thus definitely not in need of protection, as Dinger in his oration in 1935 at the Geneeskundige Hoogeschool in Batavia stressed:

'if one tries to gain insight into the nature of living nature, not from an optimistically coloured poetic view but from a critical perspective of a natural scientist, one sees that under the cover of apparent peace and harmony a struggle is taking place. [...] Seen this way we should not see nature as a harmonious whole with love as the binding factor, but as an entity of opposites, contesting and balancing each other, a society with the need for armouring, not disarmament.'<sup>49</sup>

This approach towards nature was definitely free from any romanticism. A further ordinance issued in 1911<sup>50</sup> introduced for the first time a closed hunting season in the archipelago for the birds-of-paradise for five months per year and a higher fee for hunting licenses. Firearms also had to be returned at the end of the season.<sup>51</sup> In 1914, the resident of Ternate limited the hunt to six, and in 1922 even to two sorts of birds.<sup>52</sup>

Driven by the realisation that with a weak police apparatus it was impossible and unrealistic to protect all wild animals<sup>53</sup> in 1924 a new ordinance<sup>54</sup> took different approach from the 1909 ordinance. It named all those animals that were to be protected instead of granting exceptions to a rule of overall protection. The ordinance listed 61 species for the whole area, and two for Java and Madura.<sup>55</sup> Furthermore, it limited the hunting season for certain species to a few months per year. And again, hunters were obliged to buy licences.<sup>56</sup>

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48 Claasen 1908, p. 402.

49 Dinger 1935.

50 Indisch Staatsblad 1911 no. 473; went into effect on 1 January 1912. This ordinance determined that the regulations issued in the 1909 Ordinance were now also applicable to North and West New Guinea.

51 Cribb 1997a, p. 397.

52 Cribb 1997b, p. 460.

53 Dammerman 1929, p. 2-3.

54 Indisch Staatsblad 1924: 234 ("Jachtordonnantie"), 17-5-1924, came into effect on 1 July 1924 on Java and Madura.

55 Indisch Staatsblad 1925: 566.

56 Cf. Dammerman 1929, p. 3.

The next set of regulations, issued in 1931,<sup>57</sup> showed that the nature protection discourse was still gaining influence. They attempted to differentiate between hunting and animal protection<sup>58</sup> and prohibited the export of protected animals and products made from them. In all areas custom officers were to see to the enforcement of these regulations. Their list of protected species was limited to those that were threatened with extinction.<sup>59</sup>

In 1935, 36 species were added to this list.<sup>60</sup> Surprisingly, although they were seen as the most effective tool of animal protection,<sup>61</sup> the export prohibitions for certain species were not maintained.<sup>62</sup> This suggests that nature protection was for the first time losing ground again due to the economic crisis at the time.

I am not sure whether or not this was also the reason for introducing the category of 'harmful' game in the hunting ordinance of 1939.<sup>63</sup> In the implementing regulation<sup>64</sup> it became clear that this category included, among other animals, tigers, wild boar, and crocodiles. In any case, the other novelty introduced by this ordinance was certainly motivated by economic arguments. From now on, hunters had to buy licenses for hunting these dangerous animals and it became possible to lease hunting grounds for a maximum of ten years.<sup>65</sup>

The second type of regulations driven by the nature protection discourse was that regulating reserves.<sup>66</sup> These regulations began to emerge in 1916 on the initiative of a growing lobby of nature protectors for the creation of nature reserves in the Netherlands Indies.<sup>67</sup> Such reserves were seen as a way

57 Indisch Staatsblad 1931: 133, 134, 265 and 266 ("Jachtordonnantie 1931", "Dierenbeschermingsverordening 1931", "Jachtverordening" and "Dierenbeschermingsverordening 1931"), 25-6-1931 and 1-6-1931; came into effect on 1 July 1931 (133 and 265 only on Java and Madura).

58 Dammerman 1929, p. 4.

59 Dammerman 1929, p. 5-6.

60 Indisch Staatsblad 1935: 513 ('Aanvulling van de "Dierenbeschermingsverordening 1931"'), 21-10-1935; came into effect on 1 November 1935.

61 Boomgaard 1999, p. 285.

62 Dammerman 1950, p. 90.

63 Indisch Staatsblad 1939: 733, 29-12-1939, came into effect 1 July 1940.

64 Indisch Staatsblad 1940: 247.

65 Dammerman 1950, p. 89.

66 This discussion will not cover the game reserves. These did not form a part of the nature protection discourse but were primarily created for pastime hunting of the indigenous hunting nobility and for European hunters. For details on hunting traditions of these groups see, for instance, Boomgaard 2001.

67 This development runs parallel to the developments in the Netherlands, where special areas (Du. *natuurhistorisch merkwaaardige terreinen*) were created for the protection of birds and other animals. Later on, rivers and hills were included. Later again, forests as such were 'admired', after that also dunes and other wild territories. Traditionally natural beauty (Du. *natuurschoon*) meant forest in Holland (Keiser 1949, p. 16). It should be noted, however, that preserving nature in the Netherlands started later than in the Netherlands Indies (Boomgaard 1999, p. 284).

to protect animals and plants, on the one hand, and to protect sites for their own sake, on the other. Science as well as recreation served from the beginning to justify their establishment.<sup>68</sup> Another reason was that primeval forests on Java and Sumatra were disappearing at a high speed, mainly due to European planters.<sup>69</sup>

The first ordinance<sup>70</sup> with the title 'nature monuments' (Du. *natuurmonumenten*) reflects both the scientific and romantic elements of the discourse. It stipulated that the Governor General could allocate areas of the state land for reservation for their 'special scientific and aesthetic value'.<sup>71</sup> They could consist of a single tree, of areas assigned for the protection of a single or a few species, of areas assigned for the protection of the overall local flora and fauna, or of areas assigned because of the special landscape and their beauty such as crater-lakes, hot springs, volcanoes etc.<sup>72</sup> In fact, the first one of these reserves was reserved long before the enactment of the 1916 Ordinance. It was a small piece of land in the south of Jakarta, in Depok. On March 13, 1714, a member of the Raad van Indië, C. Chastelein, gave freedom to his Christian serfs. He also gave some 6 ha of land to them, but under the condition that they should never fell all the trees to use the land for building. In 1913 this reserve was placed under the management of the Netherlands Indies Association for Nature Protection.<sup>73</sup> The next reserve, also before the 1916 regulation, was established in 1889. 240 ha of forests at the Mount Gede were chosen to become a reserve for research.<sup>74</sup> However, there were no signs that this was the planned start of a network of nature protection areas.<sup>75</sup> It was rather 'an extension of the Botanical Gardens at Buitenzorg'.<sup>76</sup> The 1916 Ordinance changed this. Only three years after its issuance, there were already 33 nature monuments, and ten years later 76 nature reserves, 55 of which were on Java.<sup>77</sup>

The regulation clearly mirrored the conviction that nature needed to be maintained in its original state as it prohibited every activity that could cause change to the situation of the area, including collecting plants and catching or killing animals.<sup>78</sup> Until the present, this prohibition of 'change' has remained central for nature reserves. Another stipulation that has survived

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68 Dammerman 1929, p. 21.

69 Dammerman 1929, p. 21.

70 Indisch Staatsblad 1916: 278 ("Natuurmonumenten"), 18-3-1916.

71 Art. 1 Indisch Staatsblad 1916: 278. See Jepson & Whittaker 2002 for a discussion on nature monuments.

72 Dammerman 1929, p. 28-31.

73 Dammerman 1950, p. 80.

74 Boomgaard 1999, p. 263.

75 Dammerman 1950, p. 80.

76 Dammerman 1950, p. 80.

77 Dammerman 1929, p. 24.

78 Art. 3 (1) Indisch Staatsblad 1916: 278.

until now is the possibility to obtain the permission to conduct scientific research within such an area.<sup>79</sup>

In 1932 a new ordinance<sup>80</sup> added one reason for the establishment of nature reserves, i.e. the existence of animals and plants in such areas that were considered valuable enough for protection.<sup>81</sup> Linked to this, on the initiative of the Forest Service,<sup>82</sup> it introduced, a distinction between nature reserves and wildlife reserves (Du. *wildreservaten*). The latter were areas that were to be reserved only for the protection of wild animals in the area.<sup>83</sup> The prohibitions remained the same, although the new ordinance explicitly mentioned more examples, such as agricultural activities.<sup>84</sup> In wildlife reserves, catching, wounding or killing animals, as well as collecting their eggs was forbidden. However, forest exploitation was not prohibited as long as it followed the previously approved exploitation plans.<sup>85</sup> Entrepreneurs in the forestry sector thus had succeeded in safeguarding their access to at least part of the reserved areas under the condition that they adhered to forestry management. With this the natural resources management discourse had regained some ground from nature protection.

The last colonial ordinance on reserves was issued in 1941<sup>86</sup> but never implemented<sup>87</sup> due to the beginning of the Second World War and the following struggle for independence. It introduced new names for the former nature monuments and wildlife reserves, which were now called 'nature reserves' (Du. *natuurreservaten*) and 'nature parks' (Du. *natuurparken*). Another change was that even the former wildlife reserves could now be protected for their 'fauna, flora or the beauty of nature' in case they were considered valuable enough for protection.<sup>88</sup> This meant a small symbolic victory for the romantics – symbolic because it changed nothing about the fact that the exploitation of these areas was permitted. While in nature reserves 'untouched preservation' (Du. *ongerepte instandhouding*) was defined as the goal, in nature parks it was 'protection'.<sup>89</sup> This meant that 'change' remained the core prohibition for nature reserves while for nature parks it was 'damage'.<sup>90</sup> Closely linked to

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79 Art. 3 (2) Indisch Staatsblad 1916: 278.

80 Indisch Staatsblad 1932: 17 ('Natuurmonumenten- en Wildreservatenordonnantie'), 11-1-1932; came into effect on 1 February 1932.

81 Art. 1 (a) Indisch Staatsblad 1932: 17.

82 Dammerman 1950, p. 86.

83 Art. 1 (b) Indisch Staatsblad 1932: 17.

84 Art. 3 (1) Indisch Staatsblad 1932: 17.

85 Art. 3 (4) Indisch Staatsblad 1932: 17. This article constitutes an interesting parallel with the present regulations on certain zones of national parks in which tourism enterprises have to work in conformity with approved exploitation plans. See part III.

86 Indisch Staatsblad 1941: 167 ('Natuurbeschermingsordonnantie'), 6-6-1941.

87 Dammerman 1950, p. 89.

88 Art. 2 (1) Indisch Staatsblad 1941: 167.

89 Art. 2 (2) Indisch Staatsblad 1941: 167.

90 Art. 5 (1) and (2) Indisch Staatsblad 1941: 167.

this, another major difference between the two kinds of reserves was that the nature reserves, in principle, were closed areas whereas the parks were accessible for the public.<sup>91</sup>

Another symbolic victory for the nature protectors was that the ordinance made it possible to not only reserve areas belonging to the 'state area' but also other areas, after reaching an agreement with those who could lay claims on it.<sup>92</sup> This would, for instance, have made it possible to protect coral reefs that formed fishing grounds for certain communities.<sup>93</sup>

### 11.3 DISCOURSE REPRODUCTION, TRANSFORMATION AND REJECTION

When we look at the documented, European part of the debate on nature protection in the Dutch East Indies we find two extreme positions: one, in favour of nature protection and arguing that the government needed to do more, more quickly and with more dedication; the other, regarding nature protection as a kind of luxury which the government could turn to when everything else was taken care of and that could easily be abandoned in times of economic crisis.

A struggle in terms of arguments mainly took place among the various Europeans. Sometimes the issue was what goal the government should pursue. Plantation holders pleaded to pay more attention to their safety and economic success rather than to nature protection. They had to struggle to rid their land of harmful animals before they could cultivate it.<sup>94</sup> Even then, their struggle against nature seldom ended since their crops were vulnerable to all kinds of parasites and diseases. Therefore, in their eyes it was useful to protect only *certain parts* of nature such as panthers,<sup>95</sup> birds of prey, other rat-eating animals, and birds that could control insects.<sup>96</sup> They considered it counter-productive to protect *all* nature since such protected areas created space for harmful animals to hide, as for example Zondag stated:

'The forest should not become a sanctuary for harmful animals. The forester should receive the authority to hunt and have others hunt certain sorts wherever this deems necessary to him.'<sup>97</sup>

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91 Art. 4 (1) and (2) Indisch Staatsblad 1941: 167.

92 The 1870 Agrarian Act had defined private and communal land as land under cultivation. It had prohibited Inlanders to sell their land to non-natives.

93 Dammerman 1950, p. 89.

94 Boomgaard 2001, p. 136.

95 Zondag 1928, p. 342.

96 Dammerman 1919, p. 11.

97 Zondag 1928, p. 341-342.

To people arguing this way, nature was thus primarily dangerous and harmful. In this, we find a reproduction of elements of the subjugate-and-rule discourse.<sup>98</sup> Planters and their supporters regarded plantations as a form of civilisation that was to be preferred to undomesticated nature. And, they, too, focused on the dangers of nature and how to subjugate and control them.

Even if indigenous peasants had had the chance to participate in such policy debates they would – with the exception of those who had internalised the subjugate-and-rule discourse, and with the exception of the question of nature reservation – probably not have done so because their stories and subsequent arguments differed very much from the scientific ones. As Dammerman observed in 1919, the indigenous peasants at least until the first half of the 20<sup>th</sup> century perceived nature still in spiritualist terms:

‘Many farmers are still convinced, although they do not often say so, that diseases and plagues are sanctions of spirits who rule the plants and have been annoyed. Therefore it should not surprise that they tend to appease, for instance, rats that damage their crops with cookies rather than to exterminate them. Even if this is an exception, people in general think that diseases and plagues belong to cultivation like storm and rain belong to the climate, which is inconvenient, too, but inevitable.’<sup>99</sup>

For people who conceived of nature in such a spiritualist terms the scientific arguments in favour of nature protection, protection against disaster and rational forestry, must have sounded quite absurd.

Those Europeans who wholeheartedly promoted nature protection countered any arguments against it by arguing that although nature protection might seem almost ‘a matter of fashion’ (Du. *modeziekte*) it was very well necessary from a ‘moral-scientific and human perspective’ (Du. *moreel wetenschappelijk en algemeen menselijk oogpunt*) and that most stories about damaged ‘crops’ (Du. *aanplant*) were very much exaggerated.<sup>100</sup> With such statements, nature protectors not only tried to position themselves as morally better than their opponents but also tried to raise doubts about their trustworthiness.

In other cases, criticism focused on the implementation of the nature protection policies and laws. Appelman, for instance, claimed that the nature reserves were nothing more than ‘paper-reserves lacking any real protection’ (Du. *staatsbladen zonder eenige nadere bewaking*), which resulted in massive poaching and even the unnoticed construction of a road!<sup>101</sup> In his opinion, the authorities were just not serious enough about implementation.

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98 With the evident difference that planters, of course, did not subjugate nature in order to demonstrate their power.

99 Dammerman 1919, p. 2.

100 Appelman 1930, p. 593,596.

101 Appelman 1930, p. 593. Compare also for Te Wechel 1931, p. 692. As we will see later on in part IV, these are striking parallels with the situation in present times.

In line with this argument were complaints of a forester about the conditions under which the forest police had to work:

[Forest] policemen are not educated or trained as other policemen. Their only teaching material is the daily practice and directions given by their superiors. No wonder that many stumble, complain and resign. Not to mention the issue of very low salaries and related corruption, a complaint that has been made for years and is still valid.<sup>102</sup>

To some extent this complaint may sound very familiar to people who have spoken to forestry policemen in more recent times.

Obviously, Appelman did not think that the government would ever extract sufficient money for nature protection. In a later publication he therefore urged that nature protection institutions become self-sufficient – which may sound familiar to present-day conservationists – since he still feared that in this case wildlife reserves yet to be created would remain a ‘paper measure’ (Du. *zuiver papieren maatregel*) since many would argue that having such reserves was a ‘luxury’.<sup>103</sup> In his eyes a successful wildlife reserve would require, among other things, a leadership that was dedicated to this job, authoritative, and interested in biology and hunting issues; capable guards who needed to be well organised; simple paths and log cabins (Du. *jachthutten*) for visitors; regular cutting of secondary forest plants to ensure that visitors could enjoy the view of game and wild animals; and keeping the population of a reserve in ‘balance’. Fulfilling these conditions would make it possible to ask financial contributions for forest exploitation, visiting a reserve, using the log cabins, shooting films about the wildlife, catching animals for scientific purposes, and for hunting.<sup>104</sup> Such financial contributions could, in Appelman’s eyes, make reserves self-sufficient.

Appelman was not the only one who did not have confidence in the Forest Service when it came to nature protection. Dammerman, for instance, warned against giving the Forest Service far-reaching powers in the field of nature protection. In his eyes, this was inadequate because many reserves by definition were not productive, which made them unimportant to the Forest Service. He lobbied therefore for transferring this authority to scientific institutions, such as the Botanical Gardens.<sup>105</sup>

To sum up my argument so far, we can say that the natural scientific discourses defined the relationship between man and nature differently than the spiritualist and the subjugate-and-rule discourse. They denied the spirits and deities their position of control of the ‘streams of blessings’ of nature. This

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102 V.d.L. 1934, p. 635-636.

103 Appelman 1934, p. 500-501; cf. Boomgaard 1994, p. 131.

104 Appelman 1934, p. 502-506.

105 Dammerman 1950, p. 87.



construction was replaced by a new one that despiritualised and rationalised nature.<sup>106</sup> While it had, in the past, been necessary to negotiate with spirits or deities about these streams without certainty about the outcome, now humanity could control and even improve nature. It only needed to discover nature's secrets through scientific observation and reason. This enabled humans to ensure that these streams would keep flowing and increase in their intensity as long as they followed the rules science had laid bare.

The natural scientific discourses were similar to the subjugate-and-rule discourse in that they attributed to the state the authority to close or open areas for ordinary people and to define other rules for the treatment of nature. However, where the pre-colonial rulers were still seen as *primus inter pares*, the colonial government saw itself as a real superior power holder. Consequently, the pre-colonial and colonial rulers also used different means to legitimise their rule. The pre-colonial rulers subjugated nature to demonstrate their power and subsequently hold on to their followers by concretely providing for their well-being. The colonial government, on the other hand, directly provided for the well-being of indigenous rulers who agreed to acknowledge the new rule. For the ordinary people it only formulated abstract welfare policies. In cases of non-compliance with the colonial regulations – for example that regarding forest and nature reserves – the colonial government even used force or the threat of violence as an enforcement strategy.

Due to the increasing importance of scientific knowledge scientists gained power since they were the ones to create categories and to define 'good management', how to protect against disaster, and to preserve nature in its original state. They were the ones to define which animals, plants and sites should be protected and thus, in a way, to define the present and future of nature. Therefore, it is not a surprise that they were granted exclusionary access to certain areas under protection.

The emergence of this new group of professionals who were all imported from outside the region had great implications for the colonial perception of Indonesian peoples: it made the colonial administration feel, or reinforced the feeling, that the latter were irrational or superstitious and therefore incapable of (autonomously) managing the land they depended on. Thus, they were seen as backwards, uncivilised, stupid, and in the need of help. The Dutch not only characterised the Indonesians as incapable of achieving progress, innovation

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106 This is, of course, not to say that divinity had disappeared from the mind of the people using these discourses. However, in the Christian belief it had moved to a place far away (heaven); much farther than any place one could see or was confronted with in daily life. Likewise, the direct confrontation with divinity was postponed to some unknown moment in the far future when all men were to be judged (Judgement Day). This shift in time and place perspectives on the relation between man and divinity created space and power for humanity. Humans were not as directly dependent on and accountable to God as under the spiritualist discourse.

and civilisation on their own at the time, but also denied them the potential to ever become capable of doing so. As a consequence they were to be preached to, not listened to. It is important to realise that such – from our current perspective quite arrogant – arguments laid the foundation for a perceived dependency on white intelligence for solutions to any kind of problem, which is still present in present-day Indonesia.

Later on, an increasing number of the Dutch felt disappointed about the fact that their ethical policies to ‘raise’ the indigenous population of, primarily, Java somehow did not have the desired effects.<sup>107</sup> The following extract from a speech given in 1930 to members of the Forest Service demonstrates this disappointment well:

‘The indigenous, uneducated (Du. *onontwikkelde*) population kills each animal it can get hold of, for consumption, for fun or inconsiderately, or for reasons of superstition. This population has much time for hunting and many people are very capable of tracing and trapping. All of them are possessed by the idea of abundance (typical for a tropical people) while lacking any knowledge of the biology and reproduction of animals. In addition, they are only interested in quantity and not in quality. They will always try to get hold of as many things as possible even if this exceeds their present need (for instance, turtle eggs: not even one nest is left intact for reproduction). The situation gets worse as the population, as a result of the dominant slash-and-burn system on dry paddies, occupies much more land than necessary with a more rational method. As a consequence, the habitat of wild animals is cultivated and reduced at a completely unnecessary rapid pace.’<sup>108</sup>

The alleged ‘mindlessness’ of the indigenous population led such observers to the conclusion that Europeans needed to protect nature from these people and these people against themselves.

The new regulations that were based on the scientific discourses can be summarised in the concepts of management (Du. *beheer*) and protection (Du. *bescherming*). While in the first case these regulations determined the acceptable scope of harvesting economically valuable, (albeit lifeless commodities destined for human usage), in the second case they told the people that it was best to treat selected parts of nature with care and, even better, from a distance. Both new conceptualisations had far-reaching consequences. As either a specialised knowledge or an intact nature were required for managing and protecting

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107 Cribb 1993, p. 243. Increasingly alleged Javanese cultural characteristics such as fatalism and lack of initiative were blamed for the disappointing results.

108 Appelman 1930, p. 594. Fairness obliges me to note that the speaker was also negative about all other people living in the archipelago. He characterised Indo-Europeans as ‘very bad hunters’, the Chinese as the ‘worst hunters he knew’ and in addition, as ‘very dangerous for the survival of certain sorts of animals’ due to their ‘*rare obatjes*’ (En. weird medicines), and even the Dutch as ‘not knowing much about right hunting’ due to their lacking education in this field and as often having an attitude of ‘*après moi le déluge*’ (Appelman 1930, p. 595-596).

nature, forestry scientific management, natural scientific observation and general admiration were the only authorised activities left in forests and reserves. Hunting, gathering, grazing cattle, and various forms of agriculture, on the other hand, were considered no longer acceptable in these areas if mankind was to survive and to achieve progress.

The new discourses also added new time and place perspectives. The time frame of scientific management differed very much from that of the indigenous practices. For instance, closing an area with trees for 25 years would never have occurred to an indigenous farmer. While most local practices, on the other hand, were labelled 'short-sighted' (Du. *kortzichtig*) by the Dutch.<sup>109</sup>

To introduce and implement the new approaches the colonial government needed an ever-growing bureaucracy to, among other things, map, plan, manage and control the state's land. This bureaucracy was not created in one day. It took time and patience to convince those with vested exploitation interests and those that were more in favour of liberal ideas that a Forest Service was needed and that such an organisation could be in their interest.

This brings me to the point that the colonial government was far from unanimous about rational forestry, protection against disaster and nature protection for natural science and recreation. Next to the opposition, which favoured unbridled exploitation, there were those people who in principle agreed with some or most measures but who were doubtful about their implementation.

Despite all differences in opinion, coalitions emerged among those concerned about the negative effects of human behaviour on nature and others who were primarily interested in control, profit, scientific progress, and possibilities for recreation.

These coalitions were mirrored in the legal regulations. Many of the instruments of the later regulations, such as requiring hunting licenses or introducing export tariffs for rare species, reflect the government's wish to create additional revenues more than to protect nature. Similarly, the protection of jungle wood served to meet hydrological and climatological considerations but certainly also the colonial agenda of maximising revenue by ensuring that 'valuable' trees could grow well through the conservation of 'worthless' trees.<sup>110</sup>

The analysis above has shown that there was no consensus about the question of reserving nature, for what purpose and beneficiary, and by whom. There was not only disagreement about these matters between foresters and the indigenous population and their advocates and between foresters and planters and their advocates but also among foresters themselves. While the rational forestry discourse kept gaining importance (especially reflected in its institutionalisation in the Forest Service), the protection against disaster and nature protection discourses remained contested and thus rather marginal.

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109 For instance, Te Wechel 1931, p. 693.

110 Skaria 1998, p. 606.

Another debate focused on the issues of motivation for policy and trust in government and has continued until the present day. Scholars, such as Peluso and Vandergeest<sup>111</sup> and more recently Galudra and Sirait,<sup>112</sup> have claimed that the colonial rulers used natural scientific arguments to gain control over territory. As such, they argue that the objective was to gain power rather than to achieve sustainable forest production, protect against disaster or to protect nature for scientific and recreational purposes. That foresters defended the *Domeinverklaring* is a primary argument. They did so, according to Galudra and Sirait, despite the fact that, among other things, the Agrarian Commission which was appointed in 1928 had advised the government to abolish the *Domeinverklaring* in favour of the *beschikkingsrecht*. According to Galudra and Sirait they even 'ignored' arguments made in scientific articles by, among others, Roessel that it was the geological formation and not the vegetation that influenced the water supply and climate.<sup>113</sup> Accepting such arguments would have led to the conclusion that forest reservation as protection against disaster was not the only option and thus have questioned the legitimacy of the Forestry Service's claim on territory.

This argument is appealing. However, I am not convinced. In my opinion, Galudra and Sirait generalise too much about the foresters when they insinuate that they consciously opted to ignore arguments to get or maintain control over territory and to use it for their own benefit or the benefit of certain Dutch groups only. Another possibility would be that foresters were not convinced by the scientific arguments. After all, if a person is really convinced of a theory it takes great effort to convince him of another contrasting theory. Credibility, acceptability and trust play a role here. Abandoning the forest theory that claimed that forests were necessary for protection against disaster may not have been easy for foresters if they wanted to remain credible in the forestry science community. Apart from that, a new theory, in this case that geological formations were more important factors for regulating the water supply than the degree of forest cover, needed to be acceptable. This is an important point. Did foresters not take over the new theory because they did not think it was necessary to do so or because they did not find it attractive to do so? Not finding it necessary would mean that they were not convinced of the scientific arguments, perhaps because they had questions about the methodology, the argument or the applicability of the findings to the area. Not finding it attractive would confirm the thesis of Galudra and Sirait that they were more interested in power than in protection against disaster. The question of trust, finally, is about whether or not foresters trusted the source of the new theory. Earlier quotes of authors that reacted to Roessel's new theory suggest that they were reluctant to accept the new theory but subscribed to his plea for a better

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111 Peluso 1993a; Peluso & Vandergeest 2001.

112 Galudra & Sirait 2006.

113 Galudra & Sirait 2006.

methodology of research, including data collection. Of course, it is possible that this was a strategy as well. We can, however, not know this for sure until we find evidence for it.

Along with the question of why the new theory did not gain dominance in the forestry science community is the question of why policymakers kept repeating the old arguments. Did they know of the new theory? Yes, we may assume that they did because they read the most important journals.. So, the question remains again: why did they 'ignore' the new theory? Was it a kind of strategy or were they not convinced of the arguments? Without a detailed analysis of these specific colonial policymaking processes to produce evidence for either hypothesis, we cannot know for sure. Such an analysis would present a much more nuanced picture than that painted by the above mentioned scholars: a picture which is not black nor white but painted in various shades of grey that represented a variety of convictions and objectives.

What makes this kind of criticism – produced by the above mentioned scholars, but also by activists and various other stakeholders – interesting is that it reproduces arguments about a government that has deprived the indigenous population of their existing rights and endangered the livelihood that were produced in the colonial and maybe even pre-colonial times. As such, the work of these scholars etc. forms part of a counter-discourse. As the following chapters in this part and also the empirical parts of this book will show, both the government's discourse as well as this counter-discourse have remained nearly unchanged over time.



The beginning of the Second World War changed the political situation in the Indonesian archipelago. Japanese troops occupied the region in 1942, arrested the Dutch and concentrated them in camps. After the Japanese surrender in 1945 on August 17<sup>th</sup> Sukarno proclaimed Indonesia's independence. The Dutch, however, tried to re-establish their control over the colony and only at the end of 1949 – when they transferred the sovereignty to the Indonesian people – did the Indonesian revolution come to an end.

Of course, only few of the policies discussed in the previous sections were implemented during the war, which was dominated by the exploitation of nature for the war and food production. But there are few examples that suggest that the Japanese successfully enforced even some of them. According to a Dutch forestry official,

'the resident of Banjarmasin (South Kalimantan) had prohibited the burning of forests to prevent forests from turning into *alang-alang* fields. However, nobody complied with this prohibition. There was an enormous practice of tolerating non-compliance [*gedoogbeleid*] and the area was, of course, much too large for effective enforcement. When the Japanese came – they were rather conscious of environmental issues [*milieubewust*], that is, at least in their own country, in Borneo they were enormous bandits and robbers – so, when the Japanese came, they saw that the people burnt all the trees so they went to them, had them line up and cut off an ear of some of them! After that nobody burnt any more trees. As a result, only after three years had there grown a secondary forest. Except, once the Japanese had left, the burning immediately started again.<sup>1</sup>

Next to these differences in enforcement strategies, the Japanese also had a clear priority: forest cultivation was even increased to meet the demand for firewood and construction material.

After the war, however, according to the Dutch forestry official Heringa, due to lack of control on the new plantations little was left of what foreign security services had regarded as the 'world famous' Dutch forest management in the Indonesian archipelago.<sup>2</sup>

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1 Personal communication, W.M. Otto, 3 July 2003.

2 Heringa 1946, p. 8, 17.

The period that followed was characterised by a struggle between those wanting to return to the old Dutch system and those favouring the revolutionary ideal of social justice. Quite soon after the war Dutch foresters started to debate how to rebuild or improve the old system. De Voogd, for instance, pleaded for establishing a permanent council for hunting and nature protection and a hunting and nature protection directorate which would be placed directly under Department for Economic Affairs (instead of under the Forestry Service). After all, De Voogd argued, such a structure would oblige Economic Affairs to allocate money for hunting and nature protection.<sup>3</sup> Forestry Main Inspector Becking, on the other hand, argued in favour of increasing the timber production without losing sight of sustainability. According to him, the Japanese had 'demonstrated possibilities' which should be continued. He reproduced the rational forestry as well as the protection against disaster discourse by pleading for a continuation of production and protection of forests. Most importantly he argued that both categories of forest should be managed by the central government. Protection forests should be placed under the Forestry Service's authority because they were a 'typical welfare service' that only produced costs but no direct financial benefits, because they served a supralocal interest, and because their 'unwise management' (*Du. onoordeelkundig beheer*) would have disastrous consequences. To strengthen his plea for granting the central government rather than a local government the authority over these forests he even compared their protection to national defense.<sup>4</sup> His arguments for also placing production forests under central government authority were that their management was an extensive amount of work, capital intensive, that their rentability was low, and that all developed countries had done so. Most importantly, however, he envisaged that protection forests in the long run could increasingly be transformed into production forests which would plead for placing all forests under the same authority.<sup>5</sup> This argumentation raises the suspicion that Becking regarded protection forests as an instrument for making production more profitable by concentrating the production.<sup>6</sup> After all, protection forests were said to serve certain purposes that would definitely not allow their conversion into production forests. The crux lies in Becking's definition of protection forests, which included, in addition to the forests that served as protection against disaster, 'all forests that had not yet been given a destination'.<sup>7</sup> He thus claimed an additional category of forests, which had been under the authority of the Binnenlands Bestuur or local governments. He justified this claim with the Forestry Service's 'expertise' and

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3 De Voogd 1946, p. 55-56.

4 Becking 1946, p. 94-95, 105.

5 Becking 1946, p. 106.

6 Becking 1946, p. 95.

7 Becking 1946, p. 128.



'organisation'<sup>8</sup> and argued that it should be further expressed by renaming the Forestry Service the Domain and Forestry Service (Du. Dienst voor Domein en Boschbeheer), a part of which would become the 'forestry conscience' (Du. *boschbouwkundig geweten*).<sup>9</sup> But placing all uncategorised forests also under the Service's authority, in Becking's opinion, did not affect the population's right to cultivate land. This right would just be limited to certain areas destined for this purpose and to certain conditions. This proposed limitation Becking justified with the transition from an 'unregulated to a more ordered state'.<sup>10</sup>

Among the Indonesian foresters, it was especially the older generation – the one that had worked for the colonial Forest Service – that soon after the war argued that the Forest Service needed to restore its authority in order to see to a balance between exploitation and conservation.<sup>11</sup> This resulted in a struggle between them and younger foresters who did not want to be as harsh as their colonial predecessors<sup>12</sup> and who thus argued for less control. The foresters were thus torn between the egalitarian ideals of the new Republic, to strive for a just and prosperous society,<sup>13</sup> and the desire to return to the Dutch system of order.<sup>14</sup> This is also reflected in a policy document that resulted from a meeting in 1946 in Malang. Objectives for the forestry sector stated in this document were:

- 1 To adapt the organization of the Forest Service to the government's political foundation (In. *dasar politik*), particularly by shifting the Forest Service's function from the trade/export orientation emphasized by the Dutch and the pervasive forest slashing practiced by the Japanese to distributing wood fairly, inexpensively, and directly to the people.
- 2 To increase production, prioritizing firewood production for the government railway system and war-related industries.
- 3 To rationalize Forest Service operations and to repair forest product processing plants.
- 4 To increase the knowledge of all foresters by establishing forestry training institutions.
- 5 To help increase agricultural production by reforesting forest lands using the *tumpang sari* system<sup>15</sup> and, indirectly, by restoring damaged protection forests in watersheds. Also, to enlist the assistance of village leaders and the military to reforest the [reported] 102,000 hectares [of forest land] illegally occupied by forest villagers.

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8 Becking 1946, p. 128.

9 Becking 1946, p. 131.

10 Becking 1946, p. 129.

11 Peluso 1992, p. 98.

12 Peluso 1992, p. 112.

13 Weatherbee 1966, p. 22.

14 Peluso 1992, p. 97.

15 A system where peasants plant crops like rice and corn between teak trees.

- 6 To make people aware of the meaning of forestry, by making them realize the importance of laws and regulations. An information-dispersal program was to begin, using radio, magazines, newspapers, short courses, and traditional or religious institutions such as village leaders and Masjumi.<sup>16</sup>

Actually, only the first issue reflected revolutionary ideals: fair and inexpensive wood distribution was definitely a shift away from the earlier orientation. The second issue was not oriented towards conservation at all. All the other issues, finally, pointed in the direction of re-establishing institutions belonging to the rational forestry and protection against disaster discourse as the key words 'rationalize', 'increase knowledge', 'training', 'protection forest', 'make people aware of the meaning of forestry' indicate.

Interestingly, nature protection did not play a role in this policy document. Likewise, in preparation of the 1945 Constitution the concern for erosion and floods caused by deforestation was the only environmental issue debated.<sup>17</sup> Just as in the late colonial times, the protection against disaster discourse was strongly aligned with the rational forestry discourse, since its restoration was also intended to stimulate the timber related industry<sup>18</sup> and irrigated agriculture.<sup>19</sup>

The expression of 'illegally occupied [land]', on the other hand, indicated that the Indonesian Forest Service intended to claim the same territory as state land as the colonial Forest Service had done.<sup>20</sup> In line with this the revolutionary government increasingly started to label forest clearing, which had been tolerated or even encouraged during the war, again as 'timber theft'.<sup>21</sup>

To help restore the old system even during the revolution European and Australian foresters were released from prison camps. Likewise, European professors were asked to teach forestry at Gadjah Mada University in Yogyakarta. Moreover, after 1949 the colonial institutions responsible for conservation were restored. The Forest Service again formed part of the Ministry of Agriculture. And a small section of the Directorate-General of Forestry together

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16 Peluso 1992, p. 98 citing Soepardi 1974. Masjumi was the biggest Indonesian Muslim party at that time.

17 Cribb 2003, p. 41 citing Van Klinken.

18 Departemen Kehutanan 1986, p. II-31, 60-62.

19 Most of these restoration efforts were directed at Java and Madura. Before 1950, the implementation of such plans, originating from 1946, failed because the people were engaged in the revolutionary struggle rather than in replanting activities (Departemen Kehutanan 1986, p. II-31, Peluso 1992, p. 97). After that, the realisation was according to the plans: between 1950 and 1959 45.450 ha of economically valuable trees per year were planted. Only in 1955 the targets were not reached due to a lack of funds (Departemen Kehutanan 1986: II-60-62).

20 Cf. Peluso 1992, p. 99-100

21 Departemen Kehutanan 1986, p. II-62. For a detailed study of the history of 'illegality' of logging shown at the case of East Kalimantan see Obidzinski 2003.

with the Institute of Nature Conservation based at the Botanical Gardens in Bogor was made responsible for conservation.<sup>22</sup>

The nature protection discourse reappeared in the Forest Service's 1951 plans for the new section on forest protection (In. *Seksi Perlindungan Hutan*). These included the intention to conduct research on the situation of all existing nature and wildlife reserves and on the hunting situation. According to the Forest Service, the first results became visible in 1954: wildlife reserves were rehabilitated; the hunt on Java and Madura was better controlled; and the wild hunt on elephants in South Sumatra had stopped.<sup>23</sup>

The same discourses remained dominant in the government's working plan for conservation in 1956. The targets laid down in this plan can be divided into three groups. To start with there were those directed at nature protection, such as wildlife management, with special attention for the breeding of wild animals and the prevention of the extinction of species. Then, there were the targets that were linked to research purposes, such as the protection of nature reserves for research on natural history. Finally, there were the economically driven targets, such as forest management with a focus on an increase in productivity for the people and the creation of a hunting regime that was profitable for the people and the state.<sup>24</sup>

The situation remained the same during the period of the Guided Democracy, from 1959 till 1965,<sup>25</sup> and the nature protection discourse further institutionalised. By then, the forest protection section had been made a bigger unit (In. *Bagian Perlindungan Hutan*). It continued to co-operate closely with the Nature Protection and Hunting Section of the Botanical Gardens (In. *Bagian Perlindungan Alam dan Perburuan*), (renamed in 1955 the Institute for Nature Preservation of the Centre For Nature Research (In. *Lembaga Pengawetan Alam dari Lembaga Pusat Penyelidikan Alam*). In 1961, this Institute was made part of the Nature Protection and Preservation Unit (In. *Bagian Perlindungan dan Pengawetan Alam*) in the Forest Service.<sup>26</sup>

In addition, a number of trips were undertaken to China and Africa and conferences on nature conservation organised and attended. In 1962, a national conference on nature conservation, which representatives from Australia, Singapore, Malaysia, the Philippines, and Vietnam also attended, issued a

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22 This fast restoration explains why the reserve at the Mount Gede was relatively well guarded, since it was in the neighbourhood of the Botanical Gardens. The other reserves, however, were somewhat neglected due to a lack of human and financial resources (Cribb 1988a, p. 344).

23 Departemen Kehutanan 1986, p. II-66.

24 Departemen Kehutanan 1986, p. II-66.

25 Sukarno, supported by the army, introduced this new system in 1957, first, with the introduction of martial law on 14 March 1957 to counter regionalist movements, and later with the return to the revolutionary constitution of 1945 in early 1959. This brought to an end to the period of parliamentary democracy which had started in 1950 (Rahardjo & Gusmian 2002, p. 227-258, Ricklefs 1981, p. 243-255).

26 Departemen Kehutanan 1986, p. 100.

resolution pleading for the better care for nature by the government in order to assure that the wider public could profit from its economic value. The longer the government waited with the rehabilitation of land, the conference resolution argued, the bigger the loss for the public would be. The resolution also mentioned concrete measures that should be carried out by the government. The frequent use of the term 'research' indicates, on the one hand, that the attendants were primarily biologists. On the other hand, some political considerations may have also played a role, especially in the first recommendation that the government engage in conservation activities in West Irian. The controversy with the Netherlands about this part of the archipelago, which was to become the 26<sup>th</sup> Indonesian province in 1963, may have increased the political support for this plea for conservation in Irian. The second recommendation was that the government should organise inventories in the nature and wildlife reserves. Third, the research on sea turtles should be increased. Regions with many turtles should issue regulations on the protection of turtle eggs, taking the regulation for the north-western part of East Kalimantan, Berau, as an example. Fourth, there should be more research done on the Sumatran *badak* (En. rhinoceros) and a wildlife reserve should be established in Riau for the *badak*. Fifth, the government should give more attention to the problem of water pollution. Finally, the conference recommended including biology into the curriculum of all schools in order to educate the population about the need to care for nature.<sup>27</sup>

In accordance with the Forest Service's planning and the recommendations made at the conference, the conservation section undertook six expeditions to existing and potential nature reserves between 1960 and 1964.<sup>28</sup>

The protection against disaster discourse received a new impetus by attempts to turn all 'destroyed and unproductive land' on Java, the so-called '*tanah kritis*',<sup>29</sup> into protection forest. Since this was not possible due to existing property rights, the government developed a 'greening' (In. *penghijauan*) policy. From 1961 onwards a 'national greening week' (In. *pekan penghijauan nasional*) was organized, a campaign aimed at raising awareness of how conservation was a joint responsibility of government and citizens and at planting critical land outside forest areas.<sup>30</sup>

Still, compared to the policies intending to increase the exploitation of Indonesian forests, the nature protection and also protection against disaster policies and activities remained marginal. As former forester Soekiman, in 2001, remembered this period: 'maybe the quantity of the protected areas

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27 Departemen Kehutanan 1986, p. II-102.

28 To Komodo (1961), Leuser (1962), Baluran (1962 and 1963), Ujung Kulon (1963 and 1964) Departemen Kehutanan 1986, p. II-102.

29 The full definition by the Forest Service for critical land was land that is 'destroyed and not productive, not functioning as capital for agricultural production and not in terms of water regulation' Departemen Kehutanan 1986, p. II-98.

30 Departemen Kehutanan 1986, p. II-98-100.

increased under Sukarno but their quality decreased'. This was, according to him, due to an increase of the population that as a consequence had insufficient land for cultivation at its disposal. The number of people invading the protected forests to farm grew so high that the government could no longer remove them and eventually invited them to grow plants between the trees. This so-called *tumpang sari* system had had a predecessor in Dutch times, but it had been limited to two years per location, a period in which the newly planted trees gained so much height that they would overshadow the plants in between. Under Sukarno, the top branches were cut so that the sun would reach the people's trees.<sup>31</sup>

Next to this small-scale exploitation in the forests, the state exploitation of the forests was soon re-organised. A major impetus of this reorganisation was the establishment of the state forest enterprise Perhutani in 1961,<sup>32</sup> which very much resembled what Becking had envisioned in 1946. Its primary aim was to create financial profit for the state through forest exploitation.<sup>33</sup> Likewise, in 1964 the Indonesian government decided that forestry was to become a sector of such importance that it needed to be governed by a department instead of a directorate under the minister for agriculture. The task of the new department was 'especially production'.<sup>34</sup>

Another main occupation of the Forest Service during Sukarno's rule was to re-appropriate the territory it had controlled before the war. The government wanted the people who had invaded the forests to leave them and used arguments from all three discourses to convince them. In addition, it labelled all the landless peasants who had invaded state forests 'wild occupants' (In. *penduduk liar*) and began to evict them.<sup>35</sup> The legal basis for this was first the 1948 Ordinance 'Onrechtmatige occupatie van gronden'<sup>36</sup> and from 1960 onwards Perpu 51/1960<sup>37</sup> which came into effect on 16 December 1960. This latter regulation enabled the head of a district (In. *bupati*), a mayor of a town (In. *walikota*), or the Minister of Agriculture to order the people who used or occupied the land without a license or certificate to leave the land and to enforce the order.<sup>38</sup> It thus enabled the state, without court order, to evict people without a certificate.<sup>39</sup> In the elucidation of the regulation the government acknowledged that there was a lack of land for housing and farming.

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31 Interview 26 January 2001.

32 Through governmental regulations PP 17-30/1961.

33 Departemen Kehutanan 1986, p. II-76 MPRS decree II/1960 categorised forestry as project B which was to finance projects from category A.

34 Ministerial Decree 1/1964. Departemen Kehutanan 1986, p. II-79.

35 Peluso 1992, p. 101.

36 Staatsblad 1948 No. 110.

37 This Perpu was entitled '*larangan pemakaian tanah tanpa izin yang berhak atau kuasanya yang sah*'.

38 Ex articles 4 and 5.

39 Elucidation Perpu 51/1960; cf. Peluso 1992, p. 116.

And although the government could 'understand' (In. *memahami*) the reaction of the people it could 'not approve of it' (In. *membenarkan*) and thus had to prohibit unlicensed land use. After all, 'unordered' (In. *tidak teratur*) land use would 'hamper' (In. *menghambat*) the implementation of development plans or 'often even make it impossible' (In. *bahkan seringkali sama sekali tidak memungkinkan lagi*), result in financial loss for state and people, and, especially within towns, be 'irresponsible' (In. *tidak dapat ditanggung-jawabkan*) in terms of safety and health. In fact, the Basic Agrarian Law of 1960 went even further by regulating that rights on land ceased to exist when land was being neglected (In. *terlantar, diperlantarkan*).<sup>40</sup>

To clear this job, the government formed a special committee in each province that was assigned with the task of re-appropriation. These were called 'committees for the development of forest and agricultural areas' (In. *Panitia Pembangunan Wilayah Hutan dan Pertanian*) and were headed by the governor of each province. Members were representatives of the military and of organisations active in the field of agriculture.<sup>41</sup>

Not surprisingly, the attempt of re-appropriation met a lot of resistance. According to the Forest Service even the committees just mentioned 'constantly thwarted [the Forest Service's, JA] interests'.<sup>42</sup> This can, according to Peluso, be explained by the fact that governmental institutions represented in them, such as the departments of Agriculture, Plantations and Home Affairs, could gain from the Forest Service's loss of a grip on land.<sup>43</sup> After all, their jurisdiction over land would increase whenever land was decided to be labelled as agricultural land instead of forest land.

However, outside the bureaucracy there was much more opposition, which in the beginning was primarily formed of peasants who were not willing or able to leave their new land. The land had become even more valuable to them since they had also begun to build all kinds of infrastructure on it, such as schools and mosques. This, in combination with their hope for a better future and more just times, and famine in 1963 and 1964,<sup>44</sup> made them defend it by all means. The peasants were supported by – notably – communist organisations,<sup>45</sup> such as the Indonesian Peasants' Front (In. *Barisan Tani Indonesia*, abbr. *BTI*) and the Indonesian Forestry Workers' Union (abbr. *SARBUKSI*).<sup>46</sup> As the PKI was the only party that – unsuccessfully – argued in favour of legal provisions protecting the rights of such squatters,<sup>47</sup> they turned

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40 Ex articles 27.a(3), 34.e and 40.e.

41 Departemen Kehutanan 1986, p. II-62.

42 Peluso 1992, p. 110.

43 Peluso 1992, p. 110.

44 Mortimer 1974, p. 300, Peluso 1992, p. 118.

45 Mortimer 1972, Mortimer 1974.

46 Peluso 1992, p. 101.

47 Mortimer 1972, p. 17.

into militant PKI supporters.<sup>48</sup> Their struggle against the authorities resulted in deforestation, violence, and casualties at both sides.

In the late 1950s the government tried to meet some of the peasants' demands by starting a land exchange programme: peasants who had claimed land prior to August 1957 were offered land outside the state's forest land in exchange.<sup>49</sup> According to Peluso, the Forest Service profited from this, too, since the exchange land had to come from other departments.<sup>50</sup>

However, the peasants did not content themselves with this programme, encouraged and supported in this attitude by the communist party and its organisations.<sup>51</sup> Especially on Java, during 1964 and 1965, the situation escalated into an 'agrarian war' in which not only the peasants who had invaded the forests but also various other groups of peasants occupied massive pieces of private and state land in so-called 'unilateral actions' (In. *aksi sepihak*).<sup>52</sup> These were then countered by landowners, right-wing village officials and their supporting political organisations.<sup>53</sup> This war ultimately led to an enormous bloodshed occurring after the alleged communist coup d'état and the counter-revolution starting on September 30, 1965.<sup>54</sup> This resulted in a new kind of 'haunted forests' where no one ever dared to go again<sup>55</sup> because of the blood of the uncounted people who had died there.

With the turbulent events of 1965 and 1966 any arguments in favour of land reform and social justice had definitely lost the battle against the revived natural scientific discourses. Thus, policy, law and government practice did not change fundamentally to reflect a new social justice discourse. On the contrary, the coalition of the proponents of social justice, with left-wing political parties such as the communist Party PKI, made it possible for all governments since to label such ideas altogether subversive.<sup>56</sup> The same events were to lead to the end of the Old Order of Indonesia's first President, Sukarno.

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48 Mortimer 1974, p. 150.

49 Peluso 1992, p. 117.

50 Peluso 1992, p. 117.

51 Peluso 1992, p. 117.

52 Kasdi 2001, Mortimer 1972, Mortimer 1974.

53 Peluso 1992, p. 117-120.

54 The counterstrike and the events following were called the 30 September movement (In. *Gerakan 30 September*, abbr. G30S) by the Soeharto government. For detailed analyses of this time see Crouch 1973, Mortimer 1972, Mortimer 1974, Wertheim 1966, Wertheim 1979.

55 Cf. Peluso 1992, p. 121.

56 Cf. Peluso 1992, p. 103.





In the following decade, the New Order government of President General Soeharto in fact continued what Sukarno's government had initiated in the early 1960s, i.e. large-scale exploitation of natural resources. However, contrary to Sukarno, Soeharto succeeded in creating a dominant and rather specific discourse in support of the state that was to take the lead in this exploitation. The discourse defined 'development' (In. *pembangunan*) as the main state objective. To start with, it contained several elements of the international development discourse officially launched by President Truman in 1949 but built on much older ideas<sup>1</sup> which we have already seen in the colonial thinking about progress: first, an evolutionary thinking, which explains its close affinity with notions of growth;<sup>2</sup> second, the promotion of a desire for modernity, wealth and value;<sup>3</sup> and third, a notion of 'normality' which implied that everything not considered to be normal needed to be normalised.<sup>4</sup> Then, the Indonesian *pembangunan* concept was formed by the early nationalist pioneers such as Sutan Takdir Alisjahbana who in the 1930s in his Cultural Polemics made optimal use of the two meanings inherent in the Indonesian word root *bangun-*: wake up and build (In. *membangun*).<sup>5</sup> He therefore used the word *pembangunan* to refer to both 'national awakening' and 'nation-building'.<sup>6</sup> Although from the early 1960s onwards the term was increasingly associated with economic modernisation, in its essence it has always been interpreted as 'building' something new as opposed to something 'traditional'<sup>7</sup> and that has existed in nature so far. It meant man-made, similar to the civilisation of the subjugate-and-rule discourse and the forests of the rational forestry discourse. Except that what was being made or built did not so much improve nature – although we find this, too, for instance in the form of plantations and public parks – but infrastructure: skyscrapers, highways, bridges, factories

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1 For an excellent history of the idea of economic development see Arndt 1987.

2 Watts 1995, p. 47.

3 According to Watts, to allow such desires was promoted successfully by Adam Smith at the end of the 18<sup>th</sup> century. Before that, desire was perceived as the 'origin of misery and vice' (Watts 1995, p. 48-49).

4 Watts 1995, p. 48.

5 Heryanto 1988, p. 10.

6 Heryanto 1995, p. 12-17.

7 Heryanto 1988, p. 22.

etc. Nature only served as the 'raw material',<sup>8</sup> i.e. either as construction material or as a source of money, to achieve something better.

The three key terms of *pembangunan* became economic growth (In. *pertumbuhan ekonomi*), stability (In. *stabilitas*) and equal access to, among other things, income, education, health care, employment, participation and law (In. *pemerataan*).<sup>9</sup> These key terms, also known as the 'development trilogy' (In. *trilogi pembangunan*), were interrelated. However, what linked them above all was that they formed part of an argument in favour of a leading role for the state. Contrary to the intransitive and natural process of development (In. *perkembangan*, literally meaning 'flowering'), what Arndt has referred to as the Marxist understanding of the English word development, *pembangunan* and its key elements were transitive and in a way un-natural, man-made processes that required a strong actor with craftsmanship and engineering abilities.<sup>10</sup> For instance, turning Indonesia into a 'modern' and 'prosperous' state, the government explained, presumed stability. To achieve this stability the state had to free politics and media coverage from ideological conflict that in the stories of supporters of the new regime was responsible for the economic malaise in the 1960s.<sup>11</sup> Only when stability (mainly interpreted as security and order) was achieved, they argued, could all citizens focus on development.<sup>12</sup> To achieve economic growth, the state had to have a rational, planned, efficient, effective policy and to ensure that foreign investment flowed into the country.<sup>13</sup> This was different from the approach taken by the Sukarno government in two respects: first, in that technocrats rather than politicians were to take a lead and second, in that Sukarno had welcomed foreign investment but also very much stressed the importance of Indonesia's ability to 'stand on its own feet' (In. *berdiri di kaki sendiri*).<sup>14</sup> Finally, in distributing equal access to the fruits of development, the state had to play a leading role (though it didn't publicly acknowledge this until its third five-year plan (1979-1984)).<sup>15</sup> Before this, the state said to focus on economic growth and stability or else there would be nothing to distribute at all.<sup>16</sup>

*Pembangunan* soon came to dominate the Indonesian public discourse. There were many translations from English expressions, including development plan (In. *rencana pembangunan*) and development administration (In. *administrasi*

8 Heryanto 1988, p. 22.

9 For an analysis of the forty most important keywords of the New Order see Van Langenberg 1986. For a critique of *pemerataan* see Schulte Nordholt 1979.

10 Heryanto 1995, p. 22-24.

11 Mas'oe'd 1989, p. 4. For an analysis of how this worked in the case of the parliamentary debates on the biodiversity conservation bill see chapter 18.

12 See, for instance, Ali Murtopo as cited in Mas'oe'd 1989, p. 11.

13 Cf. Mas'oe'd 1989, p. 9-10.

14 Laras 1998, p. 8-9.

15 Schulte Nordholt 1979.

16 Mas'oe'd 1989, p. 9-10 citing Schiller.

*pembangunan*). However, there were also more 'authentic' expressions such as *Orde Pembangunan* (another name for the *Orde Baru* or New Order, thus contrasting the regime to the Old Order of Sukarno), *Bapak Pembangunan* (a honorary title for President Soeharto as the 'Father' of development), and *Kabinet Pembangunan* (development cabinet). As Heryanto has argued, by producing and reproducing such expressions the government took full responsibility for the process of developing the country. In return, Soeharto demanded obedience as his title *Bapak Pembangunan* indicates: a father, as family, is by nature to be respected and loved by his children and only accountable to those above him in the hierarchy.<sup>17</sup> By stressing this family aspect Soeharto combined the modernist *pembangunan* with the much older patrimonial concept of rule discussed in chapter 8.

The element of 'stability' was first of all institutionalised in a decree in favour of a change of political culture. Already in 1965 the provisional people's congress under Soeharto's leadership had decided that conflict was to be replaced by 'deliberations aiming for consensus' (In. *musyawarah untuk mufakat*).<sup>18</sup> This was followed by all kinds of limitations of the space for political parties. Within the legislature, this space was limited from July 1967 onwards by a deal between Soeharto and the party leaders regarding, among other things, enlarging the legislature from 347 to 460 MPs and granting the government the right to appoint 75 military and 25 civilian MPs and one third of the People's Congress.<sup>19</sup> This deal together with the establishment of a pro-government group in Parliament, the *Fraksi Karya Pembangunan*, and the removal of independent members of parliament through the so-called 'recall mechanism' and other measures, made Parliament responsive to the government's desires.<sup>20</sup> Other strategies to institutionalise political stability included the cooptation of SEKBER GOLKAR,<sup>21</sup> the 1964 army-initiated secretariat of functional groups, the merger of political parties and the provision that political parties were only allowed to campaign in rural areas during election campaigns.<sup>22</sup>

To create 'stability' not only the legislature but also the bureaucracy and the armed forces were reorganised. Policymaking was centralised and pro-government military officers and civilian technocrats were installed in leading positions of central government agencies, as provincial governors and district heads.<sup>23</sup> The various factions of the armed forces were brought under the

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17 This paragraph is based on Heryanto 1995, p. 24-26.

18 MPRS Decree VIII of 1965. What this meant in practice in the case of deliberations on the biodiversity conservation bill of 1990 will be explored in part III of this book.

19 Mas'od 1989, p. 15.

20 Mas'od 1989, p. 14-16.

21 This is an acronym of 'joint secretariat of functional groups' (In. *sekretariat bersama golongan karya*). Examples of such functional groups were women, youth, bureaucrats, and workers.

22 Mas'od 1989, p. 16-18.

23 Mas'od 1989, p. 12.

order of Soeharto as commander-in-chief and supporters of Sukarno were removed as much as possible.<sup>24</sup>

Although 'stability' affected all aspects of public life, it was *pembangunan's* element of 'economic growth' that most determined policy and rules regarding the treatment of nature.

### 13.1 POLICY

We can summarise the dominant policy of this first decade of the New Order period regarding nature as follows: Indonesia, as a country blessed with natural riches, should use these to finance the well-being of the Indonesian people.

In addition to this element of *pembangunan*, the three scientific discourses were more or less incorporated into the new discourse. Disaster prevention arguments, for example, were still used, to, among other things, justify the protection of mountainous forests and water catchment areas. Therefore, the government granted no concessions in areas above 500 metres.<sup>25</sup> Just like in colonial times it argued that protecting these forests was inevitable for the development – now called *pembangunan* – of agricultural production. Yet relative to the forest area reserved for industrial production, protection areas again played a minor role.

Along with this continued policy a new one began to emerge that was also linked to protection against disaster. Increasingly, the Forestry Department reproduced old stories about forest degradation, which narrated that 'illegal land occupation' (In. *serobotan* or *pendudukan secara liar*), 'illegal swidden cultivation' (In. *perladangan liar*), 'forest fires', 'cattle grazing', 'inappropriate harvesting of forest products' (In. *pemungutan hasil hutan dengan cara yang tidak sesuai*) and 'arbitrary forest exploitation' (In. *eksploitasi hutan yang semena-mena*) caused erosion, decreasing land fertility, floods, droughts, landslides, and other problems.

To tackle these problems the New Order government decided in 1966 to start with 'reforestation' (In. *reboisasi*) and 'rehabilitation' programmes. While rehabilitation applied to areas prone to floods and landslides, reforestation was the term for all replanting in forest areas. Concessionaires, for instance, had to invest in reforestation and the government and the state forestry company Perhutani invested in it, too. In addition, the first development project with this purpose, financed by the World Food Programme in 1971/2, took place in Central Java.<sup>26</sup> However, reforestation was certainly not the government's priority. As a consequence, the results of these efforts have been limited.

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24 Mas'ood 1989, p. 13-34.

25 Cribb 1988b, p. 345.

26 Departemen Kehutanan 1986, p. III-39.

According to Dauvergne, '[e]ven according to official figures, Indonesia only replanted 1,35 million hectares between 1969 and 1989'.<sup>27</sup> And yet this did not result in any sanctions for concessionaires.

The second instrument the government employed was 'greening' (In. *penghijauan*) in areas that were officially not forest. To this purpose the 'national greening week' was continued as a yearly campaign in December. The rural population did not welcome public servants whole-heartedly, however. This is no wonder considering the list of activities identified as problematic. Although 'greening', just as protection forests, was presented as being in the interest of the people, farmers suspected a hidden purpose behind the official rhetoric of the prevention of erosion and floods, one that becomes clear from a discussion in 1968 among bureaucrats.<sup>28</sup> In it, an effort was undertaken to define 'greening' for forestry, plantation, agriculture and cattle breeding sectors. For agriculture, the final text suggests that the problem concerns 'the greening of empty land outside forests and plantations, thus situated on people's land (In. *tanah-tanah milik rakyat*), generally dry paddies (In. *tanah-tanah tegalan*). On Java alone this category comprises no less than about 1,5 million [hectare] (about 50% of all dry paddies). These need actually (if possible) to be converted into protection forest (In. *hutan lindung*).<sup>29</sup> The last sentence in particular must have scared farmers. Many may have felt as if they were digging their own grave when supporting the government in this matter. Not surprisingly, therefore, 'the interpretation that greening is reforestation outside forest areas is not always accepted,' as a forestry official at a meeting of forestry graduates remarked.<sup>30</sup>

Finally, with regards to nature protection in this period, the policy and related practices of the Indonesian government were very limited. The Indonesian government did not share any of the frames behind the nature protection or 'conservation' discourse as it was increasingly called at the international level.<sup>31</sup> It did border some conservation areas, but 'due to insufficient funds'<sup>32</sup> that was about it. Furthermore, it 'politely' rejected any offers

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27 Dauvergne 1997, p. 81. That is not much, indeed, considering an annual cut of at least 1,5 million ha (Dauvergne 2001, p. 151).

28 Greening Field Discussion and Operation held in Solo from 9-13 September 1968.

29 Achlil 1969, p. 3. Hutan Lindung is defined in art. 3(1) of the Forestry Act of 1967 as 'a forest area set aside for water regulation, the prevention of floods and erosion and the protection of soil fertility'.

30 Achlil 1969, p. 4 emphasis added.

31 This term had been promoted by the nature protection movement as it was not as backward looking as 'preserve'. It was meant to transmit 'a more positive and constructive message' (Holdgate 1999, p. 17 citing Sheail). In the United States 'conservation' was initially linked to irrigation and meant 'to construct reservoirs to conserve spring flood waters for use later in the dry season' (Hays 1959, p. 5). As Hays notes, in its core the term has also been about the 'efficient' use of natural resources.

32 Departemen Kehutanan 1986, p.: III-68.

from the IUCN, to, for instance, protect rare species.<sup>33</sup> Such rejections were 'disguised either as bland encouragement or the forwarding of notes to other departments', as Boardman notes.<sup>34</sup>

### 13.2 LAW

In 1967 the Indonesian Parliament and the government agreed upon a new Forestry Act.<sup>35</sup> This act had two official purposes: First, to regulate the increasing economic activities in the forest areas, and second, to replace the old and diverse colonial regulations in this field.<sup>36</sup>

*Pembangunan* appears literally in the act in the category of 'production forest' (In. *hutan produksi*) which, according to art. 3 (2), must be used 'to fulfil the needs of the society in general and especially of *pembangunan*, industry and export.' It is also mentioned as the second interest forests are to serve according to art. 6 (b).<sup>37</sup>

Apart from this direct reference to *pembangunan* the act also paved the way for the development of tourism in natural environments. Actually, this idea was based on a 1964 policy that had aimed for 'using certain nature and wildlife reserves in the interest of the people (tourism).'<sup>38</sup> The 1967 Act introduced for the purpose of tourism development a new category of forests, i.e. recreation forest (In. *hutan wisata*). These were, together with the game reserves (In. *taman buru*),<sup>39</sup> the first instrument for the economic exploitation of natural beauty and resources by allowing certain recreational activities.<sup>40</sup> This act thus formed the beginning of a new trend, i.e. that institutes of the nature protection discourse were transformed into instruments for an increasing exploitation of Indonesia's flora and fauna for tourism.<sup>41</sup> Tourism, and thus also tourism in conservation areas, apparently had been discovered as a potential additional development strategy.

Next to *pembangunan*, both the protection against disaster discourse and the rational forestry discourse reappeared in the act. Eye-catching, and perhaps

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33 These were among the only approaches by IUCN since the organisation in that period mainly focused on Africa (Adams p. 21-2).

34 Cited in Adams p. 22.

35 Act No. 5 of 1967. Another important example of new legislation based on the idea of exploitation of nature in the interest of the Indonesian people is the Mining Act of 1967.

36 Departemen Kehutanan 1986, p. III 5-6.

37 The other interests mentioned are a. hydrology, protection against floods and erosion and of soil fertility; c. source of income for the people; d. nature protection for science, culture, defense, recreation and tourism; e. transmigration, agriculture, plantations and livestock; and f. other purposes to the general benefit.

38 Departemen Kehutanan 1986, p. II-103.

39 Not included in the Forestry Act but nevertheless an existing category.

40 Departemen Kehutanan 1986, p. III-18.

41 Departemen Kehutanan 1986, p. III-41.

due to the influence of Dutch trained foresters, forest protection is in a consequent way placed before production throughout the act. In the preamble the act states that forests 'must be protected and made use of' (In. *harus dilindungi dan dimanfaatkan*). Art. 3 mentions as the first of four forest categories 'protection forests' (In. *hutan lindung*). Likewise, art. 6 mentions as the first interest that forests need to serve hydrology and protection against floods and erosion and of soil fertility.

The words 'continuously' (In. *secara lestari*) in art. 6 and 'principle of continuity' (In. *azas kelestarian*) in art. 13 (2) are a reproduction of the rational forestry discourse as they stress that forest exploitation must be undertaken in a sustainable way.

Even the nature protection discourse was reproduced in the act as the existing category 'reserves' (In. *hutan suaka alam*) was maintained (although apart from that nature protection was no major issue in the act). Maybe these elements of the act were due to the fact that in the 1960s especially the often foreign-trained elite began to perceive the deforestation on Java and the resulting extinction of the Java Tiger as a problem.<sup>42</sup> They were to be reserved for science and culture but also as an object of 'national pride' (In. *kebanggaan nasional*).<sup>43</sup> This formulation also made them part of the nation-building project which changed the nature protection discourse from something associated with colonialism, Euro-centrism and a movement which was opposed to industrial development and modernity into something acceptable for the government.<sup>44</sup>

The government's factual rejection of the nature protection discourse was typical for developing countries.<sup>45</sup> It started to vanish only in the early 1970s

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42 Cribb 2003, p. 37-38.

43 Ex art. 3 (3) a and b.

44 Indeed, the conservation movement, including the international organisation for nature conservation, IUCN, had always been led by mainly Europeans and Americans and increasingly attracted various groups in Northern countries who in the 1960s started to question not only the dominant power structures but in fact the industrial way of life (cf. Hajer & Fischer 1999 and Harré et al. 1999) and to search for a possible alternative. These included groups as diverse as anarchists, communists, feminists, post-materialists, and eco-centrists. Some of them were mainly politically driven whilst others focused on the in their opinion disturbed relationship between humans and nature. The radical utopias of social anarchists, anarcho communists and utopian socialists were among others based on the ideas of Murray Bookchin, Friberg and Hettne. Their ideas oppose capitalism and control by states, claiming that neither injustice nor environmental problems can be solved without political change. Another school of thought, including deep ecology and ecosophy, is reflected in the work of, for instance, Devall, Sessions and Naess. Partly it takes an interest in indigenous peoples and their relation towards nature, and partly it challenges the anthropocentrism of all mainstream thinking (Adams 1995, p. 93-95). For another good introduction into a variety of these utopias see (De Geus 1998). For a detailed description of the history of IUCN and its activities in the various parts of the world see (Holdgate 1999).

45 Adams 1995, p. 22.

when the nature protection/conservation discourse shifted towards 'sustainable development'. By then, conservation lobbyists increasingly tried to sell their ideas with utilitarian justifications<sup>46</sup> and developmentalist arguments. This turned out to be an important step in gaining the support of governments and NGOs in developing countries, as we will see in the next chapter.

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46 Cf. chapter 9 of Jepson 2002; Holdgate 1999, p. 108.



The sustainable development discourse began to emerge in the early 1970s. Where the international conservation discourse in its beginnings had been propagated by nature protectors and later been transformed first by left-wing activists in the Western countries and then by Western governments, sustainable development was introduced by scientists of various disciplines searching for solutions to environmental problems. Its core concept was introduced at the United Nations Conference on the Human Environment in Stockholm in 1972.<sup>1</sup> Subsequently many others, including the Brundtland Commission and international governmental and non-governmental organisations such as UNEP and IUCN, adopted it.<sup>2</sup>

The concept of sustainable development was born out of a rather unexpected marriage between arguments in favour of development, environmental protection and human rights protection. Such a marriage had seemed impossible for a long time because especially the movement promoting nature conservation presented itself and was perceived as opposed to any developmental or even human activities in nature reserves.

What helped bring these three strands together was in the first place that the story of the earth being in crisis gained dominance.<sup>3</sup> Problems were increasingly being defined as global<sup>4</sup> and as requiring a global solution. Deforestation, for instance, was said to form a great danger for the entire earth. It threatened the survival of many species – since the late 1980s increasingly termed ‘biodiversity’<sup>5</sup> which carries in it the potential of future medicines –

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1 The Stockholm Conference ‘drew institutionally and conceptually on the international scientific collaboration in the International Biological Programme (established in 1964), the Scientific Committee on Problems of the Environment (SCOPE, established 1969) and the man and Biosphere Programme (MAB, established 1968).’ (Adams 1995, p. 92).

2 Adams 1990, p. 1-2.

3 Adams 1990, p. 6-7.

4 Escobar mentions the 1972 Club of Rome report as the first theory of global problems (Escobar 1995, p. 193). Sachs observed that the photographs of the world made it possible to view the planet in terms of global management and that ever since a whole lot of planetary sciences have emerged (Sachs 1999, p. 36).

5 Google lists some 27 definitions for biodiversity. Among them are ‘the variety of life on our planet, measurable as the variety within species, between species, and the variety of ecosystems’ and ‘the genetic, species, and ecological richness of the organisms in a given area’. The turn to biodiversity indicates an increasing importance of medical arguments in favour of conservation.

and had an impact on the global climate. Sustainable development promised to be a global solution from which all stakeholders were to benefit. Therefore, what made the discourse attractive was its optimism.<sup>6</sup> Through the merger of what were long thought to be irreconcilable interests it suddenly seemed possible to solve every problem. Adger notes, for instance, that

'the rhetoric of UNCED was almost exclusively dominated, we would argue, by the belief that these so-called global environmental problems are in some way "solvable" through globally co-ordinated action.'<sup>7</sup>

In the second place, the great 'flexibility'<sup>8</sup> and thus unspecific concept of sustainable development enabled this remarkable discourse coalition. It appeared to be broad enough for proponents of development, environmental protection, and human rights protection and created the feeling of having found a way out of a dead-end debate to save the earth. This 'good news rhetoric',<sup>9</sup> together with the fact that it did 'not demand radical change of policy direction' and simultaneously allowed to 'make high-sounding statements with very little meaning at all', made it very attractive to governments.<sup>10</sup>

In the third place, the conciliatory nature of slogans<sup>11</sup> for it, including 'ecological modernization',<sup>12</sup> 'greening of industry' and 'partnership ethics',<sup>13</sup> created a common language, which at its surface had a high 'greenspeak'<sup>14</sup> content.

However, this is not to say that 'green arguments' or even 'green values' came to dominate the discourse. On the contrary, at its core stood development, as an analysis of the 1987 report of the Brundtland Commission shows:

'The report after all, focuses less on the negative consequences of economic growth on the environment than on the effects of environmental degradation on growth and potential for growth. It is growth (read: capitalist market expansion), and not the environment, that has to be sustained.'<sup>15</sup>

Yet, not all authors agree on this centrality of development. Adams, for instance, holds that the sustainable development discourse 'has deep roots in Northern environmentalism. It has embraced ideas about development rather

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6 Adger, et al. 2001, p. 702.

7 Adger et al. 2001, p. 682.

8 Adams 1990, p. 3.

9 Jamison 2001, p. 17.

10 Adams 1990, p. 3-4.

11 Jamison 2001, p. 17.

12 Hajer 1995, Hajer & Fischer 1999, p. 3.

13 Fischer & Hajer 1999.

14 Harré et al. 1999.

15 Escobar 1995, p. 195.

late and rather selectively'.<sup>16</sup> In my opinion, however, based on the Indonesian case, the emphasis on development was a prerequisite if the new discourse wanted to bridge the gap between developmentalists and environmentalists, and also between industrialised and developing countries.

The third strand that sustainable development tried to integrate was the 'social aspect' of development, which was an attempt to accommodate human rights protection arguments. In the context of conservation this new focus resulted in the emergence of human rights arguments from the late 1970s onwards,<sup>17</sup> i.e. that policy also needed to take the fate of people living close to or even within reserved areas into account. This was new indeed, since prior to this time policies had either denied or ignored the existence of these people and in any case criminalised their activities in reserved areas. For conservationists this new rhetoric did not mean any change in the objectives or instruments but rather an additional field of attention. In most cases they interpreted it to mean that these people needed to be convinced to resettle in another area rather than that they were entitled to a livelihood, development or self-determination within a conservation area.

Supported by the wave of democratisation and participation in the 1990s the social element received a new impetus which culminated in the concept of 'co-management': the people living close to or in conservation areas were increasingly perceived as the key to success. If they were not attributed an acceptable role, the argument ran, the conservation project would definitely fail. As we will see in part IV the precise meaning of co-management, and especially the question of who should be authorised to participate in co-management schemes, remained contested in practice. The more romantic conservationists together with certain human rights activists speaking on behalf of indigenous peoples, increasingly focused their attention on the rights traditional and indigenous peoples should have in relation to nature – reserves or resources-, rather than the more inclusive term of local communities. This has changed slightly only from the year 2000 onwards. It resulted in a 'Theme on Local Communities, Equity, and Protected Areas' (abbr. TLCEPA) formulated by the World Commission on Protected Areas (abbr. WCPA) and the Commission on Environmental, Economic, and Social Policy (abbr. CEESP).<sup>18</sup>

Of even greater importance, the discourse once again embraced *management* as its core-solution. Certainly, this was not new: science had already defined it in colonial times as the only solution to problems of overexploitation and

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16 Adams 1995, p. 88.

17 Already in 1974 the UNEP/UNCTAD Cocoyok Declaration called 'any interference in the ability of people to secure basic needs [...] a travesty' (Fortwangler 2003, p. 27). See Fortwangler also for more details about the further developments of this element gaining influence in the discourse.

18 The latter strives for recognising the 'rights of local communities in the development and implementation of conservation policies and strategies that affect the land, waters and other natural and cultural resources that they relate to' (Fortwangler 2003, p. 30).

nature destruction. However, some of the more politically and spiritually motivated groups adhering to the nature conservation discourse had attempted to formulate an alternative that envisaged, among other things, 'traditional people' and their knowledge as the more appropriate point of departure for what they considered the right treatment of nature. The sustainable development discourse, in its turn, did not leave any space for doubts about their failure.

The managerialism had one important effect: it depoliticised highly political issues. Porter summarises this point as follows:

'First is the appeal to common, undifferentiated interests, nowadays globalized as Our Common Future and under the organic metaphor of One World. This is contrasted with the corrupt, parochial interests displayed by governance and economic life today. A moral imperative is presented with which it appears unreasonable to disagree. The moral appeal in turn legitimates a technocratic response and the authority of a new kind of superintending manager in order to analyse the system and to direct the changes needed.'<sup>19</sup>

This left little space at the policy level for explicit dissenting opinions about what sustainable development should aim for. In addition, many projects due to their avoidance of politics by definition have been failing to effectively address issues of wealth and power.<sup>20</sup>

The second core-solution of the sustainable development discourse, however, definitely originated from the nature conservation discourse: awareness.<sup>21</sup> This, again, had great implications for the positioning of people. As 'awareness' or 'consciousness' is usually applied to issues related to the environment, natural resources or nature, especially scientists in favour of environmental protection of whatever form became very influential. They defined the problems and often also the solutions to these problems. Those who adopted their discourse also created a comfortable position for themselves, especially when transforming it in a way that someone else was being blamed. For instance, a government that accused swidden cultivators of destroying 'nature' or 'natural resources' and pledged to raise awareness would demonstrate that it was taking the problem of nature destruction seriously without positioning itself as being responsible. By contrast, whoever opted for contesting the discourse for whatever reasons was classified as 'irrational', 'unconscious'<sup>22</sup> or 'not yet aware'. The use of the different words is, by the way, very much determined by who is talking and what kind of values he is pursuing. Generally, 'not yet aware' is favoured in contexts of nature protection whereas 'irrational' is used more in contexts of resource management circles.

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19 Porter 1995, p. 81.

20 Cf. Adams 1995, p. 98-99.

21 Cf. Harré et al. 1999, p. 79.

22 Cf. Escobar 1995, p. 195.

Thus, in the former case, people who do not care for 'nature' are regarded as people who have 'not yet seen the light' and thus need to be 'enlightened' by missionaries or even saviours, which comes in its rhetoric very close to a religious movement. By contrast, in the latter case, people are characterised rather as something that comes close to 'stupid' or 'uncivilised' and positions them primarily as someone in need of a good teacher.

In sum, the positioning that results from this alleged lack of knowledge together with all the other advantages the marriage between development, environment and – although to a lesser extent – human rights created, increased the discourse's appeal and contributed to its dominant position.

## 14.1 POLICY

From the moment that development-arguments were also used in the context of conservation, the Indonesian government increasingly institutionalised the discourse. It even became one of the most eager signatories of international treaties and a frequent host of conferences in the field. The following sections therefore show an institutionalisation of what on first sight appears as a pure conservation discourse combined with elements of the sustainable development discourse. The latter enabled the government to embrace conservation projects as a new development strategy and by doing so to transform the conservation discourse to its own ends.

According to Emil Salim,<sup>23</sup> who in 1978 was to become Indonesia's first minister for the environment, the Stockholm Conference in 1972 was his – and the Indonesian government's – 'first exposure to environmental concerns'. At first he was suspicious, fearing for 'yet another conditionality' the rich countries tried to create to protect their own economies. 'However, Indira Gandhi, who chaired the Indian delegation, invited me and some others and she convinced me that environmental destruction also had its effects on poverty.' After reporting these new ideas to the cabinet and being appointed to chair a new committee focusing on the environment, Salim tried to learn as much as possible about the environment. When he turned to the Worldbank for help it turned out that people there were not yet interested in the matter: 'Only James Lee and he advised me to contact [the two NGOs, JA] Friends of the Earth and Environmental Defense for information'. In the end, Salim found the Canadian government ready to help.

In his later attempts to institutionalise sustainable development and especially its environmental elements, Salim was backed by President Soeharto: 'Personally he loves the environment. He always told me that he used to play in the forest and to wash buffaloes but that the rivers are dirty now.' Only

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23 The following paragraphs are based on the author's interview with Emil Salim on 11 July 2005 in Jakarta.

later, 'when his children had grown up did the problems start. Who was close to the President? His children were! We could no longer control the flow of information he was receiving.'

Despite the backing of Soeharto, Salim recalled that his work in the cabinet was difficult. The hardest thing for him was to convince other ministers of the importance of accounting for environmental costs. Within the cabinet he often stood alone:

'Every time I raised my hand the Minister of Industry would say "oh no, the price goes up again." The Minister of Mining would say "what does a protected forest provide for?" After all, conservation does not increase the revenues. I would react "but who is solving the problems of erosion, habitat loss etc.?" Likewise, the death rate of babies is not reflected in the price of polluting industries, but this kind of talking is for many Chinese! None of these arguments are rewarded by the market. The other ministers were all conventional economists. But I was fighting to get the price right and not to get the right price. If there is a market failure the government must intervene.'

Apparently, Salim's arguments did not convince the other ministers. The story dominating their thinking was one of 'we have too little money so we need to keep the price low in order to sell much' rather than 'our resources are scarce and vulnerable so we need to protect them'. This illustrates nicely how unspecific the sustainable development discourse is. In Indonesia, but certainly also elsewhere, it allowed for quite oppositional frames.

According to Salim there was also another explanation for the reluctance of his colleagues to embrace his arguments for environmental protection. Added to the fact that his colleagues were conventional economists, they were according to him also 'political animals'<sup>24</sup>:

'A term of a minister is only five years. So you look only for short-term results. Politicians want quick, tangible results. So does George Bush. Indonesia is not unique in this respect. Politicians want ribbon cutting! What is a healthy environment? It is not tangible! So, I don't blame my colleagues.'

In particular, his co-operation with the Forestry Department was difficult.

'Only with Djamaluddin<sup>25</sup> could I co-operate. Forest is money. It is God given. It is BIG money. Most people in the forestry sector become greedy. I kept pleading for selective cutting. It's like hair. Don't cut everything. Don't cut it bald. However, the Department of Forestry is struggling hard to open up all forests for production.'

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24 Cf. Snellen's four rationalities theory developed in the context of policymakers. Snellen differentiates a political, economic, scientific and legal rationality (Snellen 1987).

25 Djamaluddin Suryohadikusumo was Forestry Minister between 1993 and 1998.

In fact, these two quotes show that Salim explained the unwillingness of his colleagues to accept his specific frame of sustainable development in terms of not being able to resist the temptation of using and securing one's power. Although he did not often succeed in convincing his colleagues he still had not turned into a cynic. He was not frustrated but still called it a 'challenge' to fight for the environment: 'It gives you adrenaline, you become a fighter. Politics is fighting! If you don't fight, it is all bullshit.'

The strategy he chose was building alliances with countervailing forces including the press, educational institutions and Islamic groups.

'Islamic groups really understand. If you pray you need clean water so you need clean rivers etc. Indonesia is a religious country. So, for instance, in Bali where people love eating turtles Santris help to preach to people to conserve turtles.'

However, the strategy did not help everywhere. In the Forestry sector, for instance,

'forestry associations were among my biggest enemies. They were all co-opted by the government. Foresters depend on the government for jobs so they kept quiet about the ongoing exploitation. They were supporting the destroyers more than the protectors of the forests so sometimes I was really lonely [in my struggle].'

Apparently, those in favour of exploitation had chosen the same strategy as Salim. But he was not as convincing since given that he could only offer them arguments and not jobs.

That sustainable development was increasingly included in Indonesian policies and that Indonesia in the 1980s even embarked on conservation projects does not mean that Salim succeeded in convincing other Indonesian policymakers of the importance of environmental issues. Jepson's research has shown that acceptance of such projects was based on strategy rather than on the internalisation of arguments.<sup>26</sup> One consultant remembered that the government 'had shown some interest [in national parks, JA]. I think they said "we should do something about national parks *because everyone else is* [emphasis added]."' This quote reflects a desire to keep up with others, especially with developed nations. This was also one of the key arguments that convinced then president Soeharto: '[A] long-term technical advisor recalled that the simple argument that national parks were part of the structure of a developed nation state was the one used with Soeharto and "he believed it".' Another argument that convinced the Indonesian elite was that 'they could make money from national parks through tourism.' In other words, as argued above, they presented conservation as an additional development strategy. A final motivation was that the Forestry Department wanted to look good while continuing

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26 The following paragraph is based on the findings by Jepson (Jepson 2002 chapter 9).

to exploit the forests. In the words of a staff member 'they needed some PAs [protected areas] so they could log the rest without being blamed.' This was probably also the reason why there was a permanent struggle about which areas should become the object of the project. In its second phase the UNDP/FAO project also included the preparation of a National Conservation Plan, which IUCN lobbied for in preparation of its bigger project of a World Conservation Strategy. Jepson cites a long-term technical advisor speaking about the motivations for accepting this as saying:

[Forestry] would go along with anything like this as long as somebody came up with the money. They were always keen on surveys and knowing what was going on [meaning what resources they had].'

Thus, also according to the findings of Jepson, Salim was one of the few who was convinced of one particular environmental argument, i.e. that environmental degradation increases poverty. For most of the other policymakers the values underlying the international conservationist discourse were 'definitely not' the main motivation for the Indonesian government to embark on a conservation project.<sup>27</sup> They apparently listened more to exploitation arguments and arguments of modernity and symbolism.

The wide range of arguments in favour of sustainable development, or in other words, the unspecificity of this discourse, is thus responsible for the impressive number of Indonesian policies after 1972 that refer to sustainable development. The 1973 Broad Guidelines of State Policy (abbr. GBHN) pleaded for the 'rational' (In. *rasional*) and 'wise' (In. *dengan kebijaksanaan yang menyeluruh*) use of natural resources and for 'taking the needs of coming generations into consideration' (In. *memperhitungkan kebutuhan generasi yang akan datang*).<sup>28</sup> From 1978 onwards, the notion of 'natural resources management' (In. *pengelolaan sumber daya alam*) started to replace the sole 'use' (In. *dimanfaatkan*) of resources.<sup>29</sup> With its introduction the Indonesian policymakers aimed to ensure that development can continue (In. *pembangunan yang berkesinambungan*).<sup>30</sup> This management should be 'suitable' (In. *sesuai* or *tepat*). Though such adjectives were not defined in the documents and therefore left a considerable freedom for the implementation. After the United Nations Conference on the Environment and Development in 1992 (UNCED), the documents increasingly contained references to sustainable development (In. *pembangunan secara or yang berkelanjutan*). To achieve this goal, paraphrased as the 'highest possible welfare for the people with attention for the maintenance of the function and

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27 Quote by an expatriate president of an Indonesian-based conservation foundation. One exception to this rule was Prijono Hardjosentono who in the late 1960s headed the conservation section (Jepson 2002, chapter 9).

28 Aziz 1994, p. 413.

29 For example, Aziz 1994, p. 302, 371.

30 Aziz 1994, p. 318.



balance of the natural environment', natural resources should be used in a 'planned, rational, optimal and responsible way'.

Likewise, conservation and terminology related to it has been taking a prominent place in Indonesia's policies since the late 1970s. Here, we can observe the following development: Repelita III (1978-1983) used most notably the notion of a continuance (In. *kelestarian*) of natural resources and the environment. Other important notions were 'care' (In. *pemeliharaan*) for replanted areas and 'prevention' (In. *pencegahan*) of new soil damage.<sup>31</sup> Repelita V (1988) introduced the term *konservasi*. Though it appeared in addition to the older terminology, the text did not define *konservasi*. Its use seemed to be quite arbitrary without a special meaning or intention, as the details will show. It first appeared in combination with soil,<sup>32</sup> in regards to the prevention of new damage mentioned above. In a following section *konservasi* was linked to the forest.<sup>33</sup> According to the text it needed to be 'increased' (In. *ditingkatkan*), which is to stress that Indonesia has been practicing it for a long time already.<sup>34</sup> The stated objectives for forest conservation were to protect ecosystems, to develop research, science, education and tourism.<sup>35</sup>

Not surprisingly, after UNCED in 1992 and the adoption of the biodiversity convention, Repelita VI (1993-1998) had a much larger section on forest conservation. It stated that there was a need for inventories and 'forest use arrangements' (In. *penatagunaan hutan*) to, among other things, conserve the benefit of the ecosystems. Both formed a precondition for, among other things, the establishment of protected areas. The plan stated furthermore that dry forests (In. *hutan tanah kering*), swamp forests (In. *hutan rawa*), hydrological forests (In. *hutan perairan*) and 'special natural characteristics' needed to be conserved to protect 'genetic material, biodiversity and ecosystems' (In. *plasma nutfah, keanekaragaman hayati dan ekosistem*) and to 'develop nature reserves for tourism' (In. *cagar alam wisata*).<sup>36</sup> This section is interesting, firstly, for its increase in objects for conservation, and secondly, for the addition of two new objectives. These, i.e. the protection of genetic material and biodiversity, show the influence of UNCED.

Turning to the question of which actors the policies blamed for nature destruction and overexploitation we encounter ambiguity. On the one hand, the Indonesian government adopted the (in itself new) element of the conservation discourse that pleaded for attention for people living in or close to areas with limited access. It hosted in October 1978 the 8<sup>th</sup> International Forestry

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31 Aziz 1994, p. 371.

32 Aziz 1994, p. 236.

33 Aziz 1994, p. 237.

34 This is a general characteristic of the macro policies. The texts often demand that an activity or approach should be 'increased' (In. *ditingkatkan*), 'perfectionated' (In. *disempurnakan*), 'further developed' (In. *terus dikembangkan*), or 'continued' (In. *terus dilanjutkan*).

35 Aziz 1994, p. 238.

36 Aziz 1994, p. 92.

Congress entitled 'Forest for the People'. Addressing the congress, vice president Adam Malik pleaded for developing a social, people-friendly forestry policy. It was, however, far from clear what was meant by this. The Congress only declared that the 'world's forests must be maintained, on a sustainable basis for the use and enjoyment of all people' and that 'a maximum amount of employment must be afforded in rural areas.'<sup>37</sup> These objectives had already been the focus of earlier Indonesian policies and remained the focus of later ones, albeit without achieving the results hoped for.<sup>38</sup> This has been partly due to the fact that the government tried to have people change from (semi-) nomads into permanent residents.<sup>39</sup>

On the other hand, the policies primarily related the destruction of nature to 'the people' (In. *masyarakat* or *rakyat*), especially those making a living with swidden cultivation. These were often seen as a source of trouble since their loyalty to the state objectives was doubtful. After all, they were not keen on leaving their lifestyle behind and adopting a mainstream lifestyle. This, one could interpret as not recognizing the state and its main objective of development. In addition, swidden cultivators were 'widely blamed for the creation of so-called "green deserts", large areas of *alang-alang* grass (*imperata cylindrica*), which can become the climax vegetation when tropical rainforest is cleared extensively and repeated fires prevent forest regrowth.'<sup>40</sup> The New Order government portrayed swidden cultivation as 'irrational' and 'old-fashioned' (In. *kuno*, literally 'ancient') as the subtitle to a photograph in a history of the Forestry Department states: '[...] this kind of ancient [In. *kuno*] agriculture is a waste of natural resources, which forms a problem for conservationists who try to tackle it'.<sup>41</sup> Despite its reference to 'conservationists', the reference to 'waste' shows that the New Order adopted the natural resources management rather than a romantic conservationist discourse. In addition, it shows that the government regarded swidden cultivators as people with practices of the past that were no longer acceptable in a modern Indonesia.

The impression that it was mainly swidden cultivators that were blamed for nature destruction is also given by the choice of instruments directed at actors. The first – and only – such instrument is found in Repelita I and states that 'swidden cultivation, which is unproductive, destroys natural resources and environment and hampers the socio-economic development of swidden cultivators themselves, needs to be controlled.' This control should take the

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37 Perhutani 1978, p. 3.

38 Safitri 2005, p. 2-3.

39 For more see Barber 1989.

40 Cribb 2003, p. 40-41.

41 Departemen Kehutanan 1986, p. III-47. Hays has shown convincingly that the main motive of conservationists in the United States of America was to rationalize the use of natural resources. Portraying swidden cultivation as a 'waste of resources' follows this very line of argumentation (Hays 1959).

form of 'resetelmen', training and supervision (In. *pembinaan*), and information (In. *penerangan dan penyuluhan*).<sup>42</sup> Also Repelita III (1978) mentioned the need to increase 'the people's awareness' (In. *kesadaran masyarakat*) of the importance of the continuity of natural resources and their 'feeling of responsibility' (In. *rasa tanggung jawab*) for conserving the forest.<sup>43</sup> This instrument was specified five years later by mentioning the need for control of swidden cultivation (In. *perladangan berpindah*) and for information programs (In. *penyuluhan*).<sup>44</sup> These two instruments remained the sole actor-oriented ones for the rest of the New Order Period. Interestingly, the documents remained vague about who 'the people' consist of aside from those swidden farmers. There was, for example, no reference whatsoever to entrepreneurs in the logging or mining businesses. Although Repelita IV (1983) for the first time generally acknowledged that mining can cause environmental damage, it did not express a need to address actors in this sector.<sup>45</sup> Obviously, the policymakers considered the protection of business to be more important than identifying and addressing all actors for their possible role in nature destruction and overexploitation.<sup>46</sup>

As the government kept blaming swidden farmers, it, not surprisingly, has always been reluctant to adopt the international discourse on indigenous peoples with its emphasis on safeguarding the rights of these communities. When the international community increasingly developed policies and guidelines for the treatment of indigenous – formerly called tribal – communities, Indonesia kept arguing that its population predominantly consisted of indigenous peoples.<sup>47</sup> The government preferred to refer to its tribal peoples as 'isolated' (In. *terasing*), which somehow 'lost touch with the main processes of social, religious, political and economic change' and which the government therefore, in its argument, needed to guide to the mainstream.<sup>48</sup>

As a consequence of this argument the Indonesian government also did not adopt the human rights element of the sustainable development discourse, or the claim of conservationists that traditional people are in many cases good – if not better – protectors of nature than the state. Rather, it opted for transforming the discourse in such a way that conservation appeared to be an additional development strategy. In this way, it did not acknowledge any directive role for local, traditional or indigenous communities.

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42 Departemen Kehutanan 1986, p. III-45-9.

43 Aziz 1994, p. 371.

44 Aziz 1994, p. 305.

45 Aziz 1994, p. 308.

46 The New Order government would never have admitted such a bias, however, as parliamentary debates on the Biodiversity Act in 1990 show (see chapter 18).

47 Persoon 1998, p. 281.

48 Persoon 1998, p. 289. Yet, although defining tribal peoples as 'deviations' from the mainstream (Persoon 1998, p. 295) bears a clear connotation of backwardness and primitiveness, the Indonesian government still preferred the euphemistic term '*terasing*' to other references which were more outspoken in this sense (Persoon 1998, p. 287).

So far, I have analysed the conservation related sections of the GBHN and Repelitas. In addition to these, there are four other important policy documents I want to mention here: the National Conservation Plan for Indonesia (abbr. NCP) of 1981, the Biodiversity Action Plan for Indonesia (abbr. BAP) of 1993, the Agenda 21- Indonesia (abbr. A21I) of 1997, and the Indonesian Biodiversity Strategy and Action Plan (abbr. IBSAP) of 2003.

The NCP was the first building block for Indonesia's system of national parks. It argued that conservation is needed to 'preserve as much as possible of the planet's genetic diversity for the enjoyment and benefit of mankind.' This formulation, especially the notion of 'enjoyment', pointed to the underlying conservation discourse. The notion of 'benefit', on the other hand, was a reproduction of more utilitarian arguments, i.e. arguments based on the conviction that the value of nature depends on its utility for mankind. This is even more evident in the case of the second conservation goal the NCP mentions, i.e. 'to keep open the widest range of man's future *development* options' (emphasis added). To achieve these two aims the NCP prescribed the development of national parks. National parks were very much compatible with the sustainable development discourse and attractive to the Indonesian government since they combined conservation with tourism. This combination already had a predecessor in the Indonesian recreation forests. Furthermore, national parks were accepted as a new instrument among nature protection officials at the Forestry Department since they hoped that this compromise with those in favour of development would produce better results than the strict reserves and wildlife reserves.<sup>49</sup>

However, it is also interesting to note that the Indonesian government's choice for this originally American instrument was very much a question of coincidence, of the Americans being in the right place at the right time: according to a former high-ranking forestry official the government could have just as easily chosen the European 'protected landscape' instead if the consultants involved in the preparation of the NCP had originated from Europe.<sup>50</sup> The most important differences between these two kinds of instruments, both recognised by IUCN as conservation areas,<sup>51</sup> is that a national park in principle

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49 Personal communication with official at Conservation Section, Forestry Department, Jakarta, 17 May 2001.

50 Personal communication with former director of nature protection at the Forestry Department, Lukito Daryadi, 9 May, 2001, Jakarta.

51 IUCN defines seven categories of protected areas: 'strict nature reserve/ wilderness protection area managed mainly for science or wilderness protection'; 'wilderness areas managed mainly for wilderness protection'; 'national parks mainly for ecosystem protection and recreation'; 'natural monuments mainly for conservation of specific natural features'; 'habitat/species management areas mainly for conservation through management intervention'; 'protected landscapes/seascapes mainly for landscape/seascape conservation or recreation'; and 'managed resource protected areas mainly for the sustainable use of natural resources' ([www.iucn.org/themes/wcpa/wpc2003/pdfs/outputs/pascal/pascalrev\\_info3.pdf](http://www.iucn.org/themes/wcpa/wpc2003/pdfs/outputs/pascal/pascalrev_info3.pdf)).

is considered uninhabited by humans whereas a protected landscape is a conservation area under cultivation. The higher population density in Europe is the major reason for the European preference for this sort of conservation area, so at least for densely populated areas this conservation instrument could have formed a good alternative to national parks.

Be that as it may, the NCP confirmed Indonesia's choice for national parks as the new major instrument for conservation. According to the NCP these were necessary because 'habitats outside reserves will largely be converted or destroyed' and since 'the survival of wild species outside reserves cannot be relied upon.' This, together with the notion of 'enjoyment', leads me to two of the underlying assumptions of the drafters of the NCP: first, that national parks can effectively protect what needs to be protected and second, that in principle all people will want to visit such areas for recreational purposes. The second assumption in particular also appears in the emphasis the NCP puts on 'adequate access' to national areas and in the recommendation to create at least one national park in each province.

The Biodiversity Action Plan was a follow-up to the Biodiversity Convention, which had been signed at UNCED in 1992 by 158 countries despite many unresolved issues which were hidden behind its ambiguous language.<sup>52</sup> It differs in at least five respects from the NCP. First, it was, according to its foreword, prepared not by the Forestry Department's consultants but 'as a national consensus' by the National Development Planning Agency (Bappenas), the Forestry Department, The National Institute of Science (LIPI), the Ministries of Agriculture, Environment, and Interior, provincial and local governments, universities, national professional organisations, the private sector, NGOs and international organisation.<sup>53</sup> Second, it was less optimistic about the effectiveness of conservation as it defined the goal of conservation as 'to slow the rate of biodiversity loss'.<sup>54</sup> Third, it was very explicit about 'sustainable development' due to the fact that it was drafted after UNCED. Fourth, it for the first time stressed that it was not wise to focus exclusively on protected areas, as

'well-protected and managed [...] represent only 8 percent of the nation's land surface' and that consequently '[p]rotection forests, selectively logged forests and other disturbed habitats will come to play an increasingly important role in conservation as primary forest areas continue to decline.'<sup>55</sup>

Still, it formulated the objective to 'establish an integrated protected area system covering all major terrestrial habitats and approximately 10 percent

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52 WRI/UNEP/UNDP 1994, p. 156-7 One such disagreement centred, for instance, around the issue of how much money the developed world should provide for conservation in developing countries and how these should account for those funds.

53 Bappenas 1993, p. i.

54 Bappenas 1993, p. 4.

55 Bappenas 1993, p. 37.

of Indonesia's land area<sup>56</sup> and the 'area of marine protected areas to 20 million hectares by the year 2000'.<sup>57</sup> This objective was, in part, a repetition of what the Indonesian government had already presented at an international forum in 1975 as its target for land conservation (see below).<sup>58</sup> Fifth, the BAP for the first time institutionalised the concepts of 'partnership' and 'co-management' that emerged internationally in the early 1990s in the conservation- and sustainable development discourse by recognising that

[a]pproximately 40 million people live in, or are dependent on, resources in the public forest estate. These people are the *de facto* forest managers and this must be recognized. This means recognizing their rights to land and resources and working with them to develop sustainable systems of forest management, land restoration and agrosilvicultural production for both local and national needs.<sup>59</sup>

This shift was due to the fact that the old approach of closing off protected areas and policing them began to be seen as a failure and no longer desirable or feasible.<sup>60</sup> The BAP therefore 're-examined' the government's potential role in biodiversity conservation and recognised its limitations.<sup>61</sup> This change in approach and a greater role for public participation appear in several of the recommendations and strategies. There is, for instance a whole paragraph on community participation<sup>62</sup>: a call for recognising a 'range of "peoples' rights"',<sup>63</sup> several references to the greater role NGOs and community institutions should play in conservation,<sup>64</sup> including that they should be involved in discussions and agreements about the boundaries of protected areas and that 'regional workshops [should be held] to discuss the National Biodiversity Action Plan and its implementation with provincial authorities, NGOs and local communities [which should result in] Provincial Biodiversity Action Plans incorporating national, provincial and local priorities'.

However, despite all these changes toward a more realistic and yet also a more 'people-oriented' rhetoric, the BAP still maintained the old emphasis on awareness and technical solutions such as funding and training for institutional strengthening. Consequently, the BAP reads on the one hand like a guide for investors, one designed to make new investments 'effective'.<sup>65</sup> On the other hand it reads like an attempt to provide a policy solution to different arguments about the failing implementation of conservation policy thus far.

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56 Bappenas 1993, p. 34.

57 Bappenas 1993, p. 40.

58 Jepson 2002 citing Hardjosentono.

59 Bappenas 1993, p. 43.

60 Wells & Brandon 1992.

61 McCarthy 2006, p. 222.

62 Bappenas 1993, p. 43-44.

63 Bappenas 1993, p. 48-49.

64 See, for instance, Bappenas 1993, p. 50,52,56.

65 Bappenas 1993, p. 6.

The Agenda 21- Indonesia was designed in 1997 by the Ministry for the Environment and the UNDP after consultation with NGOs, universities and government agencies. The main advantage of this advisory rather than legally binding document is that it is written in Indonesian, which at least in theory allows for better implementation than English documents. On the whole, the document covers many aspects of sustainable development. However, it is characterised, just as the other documents discussed above, by an extraordinary ambition that is far from realistic. The section on Biodiversity Conservation alone covers more than 40 pages, advocating five main programmes: effective protected areas, conservation in production areas, ex-situ conservation, traditional knowledge protection, and sustainable biodiversity management with just benefit sharing. As with most of the impressive documents in Indonesia, the Agenda 21 has played a limited role. Until 2001 only few sectors and cities had formulated an agenda for themselves.<sup>66</sup> According to a survey conducted in 2002 many stakeholders did not even know it existed.<sup>67</sup> One idea that has been implemented was to create Integrated Conservation and Development Projects (abbr. ICDPs) in ten selected Indonesian national parks. ICDPs are, as their name suggests, an attempt to bring the ideas underlying the sustainable development discourse into practice.

## 14.2 LAW

The sustainable development discourse also became institutionalised via legal regulations. In 1972, 1973 and 1980 the Minister for Agriculture issued four new decrees. Three of these decrees<sup>68</sup> added 36 wild animals to the list of protected species from 1931. The fourth decree<sup>69</sup> determined the criteria for felling specified types of trees.<sup>70</sup> In addition, Indonesia signed and ratified

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66 Among these sectors were mining, tourism, and forestry. Semarang, Bandung and Samarinda were the only cities with a local agenda 21 (personal communication with environmental scholar and former expert staff at the Ministry for the Environment Prof. Dr. Sudharto P. Hadi, 26 September 2008).

67 Bappenas 2003, p. 101 citing Ministry for the Environment.

68 SK Mentan No. 327/Kpts/Um/7/1972, SK Mentan No. 66/Kpts/Um/2/1973, and SK Mentan No. 421/Kpts/Um/8/1980. In 1974/5 another two types were added to this animal protection list Departemen Kehutanan 1986, p. III-65.

69 SK Mentan No. 54/Kpts/Um/2/1972.

70 Departemen Kehutanan 1986, p. III-42-43.

conservationist conventions, such as CITES<sup>71</sup> (in 1978), the World Heritage Convention<sup>72</sup> (in 1989), and the Convention on Biological Diversity (in 1994).

However, the most important institutionalisations of the conservation and sustainable development discourse were acts such as the Environmental Management Act (abbr. EMA) of 1982 (amended in 1997)<sup>73</sup> and the Biodiversity

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71 The Convention on International Trade in Endangered Species of Wild Fauna and Flora was signed at Washington, D.C., on 3 March 1973 and amended at Bonn, on 22 June 1979. It shows some elements of the sustainable development discourse but is with its main focus on fauna and flora protection in its essence conservationist. An extract of its considerations shows this: 'The Contracting States, *Recognizing* that wild fauna and flora in their many *beautiful* and varied forms are an irreplaceable part of the natural systems of the earth which must be protected for this and the generations to come; Conscious of the ever-growing value of wild fauna and flora from *aesthetic, scientific, cultural, recreational and economic* points of view; *Recognizing that peoples and States are and should be the best protectors of their own wild fauna and flora*; *Recognizing, in addition*, that international co-operation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade; [...]'. The Treaty aims at protecting rare species against exploitation through trade restrictions. All rare or nearly extinct species are categorized in one of the three appendices. Appendix 1 generally prohibits trade in animals threatened with extinction (though exceptions are possible). The trade in animals listed in appendix 2 should be controlled. Animals listed in appendix 3, finally, are protected in at least one country which has asked other parties to assist it in controlling the trade. Regularly, the signatories of the convention determine which species should be included in which appendix. Three of the most well-known Indonesian mammals, all of them are indexed in CITES appendix 1, are the Java Tiger, Orang Utan and the elephant. The relevance of this convention is shown by the following figures. Wiratno notes that in the 1970s there were a few Java tigers left, and in 2002 they were declared extinct. Of the Sumatran tiger no more than 400 animals are estimated to be left. Their skulls are sold for US\$ 1600 in Taiwan, their skin for \$3000 (Wiratno, et al. 2002, p. 45). Bakels argues, too, that in Indonesia the economic value is the major reason for killing tigers etc. on a large scale (Bakels, 2000, p. 6).

72 This Convention concerning the Protection of the World Cultural and Natural Heritage entered into force on 17 December 1975. It subsequently entered into force for each State three months after the date of deposit of that State's instrument. It 'provides for the protection of rare fauna and flora. Under the terms of this treaty, nature reserves which are officially listed can qualify for funding and technical assistance by UNESCO' (Pompe 1992, p. 131). It states that Natural properties should: i. be outstanding examples representing major stages of the earth's history, including the record of life, significant ongoing geological processes in the development of landforms, or significant geomorphic or physiographic features, or ii. be outstanding examples representing significant ongoing ecological and biological processes in the evolution and development of terrestrial, fresh water, coastal and marine ecosystems and communities of plants and animals, iii. contain superlative natural phenomena or areas of exceptional natural beauty and aesthetic importance, or iv. contain the most important and significant natural habitats for *in situ* conservation of biological diversity, including those containing threatened species of outstanding universal value from the point of view of science or conservation.

73 For details concerning the EMA see Hardjasoemantri 1999. For a discussion of the EMA see Bedner & Niessen 2003. For an account of public litigation and mediation under the EMA see Nicholson 2005.



Conservation Act (abbr. BCA) of 1990.<sup>74</sup> The BCA was the implementation of article 12 of the EMA, which was designed as an ‘umbrella’ under which a number of follow-up pieces of legislation needed to be drafted.<sup>75</sup> As the BCA was to form the legal basis for national parks, I will describe it in some detail in part II following my analysis of the parliamentary debates preceding its enactment. Here, suffice it to say that the act was, among other intentions, designed to form the legal basis for the – albeit limited – economic exploitation of certain protected areas and that it was apart from that a continuation of colonial regulations rather than something new.

### 14.3 OTHER INSTITUTIONS

Apart from these legal acts the sustainable development discourse was also reflected in the following institutions:

First, in 1971 a special section for Nature Conservation and Wildlife Management was created within the Forestry Directorate.<sup>76</sup> On this section’s initiative 30 conservation units (In. *Balai Konservasi Sumber Daya Alam*) were planned that became responsible for making inventories of the flora and fauna in the conservation areas, maintaining the borders around the areas, building and maintaining paths for patrols, and protecting the areas by means of patrols.<sup>77</sup> Their establishment was expected to take a long time. But by 1979, only 8 of them had been established.<sup>78</sup> In 2006 their number had quadrupled, varying in size and importance.

Second, in the aftermath of the Stockholm Conference, the Indonesian government formed a committee to design an environmental management plan. The then State Minister of Development Planning, Prof. Emil Salim, chaired this committee. In 1978, this committee was transformed into the State Ministry for the Monitoring of Development and Environment (In. *Kantor Menteri Negara Pengawasan Pembangunan dan Lingkungan Hidup*).<sup>79</sup>

Third, in 1974 Indonesia embarked on its first internationally funded conservation project.<sup>80</sup> This United Nations Development Programme/FAO’s Nature Conservation and Wildlife Management Project aimed in both its

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74 The full name of the act is *Undang-Undang Republik Indonesia Nomor 5 Tahun 1990 tentang Konservasi Sumber Daya Alam Hayati dan Ekosistemnya* meaning ‘Act on the Conservation of Living Resources and their Ecosystems’.

75 Cf. Niessen 2003, p. 67.

76 Cribb 1988a, p. 344.

77 Eight on Java and one in each province on the Outer Islands Departemen Kehutanan 1986, p. III-41-42.

78 These were situated in Medan, Tanjung Karang, Bogor, Malang, Banjar Baru, Palu, Kupang and Ambon Departemen Kehutanan 1986, p. III-68.

79 Arnscheidt 2003, p. 50, cf. Wiratno et al. 2002, p. 44.

80 Veevers-Carter 1978, p. 14.

phases (1974-78 and 1979-82) for expanding the country's network of conservation areas. It was funded partly by the Dutch branch of the World Wildlife Fund (WWF),<sup>81</sup> an organisation which had been established in 1961 to raise funds for conservation projects around the world and which also increasingly got involved in their implementation.<sup>82</sup> Triggered by this project the Indonesian government already in 1975 presented at an international forum a target of reserving ten percent of its land for conservation.<sup>83</sup> Another direct result was that in 1977, the area of strict nature reserves almost tripled from 770 615 to 2 624 626 ha.<sup>84</sup> Before that, Komodo Island was designated as a reserve in 1966.<sup>85</sup> Statistics report furthermore, that before 1973, 131 strict nature reserves (907 790 ha), 24 wildlife reserves (2 252 410 ha), 4 game reserves (134 550 ha) and 2 recreation parks (77 ha) were established.<sup>86</sup> However, from 1973 to 1974 the total area of strict nature reserves had been reduced from 825 790 ha to 699 440 ha arguing that many reserves, especially on Java, proved to be too small to effectively protect species from extinction.<sup>87</sup> Various other old reserves were maintained, at least on paper.

As a consequence of the incorporation of the aspect of recreation into the new economic discourse, nature and wildlife reserves were partly redefined as areas open to touristic activities:<sup>88</sup> during the period of the second Repelita (1973-1977), the Forestry Directorate opened 40 nature and wildlife reserves for tourism.<sup>89</sup> Then, in 1980 the Indonesian government declared the country's first five national parks: Gunung Leuser, Gunung Gede Pangrango, Ujung Kulon, Baluran and Komodo. Two years later, when Indonesia hosted the Third World Congress on National Parks and Conservation Areas, another eleven national parks were declared, including Pulau Seribu and Kutai.<sup>90</sup>

1982 was on the whole a year in which Indonesia protected large strands of forest area as '*hutan lindung*'<sup>91</sup> probably due to the fact that the NCP had been drafted a short while before and because of the above mentioned international congress.

Later, in the 1990s, Indonesia embarked, as proposed in Agenda 21, on a number of ICDPs, including in Gunung Leuser, Kerinci Seblat and Siberut that aimed to reconcile conservation with socio-economic interests of the local population in national parks. Critics have argued that these projects in many

81 Jepson 2002, p., chapter 9.

82 The international branch was founded in 1971 (Holdgate 1999, p. 79, Veevers-Carter 1978, p. 14).

83 Jepson 2002 citing Hardjosentono.

84 Departemen Kehutanan 1986, p. III-65.

85 Cribb 1988a, p. 344.

86 Departemen Kehutanan 1986, p. III-41.

87 Departemen Kehutanan 1986, p. III-68.

88 Departemen Kehutanan 1986, p. II-103.

89 Departemen Kehutanan 1986, p. III-65.

90 Wiratno, et al. 2004, p. 105.

91 Cf. Cribb 2003, p. 41.

cases failed to effectively conserve the areas and mainly succeeded in pursuing development for local communities without changing their attitude towards nature.<sup>92</sup>

The fourth major institutionalisation of the dominant sustainable development discourse was Indonesia's regular hosting of big environmental conferences, such as the third international congress on National Parks in Bali in 1982. The then Minister of Forestry Soedjarwo, used the congress to declare Indonesia's first national parks and to make public the rather arbitrary government's commitment to reserve ten percent of Indonesia's land surface.<sup>93</sup> According to Jepson, the congress presented a great opportunity for the government to 'promote a conservationist image to the world.'<sup>94</sup> This explains why the government 'never [seems] short of money for conferences', as Jepson quotes one of his expatriate informants.

Fifth, Indonesia started to celebrate 'environmental day' every year on June 5<sup>th</sup>,<sup>95</sup> on which it awarded the environmental award *Kalpataru*<sup>96</sup> to encourage environmentalism, 'chosen to show that traditional Indonesian culture shared with modern science an awareness that human prosperity depends on the natural environment.'<sup>97</sup>

Sixth, there have been efforts to revitalise so-called 'traditional' conservation measures including the Moluccan *Sasi*, which is being portrayed as a traditional taboo scheme to prevent overexploitation of natural resources.<sup>98</sup>

Seventh, in 1995 a trust fund called the Kehati foundation was opened for biodiversity conservation. This fund, chaired by Emil Salim after his retirement as minister, aimed to support local and national initiatives for biodiversity conservation.

Eighth, there have been efforts to institutionalise the concept of co-management, among others in Bunaken National Park, Lore Lindu National Park and Komodo National Park (see also part IV).

As this enumeration could go on and on, I conclude that the New Order government massively institutionalised the sustainable development discourse in its various facets. This is to say that in almost all its policies it reproduced the concept.

92 See, for instance, Wells 1999.

93 Cf. Jepson who provides a good insight into why it was ten percent. Statements included 'pragmatism' (the more territory the more income for the conservation section), 'they also have in mind they can change it when they want', 'high symbolic value with little cost', and 'completely arbitrary[,] it just sounded good'. Interestingly, according to Jepson this arbitrary percentage has consequently been adopted in the dominant international discourse on biodiversity conservation.

94 Jepson 2002, chapter 9.

95 Referring to the start of the Stockholm Conference in 1972.

96 This name is derived from the "'tree of wishes'" from Hindu-Javanese mythology, a bountiful source of good things for humankind' (Cribb 2003, p. 42 citing Aichele).

97 Cribb 2003, p. 42.

98 Kissya 1993; see also chapter 7.

#### 14.4 DISCOURSE REPRODUCTION, TRANSFORMATION AND REJECTION

After the New Order government started to accept and reproduce the sustainable development discourse or to transform it for its own purposes, much to its own surprise, the environment became a key subject for NGOs that were striving for political change in Indonesia or that were opposing the way the government effectuated development to criticise the government's performance.<sup>99</sup> In fact, the attractiveness of this discourse for the opposition should not have surprised the government considering that it had attracted all kinds of oppositional groups in other countries as well. The criticism of the Indonesian NGOs nevertheless had to focus on or be related to environmental issues. This explains the high acceptance of the discourse by NGOs and at the same time their preoccupation with human rights issues.<sup>100</sup>

Criticism was in the beginning mainly linked to pollution but increasingly also to conservation issues. Generally speaking there were critics that blamed the government for not being serious enough about sustainable natural resources management or conservation, and there were critics that blamed the government for being too serious. As much of the criticism focused on government practices, it will be dealt with in part IV. In addition, at the end of the next chapter I will mention a few examples.

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99 Cf. Cribb 2003, p. 43.

100 Kalland & Persoon 1998.

The fall of the Soeharto-regime in 1998 was caused by a severe economic crisis and took away all remaining political support for the regime. However, this change in regime did not reduce the dominance of the sustainable development discourse in Indonesia. But in the post-Soeharto era, stories that hitherto had to be told low profile surfaced and gained dominance in the public debate. One such story was about the corruption, collusion and nepotism (In. *korupsi, kolusi, nepotisme*, generally referred to as KKN) conducted by the New Order regime. Solutions were generally framed in a reformist and democratic rhetoric which certainly also influenced the conservation policies.

### 15.1 POLICY

Thus, in 1999 the state policy (GBHN) and development plan (now called *Program pembangunan nasional*, abbr. *Propenas*) pleaded for 'just treatment for the whole population' and equal rights regarding the use of natural resources,<sup>1</sup> which calls to mind the concept of '*pemerataan*' of the New Order discourse. However, contrary to '*pemerataan*', the public discourse, due to an increasing lobby of *adat* communities (see below), now specifically referred to the need to reconsider the rights of traditional communities. They were to be given a say in the management of natural resources. This change in approach resulted in the fact that swidden farmers or other actors were no longer singled out and named as the main or only target group for control or information programmes.

A second change came in the approach, namely that the plan identified poverty as one important cause for the destruction and overexploitation of natural resources, including the plundering of forests and conservation areas. Though earlier plans implicitly made the same point by stating that the direct benefit of the forest for the people living in and around them might help increase their 'feeling of responsibility',<sup>2</sup> this plan had become easier on the people by explaining their behaviour through causes outside themselves. However, this new approach changed nothing about the overall tendency to

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1 Government of Indonesia 1999, p. IV11, X1-12, MPR 1999, p. 65.

2 Aziz 1994, p. 304, 371.

blame 'the people' without further specification. Therefore the term could include all layers of the Indonesian society. Still, the policy documents create the impression that it is still primarily poor people living in and adjacent to the forests that are being held responsible for destruction and overexploitation.<sup>3</sup>

Many people in Indonesia interpreted the *Reformasi* rhetoric as a new possibility to legitimise their non-compliance with the existing legal regulations. They saw *Reformasi* as a well-deserved chance to better their economic situation after, as they would argue, the political elite had done so for the last 32 years. In press reports and government reactions, however, such people were portrayed – just as in the past by the colonial, Sukarno and Soeharto governments – as 'wild occupants' (In. *perambah liar*), 'wild loggers' (In. *penebang liar*), 'wild miners' (In. *penambang liar*) and 'wild inhabitants or occupants' (In. *pemukim liar*).<sup>4</sup>

In addition, organised crime continued and increased its illegal logging operations in national parks and other places. Obviously such criminals kept themselves far from the public debate so it is unclear what kind of arguments they would have used to justify their operations. In any case, their behaviour reflected that they thought that the forests existed for exploitation and economic profit rather than for any other purpose.

The fact that the respect for national park boundaries nearly vanished from 1999 onwards led to many cries for more and better enforcement of the existing rules.<sup>5</sup> This shift towards a renewed emphasis on law enforcement is also reflected in macro-policies. In 1999, the programme dealing with conservation areas attached to the development-plan aimed at increasing and continuing the life-sustaining function of the forests. This is to be achieved through no further specified development (In. *dibina dan dikembangkan*).<sup>6</sup> Of this, only the security aspect was dealt with in more detail. The programme urged to 'implement integrated forest security with the active participation of society and related agencies (In. *instansi terkait*), in co-ordination with the local security

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3 It is interesting to note that there has been, just as in the international discourse, little attention paid to the role of the consumers in other countries with their ever increasing demand for, among other products, tropical timber.

4 For instance, *Banjarmasin Post* 13 November 2000, 'Supremasi Hukum Lemah, Peti Marak.', *Banjarmasin Post* 9 November 2000, 'Lima Tahun Lagi Hutan Kalteng Habis.', *Kompas* 31 January 2001, 'TN Kutai Sulit Diselamatkan', *Kompas* 13 October 2000, 'Tragedi Kehancuran Hutan Kaltim'.

5 For an overview see Wilshusen, et al. 2002. For Indonesia see, for instance, *Newsgroup Pela* 4 December 2000, 'Deklarasi Senggigi', *Suara Pembaruan* 1 February 2001, 'Emil Salim: Jangan Gegabah Eksploitasi SDA; Kerusakan Taman Nasional Makin Memprihatinkan', *Pikiran Rakyat* 7 February 2001, 'Kondisi Terumbu Karang Hampir 50 Persen Rusak, Habitat Ekosistem Pesisir Makin Memprihatinkan', *Kompas* 19 June 2002, 'Pelestarian Orangutan Di Indonesia Terkendala Penegakan Hukum'.

6 Government of Indonesia 1999, p. 340-341.

apparatus'.<sup>7</sup> The policymakers have thus left the emphasis on establishing and developing protected areas. Instead, the programme stated that activities had to help to, among other things, 'protect conservation areas from destruction caused by unbridled exploitation of their natural resources'.<sup>8</sup> However, instead of providing some thoughts on how to achieve an 'active participation of the society' or 'co-ordination with the local security apparatus' the activities mentioned included the evaluation of policies for resource management, conservation and rehabilitation, and the introduction of negative incentives for resource exploitation in the form of tariffs. By doing so, the text again used a managerial approach: while indicating that securing the forests was perceived to be important and that the society, government agencies and the security apparatus should play some role in it, it failed to realize that implementing is not a technical matter alone but a highly political process.

Since the frequent reproduction of arguments in favour of law enforcement did not take away public criticism within and outside Indonesia another policy was revitalized: Social Forestry. At a conference in Bonn in 2003 the Secretary General of the Forestry Department, Wahjudi Wardono, described the essence of the policy as follows:

'Social Forestry is associated with empowering people who live below the poverty line. This is especially true in remote rural areas, such as in and surrounding forests. By giving local communities the opportunity to manage their forests in a sustainable manner, the government is helping them to reduce address [sic!] some of their most urgent social problems.'<sup>9</sup>

Social Forestry was thus about empowering poor rural people to manage 'their' forests in a sustainable way. With this policy, the government tried to integrate several objectives: poverty reduction, sustainable forest management and 'social justice'.<sup>10</sup> This was to be achieved by 'defining an incentive for the community to be involved', by paying attention to 'short-term income generation', by making the operational plan 'local' and 'site-specific'.<sup>11</sup> This policy integrated all key words that dominated the public debate at the time: poverty reduction, empowerment, social justice, sustainable forest management, and local. The blending of sustainable development was still a very effective and for the government extremely useful concept. By shifting the attention towards social justice it could present it as new, and more responsive to the desires and needs of the people than former policies.

Another important conservation policy document of the *Reformasi* period is the Indonesian Biodiversity Strategic and Action Plan (IBSAP) that the

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7 Government of Indonesia 1999, p. 341.

8 Government of Indonesia 1999, p. X-6.

9 Ministry of Forestry 2003, p. 4.

10 Rusli 2003, p. 2.

11 Rusli 2003, p. 2.

Indonesian government finalized in 2003 as an update of the Biodiversity Action Plan. It was, again, an impressive document. In response to the 1993 BAP, which was still seen as 'highly exclusive' and 'top-down',<sup>12</sup> this time the process had been more participative: it included a first national workshop; the distribution of about 200 questionnaires about respondents' knowledge of biodiversity, the 1993 BAP, and their 'opinion on how IBSAP should be formulated, what should be the contents, whether it would need a legal status, and whether they would subsequently use IBSAP documents as a reference';<sup>13</sup> six regional workshops; the preparation of technical reports through consultants; focus group discussions, the preparation of a draft document and a second national workshop.

Apart from being criticised for its exclusiveness the BAP had also been rejected as being donor-driven, so this time the IBSAP was not written in English but in Indonesian and only afterwards partly translated into English.

If one reads IBSAP carefully, it tried to effectuate a revitalization of the concept of sustainable development. The importance of this concept, according to the analysis in IBSAP, had been 'disregarded' and made way for pure exploitation without paying attention to sustainability. Therefore, IBSAP identified as a 'structural problem' in the management of biodiversity in Indonesia

'the development paradigm adopted by the government in the 1970-1990s era, which had not accommodated the importance of sustainable development of biodiversity. The government viewed biodiversity as valuable resources to be liquidated in order to earn foreign exchange, accelerate economic growth and diversify the economic base (Dauvergne in Sunderlin and Resosudarmo 1997). In other words, biodiversity utilization was based on the principle of total exploitation, quick exploitation and sale of raw materials. Therefore, the rate of biodiversity degradation and extinction has been increasing as the economy grows.'<sup>14</sup>

This emphasis on exploitation for economic growth was also made responsible for what among critics of the New Order had come to be known as 'ego-sectoralism':

'The economic growth orientation has hampered a more integrated planning because each sector has to compete to earn foreign exchange fast. In practice, each sector will disregard policies or regulations of other sectors that may hamper them to achieve their economic growth target. This made inter-sectoral co-ordination in resource management a difficult process (MoE 2002).'<sup>15</sup>

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12 Bappenas 2003, p. 2.

13 Bappenas 2003, p. 3-4.

14 Bappenas 2003, p. 64.

15 Bappenas 2003, p. 64.



Seeing sectoralism as a problem directly pointed towards the well-known solutions of integration and co-ordination, which, however, appeared difficult to realize.<sup>16</sup> Therefore IBSAP also proposed a new concept as a major strategy: 'mainstreaming'. This it defined as taking biodiversity – and thus in this case not the 'environment' as in the jargon of the 1970s – into account in 'all decisions relating to development'<sup>17</sup> and as

'developing a national policy and legal framework that also incorporates the provisions in relevant international conventions [...] followed by and incorporated in the operational procedures by all levels of regional government in the form of regional regulation and technical guidelines [...].'<sup>18</sup>

To do so, several new institutions were being proposed, including a national council on sustainable development (In. *dewan nasional pembangunan yang berkelanjutan*), which had been proposed at an international level at UNCED in 1992. Such a council has also been advocated by a prominent Indonesian environmental lawyer and activist, Mas Achmad Santosa. In his words, such a council was badly needed since 'there was a misperception of sustainable development which had been interpreted as only referring to environmental problems'.<sup>19</sup>

The IBSAP is also interesting for its attention to other implementation matters. There is, for instance, the new issue of making the policy document legally binding. In his foreword, the Deputy of Natural Resources and Environment of the Ministry for the Environment, Dedi M. Masykur Riyadi, made an interesting remark that suggests how the bureaucracy and other actors value policy documents:

'To have a legitimate and effective implementation of IBSAP, it is possible to make this document legally binding in the form of law (*Undang-Undang*) or other types of legal documents.'<sup>20</sup>

The official in Samarinda quoted in the introduction would have put it like this: it is a nice document that has cost a lot of effort and energy. Now it is finished. But it is nothing more than a policy document that will be stored on a pile or on a book shelf. And yet, although many people in Indonesia share

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16 See Bedner & Niessen 2003 on the issue of harmonization, co-ordination and integration in Indonesian environmental and sectoral law.

17 Bappenas 2003, p. 103.

18 Bappenas 2003, p. 83-84.

19 *Media Indonesia Online* 7 October 2004, 'Perlu Ada Menko Pembangunan Berkelanjutan Dalam Pemerintahan SBY dan JK'. Until now this council has not been formed due to the resistance of especially the Mining and Forestry Departments. They feared that it would make KLH more powerful and that it would reduce the importance of the whole cabinet (personal communication, Sudharto P. Hadi, 26 September 2008).

20 Bappenas 2003, p. iv; see also chapter 4.

these ambivalent feelings about the importance of policy documents, I do not think that all of them would draw the same conclusion, i.e. that making it legally binding would make people take it more seriously. After all, this conclusion reflects a kind of trust in the strength of legally binding documents that I did not encounter among people involved in the implementation (see part IV).

Other strategies for implementation mentioned were capacity building through 'dissemination of various laws and regulations, concepts and methods, knowledge and technology as well as information on the sustainable management, rehabilitation and conservation of biodiversity'; decentralisation through providing 'space to formulate and implement local biodiversity action plans'; participation and movement, i.e. 'create a movement for national biodiversity management' by among others prioritizing the involvement of communities, 'learning' and 'genuine implementation'; co-ordination and implementation, i.e. every government agency 'needs to take follow up measures by formulating or revising (if already in existence) their respective strategic plans and budget allocation'; and monitoring and evaluation through Bappenas, sectoral government agencies, communities and the private sector.<sup>21</sup>

In sum, the policies influenced by the *Reformasi* discourse were mainly characterised by keywords belonging to the human rights frame of sustainable development. IBSAP is special for its attention to matters of implementation.

## 15.2 LAW

The *Reformasi* discourse was also institutionalised in law. Preparations for a new Forestry Act had begun in 1989 when President Soeharto had asked his new Minister of Forestry to 'improve' the 1967 Act. Silva et al. speculate that international criticism formed the catalyst for this request.<sup>22</sup> The same authors describe how the first ten years of internal discussions led to a draft of merely 'cosmetic' changes but that even 'many senior MOF officials' kept this bill from being sent to Parliament since – in line with the Peluso and Vandergeest argument – they feared that other ministries would claim jurisdiction over denuded forestry land.<sup>23</sup> When in 1998 a major economic and political crisis forced President Soeharto to step down, the World Bank, with its conditions for loans, gained influence.<sup>24</sup> The reform bill of 1998 'incorporated the World Bank's market-oriented policy recommendations and promoted community forestry'.<sup>25</sup> However, before handing the bill to the DPR, controversies arose

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21 Bappenas 2003, p. 83-85.

22 Silva, et al. 2002, p. 79.

23 Silva et al. 2002, p. 79-80.

24 Silva et al. p. 81.

25 Silva et al. 2002, p. 81.

about the government's commitment to community forestry and about a counter bill produced by the Forestry Department's bureaucrats. The compromise that was reached in 1999<sup>26</sup> 'slanted' towards the Ministry's interests by giving them significant say about the concession size.<sup>27</sup>

What is new in the act in terms of conservation is that it uses 'conservation forest' (In. *hutan konservasi*)<sup>28</sup> as a new supra category for the old 'reserve forest' (In. *hutan suaka alam*).<sup>29</sup> This new category covers the old strict and wildlife reserves, the conservation areas introduced by the BCA, and hunting gardens.<sup>30</sup> Particularly important from the point of view of tribal groups is that art. 8 (1) and (2) stipulate that the government can designate conservation, protection and production forest for a special objective, such as research and development, education and religion and culture. The management for these specially designated areas can be given to *adat* communities, institutions for research and education and social and religious institutions.<sup>31</sup>

One issue provoked criticism of mining companies: the act prohibited open pit mining in protection forests and did not make any exceptions for concessions granted prior to 1999.<sup>32</sup> Under serious pressure from these mining companies, which stated that not changing this new rule would make investors turn their back on Indonesia, President Megawati signed a governmental replacement regulation (In. *Peraturan Pemerintah Pengganti Undang-Undang*, abbr. Perpu),<sup>33</sup> which overruled the new Forestry Act.<sup>34</sup> On August 13<sup>th</sup> of 2004, Parliament enacted this regulation as law. Both the replacement regulation and the parliamentary enactment refer to legal certainty and the difficult position the old stipulation could create for the government in the face of international investment as the main arguments for this change.

Part V of the 1999 Forestry Act is entitled Forest Protection and Nature Conservation but only mentions the objective of conservation as 'safeguarding forest, forest areas and their environment so that their protection, conservation and production functions are realised in an optimal and sustainable way'.<sup>35</sup> Except for this it does not stipulate anything about conservation or refer to the BCA.

More generally, the 1999 Act attributes a bigger role to regional governments, *adat* communities and society-at-large than the BCA. Article 60 (1), for

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26 Act No. 41 of 1999 as amended by Act no. 19 of 2004.

27 Silva et al. 2002, p. 81-82.

28 Art. 6 (2) Act 41/1999.

29 Art. 3 (3) Act 5/1967.

30 Art. 7 Act 41/1999.

31 Art. 34 Act 41/1999.

32 Art. 38 (4); see on the contestedness of this issue Rosser et al. 2004.

33 Perpu 1 of 2004, signed on March 11, 2004.

34 Bachriadi 2004, p. 5. According to Prof. Sudharto P. Hadi, the government was afraid of being sued by the companies (personal communication, 26 September 2008).

35 Art. 46 Act 41/1999.

instance, obliges the central and regional government to safeguard (In. *pengawasan*) forests. Article 60 (2) states that 'the society and or individuals participate (In. *berperan serta*) in this safeguarding'. The regional government plays an important role as it is authorised to determine in a regional regulation whether or not an *adat* community still exists – after having heard *adat* law researchers, the local population, local *adat* leaders and other involved parties.<sup>36</sup> The section on participation gives the right to society to enjoy 'environmental quality resulting from the forest',<sup>37</sup> the right to obtain and provide information and to control the forest development,<sup>38</sup> and to obtain compensation in case its access to the forest is removed as a consequence of forest classification.<sup>39</sup> The Act even provides for the possibility of class action<sup>40</sup> and a dispute resolution mechanism.<sup>41</sup>

In sum, the Forestry Act 1999 has incorporated a few basic concepts of the BCA, forms a compromise of many diverging interests, attributes as a consequence a bigger role to the regional governments and society, is more precise in terms of rights and obligations, and even provides for conflict resolution mechanisms. In this it, far better than the BCA, acknowledges the political character of natural resources management. However, it also again depends on many implementation regulations for its effectiveness – how to determine if an *adat* community still exists, for example, and others<sup>42</sup> – and still favours production and exploitation more than protection and conservation, especially since its amendment in 2004 (see above).

### 15.3 DISCOURSE REPRODUCTION, TRANSFORMATION AND REJECTION

Critics have been wondering how serious the government is about sustainable development. For many environmentalists, for instance, open pit mining in conservation areas was definitely not sustainable. They argued that existing contracts all contained a 'force majeure' stipulation allowing the government to resolve the contract 'if the government sees it as necessary to save forests'.<sup>43</sup> By contrast, entrepreneurs and ministers in favour of continuance of the contracts argued that resolving the contracts would mean a loss of revenue for the state and credibility among investors. The debate centred on the question of what should be sustainable: the foreign investment or the environment.

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36 Art. 67 (2) Act 41/1999.

37 Art. 68 (1) Act 41/1999.

38 Art. 68 (2) Act 41/1999.

39 Art. 68 (3) Act 41/1999.

40 Articles 71-73 Act 41/1999.

41 Articles 74-76 Act 41/1999. For a more detailed criticism of this act see Elsam et al. 2000.

42 Ex art. 67 (3).

43 Bappenas 2003, p. 65; for more information about mining in conservation areas consult the website of the Indonesian advocacy network on mining JATAM <http://www.jatam.org>.

Another example of criticism of the government concerns a conservationist argument put forward by Longgena Ginting, chairman of Walhi:

‘Even “legal logging” through forest concessions can be considered an illegal operation because it contributes to the killing of our forest. Certainly, this holds true if we can agree that overcutting is a crime against our natural resources.’<sup>44</sup>

Ginting called the current practices of logging a crime and consequently everybody who did not want or did not struggle hard enough to change these, a criminal:

‘Unless they want to be called criminals, the Forestry Department and the Association of Indonesian Forest Concessionaires (APHI) must immediately halt this robbing of the forest. They must stop natural forest conversions until the establishment of sustainable forest management.’

As such, he considered the government as much as the actual loggers as the ones to blame. Since in his eyes the government ‘always turned a blind eye’ to unsustainable forest exploitation and thus failed to perform its task to take good care of the country’s natural resources, he called for a dialogue about the future forest management in Indonesia:

‘Let’s first discuss the need to change the existing pattern of forest exploitation. We must evaluate the forest resources that we still own and calculate whether to continue with the consumption pattern that is three times our forest’s production capacity.’

In his opinion, the way in which the Indonesian government interpreted sustainable development was not sustainable at all. Sustainability would require a new calculation of how much forest should be opened for consumption. As a solution he proposed not only a dialogue and a simultaneous moratorium on forest conversion but also the closure of indebted and inefficient industries, the recognition of land tenure rights, and spatial zoning for forests.

A closer look at his solutions reveals that Ginting, just like all other proponents of the natural resources management discourse, pointed at the importance of an efficient use of natural resources<sup>45</sup> and a rational approach towards them. In addition, just like in many other Walhi campaigns, he reproduced the story of indigenous people being better custodians of nature than the

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44 Ginting 2000.

45 Cf. Hays 1959.

government by calling for the recognition of tenurial rights.<sup>46</sup> This added an element of sentiment and human rights to his argument.

In sum, he accused the government of acting not in the interest of the Indonesian people because it either tolerated or supported criminal behaviour and the inefficient and irrational use of the country's natural resources.

Walhi has certainly not stood alone in the reproduction of the indigenous people argument. Already in 1993, SKEPHI's director Indro Tjahjono, stated that his organisation 'thinks that the role of indigenous people in forest protection is substantial. Their traditional laws and rights must be recognized.'<sup>47</sup> One way to promote this was to help indigenous people organise themselves. In March 1999, this impulse became a reality: AMAN, the Indigenous Peoples' Alliance of the Archipelago, was inaugurated (In. *Aliansi Masyarakat Adat Nusantara*).

In its declaration, issued at the end of its inaugural congress, AMAN not only demanded the recognition of indigenous peoples' rights and customary law but also rejected the use of labels the government had been giving to them, such as 'illegal cultivators' (In. *peladang liar*) and 'isolated tribes' (In. *suku terasing*), and the use of the term 'state owned land' for areas they regarded as their land.<sup>48</sup>

In 2002, AMAN, together with more than forty NGOs, issued a joint statement.<sup>49</sup> According to this statement 'the failure of forest governance and corrupt forest management' have caused, among other problems, the large-scale conversion of natural forest, various natural disasters (including forest fires, floods and landslides), and human rights violations. Failure of governance and corruption were again accusations addressed to the government for not taking the management of forests seriously enough. In addition, the statement was an accusation of not taking good care of the Indonesian people. Good care would not only mean taking into account ecological considerations but also the security and economic situation of 'millions of local people and indigenous communities living in forest areas'. One of the solutions put forward in the joint statement was to grant tenurial rights to local communities, which would form the main incentive for them 'to protect and utilise forest resources in a more sustainable and equitable way'.

Other keywords used were 'civil society involvement in the process of law enforcement' and 'local initiatives to protect remaining forest resources'. What

46 The moratorium had to last at least 'until the borders of all indigenous peoples' rights are defined' (Down to Earth 2002).

47 Multinational Monitor 1993, 'Sacrificing Sustainability' ([http://www.multinationalmonitor.org/hyper/issues/1993/11/mm1193\\_11.html](http://www.multinationalmonitor.org/hyper/issues/1993/11/mm1193_11.html)). In 1990 his plea had been more nuanced regarding *adat* law, arguing for 'reviving' and 'modifying' it. Apart from that he had also argued for a fair and just international trade and for parliamentary involvement in the granting of logging concessions (Bourchier & Hadiz 2003, p. 172-175).

48 Down to Earth 41/1999 ([www.gn.apc.org/dte/41ama.htm](http://www.gn.apc.org/dte/41ama.htm)).

49 Indonesian NGOs and AMAN 2002.

catches the eye in this argument is that non-state actors are presented as more capable of solving the problems at hand than the state itself. Whereas in this particular case the argument is made that both indigenous and local communities should be involved in forest management to make it effective, in other cases it was often only the indigenous people who were presented as the solution or better future managers.

It appears that actors outside the government started to accept the sustainable development and conservation discourse mainly after its adoption of a more people-friendly language. Only then did it become acceptable, especially for traditional communities that increasingly claimed the right to manage conservation areas (pointing at their indigenous knowledge and their traditionalism). By doing so, they used the discourse to emphasise the political element of policies that limit popular access to nature and their resistance against the positioning of the discourse, in particular the claim that local users of natural resources are the ones who are 'guilty'. Adger notes that such counter-discourses generally claim that, actually, local users are victims:

'International economic relations including international development assistance are portrayed [by such discourses] as negative interventions and as neo-colonialism rather than as offering possibilities for trade, income and conservation. Local and traditional knowledge is seen as a provider of sustainable practices, and local people will therefore be better off when left alone.'<sup>50</sup>

However, simply transforming this discourse helped prevent the negative side effects of the discourse's elements of romanticism and alternative knowledge that tended to constitute traditional peoples as people of the past, which would prohibit them from using firearms and motor boats. As Li has shown, the Lindu people, for instance, in their fight against a hydro power plant, succeeded in positioning themselves as traditional but 'in no sense' as primitive:

'The mention of Christianity confirms their nationally acceptable religious standing, yet little is made of the influence of ninety years of missionary work upon their "traditional" rituals and practices. They are shown to be in touch with nature and bearers of tribal wisdom, but by emphasizing the orderliness of the Lindu land use system it is made clear that there is nothing wild about this scene. [...] It is noted that the Lindu people are not poor. They have an adequate standard of living, though not luxurious, and they are satisfied with their lot. Thus they are sufficiently similar to "ordinary villagers" not to be in need of drastic changes or improvements framed as development, still less the civilizing projects directed at *masyarakat*

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50 Adger et al. 2001, p. 703. Compare also to a quote by Shiva: 'when forests, land and water are being "developed" or "scientifically managed", or - one might add - protected for biodiversity conservation, then they are appropriated from communities whose lives and livelihoods they supported for centuries.' (Horta 2000, p. 187).

*terasing*. Yet they are unlike “ordinary villagers” in their uniqueness, their special knowledge, and their attachment to their place.<sup>51</sup>

By positioning themselves as traditional but not primitive and as ordinary but still unique, the Lindu people stressed that they were good custodians of their natural environment and not in need of state development projects. In part IV, I will give more examples of how traditional communities have transformed the sustainable development discourse for their own purposes.

Interestingly, there are a number of arguments against conservation and the way it is pursued which are not or only rarely being used. First, there is denial. At the international level, prominent representatives of this include Lomborg, Stott, Beckerman, and Burroughs.<sup>52</sup> They claim, among other things, that ‘estimates of future extinction rates lack any kind of empirical basis and are therefore unnecessarily alarmist’.<sup>53</sup> They also question the possibility of predicting species loss, especially of species that ‘have actually not been discovered’.<sup>54</sup> Second, there are those who criticise the proponents for not being consistent in applying their concepts, such as Stott who wonders whether biodiversity conservation should not mean conserving parasites as much as tigers. Likewise, Horta observed that,

‘some biodiversity appears more equal than others [to conservationists]: while some land-use systems and agricultural practices enhance biodiversity within managed landscapes [...] such environments tend not to be high priority in conservation terms.’<sup>55</sup>

Others again lay more emphasis on the role of northern governments. They accuse them of favouring the populist environmental discourse but financing state-centred activities, for instance through the World Bank.<sup>56</sup> One might add that a similar pattern is to be observed among the average Dutch forester and Northern citizen. In the words of a former Dutch forestry official,

‘the Dutch forester is almost by definition a conservationist and does not like to discuss timber production at all ... although the timber that the Netherlands import (90% of the total demand) obviously needs to be produced *somewhere*.’<sup>57</sup>

Likewise, the average northern citizen supports Greenpeace and the WWF but at the same time favours buying cheap, tropical products.

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51 Li 1999, p. 17.

52 All cited in Adger et al. 2001, p. 707-708.

53 Horta 2000 citing Simon and Wildavky.

54 Horta 2000 citing Mann.

55 Stott 1999; Horta 2000.

56 Horta 2000, p. 196.

57 Personal communication, W.M. Otto, 3 July 2003.



### 16.1 DOMINANT DISCOURSES THROUGHOUT HISTORY

In the Indonesian archipelago, already from pre-colonial times onwards there have existed rules on how to treat nature, reflecting what I have called the 'spiritualist discourse'. The main argument for complying with such rules was that spirits owned and inhabited the natural environment neighbouring the human settlements and that they decided over human well-being and therefore had to be treated with respect. In other words, if members of a community wanted the spirits to take good care of them they had to do something in return. Most likely, this discourse served to make sense of natural phenomena and one's life conditions and to create a sense of control for humans. Another function was the regulation of human-human relations, as it served to claim resources vis-à-vis other communities. It is important to note that the fear of overexploitation or extinction of resources did not play any role in the spiritualist discourse. It was not built on a story of nature being in an irreversible crisis. Instead, it was built on a general trust in the benevolence of the spirits and their care for the humans who had entered into a relationship with them. This general trust explains why the rules regarding the respectful treatment of nature remained negotiable for users of this discourse.

The next discourse that gained dominance was the subjugate-and-rule discourse. It served to delegitimize existing resource and power claims based on the first discourse. For the first time the discourse explicitly valued domesticated nature above wild nature and encouraged rather than discouraged cultivation. The most prominent argument in favour of a subjugation of nature was that the Hindu gods were inclined to take better care of humans if they restyled nature from something dark and chaotic into something bright and ordered. A welcome effect of cultivation was that forests that had been cleared could no longer provide shelter to people who did not wish to acknowledge the authority of a new ruler. A person with the ambition to rule had to demonstrate his capabilities by subjugating wild nature to demonstrate that he was not afraid of any of the spirits living therein. Reserves were no longer reserved for spiritual reasons but rather for the exclusive exploitation by the royal court. In exchange for being acknowledged as the ruler entitled to enjoy such privileges, a king had to take care of the well being of his subjects.

The first discourse that gained dominance under the rule of the VOC and the colonial state was the rational forestry discourse. It was the first of three

natural scientific discourses, propagated by scientists and state officials alike – who were all to define ‘progress’ as their objective – and that remained dominant even after Indonesia had become an independent country. Its main underlying story was the first of its kind: a story of a potential man-made future crisis, i.e. that the supply of wood would end if the authorities did not take action to ensure a sustainable yield. This discourse was similar to the subjugate-and-rule discourse in its non-spiritualist approach. But where the Hindu-influenced kings had attempted to replace the spirits with some other benevolent deities to gain power over resources and manpower, the rational forestry discourse rationalised nature, reducing it to the parts of a direct economic use. The ideas of this discourse served an additional purpose to subjugating nature, spirits and people and legitimising new resource and power claims: maintaining and improving nature’s productivity and performance.

The second natural scientific discourse that gained dominance among the Dutch authorities in the Indonesian archipelago was the protection against disaster discourse. Just like the rational forestry discourse it was based on a story by foresters about a potential man-made crisis that needed to be prevented. Only this time the envisioned crisis was one of natural disasters such as droughts and floods. Here, significantly enough, nature was not reduced to its productive function but appreciated for a protective function that needed to be protected from human malpractices and ignorance. This discourse was the first attempt to structurally protect nature, specified parts of it in particular, not against over-exploitation but against any economic exploitation.

The third natural scientific discourse – nature protection – also argued in favour of protecting particular parts of nature, both territories and species, against economic exploitation. What made it different from the protection against disaster discourse was that it introduced a scientific and a romantic value of nature. The basis for this discourse was stories about nature as a source of scientific knowledge and moral improvement. Other stories and their related arguments belonging to this discourse were economically motivated though. One such story was that the crop production was in danger if insect eating birds were not protected. Another such story was very similar to the rational forestry stories as it told of animals becoming extinct due to over-hunting them for trade.

The first new discourse about man-nature relations that gained dominance in independent Indonesia was the *pembangunan* discourse. With regards to its conceptualisation of nature it was a marriage of elements from the subjugate-and-rule and rational forestry discourse. The element from the subjugate-and-rule discourse that *pembangunan* reproduced was also transformed in the rational forestry discourse, i.e. that it aimed to build something new, as opposed to traditional, and something that was man-made, as opposed to natural. Of course, the New Order government did not propagate this as restyling nature after a divine or scientific model but rather as using the

natural riches to finance the development of the Indonesian people. Nature was thus conceptualised as a means to an end rather than as a direct object that needed to be 're-created'. In this, *pembangunan* was similar to the rational forestry discourse that was also concerned about the productivity of nature. However, contrary to rational forestry, in its early days *pembangunan* lacked a primary concern for sustainability.

That began to change only when the Indonesian government started to reproduce the rhetoric of the sustainable development discourse that evolved from a marriage between three formerly separate discourses: conservation, i.e. the international successor of the old nature protection discourse, development – the international umbrella concept of *pembangunan* –, and human rights. The sustainable development discourse was unspecific enough to allow for various conceptualisations of nature and related definitions of problems and solutions. Yet, there was one element that did gain dominance: that something needed to be done to prevent, this time, a global crisis. However, there was certainly no consensus about the elements and scope of this crisis. The Indonesian New Order government readily embraced the discourse but interpreted it mainly as a continuation of or at the most an attempt to sustain *pembangunan*.

During the first years of *Reformasi* nature kept being conceptualised as a resource supplier. However, the transition to a new regime meant that the internal struggle of various schools of thought under the umbrella of sustainable development – development, conservation and human rights – was being fought more openly.

## 16.2 POLICY AND LAW

Now that we have seen how pre-colonial communities and kings, VOC traders, and colonial and Indonesian governments in the Indonesian archipelago throughout history conceptualised nature we can turn to the question of what kind of policies and laws institutionalized the dominant discourses.

The spiritualist discourse, to start with, had as its major objective to behave in such a way that the spirits that inhabited nature would take good care of the well being of the people living in their neighbourhood. To implement this policy people formulated rules ranging from the very general, such as living in peace and harmony, to the very specific, such as prohibitions to cut certain trees or hunt certain animals, and rules about rituals to be performed before entering the spirits' habitat and offerings to be brought after hunting. Importantly, these rules were negotiable. Another type of regulation that had its roots in the spiritualist discourse had to do with making resource claims. People claimed trees and terrestrial and marine territories as reserved and legitimised such claims via the fact that they or their ancestors had negotiated an agreement with the spirits that owned the resources and territories.

The policy belonging to the subjugate-and-rule discourse was similar to that of the spiritualist discourse except that it aimed at satisfying new deities that were to replace the old spirits. The rules that were to ensure that these deities would take good care of humans were, for rulers, about subjugating nature, the spirits living therein and their subjects, as the deities obviously disliked the spirits and had a preference for a restyled nature that – more than the wild and untouched nature – resembled their own world. This first type of rule certainly served to legitimise power and resource claims of new rulers. To secure these new, royal, resource claims there was another type of rule that we also, albeit in another form, already know from the spiritualist discourse: rules about not entering royal reserves, about not harvesting royal resources, about not trading products and about paying taxes for resources. For the subjects of such a new ruler these new rules meant that they had less direct access to nature and that they had to enter into a new relation of dependency. As long as a ruler took good care of his subjects, however, this did not necessarily have to result in worse living conditions.

When the Dutch traders and, later, colonial authorities began to think about a possible crisis in the supply of timber they developed a policy that aimed at sustaining and eventually improving the forests' productivity. The rules belonging to this rational forestry discourse aimed at regulating the exploitation of forests. The rules, again, were similar to those of the earlier discourses: not cutting certain trees, or in the most extreme case prohibiting access to particular forests. But these rules reserved trees and forests only for a certain period of time until they were big enough or until a forest was recovered. And the rules were based on a completely different rationale and favoured new, this time foreign, actors: most notably scientists who attained the authority to define 'good management' and the Dutch authorities who on the basis of this new knowledge claimed authority over all production forests.

The next discourse, i.e. protection against disaster, was institutionalised in a policy that aimed at protecting humans and their economic activities against natural disasters, such as droughts and floods. The rules belonging to this discourse were again not new: the Dutch authorities prohibited the access to particular forests, only this time not to claim a monopoly for their exploitation but to protect them against it.

Likewise, the policy built on the nature protection discourse aimed at protecting certain territories and species against human exploitation. It did this, however, not to uphold their protective function as in the case of the protection against disaster discourse but to uphold their function as a source of scientific knowledge and moral improvement. To achieve this objective two types of regulations were issued. The first concerned hunting. Once again, as in the spiritualist discourse, there were prohibitions and exceptions formulated about the hunt of particular species. None of the instruments, a prohibition to kill particular species, the obligation to obtain a license prior to hunting and closed hunting seasons, was new. Only the rationale behind them

was. That was true also for the second type of regulation belonging to the nature protection discourse: prohibiting popular access to particular territories. This type of regulation had also been issued under the dominance of various other discourses. However, importantly, under the nature protection discourse exceptions were made for certain new actors, such as scientists.

The first policies and laws of independent Indonesia reproduced rational forestry and the protection against disaster discourse in particular to justify the governmental re-appropriation of land. Later, the Indonesian government also started to re-institutionalise the nature protection discourse in governmental plans and activities, including conferences and study trips to other countries.

The *pembangunan* discourse, the first 'new' discourse on man-nature relations to gain dominance after Indonesian independence, was institutionalised in development plans and legislation that aimed at regulating the exploitation of the country's natural riches. As nature protection did not play any role in the *pembangunan* discourse, the legislation, most notably the 1967 Forestry Act, was about production and protection against disaster only. However, there was one element in the new legislation that recalled the recreational aspect of nature protection, i.e. a new category of recreational forests. However, contrary to the ideas of the nature protection discourse, these recreational forests were mainly to serve as another development strategy instead of as a counterweight against development and production.

From the early 1970s onwards, the Indonesian government also increasingly reproduced the rhetoric of the sustainable development discourse in its regular development plans and other documents. Conservation elements of the discourse were institutionalised in several major policy documents, such as the National Conservation Plan of 1980 and Biodiversity Action Plan of 1993 and ratifications of international conservation treaties. In terms of legislation, the government produced several animal protection decrees, but most importantly the Biodiversity Conservation Act of 1990 that, just as in colonial times, provides for the possibility to reserve both areas and species.

All policies and legislation of the *Reformasi* era so far have also reproduced the sustainable development discourse. They differ from their predecessors mainly in their relatively stronger focus on human rights issues. The national development programme of 1999, for instance, very much focused on communal rights in their relation to natural resources and thus also to conservation. The new Forestry Act of the same year again showed the lack of specificity of sustainable development. It formed a compromise of very divergent interests that were related to the government's three main streams of thinking: development, conservation and human rights issues. In terms of conservation it, again, did not introduce new instruments but only a new supra-category called the conservation forest.

In sum, therefore, and quite significantly, especially in terms of policy instruments – resource claims, prohibition of access, reservation and the like –

little has changed throughout history. What have changed are the rationale behind and the purpose of rules. Likewise, who benefited from discourses and policies and the rules built on them and who did not has partly changed, as the following paragraph will show.

### 16.3 ENABLING AND CONSTRAINING EFFECTS OF DISCOURSES AND THEIR STRUCTURES

The spiritualist discourse was enabling for communities as a whole. Especially in their relationship with other communities, an agreement that had been negotiated with the spirits inhabiting a particular natural environment could be used to make and legitimise claims. The notion of 'tradition' was here of major importance. Whoever could convincingly claim that his communities' ancestors had negotiated such an agreement could outlaw or at least constrain competing claims. But also within communities, individuals could use the discourse in a similar way, for instance when claiming or 'reserving' particular trees.

The subjugate-and-rule discourse intended to enable another individual actor: a person with the ambition to rule over others. Showing the power to subjugate nature and the spirits living therein would demonstrate that the power claims of such a person were supported by some other super-power and thus legitimise them in the eyes of others. Here, a key term was thus not 'tradition' but 'religion' as this super-power was presented as some deity. However, in many cases the circumstances, including that the new discourse still had to compete with the spiritualist discourse and that a ruler himself had to compete with other persons with equal power claims, obliged such rulers to listen to the needs of their subjects very carefully.

The discourses that followed enabled the VOC and later on the colonial and post-colonial state to allocate territories and resources either to production or other purposes. This time, to legitimise this power the state used neither tradition nor religion, but 'science', which was opposed to both tradition and religion.

The use of tradition, religion and science has enabled other categories of actors as well. In the context of the spiritualist discourse those directly related to the founding fathers of a community have always been given more respect and influence than those lacking such ties. In addition, in some contexts *dukuns* have played a role in interpreting natural phenomena and in defining rules to restore harmony between man and nature. In the context of the subjugate-and-rule discourse, religious scholars have increasingly taken over this role. In the following discourses, finally, scientists were attributed a significant role. They became the ones to create categories, to define 'good management' or 'good protection' and to define the present and future of nature. As beneficiaries scientists differ from religious scholars and those with ancestral ties

in that they have been claiming specific, exclusive rights of access to nature for research.

Obviously, whenever a new source of legitimacy gained dominance in a certain context, old sources of legitimacy became disadvantageous for actors. After all, referring to one's family ties to support resource claims clashed with the ideas of religious scholars and their kings, and of scientists who were, for instance, convinced of the merits of forest protection against human exploitation. The fact that the legitimacy of tradition has been challenged by religion and science explains why one category of actors – traditional communities – that has been constrained by most of the discourses.

As we will see in the following paragraph on participants, stories, arguments and strategies used in debates about nature conservation, there were also other actors who tried to either benefit from reproducing arguments of the dominant discourses or from transforming or rejecting them.

However, before turning to this it is important to note that unspecific discourses have been enabling for many more actors than specific ones. 'Sustainable development', for instance, a discourse that the Indonesian government as well as its critics readily adopted, was enabling for many actors because – as a transformation of the existing dominant Indonesian discourse of *pembangunan* – it allowed all actors to pursue their various strategic objectives.

For the oppositional Indonesian NGOs, the fact that the discourse was linked to *pembangunan* meant space in the authoritarian environment of the New Order. The vocabulary belonging to *pembangunan* could also effectively be used for sustainable development or *pembangunan yang berkelanjutan*. In addition, as it was an international discourse it enabled the NGOs to direct international attention to what they perceived as the government's poor performance. As a result, the government's strategy to keep *pembangunan* a highly specific discourse increasingly failed.

For all governments under both the New Order and *Reformasi*, the sustainable development discourse has been attractive because it allowed the government to continue its approach and simultaneously gain international legitimacy and support. Adopting the discourse thus strengthened the government's position vis-à-vis the international community in the sense that it could use the discourse to create obligations for the developed world to help Indonesia financially. That this was one of Indonesia's objectives was also explicated. In 2003, the Secretary General of the Forestry Department Wahjudi Wardono, for instance, closed his speech in Bonn by saying

'Ongoing international assistance will make a vital contribution to the achievement of sustainable forest management in Indonesia. I look forward to continuing success in our co-operation.'<sup>1</sup>

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1 Ministry of Forestry 2003, p. 8

Simultaneously, the concept of 'sustainable development' also kept strengthening the position of the government vis-à-vis the population since it legitimised to some extent its top-down and paternalistic treatment: the government used it to position itself in the role of the one who defines norms and how to realise them.

Having said that, the question of why the Indonesian government actually also institutionalised the conservation elements of sustainable development remains. As noted above, one explanation is that conservationists increasingly used developmentalist and later human rights related arguments to sell their ideas and instruments. It was thus a transformation of the existing Indonesian discourse that was appealing to Indonesian politicians such as Salim who strove for development, human rights and poverty alleviation.

However, in addition to this substantive and to the above mentioned strategic reasons of money, legitimacy and power there seem to have been two more strategic reasons for the Indonesian government and bureaucracy to embrace the discourse. These have been on the one hand respect and status, as Indonesia could manifest itself as a nation that was not inferior to industrialised nations and on the other hand, especially for the Forestry Department, information about forests that could be used for the future exploitation of forests.

In sum, the unspecificity of sustainable development has enabled both the government and most Indonesian NGOs to support conservation for strategic purposes. Not surprisingly, this has added to an omnipresent suspicion among various actors: no one can ever be sure that someone else means what he says. It could merely be his or her strategy to use a certain argument, which will be switched to a completely different argument as soon as an objective has been achieved. This is an important point to which I will return in part IV.

Because unspecific discourses are enabling for many actors, they are attractive. One strategy in the struggle about discourse hegemony has therefore been to find stories that were able to persuade actors with different objectives to enter into a loose coalition. However, not all actors have succeeded in finding such a story.

#### 16.4 DEBATING NATURE CONSERVATION: A FIRST ANALYSIS OF ACTORS

In pre-colonial times policies and rules were flexible in the sense that they were constantly renegotiated. We may assume that most stakeholders could directly participate in such negotiations. However, the larger kingdoms and states grew the more centralised the debate about policy and rules became. Thus, although there must always have been much debate at the local level, at least since the formation of larger indigenous and colonial states members of local communities – whether chiefs or small farmers – normally were only in the position to enter into the debate when state officials or critics working



in these regions spoke on their behalf. In some contexts they therefore opted for ignoring a dominant government discourse and the policies and rules based on it, such as in the case of the Dayak who for many years stayed in an area reserved by the colonial government. Staying in the area reflected a counter-discourse, most probably some kind of a (transformed) spiritualist discourse.

Most of the debates described in this part of the study took place at the national level. They demonstrate that the more frames and discourses that have evolved the more governments and even departments have been internally divided. In the colonial period debates were dominated by foresters, surgeons and biogeographers – sometimes organised in pro-conservation NGOs –, state officials working for the Forestry Service, the Economic Department and some regional officials, and by planters and timber traders. Immediately after independence the debate took place among officials striving for a reestablishment of the Dutch forestry science approach and central control and those striving for social justice in whatever form. But also, outside the department, a similar struggle was fought that eventually escalated into an agrarian war between the state and peasants mobilised by the communist party. Especially from the early 1970s onwards the New Order government tried to recentralise and control the debate. Then increasingly international conservationist organisations entered the debate, trying to mobilise support for conservation within the Forestry Department against the dominant forces focusing on fast economic growth. Starting in the 1980s the Ministry for the Environment and new environmentalist and human rights NGOs got increasingly involved in the debate about the environment, and from the 1990s also increasingly about nature conservation. Where the Forestry Department mainly represented the interests of the private sector the Ministry for the Environment and the NGOs, including Walhi and Skephi, focused on environmental and human rights issues. When, after the beginning of *Reformasi*, farmers and planters increasingly ignored borders of conservation areas, the Forestry Department again appeared divided. Some saw law enforcement as the remedy and others wanted to explore new forms of participation.

## 16.5 CONTESTING NATURE CONSERVATION: STORIES, ARGUMENTS AND STRATEGIES

The stories and arguments that the participants in the colonial debate used fell apart to those that questioned the definition of the problem, questioned the definition of the solution, or problematised the consistency of governmental rhetoric and practices.

Stories belonging to the first category included that – without reason – the government (together with the scientists) accused swidden cultivators of destroying forests and their protective function, that not forest clearance but geology caused natural disasters, and that other problems, such as the destructive effects of nature, were much more serious than for instance the threat to

species and territories. The related arguments all had the same tenor: that the government needed to redefine problems and solutions either on the basis of better research about the real source and extent of the problem or on the basis of a better weighing of interests, and that the government needed to refrain from withholding from certain actors, such as indigenous communities and plantation holders, the right to exploit nature.

Likewise, the second category of arguments pleaded for at least redefining the solution. Examples of such arguments were that the government needed to take into account the economic situation of indigenous communities who would suffer land-shortage, which was presented as a much bigger problem than forest destruction, and that the government should consider agriculture as solution to the problem of maintaining the forests' protective function as forest reserves. Again, indigenous communities and plantation holders were the main stakeholders behind these arguments.

The third category of stories and related arguments, finally, included those that accused the government of discrimination, as it allegedly granted concessions to plantation holders in areas where it denied indigenous communities the right to cultivate land, and those that accused the government of not being serious enough, most notably about keeping up the protective, scientific and recreational functions of the forest. The main stakeholders behind these stories and arguments were scientists and all actors that these scientists claimed to be struggling for.

In the post-colonial debates, not only the governments but also opponents of the dominant discourses used many stories and arguments similar to the ones just described. One of these similarities concerned the modern conservation areas, including national parks. Especially from the 1990s onward, critics of such conservation areas argued that conservationists were more concerned about the well being of nature than that of people and thus should rethink their priorities. Similar to the debate about forest reserves in the colonial period such critics also argued in favour of another weighing of interests. However, there were also some additional arguments brought to the fore. The most important one, the argument that the government should return traditional rights to *adat* communities, only had a chance to convince people in times that the dominant discourse did not totally oppose 'tradition'. Not surprisingly, this kind of argument was reproduced especially in the *Reformasi* period, a period that followed the collapse of a regime that had dedicated itself to progress and modernity. This collapse allowed actors to present tradition as an alternative source of legitimacy.

Telling stories and arguments is, however, only one factor determining the course of the debate. Another important factor is just how these stories and arguments were made and which strategies governments and critics have employed in their struggle for discourse hegemony.

Governments, to start with, have in some cases attempted to undermine the trustworthiness of other actors, for instance by portraying them as back-

ward, superstitious, irrational or stupid. In other cases they have tried to find a story that was acceptable to as many actors as possible. Examples of such stories were 'progress' and 'sustainable development'. Such stories were unspecific enough to allow for various frames. In the case of *pembangunan*, the Indonesian government has used yet another strategy: by having its own version of development reproduced over and over again through the media, schools and courses for state officials and by sanctioning oppositional versions it attempted to keep the discourse as specific as possible and thus to tightly control the discursive structures.

Actors with frames contrary to the government have mainly attempted to undermine the trustworthiness of their opponents. Some of them, including scientists among each other, have trivialized observations, denied the applicability of explanations that did not match the dominant way of thinking or criticised the methodology of their opponents. Others, such as entrepreneurs and conservationists, have accused their opponents of exaggerating their problems and thus of not being honest. Critics of the government have in all periods tried to delegitimize it with accusations of hidden objectives and of a lack of integrity and thus also by attempting to undermine its trustworthiness.

In search of answers on research question one, this part of the study has focused on conservation policies and laws in the Indonesian archipelago and the ideas they have been based on throughout history. With this general understanding of the historical perspective we are ready to zoom in on particular debates that have taken place in 1990 and during the early years of *Reformasi*. These will deepen our insight of how actors have interpreted the dominant discourse of sustainable development and with what kind of arguments and strategies and with what effect they have tried to mobilise support in the debate.



Part III

Dominant discourses in Indonesian nature  
conservation policy- and lawmaking:  
three cases from 1990 to the present



From the 1970s onward, the sustainable development discourse has dominated Indonesian policies and laws. Because this discourse was born out of a marriage between the three formerly distinct discourses of economic development, environmental protection and human rights protection it has remained unspecific. This, as the three cases presented in this part of the book will demonstrate, has left space for actors involved in policy- and lawmaking from 1990 to the present to try to make their specific frame dominate policies and laws.

On March 8<sup>th</sup> 1990, at the start of the parliamentary debates of the Biodiversity Conservation Bill he was to defend, the Minister of Forestry argued that conservation in Indonesia needed to be defined as a subcategory of development:

‘As already determined in the Broad Guidelines of State Policy the potential of natural resources and their ecosystems forms part of the basic capital for the continuing national development [...]. Therefore, the management of nature reserves and conservation areas needs to be directed in such a way that conservation is not only for the sake of conservation but in the interest of the people.’

With this plea, the Minister contested the environmental frame. His primary concern was not environmental or nature protection, but ‘the people’. As we will see later, this he translated in terms of ‘economic growth’.

Nearly a decade later, at a national co-ordination meeting about future policies organised by the Ministry for the Environment, an official from Bali’s environmental impact management agency noted that the sectoral departments were not the right institutions to implement environmental policies because their main objectives were development oriented:

‘The Environmental Management Act of 1997 has regulated that the sectoral departments are responsible for the implementation of environmental policies. At the same time these departments have to issue licenses for the exploitation of natural resources. We need a strong environmental department.’

This plea, which reflected the dominant frame of the meeting, aimed at a stronger institutionalising of the environmental frame at the expense of the

dominant development (i.e. economic growth) frame of the New Order's *pembangunan* discourse.<sup>1</sup>

Another three and a half years later, a coalition of actors had emerged that argued in favour of a Natural Resources Management Act. In the opinion of this coalition

'the centralist regulations in the field of natural resources management so far neither protect the sustainability of natural resources and the environment nor give sufficient space for access, interests and rights of *adat* communities for the control, exploitation and management of natural resources.'<sup>2</sup>

The coalition propagated that not only the environmental frame but also a specific *adat* human rights frame should replace the present emphasis of economic growth.

These quotes from different actors very much reflect the discourses actors in the three cases of policy- and lawmaking, presented in this part of the book, used to convince their rivals. At the centre of the analysis is how various actors at certain points in time have struggled to make their version of nature conservation policy and law dominant in Indonesia. Apart from providing insight into the stories, arguments and strategies of actors it will show that especially practices belonging to the *pembangunan* discourse have dominated law- and policymaking during the last two decades in Indonesia and influenced – and often prevented – the debate of nature conservation.

Understanding the debate and lawmaking practices of the New Order regime is the basis for understanding the most important Indonesian conservation act and how it works in, for instance, national parks. Gaining insight into the dynamics and practices that developed in the law- and policymaking arena at the beginning of *Reformasi* creates insight into the continuity and change of New Order discursive structures and practices that influence the debate of nature conservation in Indonesia.

The three cases have been chosen for their relevance in the field of nature conservation in Indonesia. The Biodiversity Conservation Act of 1990 forms the legal basis for species protection and all Indonesian conservation activities concerning protected areas. It provides the basis for, among others, all national parks in Indonesia. The 1999 environmental co-ordination meeting was one of the first meetings initiated by the government and designed to bring together bureaucrats, NGOs, and academics after the fall of the New Order. Its result formed the input for the People's Congress' discussions on the

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1 'Development' was no Indonesian invention, of course. Rather, it was a discourse that after the Second World War gained worldwide dominance with the increasing decolonisation. See, for instance, Heady 1996. The general consequences of this dominance for law are described in Allott 1980.

2 Draft for the Academic Background Paper for the Natural Resources Management Bill, 9 August 2002.



environmental paragraph of the Broad Guidelines of State Policy of 1999. Part of it was directly related to the future of nature conservation policy. The result of the third process described here, finally, is a draft for a new act that not so much focuses on protected areas but advocates a radical change of Indonesia's natural resources policy and law in general. As it still needs to be debated in Parliament the relevance for the future of protected areas and all other conservation issues is not yet clear. A final political decision has to be reached.

In addition to being highly relevant for the course of nature conservation in Indonesia, the cases are representative for the debate about nature conservation that has taken place at the three points in time discussed. As indicated by the quotes at the beginning of this introduction they show a clear shift from a debate dominated by a centralist developmentalist discourse via a more centralist environmentalist discourse towards a deadlocked debate between actors with a decentralised environmentalist frame with attention to human rights and justice and actors with a centralist developmentalist frame. This shift was catalysed by *Reformasi*, a discourse enabling environmentalists and human rights activists to more openly enter the political arena.

What makes the comparison of the three cases all the more interesting is that the interpretation and debate of some of the issues that were raised during all three debates stayed the same, while others changed over time. Of special importance in terms of change is the issue of participation. Not only the interpretation of this concept has evolved throughout time but also its institutionalisation in policy- and lawmaking itself.

The focus of all three case studies has been on analysing arguments and strategies of the actors involved. In the first case this has been done on the basis of the minutes of the parliamentary debates on the Biodiversity Conservation Act. This made it possible to analyse the whole debate in all its details, except for shorter and longer lobby sessions of MPs and the Minister of Forestry inside and outside Parliament. In the second case, observations and taping of parts of the discussions that occurred during the three day co-ordination meeting as well as informal conversations with participants have formed the basis of the analysis. The third case, finally, has been analysed on the basis of various documents, including position papers and documentation material of the public consultation process, as well as summarizing minutes of inter-departmental meetings and a number of interviews with key resource persons.

As the three quotes at the beginning indicate the stories and arguments used in all three cases will tell us much about how various actors have conceptualised sustainable development. The analysis will also show how actors made sense of policy and law and the processes that preceded them.



## The 'Un-politics'<sup>1</sup> in Indonesian lawmaking in 1990: the parliamentary debates on the Biodiversity Conservation Bill

### 18.1 THE INDONESIAN PARLIAMENT IN 1990: THE CONTEXT OF THE DEBATES

The Indonesian Parliament under the New Order has usually been described as uncritical.<sup>2</sup> To typify their elected representatives the Indonesian public often used the expressions '5 D's' (*datang, duduk, dengar, diam, duit*) meaning that MPs only came to Parliament, sat down, listened, kept their mouths shut and received money, and '*tukang stempel*', meaning that they would agree to every bill proposed by the government without opposition.

One reason for this image was that at least two groups represented in Parliament – FKP and FABRI – intended to and in many cases did support the government in Parliament. After the 1987 elections<sup>3</sup> there were four groups in the DPR: the Golkar group, *Fraksi Karya Pembangunan* (abbr. FKP), that with 299 MPs represented large parts of the bureaucracy and other so-called 'social groups',<sup>4</sup> the military group, *Fraksi Angkatan Bersenjata Republik Indonesia* (abbr. FABRI), with 100 appointed MPs, *Fraksi Persatuan Pembangunan* (abbr. FPP) with 63 MPs representing the Islamic spectrum, and *Fraksi Partai Demokrasi Indonesia* (abbr. FPDI) with 38 MPs representing the former nationalistic and Christian parties. This small number of groups was due to a forced fusion of Islamic parties into the PPP (*Partai Persatuan Pembangunan*) and the PDI (*Partai Demokrasi*

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1 I borrow the term from Crenson (Crenson 1971).

2 See, for instance, Sanit 1992, Bourchier & Legge 1994, Schwarz 1994, Bourchier 1999, Ismatullah 2001, Magenda 2001.

3 Elections under the New Order were officially called the 'party of democracy' (In. *pesta demokrasi*). In reality, however, they were, at least partly, characterised by manipulation and fraud.

4 GOLKAR was founded by the Indonesian government in 1963 as an alternative to the Western-style political parties (see, for instance, Hering 1989 and Reeve 1985). It was a political group for various functional groups, such as technocrats, civil servants, trade unions, youth groups, and women groups. Under the New Order it was a public secret that all government employees were obliged to vote for GOLKAR (cf. Liddle 1978, p. 183). After the introduction of the 'floating mass' policy in 1972 - according to the official rhetoric designed to enable villagers to concentrate on the material and spiritual improvement of their lives -, GOLKAR was also the only party that was allowed to organise itself at the village level, which increased its political influence. See for more information on this policy, for instance, Babari 1985, p. 136, Bourchier & Hadiz 2003, p. 45-48.

Indonesia) that took place in 1973.<sup>5</sup> The close alliance of FKP and FABRI with the government meant a potential opposition of about 20 %.

According to the Indonesian political scientist Sanit, one of the important factors determining the MPs' performance was their educational background. After all, lawmaking is a rather technical activity that requires the intellectual capacity to think through the complexity of the matter under consideration. Between 1982-1987, 59,1% of the members of Parliament had a university degree, 17% a high school degree and 18,5% a military educational degree.<sup>6</sup> We may assume that the percentages for the period of 1987-1991 stayed more or less the same.

In addition to educational background, the economic situation of the MPs remained an issue of concern. Lawmaking requires that MPs can concentrate on their work in Parliament without having to think about how to acquire additional income to fulfil their needs. In the early 1980s, however, the average monthly income of IDR 500.000 was considered hardly enough for a member of Parliament, especially for the about 30% full-time politicians. As Sanit notes, many of them, including those with an additional income from something like a pension or business, 'very likely felt that [the low] income from the DPR formed a problem for them to fully concentrate on their jobs as DPR members'.<sup>7</sup> That lack of a full commitment certainly had a negative impact on the quality of debates.

Likewise the fact that the government could and did suspend critical members with the so-called 'recall-mechanism' potentially discouraged Members of Parliament to be too critical.<sup>8</sup>

However, it would be 'unfair'<sup>9</sup> and wrong to see the Indonesian Parliament as no more than a machine that uncritically agreed with anything the government proposed.<sup>10</sup> According to Sanit, although the system made the MPs dependent on the government, some of them were still very active and determined to seriously fulfil their role. Both Sanit and Bedner have analysed the 1986 deliberations of the Bill on the Administrative Courts and both revealed

5 Sanit 1992, p. 11.

6 Sanit 1992, p. 9.

7 Sanit 1992, p. 11.

8 Pompe mentions art. 4 (g) jis. art. 13 (f) and art. 43 Act 16/1969 as amended by Act 15/1985 as the legal source for this practice Pompe 1999, p. 16. Apparently this right and practice was abolished from 1999 until 2003. Pompe describes that art. 38 (2) of Act 4/1999 explicitly abolished this right Pompe 1999, p. 16. Djadjiono, on the other hand, reports that articles 85-87 of Act 22/2003 give the right to political parties, the council of honour (In. *badan kehormatan*) and chairing committee (In. *pimpinan*) of the Parliament, the electory committee (In. *komisi pemilihan umum*) and the President to discharge and replace members of parliament. Especially the fact that political parties can recall legislators is criticized at present. Sugiarto, for instance, fears that it makes legislators too dependent on the party and thus limits their concentration on realizing public aspirations (Sugiarto 2007, p. 366).

9 Sanit 1992, p. 3.

10 Cf. Bedner 2001.

that the people's representatives put forward many problems to be discussed in the Special Committee. As Bedner notes in his analysis, surprisingly ABRI was the most critical group.<sup>11</sup>

More than previous analyses of parliamentary debates under the New Order this discourse analysis will focus on the very dynamics of the debates. It will show that the process did not satisfy the good lawmaking standard requirements (see chapter 4), that lawmaking should be based on reason, informed by experience, and aim for substantive effectiveness. The analysis will lay bare the strong discursive structures of the *pembangunan* discourse and the government's strategies to discourage criticism and to quickly end controversies, and show that the MPs did not dare to trespass these unwritten rules and lacked effective counter-strategies.

## 18.2 LAWMAKING PROCEDURE

On November 14, 1989 President Soeharto sent the Biodiversity Conservation Bill to the Indonesian Parliament. Before and after that it followed the formal procedure as determined in Presidential Instruction 15 of 1970. According to the Forestry Minister, who presented the bill, the draft had been prepared and commented on by the Forestry Department after collecting relevant comparative material both within and outside of Indonesia and after several meetings with experts from the government, academia and practitioners.<sup>12</sup> According to Lukito Daryadi, former Director of Nature Protection, a so-called multi-stakeholders forum, consisting of representatives from the government, business, NGOs and society, had also advised the Forestry Department. However, he added, the input of the NGOs was 'maybe limited' (In. *mungkin kurang*) and 'not yet complete' (In. *belum complete*).<sup>13</sup> This quote suggests that the government was informed about what was going on in the field and how NGOs defined problems and solutions without necessarily taking these perceptions into consideration.

The bill had to pass four stages in Parliament. The first stage was a plenary session in which the government explained its bill. At the second stage, the groups presented their first reaction to the bill, followed by the governmental reaction to the groups' opinions. At the fourth stage, Parliament formally made a decision about the enactment of the bill. All of these three stages were very un-political and formal<sup>14</sup> without providing room for debate.<sup>15</sup> It was only

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11 Bedner 2001.

12 Speech Minister of Forestry, 29 January 1990. Cf. Hartono 1979 describing the general lawmaking procedure.

13 Personal communication, Lukito Daryadi, Jakarta, 9 May 2001.

14 Sanit 1992, p. 14.

15 Sanit 1992, p. 14.

at the third stage, in the so-called 'Special Committee' (In. *Panitia Khusus*, abbr. Pansus), that actual debate took place.

In the case of the Biodiversity Conservation Bill this stage commenced on May 14, 1990. 30 legislators were appointed as members to the Special Committee (henceforth SC). 11 members of the committee originated from the FKP, six from FABRI, two from FPP and two from FPDI. Another 17 MPs were appointed as reserve. The committee was chaired by five MPs: two from FKP, one from FABRI, FPP and FPDI each. 21 officials of the Forestry Department represented the Government in the discussions.

In addition to 12 regular sessions the SC held a 'lobby weekend' at Taman Safari in Cisarua. Under the New Order, the term 'lobby' was interpreted as a mechanism to achieve a consensus. After all, that was all that lawmaking was about: debating with the aim to reach a consensus (In. *musyawarah untuk mufakat*). From the Indonesian Independence onward, the Indonesian governments have more or less continuously presented this principle as the very core of Indonesian democracy.<sup>16</sup> It has been conceptualised as something that has its origins in the Indonesian *adat* and differs from the 'Western' more confrontational style of politics. *Adat* scholar Koesnoe has pointed to the fact that various *adat* communities knew such a kind of a mechanism and that the People's Congress in 1968 has attempted to formulate a same kind of mechanism for the democratic system at the national level.<sup>17</sup> As an example Koesnoe described the five elements of the *begundem* of the Sasak on Lombok: First, that each participant had the opportunity to freely express his thoughts on the issue of discussion without any time limit and without having to take into account the social position of other participants. The second element is similar to one of the three good lawmaking standard requirements, i.e. that the discussion has to focus on the problem that needs to be solved. The third prerequisite is that all contributions needed to be based on the will to reach a solution. Fourth, all participants are expected to act during the debates in a respectful way. Fifth and finally, all participants are required to respect the decision taken.<sup>18</sup> Not only the four official stages of the Indonesian lawmaking procedure but also the organisation of a lobby weekend very much reflected the underlying ideas of *begundem* and *musyawarah untuk mufakat*. The overall aim was to achieve a consensus and to avoid sharp controversies.

To work out the more 'technical' questions a working group (In. *Panitia Kerja*, abbr. Panja) was formed by 25 legislators. There were 13 representatives from FKP, five from FABRI, four from FPP and three from FPDI. Eight officials

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16 It is mentioned in the preamble of the Indonesian Constitution of 1945. Between 1950 and 1957, Indonesia established a multi-party system modelled after the example of the Netherlands. After that it returned to the 1945 Constitution. For more details on the 'democratic experiment' and the return to the 1945 Constitution see, for instance, Feith 1983, Nasution 1992, Bourchier & Legge 1994, and Legge 2003.

17 Koesnoe 1969, p. 17.

18 Koesnoe 1969, p. 10-13.

from the Forestry Department represented the government. This working group initially held three meetings. Subsequently it was split into two sub-committees, i.e. the drafting committee (In. *Tim Perumus*, abbr. Timmus) and the small committee (In. *Tim Kecil*, abbr. Timcil). The Timmus' task was to finalise the act's articles and to draft their elucidation. The Timcil had to discuss the act's title and preamble and to draft the general elucidation.

The most important sessions of both sub-committees took place during five days in Hotel Horison, Jakarta from June 25 until June 29. Actually, the discussions within the SC were scheduled to end on July 2 or earlier but they took longer than foreseen. Nonetheless, on July 19, 1990, only two months after the committee was formed and after 37 days of deliberation, the Biodiversity Conservation Act was enacted. For an act related to other important acts like the Forestry Act and the Environmental Management Act, and that replaced colonial regulations and incorporated modern insights about nature conservation, this seems a very short time.

### 18.3 STAGE 1: THE MINISTER'S ARGUMENTS TO JUSTIFY THE BCB

On January 29<sup>th</sup>, Minister Hasjrul Harahap began his speech in Parliament with a typical story belonging to the sustainable development discourse. He stressed that the natural resources of the country formed the nation's basic capital for all development activities but that, due to the 'extent of exploitation activities' (In. *banyaknya upaya eksploitasi*), and above all the fact that this exploitation was happening in an 'unwise' manner (In. *kurang bijaksana*), this capital was 'declining' (In. *makin menurun*). This he presented as the main reason to propose this bill to Parliament:

'The decline of our natural resources and their ecosystems in our beloved country has already reached a point where it has become very urgent [In. *mendesak*] and necessary to quickly take planned and continuous efforts to conserve the natural resources and their ecosystems. Although these efforts began some years ago the problems that we have described still occur and continue. This needs to be stopped quickly and as a first step we consider it necessary to revise the existing regulations in the field of biodiversity conservation and to improve them in one act, i.e. the Biodiversity Conservation Act.'

Referring to Indonesia's support for the World Conservation Strategy of 1980, the Minister thus emphasised that the government had already begun with conservation efforts but that these had not yet solved the problems of over-exploitation and nature destruction. The BCB was in his opinion a 'first step' to tackle the 'unwise' exploitation of natural resources in Indonesia.

This quote already contains two of the four main arguments he was to present later in his speech. The first one was the need to 'quickly make planned and continuing efforts to conserve the natural resources and their ecosystems'.

By referring to the concept of planning and by labelling the exploitation 'unwise', the Minister reproduced important elements of both the rational forestry and *pembangunan* discourse. His reference to the notion of 'continuity' added an element of the sustainable development discourse.

The second argument was the necessity 'to revise the existing regulations'. The colonial regulations, he added later, were 'no longer appropriate' (In. *sudah tidak sesuai lagi*) and the later regulations were 'not comprehensive' enough (In. *parsial*). As will be shown below, his argument contained two sub-arguments: one in favour of ideological change and one in favour of legal development.

In Minister Harahap's discussion of the colonial regulations the nature protection elements of the discourse propagated by international conservationists played a minor role. Only his mention of the fact that the existing regulations needed to be adjusted to new developments in conservation, such as the focus on ecosystem protection and *ex situ* conservation in zoos and the like, directly referred to nature protection. Much more prominent was the development element of the sustainable development discourse. To begin, the Minister stated that the existing regulations in the field of conservation focused purely on protection and not simultaneously on exploitation. His statement that the colonial regulations did not include new conservation instruments such as national parks – which also allowed for exploitation – pointed in the same direction. Finally, he ruled out conservation for its own sake:

'As already determined in the Broad Guidelines of State Policy the potential of natural resources and their ecosystems forms part of the basic capital for the continuing national development [...]. Therefore, the management of nature reserves and conservation areas needs to be directed in such a way that conservation is not only for the sake of conservation but in the interest of the people.'

What he meant by a 'conservation in the interest of the people' became clear in his next statement. It concerned a type of conservation that people could earn money with:

'Natural beauty with its various unique features forms a potential of natural resources and their ecosystems which can attract domestic and foreign tourists. The management of such ecotourism activities can create new job opportunities and apparently has a high potential to give work to thousands of people, whether educated or not. Likewise, it opens the possibility for business, an increase of the state income and the development of the areas.'

In this view, conservation was thus a new kind of development strategy, as the words 'jobs', 'business', 'state income', and 'development' indicate. This is not to say that the Minister limited his understanding of conservation to the development of conservation areas. After all, he translated conservation into the trilogy of protection, preservation and sustainable exploitation (In.



*perlindungan, pengawetan dan pemanfaatan yang berkelanjutan*). Still, the emphasis of the colonial regulations on nature protection formed a major motive of the Minister for proposing the BCB.

However, the Minister did not limit his argument in favour of revising the existing regulations to elements of sustainable development. In his discussion of both the colonial and the Indonesian regulations he pointed to the need of 'legal development'. The Forestry Act of 1967, the Environmental Management Act of 1982 and the Fisheries Act of 1985 were not able 'to totally tackle the problems arising in the field of conservation of natural resources and their ecosystems'. After reciting a number of articles (though without providing any information about their substance),<sup>19</sup> he concluded that the BCB would be a contribution to Indonesia's 'legal development'. This apparently meant two things: to make the regulations effective ('able to totally tackle problems') and to replace colonial regulations with national regulations. By referring to legal effectiveness the Minister presented himself as someone believing in law as an instrument for material change. His second element of legal development invoked a powerful symbol of nation-building: the replacement of colonial regulations was seen as a goal in itself, with no need to pay much attention to what aspects of the old regulations were good enough to be maintained and which were to be changed. The argument in favour of legal development was also based on legal discourse, stressing that regulations need to be uniform and integrated, characteristics the colonial regulations lacked. Finally, the Minister referred to the fact that the state structure had changed and hence national instead of regional regulations and a redistribution of authority were needed. This latter argument could have been used in the context of legal effectiveness as well, but was not. Instead, Minister Harahap only mentioned that the old regulations allowed very light sanctions only. This understanding of increasing the regulations' effectiveness was exceedingly thin: the higher the sanctions, the more people would comply with them.

The Minister's third major argument in favour of the Biodiversity Conservation Act was the need for a guideline for future policies:

'This Biodiversity Conservation Act is not only needed for our legal development but will also provide a clear direction for our biodiversity conservation policy. By this, legal certainty will be achieved, for the bureaucracy as well as for the general public.'

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19 For instance, the two articles of the Fisheries Act he mentioned were art. 1(1) 'Fisheries are all activities related to the management and exploitation of fish' and art. 1(2) 'Fish are all kinds of fish including other water species.' As we will see later he wanted to close the gaps the Fisheries Act left with respect to provisions on the protection of species and the exploitation and conservation of coral reefs and their ecosystems. Regarding the Forestry Act, he later explained that it lacked provisions on national parks, great forest parks and nature recreation parks.

This suggests a self-evident, direct causal relationship between a clear guideline for policy and legal certainty.

As his fourth argument in favour of the BCB, the Minister mentioned the international campaign against tropical wood 'certain groups inside and outside the country' were launching at the time against Indonesia. This bill would prove that the Indonesian government was not only exploiting its natural resources but also 'seriously striving for' (In. *sungguh-sungguh berusaha*) their conservation. Having emphasized the merits of the financial and technical co-operation between Indonesia and the international community in the field of conservation before mentioning this campaign, he suggested that conservation efforts in the form of this act and the existence of foreign aid in this field were also interrelated.

In sum, the Minister expected the bill to serve instrumental as well as symbolic purposes, demonstrating a rather uncritical belief in the instrumental potential of legislation. In terms of discourse, he primarily used the bill to institutionalise the development elements of sustainable development in legislation, regulating a field that used to be regulated by nature protection arguments.

## 18.4 STAGE 2: THE GROUPS' REACTIONS

### 18.4.1 Reasons and arguments to support the government in issuing this bill

All four groups supported the Biodiversity Conservation Bill. According to FABRI's spokesman Zainuddin, the government's strategy of protection, preservation and sustainable exploitation was acceptable and convincing. Reproducing what the Minister had said, his interpretation of sustainable development consisted mainly of elements of rational forestry and development. In line with the rational forestry discourse he pleaded, for instance, for 'rational', 'wise', 'responsible, thoughtful' and 'controlled' use of resources and for 'planning' and 'management'. By reproducing the Minister's story that conservation can increase the welfare of 'the people' he also subscribed to the idea of development-conservation and pleaded against the idea of nature protection.<sup>20</sup> Zainuddin added another dimension to development-conservation as he also showed concern about the sustainability of Indonesia's economic development: not quickly issuing the act would in his opinion have negative effects on foreign aid. Development apparently needed to be co-financed by the outside and also depended on the issuance of this conservation act.

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20 The dominant interpretation of *pembangunan* was always presented in terms of economic growth for 'the people' but in practice the beneficiaries were only certain segments of them. See also below on the question to what extent the BCA warranted an increase of the people's welfare.

A novel argument in favour of the act, Zainuddin added, was that it should be enacted in order to implement what other regulations had ordered:

‘The Indonesian people in general very much hope for the issuance of this act. With it the ideals enclosed in article 33 of the Constitution of 1945 will be completely implemented sooner. Likewise, what has been determined in the GBHN and Repelitas will be fully achieved so that the equal distribution of welfare, which is longed for by the entire Indonesian people, can be achieved sooner. In addition, we are certain that we will all happily welcome it because it will realise the aspiration of Act 4 of 1982 [the first Environmental Management Act]. This means that the safe continuity of humankind will be better guaranteed to be free of the pollution that already very much endangers the life of humanity in general.’

This response was thus not limited to conservation and development but also concerned the role of law and how law relates to implementation. Just as the Minister, Zainuddin, hoped that the act would be more effective than the existing regulations. His firm statements that this act was what the Indonesian people ‘hoped for’ and that they would all ‘happily welcome it’ showed little doubt as to the outcome. As an implementation of other policies and regulations, he argued, the new act would at least help achieve its declared goals. What is more, enactment of the Biodiversity Conservation Act was even to serve to show to the world that ‘Indonesia seriously participates in sustaining the environment and that it seriously implements the act.’

In sum, Zainuddin subscribed to the idea of development-conservation presented by the Minister. He hoped for an effective regulation of conservation matters, but he approached this effectiveness in a somewhat naïve way, presenting enactment as an equivalent to implementation and the achievement of goals.

Just as his colleague from the military group did, Soedarmadji from the Golkar Group FKP supported the government’s conservation bill with reference to sustainable development. However, contrary to the Minister and the ABRI speaker, when dealing with the need for conservation efforts he reproduced stories and arguments belonging to all three environmental frames: nature protection, protection against disaster and rational forestry,;

‘The objective condition [In. *kondisi obyektif*] in various places as symptoms of nearly extinct (endangered), vulnerable and rare flora and fauna, the occurrence of various natural disasters, floods and landslides that have resulted in casualties, forest destruction, increase in unproductive land, increasing disappearance of mangroves, all these things contribute to the conviction of our group about the importance and actuality of these problems so that the Biodiversity Conservation Act quickly needs to be issued.’

He used the same discourses in explaining what he called the ‘objective condition’:

'We need to admit that the objective condition at various places shows that we still lack attention toward, as well as that parts of society lack understanding and awareness of the efforts to conserve natural resources and their ecosystems.'

His argument in favour of more *attention* toward the problems presented can be interpreted as an appeal to rebalance the elements of sustainable development and to redirect part of the attention given to the economic aspects toward the conservation aspects of sustainable development. In quoting a paragraph from the GBHN, 'people's welfare' and 'social justice', he also reproduced the equal distribution (In. *pemerataan*) aspect of *pembangunan*, thus relating the economic element of sustainable development to the discourse's human rights element.

While introducing these new elements, Soedarmadji's statements also included the role of this specific law and of law in general. Just as the ABRI speaker had, he considered the Biodiversity Conservation Act as an implementation of earlier acts and policies. But he was much more precise about implementation:

'In this respect our group sees the need for regulating various aspects of responsibilities and obligations of the government and society in the conservation of natural resources and their ecosystems [...].'

In addition, in line with legal discourse, he pleaded for a law that was to take into account present and future developments to ensure its longevity. It should also 'regulate, unify and integrate' the existing terminology in order to contribute to 'clearer and less confusing and overlapping' rules.

FKP speaker Soedarmadji thus more than the Minister and the military speaker referred to the environmental frames of sustainable development. With regards to legal development he appeared less naïve than Zainuddin.

Djafar Siddiq of the Islamic FPP also supported the bill. Just like the Minister, FABRI and FKP, he criticised the existing regulations using keywords like 'too simple', 'limited' and 'weak'. His unsurprising conclusion was that the act could be justified by the need for 'legal development' and 'providing a clear direction for policy', meaning in the first place clearer regulations. Future regulations needed to be 'formulated in a clearer way in order to prevent differences in interpretation and perception that can form an obstacle in achieving the desired goal'. This would be the way to achieve more effective regulations. Contrary to the FKP speaker, Djafar Siddiq saw such regulations not as an objective in themselves but as a means to an end.

Also new was Siddiq's criticism of the timing of the act. In his opinion, the bill should have been proposed earlier, i.e.

'before we invited tractors and bulldozers into our thick forests, before power saws sang the song of falling trees and cleared our forests, before our mangroves were stripped and skinned, before ships packed with waste entered our clear rivers.'

In addition to voicing this remarkable critique of the government's neglect Djafar Siddiq was also the first to explicate the need for a balance between the three major elements of sustainable development. A discussion of global problems, showing his familiarity with relevant studies and reports led him to the conclusion that

'we must strive to create, develop and take care of a balance in the development of natural resources and their ecosystems, in fulfilling the needs of society and future generations and really take into account the sustainability of the natural resources and their ecosystems to realise sustainable development.'

How this balance should look, what the appropriate way to achieve it would be and what role the Biodiversity Conservation Act could play, however, he did not specify, as if there was no need to discuss these issues.

Siddiq did suggest that development had gained the upper hand in the present situation when compared to environmental and human rights elements. Each sector tended to realise its own interests only, the so-called 'ego-sectoralism' (In. *egoisme sektoral*). This was problematic for conservation given its many dimensions and the need to involve many agencies. Therefore, in his opinion, 'the aspect of co-ordination forms an important issue in the planning and implementation of protection and the control of conservation.' Again, what this meant for the act the FPP speaker did not clarify.

Finally, by contrast to, most notably, the speaker of the military group, he not only saw the Biodiversity Conservation Act as an instrument to silence criticism but stressed that there was a genuine will to improve the regulations by learning from existing shortcomings: 'Our weaknesses and our shortcomings become valuable lessons for improvement in the future, and we are indeed determined to improve them.' He thus emphasised that he saw the act as an instrument to effectively regulate conservation.

The last speaker of the day, Nikolaas H.E. of the Democratic Group, also repeated some of the expectations of the other speakers including those about legal effectiveness, legal certainty and a clear guideline for future policies, without, however, sharing the overall optimism about the potential of the proposed act (as the next section will show).

His interpretation of sustainable development primarily paid attention to nature's protective and economic functions. The problems that were to be addressed were according to him the 'unwise' exploitation of natural resources and the consequent disasters such as floods and droughts:

'Some time ago already the world realised that the management of natural riches everywhere tends to decrease as a consequence of the unwise human exploitation of natural resources with possible dangerous consequences such as floods and erosion, droughts and other disasters that will be disadvantageous for the people.'

In addition to this reproduction of a globalised version of the rational forestry and protection against disaster elements of sustainable development, he defined conservation very much in development terms:

'After studying and discussing in a detailed way all existing material including that present in the BCB, the government's explanation of this bill, and the aspirations of the society at large, the FPDI is of the opinion that the motivation for conservation of natural resources and their ecosystems is in fact a step and effort to exploit natural resources, being a grant from God Almighty, for the welfare of the Indonesian people and humanity in general.'

With this emphasis on exploitation he reproduced the dominant *pembangunan* discourse interpreting sustainable development primarily as 'sustaining development in the interest of the people'.

In conclusion, all speakers supported the government's proposal to issue a new conservation act, emphasizing the need for sustainable development. However, their frames differed. Three of them limited the environmental aspect of sustainable development to elements of rational forestry and protection against disaster. Only the FKP speaker referred to nature protection as well. Furthermore, compared to the environmental and human rights aspects of sustainable development, exploitation of natural resources for the people's welfare was the most prominent objective for the speakers.

With regard to the role of this specific act and law in general, all speakers had great expectations, but there was no consensus about the 'right' motive for the act; views on this ranged from foreign criticism and possible consequences for foreign aid to searching for a remedy for the 'objective condition' of nature destruction. In addition, all speakers reproduced legal discourse, including references to the fact that other regulations had ordered the issuance of this act and to clarity and effectiveness. Regarding effectiveness, the FABRI speaker showed himself to be very naïve or indifferent whereas most notably the FPDI speaker doubted the act's potential to solve problems.

#### 18.4.2 Critical issues

Although all groups raised a cheer for the government's bill, most notably the FPDI speaker used the second stage of the lawmaking process to critically interrogate the Minister about the seriousness of the government's intention to really conserve nature, about the exact meaning of conservation and what conservation would look like in practice. These questions aimed to lay bare the government's real motivation for the act and to force it to account for its activities – or rather lack thereof – so far. The Minister's responses reflect important practices belonging to the *pembangunan* discourse (see chapter 13) aiming for freeing politics from ideological conflict.

### 18.4.2.1 Questioning the seriousness of the government

To start with, Nikolaas asked for additional information about why the bill had not been produced much earlier:

‘Why is the act only now being proposed although many disasters, such as floods, decreasing water flow in rivers, elephants that destroy plantations, the occurrence of new plant diseases, etc., have already occurred among others as a consequence of clearing the forests?’

While FPP speaker Siddiq had raised the same issue, unlike Nikolaas he had framed his criticism in poetical language. In any case, the Minister was not prepared to admit that the international campaign formed the immediate cause for the bill and chose to not answer the question.

The FPDI also wanted to know what exactly resulted from the meetings and discussions with academics prior to drafting the bill. Again, the Minister did not respond.

Nikolaas was also the only speaker who asked for detailed information about the extent of the problem and the government’s efforts to solve it:

‘The Group of PDI hopes for detailed explanations from the government about how far the destruction [In. *kerusakan*] of natural resources and their ecosystems has proceeded and where it is to be found, and what efforts the government has already undertaken, is currently undertaking and will undertake in the future.’

Once again, the Minister did not provide the information asked for.

Next to Nikolaas, FKP spokesman Soedarmadji also posed some questions. He wanted to know to what extent the government thought that this bill would effectively supplement the Forestry, Fisheries and Environmental Management Acts. This was in fact a critical issue as it could be interpreted as questioning the coherence, consistency and effectiveness of the legal system. However, formulating this question in very general terms allowed the Minister to answer without providing much detail. According to him the act meant an improvement primarily in terms of introducing new categories of reserves and the ecosystem approach.

Nikolaas was – again – the only one questioning the act’s potential effectiveness. He wondered, for instance, to what extent the proposed act was indeed going to silence other countries’ criticism. The Minister said the government had already taken measures to counter foreign criticism:

‘The accusations are not based on facts. Based on FAO reports [...] still 74,5 % of Indonesia’s land masses are covered with forest whereas in other countries, especial-

ly in industrialised countries, only 10 to 30 % are covered with forest. [...] The industrialised countries thus twist the facts in their own interest.<sup>21</sup>

This shows how the government pursued a double strategy. On the one hand, it denied allegations from other countries that it was not taking care of its nature; on the other hand, it expected that these denials were not sufficiently convincing and therefore it needed this act to demonstrate how serious Indonesia was about conservation. Apart from that, this quote and the lack of further questions from MPs about how other countries had reacted showed that the government circumvented awkward questions and that legislators contented themselves with superficial, avoiding answers.

Besides questioning the act's potential to silence foreign criticism, Nikolaas also wondered whether it would be able to ensure the implementation of reforestation. He reproduced the story of the timber industry's capacity by far exceeding the sustainable capacity of the forests and asked for a governmental reaction. Again, this question was left unanswered.

He also wondered who in Indonesia was actually able to prevent the destruction of nature and whether this bill could be successful:

'Although conservation efforts have started in the beginning of the 1980s, the destruction of natural resources and their ecosystems has continued, from then until now, and obviously the government has not been able to prevent this. Who in our country will actually be able to prevent this destruction? What guarantee is there that enacting this bill will regulate or prevent this destruction?'

In response, the Minister said:

'Actually, this is the joint responsibility of the government and society. The destruction of natural resources and their ecosystems in this world is largely caused by people who use them in an unwise manner. Causal factors, among others, are that some of the people are not yet aware and that there does not yet exist a strong legal basis for regulating the use of natural resources and their ecosystems. Therefore the government is resolute to increase the information programmes for the people and in addition, the government wants to emphasise through this bill that both they and the society are responsible for conserving natural resources and their ecosystems.'

The Minister thus answered a question about capability by referring to responsibility, an inconsistency undisclosed by the MPs.

Nikolaas also questioned the government's seriousness in conservation matters by referring to, among other things, the ongoing forest exploitation as 'unplanned clear cutting' (In. *pembabatan hutan tak terencana*) and by stating that 'protection forests were not being protected [In. *terlanjur*] due to the

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21 8 March 1990.



government's indifference [In. *kelalaian*]. The Minister said 'not to agree with the expression used by the group' and pointed to the 'principle of continuity' (In. *asas kelestarian*) as the basis for the exploitation of production forests in Indonesia, through, among other things the application of the system of 'selective cutting and replanting' (In. *Tebang Pilih Tanam Indonesia*, abbr. TPTI). He thus responded to the factual question from PDI by referring to a norm.

Remarkably, however, the Minister did not try to disprove the accusation of having neglected its tasks. He said the government

'realized that protection forests fulfilled an important function and role in support of life supporting systems. Therefore, protection forests that have been used for other purposes need to be restored. In these cases, the government will give guidance to the people and in certain cases the government can take measures of order by paying a compensation as regulated by law.'

The government needed to repair this mistake with persuasion or force. What was missing here was an analysis of why the government had neglected these forests so far, but that question had not been asked.

#### 18.4.2.2 *Questioning the meaning and future practices of conservation*

In addition to accusing the government of not being able to prevent nature destruction and wondering about the proposed act's potential in achieving that objective, Nikolaas also pleaded for defining the scope of nature conservation much more broadly than the government had done:

'Therefore, the PDI group invites us to think about how to conserve the other natural resources outside those areas to ensure that this act will concern the whole area, the whole environment and its ecosystems of our country.'

In reaction, the Minister referred to much less far-reaching ex-situ conservation efforts outside conservation areas, such as zoos, that were already undertaken by the government and also an object of the bill.

The FPDI speaker took a somewhat ambiguous position on the subject of isolated tribes. After expressing his support for the government's policy of persuading isolated tribes to move out of the forests and to 'participate in *pembangunan*', he wondered whether nature should not be conceptualised as including some of these people:

'However, we also realize that these isolated tribes [In. *suku-suku terasing*] that live in these forests form part of this ecosystem, so that if they are being socialised the question arises whether or not this will destroy the balance of this ecosystem. [...] How does and will the government balance its efforts to socialise [In. *dimasyarakatkan*] them and to conserve ecosystems?'

Predictably, Minister Harahap did not feel much like 'conserving people':

'[...] the government has no intention to conserve isolated tribes in nature reserves. Efforts to increase the value, quality of life and intelligence of isolated tribes have already been undertaken in various kinds of programmes. The role of humans in an ecosystem will soon be taken over by other elements of this ecosystem. Therefore, the natural balance will still be guaranteed. The government does not want our peoples, especially the isolated tribes, to become an object for foreign anthropologists that try to keep these isolated tribes as they have been in the past for their own interest and profit.'

What's remarkable about this answer is that the Minister here reproduced the idea of nature protection of a nature being separated from humans (and the consequence that protected areas needed to be uninhabited) where he in the beginning of the debate had referred to development-conservation in the interest of the people. Apparently, only people who already participated in the government's version of development were entitled to benefit from conservation. Remarkable was also how the Minister readily assumed that disturbing an ecosystem was no problem because nature would compensate for the disturbance. Would that also hold true for other parts of an ecosystem, one wonders.

In addition, Nikolaas wanted to know the criteria for establishing conservation areas, such as national parks, recreational parks and nature reserves.

The Minister replied that criteria would include the biodiversity of plants and species that were not yet protected in other areas, the type of ecosystem, the 'original and undisturbed condition' of the area, and the size of an area that had to enable effective conservation.

Showing again his awareness that conservation areas are not empty spaces Nikolaas also questioned the social effects and implementability of the proposed act:

'What will be the fate of people that have inhabited these [protected] areas from the beginning, and also of people living in the coastal areas, what are their rights and obligations?'

This question was left unanswered. As was a question about business activities in conservation areas:

'What is the fate of the enterprises that already hold an official license and are active but that if their location is determined to become a conservation area have to stop these activities? How will the government solve this, will they receive a reasonable [In. *layak*] compensation? What is the way out of this?'

Nikolaas also appeared to be concerned more generally about the implementability of the act. This concern was rooted in past experiences:

'From various experiences we know that many laws do not function as intended, that they differ in practice and that they experience obstacles that are among others caused by a weak control and a lack of implementing regulations. Consequently, many violations of laws occur and affect the authority of the government. [...] Considering that the role of control will be very important for the implementation of this act and for its effects [...] the FPDI at this opportunity hopes for explanations by the government about which efforts will be undertaken in the field of control in terms of system, personnel, institutions, working patterns etc. so that the act will really function and be implemented. Also concerning the implementing regulations, will these really be finished in a short time after enacting this bill?'

Control mechanisms, manpower and the issuing of implementing regulations, a subject touched upon also by all other groups, were thus the core concern of this question. But he did not link this problem to a possible solution in the act. For instance, he did not consider the possibility to requiring the government through the act to provide for sufficient personnel, but instead, 'hoped for explanations' about the government's plans.

The Minister replied in very general terms that in the beginning the existing institutions were to implement the act and at a later stage these were to be adjusted to the specific needs. He did not say anything about control mechanisms, but saw no serious problems for implementation. Regarding the implementing regulations the Minister eased the minds of the MPs by responding that they:

'have already been prepared and will be issued not long after enacting this act. The government considers the governmental regulations as very necessary for the BCA's implementation.'

The final important issue raised by FPDI in the first comments concerned the act's space for an active role of the people. Nikolaas pleaded for more attention to this to make conservation more effective:

'People are a central element. They play a key role in efforts of conservation of natural resources and their ecosystems but at the same time destroy these very resources. The human factor or element can contribute much to conservation efforts if they [the people] are given balanced and matching authorities, tasks, obligations and responsibilities.'

The Minister said, as quoted above, that preventing the destruction of nature was a 'joint responsibility of the government and the people', thus answering a question about rights with a reference to responsibility.

Nikolaas was not satisfied with this approach, because he considered the government's interpretation of participation as too narrow:

'This bill does not yet fully reflect the balance [of seeing people as destroyer and conservator] since it only regulates obligations, prohibitions, and sanctions but

nothing about the authorities and participation of people. The FPDI interprets participation not only as mobilisation but also as including the right to veto and accuse anybody that violates the provisions in this act.'

The Minister responded that he, too, considered participation to be more than mobilisation:

'the responsibility of the people is actually not limited to mobilisation but the government also grants rights to the people in accordance with the existing regulations.'

However, his response demonstrates his unwillingness to deviate from the status quo and explain exactly what these rights were. It remained unclear to what extent these rights covered what Nikolaas had asked for. They certainly did not give the people the right to veto the establishment of conservation areas.

In sum, of the four groups involved, PDI posed the most critical questions. However, some of them were formulated too vaguely to force the government to provide a clear answer. Where they were precise the government avoided answering them at all or formulated the answer in a way that suited its own interests. In doing so, the Minister positioned the MPs as people who were allowed to ask questions but who were not, by definition, entitled to an answer. The MPs in their turn, due to the structure of the second stage of the lawmaking process, did not have the opportunity to really enter into a debate with the Minister or other groups.

### 18.5 STAGE 3: ISSUES RAISED DURING THE SPECIAL COMMITTEE SESSIONS

Officially, the third stage of the lawmaking process served this purpose of debate. The analysis will show that the debate suffered from a lack of obligations to strive for problem-solving and instead ruled by obligations to keep up the appearance of a consensus and mutual trust.

All groups were asked to provide a list what they perceived as problems. This inventory (In. *Daftar Inventarisasi Masalah*, abbr. DIM) served as a guideline for the debate. I will focus on the issues of conservation, participation, implementability, and sanctions since these issues apparently formed the major concern of the groups. As it would take too much space to analyse the whole debate in a detailed way, I have summarized large parts of it. However, to help create an understanding of arguments and strategies used and to enable the reader to get a sense of the atmosphere, the first issue from the inventories for conservation areas is presented in a detailed way.

### 18.5.1 Conservation

Within the Special Committee (henceforth SC), one issue of concern were the criteria for conservation areas and the consequences of such areas for human beings. FPP urged the government to include an article in the act that obliged it to first make an accurate inventory of an envisaged conservation area to determine its 'potential and carrying capacity' (In. *potensi yang ada dan daya dukungnya*).<sup>22</sup> This inventory, Tadjudin Ibrahim said, should be used to determine the management approach for an area:

'The reason is that before we determine a basic [management] pattern for an area which is stated later in art. 7, we certainly should use data from inventories. Therefore, if the Minister at our first meeting was said to agree [In. *berbarengan*],<sup>23</sup> maybe we are here of the same opinion, that before correcting it we should first conduct inventories.'

Using inventories was thus presented as better than correcting the approach afterwards. To convince the Minister, the speaker here referred to an earlier statement by the Minister himself. Although not presented as such, from the perspective of effective conservation, this seemed to be a relevant proposal. It also seemed to be a most reasonable proposal considering the government's earlier answer to PDI's question about the criteria it was to use for determining a conservation area.<sup>24</sup> Yet, FPP was not to succeed in finding support.

In his first reaction on June 8<sup>th</sup>, the Minister had commented that more important than inventories was 'how to finish [In. *menyelesaikan*] this act'. However, in the SC, without any clear reason he interpreted FPP's proposal as a plea for doing inventories before enacting the BCA:

'Doesn't the respected Djafar Siddiq perhaps mean that before this inventory is done this bill should not be enacted? If that is so our term of office might be finished before the inventory is finished.'

This misinterpretation provided him a reason to refuse the proposal.

A few days later, FPDI came with its reaction to FPP's proposal. Its speaker said they liked the idea but feared stagnation in the act's implementation:

'FPP's proposal is very sympathetic [In. *simpatik*] indeed because I think this inventory sector [sic] is very important indeed. To prevent overlap later on I think

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22 SC 8 and 12 June 1990.

23 The original text is here unclear. Likewise, it is not clear what statement exactly the speaker is referring to.

24 The answer had been that the government was to use, among other things, an area's biodiversity, 'undisturbedness', size and the extent to which an area represented genetic material not present in other areas as criteria.

we need data about which areas need conservation and which ones don't need conservation. However, this can lead to stagnation in the sense that this act will not proceed if we wait to enact it, if we wait for inventories before conserving. Therefore I probably agree if this act [and the lawmaking] proceeds but is accompanied with inventories so that there will be no stagnation.'

The speaker, Markus W., thus demonstrated remarkable trust in the government but also proceeded from the same misinterpretation as the Minister.

Then the Minister came with his official response. He replied that actually many inventories were done. Then, he made a typically authoritarian proposal, i.e. to regulate this issue later in a governmental regulation:

'Does the FPP not agree with the government that this should be regulated in an implementing regulation of this act since indeed, as argued by FPDI, if inventories are included in the act, this [act's implementation? JA] later can be hampered. [...] Therefore I offer that inventories will absolutely be undertaken [...] and we promise that we will, once we are finished with these debates, distribute the input for governmental regulations so that you can see whether it is included there. Although actually governmental regulations only need to be drafted by the government, but on the basis of this consensus and deliberation, what is wrong about consulting FPP about this later on?'

The Minister thus presented this offer even as a special favour from a friendly and compromising government, as he stressed he wasn't required to consult the groups on drafts for governmental regulations.

The GOLKAR group first called FPP's proposal 'brilliant' (In. *briliant*) but then pointed to two other articles in the act that according to its speaker, Soedarmadji, 'already contained [In. *tercakup*] the implementation of inventories':

Art 17: 'The sustainable use of natural resources and their ecosystems is undertaken by paying attention to the continuity of the potential, carrying capacity, diversity of the natural resources concerned according to the valid regulations.'

Art. 18 (1) 'The sustainable use of plants and wild animals can be undertaken in the form of taking care of them for pleasure, investigation, research and development.'

However, these two articles of the government's draft did not oblige the government in any way to make inventories. In addition, whereas Djafar Siddiq had opted for an additional article on inventories as a basis for determining conservation areas, these articles dealt with a completely different issue! However, as Soedarmadji repeated in his conclusion, the words 'investigation' and 'research' 'already contained' (In. *sudah tercakup*) inventories. Therefore, he concluded that 'adding an article' on this issue was 'not necessary' (In. *tidak usah menambah pasal*).

The ABRI group finally also got involved by saying that inventories are 'very important'. However, according to its speaker Sukorahardjo, including a provision about them was redundant since 'if we conduct conservation activities these automatically already cover inventories, i.e. maybe in the early process of planning.'

In addition, the speaker rejected the proposal on financial grounds:

'if we include it here it may very much constrain the government because the money is limited and the problem is vast. So maybe the government needs to determine priorities what needs inventories first. Therefore, the ABRI group is of the opinion that this proposal should not be included [in the act, JA].'

These two statements are rather contradictory. The first statement is inconsistent in itself as the speaker started off very convincingly ('they do already cover') and then much less convincingly ('maybe in...'). In addition, if the inventories were automatically covered it would be inconsistent not to include them in fear of budgetary shortages. The argument that conservation automatically included inventories thus rather served to legitimise the financial argument.

At that point the chairman concluded that the issue needed no second round for debate:

'FPP's wish is accommodated, only it will not be placed in the act to prevent fears that have been uttered by FPDI that the implementation of this act will be obstructed. The Minister already promised to soon issue a governmental regulation to regulate it. What about it, FPP?'

FPP's Djafar Siddiq began his reaction by claiming that Golkar's comment was irrelevant since FPP had proposed inventories for determining conservation areas and not for the use of resources. Then he reacted to the financial argument saying that

'we are aware of the fact that this is an inducement [In. *pancingan*] to emphasize how little attention we have paid to inventories so far due to the financial problem.'

It is not completely clear what exactly he wanted to say here. Apparently he attempted to reduce his proposal to a means to show that so far little attention had been paid to inventories. This reduction was the transition to his final statement:

'We hope for and we respect the government's attitude that offered to place it in a governmental regulation because we want to put forward that it may be part of the management. [...]'

Thus, the earlier so convinced 'inventories certainly should ...' was scaled down to a timid 'may be...' and PPP thus accepted the compromise of a vague promise rather than insisting on its own demand.

Most arguments used to refuse the proposal were thus vaguely formulated and invalid, with the exception of the financial argument made by FABRI. It was also remarkable that Djafar Siddiq only reacted on Golkar's invalid argument. He could easily have asked FPD I to explain what exactly would be hampered, and he could also have refused the Minister's argument that misinterpreted his proposal. However, this would have meant breaking the unwritten rules of parliamentary debates.

The next issue raised was that of compensation. In its first reaction to the bill FPD I had already questioned what rights and obligations people living or working in conservation areas would have, but in the SC the group reduced the matter to the question of compensation in the case of expropriation of land.<sup>25</sup> FABRI and FPP argued that adding this to the act was a 'sympathetic' proposal but a redundant one, since other laws already regulated this issue. FPD I insisted that nonetheless it was practice that 'those who did not yet receive any compensation are chased off the land. And it is obvious that that needs to be noted.' The Minister said he was ready to include the issue in the elucidation but not in the act:

'About the compensation, we can agree to include it in the elucidation, but the government wants to explain that if implementing officials from the government make mistakes, this does not need to be stressed in laws because the laws are already like this. The government does invite the respected Parliament to pay more attention to the rights of the people exactly in cases where the solution is in accordance with the existing regulations. But there are also cases where compensation has already been paid but people demand more money, so what about these compensation problems, very sensitive indeed, but there are advantages to include FPD I's proposal into the elucidation.'

The Minister thus attempted to discourage the MPs to design laws so as to ensure that government officials could be held accountable. Instead he asked them to focus on cases where things were going right. Finally, he presented compensation more as a problem than as a solution, suggesting that including it in the act could provoke abuse.

FPP put forward a related issue. It proposed a subsidy for conservation areas because people had to leave their land, could not develop agriculture and plantations and did not have any tax income. Refraining from paying subsidies would result in the destruction of nature. The group's speaker

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25 SC 13 June 1990.



wondered 'without such a subsidy, what can we eat, what can we produce; we will need to log trees, that is the consequence.'<sup>26</sup>

The group also held that a subsidy would make the people care for the area they were living in and create a 'sense of belonging'.<sup>27</sup> Furthermore, the group linked its subsidy argument to the argument in favour of an equal distribution of development benefits (In. *pemerataan*) and argued that acting otherwise would mean forcing the people in and close to conservation areas to live their life in the margins forever. Here, Djafar Siddiq used the expression of '*mati konyol*', meaning that without a subsidy the people would die for nothing.

The Minister responded in two ways. First he quibbled over the expression '*mati konyol*'. Again and again he returned to it, first denying that this was the case and in the end trying to make fun of it:

'the government does not agree with FPP in saying that at present the people die for nothing since dying alone already means pain, dying for nothing is even worse.'

In addition, the Minister tried to invalidate FPP's argument in favour of *pemerataan* by comparing the conservation areas to other, poorer, areas:

'That the regional income decreases because the forest and the like cannot be benefited from, I think if we want to compare peoples in Indonesia there are still more with a more difficult life than there, if we look at their life.'<sup>28</sup>

The Minister thus turned the argument around in favour of an equal distribution. His message was that those living close to, for instance, Gunung Leuser, should not complain since others were worse off. At the end, he closed the debate by referring to *pembangunan*:

'but we agree that conservation, I do not agree with the word "subsidy", as if it should be subsidized, but if we say that all repayments are not in the form of money but we hope that the respected members of Parliament, especially the representatives of these regions, will strive for all possible development that can be realized there.'

Setting aside the illogical structure of the sentence, its core argument is clear: conservation areas and the people living close to these could expect nothing more and nothing less than what was done anyway. In one word: development. As an example, the Minister pointed at *alang-alang* fields adjacent to the Gunung Leuser National Park and suggested to think about how to develop these. He thus offered development as a solution to a problem caused by non-development. Whether this was feasible and how this had to be realised

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26 SC 12 June 1990.

27 SC 12 June 1990.

28 SC 12 June 1990.

he left open, but with the responsibility on the shoulders of the people's representatives and not the government's. The idea of a subsidy, however, he rejected with great force and FPP did not insist.<sup>29</sup>

### 18.5.2 Participation

The government had only incorporated two articles on the role of the public into its bill. The first one (art. 3) stipulated the joint responsibility and obligation of the people and the government for conservation.<sup>30</sup> According to Minister Harahap, this article was based on the EMA of 1982's definition of sustainable development as a 'rational and planned effort' (In. *upaya sadar dan berencana*), which would mean that the people as well as the government were responsible and obliged to act in accordance. He added that the same EMA had defined environmental NGOs as organisations growing from within the society and active in the field of the environment. His conclusion that 'this pushed us to draft article 3'<sup>31</sup> showed that implicitly he interpreted 'the people' as consisting of NGOs.

FKP used the debate on this draft article to press for a whole chapter on public participation. Its speaker Soedarmadji presented FKP's proposal as a matter of effectiveness: without participation, he argued, development and thus also conservation – a part of development – were 'empty words' (In. *omong kosong*) and not to be realised regardless of the duration of the discussion.

Prior to the debates in the SC, FPDI had already coined public participation as one of the three success factors of conservation, along with governmental determination and public awareness. In the SC, however, the group only put forward that 'the people' not only included 'small people' (In. *rakyat kecil*) but also entrepreneurs (e.g. in the logging business).<sup>32</sup> The reason for this statement was most likely that the Indonesian government in general used to accuse farmers and not entrepreneurs of the destruction of nature and that the business sector thus would have needed some special treatment in the act, i.e. specific rules designed to curb their unsustainable behaviour. However, the Minister thought this was self-evident and thus not noteworthy.

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29 SC 12 June 1990.

30 The second one will be dealt with below.

31 This opposes to some extent the impression that the late 1980s and early 1990s were characterized by a new 'openness' (In. *keterbukaan*) in Indonesian politics (Cribb 2003, p. 46). However, especially the involvement of national NGOs in the international campaign against the logging of tropical timber which formed one major motivation for the BCA explains this ministerial emphasis on acting responsibly.

32 SC 12 June 1990.

The other parties did not focus on participation to achieve effectiveness, and gradually it became clear that FKP in fact also had other objectives with participation. The group's speaker elaborated that

'participation is very much needed to provide the government with input so that the government knows what the society aspires to. Participation will make the people more ready to accept governmental decisions. [...] Participation will result in the validity of democracy, especially of the *Pancasila* democracy itself.'<sup>33</sup>

Thus, FKP presented participation as an instrument to increase the people's willingness to accept governmental decisions, the government itself and its version of democracy.

FABRI stressed that participation should be guided by the government:

'The ABRI group is of the opinion that [participation] can not yet develop on its own as we would hope but still very much depends on governmental efforts. It is therefore to be hoped that the government will provide education, information and stimuli to make participation happen.'<sup>34</sup>

What kind of participation FABRI hoped for, or why it was desirable was not further elaborated.

FPP focused on the second article in the governmental draft where participation played a role. Art. 31 (2) created the possibility for the people to play a role in licensing tourism enterprises for the exploitation of certain protected areas. However, FPP considered the expression 'have the people participate' (In. *mengikutsertakan masyarakat*) as attributing them a 'weak position' (In. *posisi lemah*). Therefore, the text should be changed into 'together with the people through their co-operatives'.<sup>35</sup> Although the Minister praised this proposal and stated that it should be included in the Tourism Act as well, he did not amend the article in the end, even though FPP raised the issue once more at the SC's last session.<sup>36</sup>

Thus, everybody joined in the chant of praising the merits of participation, but not even the different definitions of participation implicit in the groups' first reaction to the draft led to a meaningful exchange of opinions. FPDI did not repeat its plea to include people's rights into the act or to treat the people more as subjects than as objects. Neither did FPP insist on attributing a stronger role to the people. Instead, FKP's narrow definition dominated the debate: partaking in 'determining the direction, strategy and policy for development through the people's representatives, carry the burdens and responsibility for

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33 SC 19 June 1990.

34 SC 8 June 1990.

35 SC 8 June 1990.

36 19 July 1990.

development and enjoy its benefits'.<sup>37</sup> In this view the only active role was reserved for the people's representatives. The Minister agreed and even went a step beyond by explaining that the difference between the government and the people was that the 'government governs, and Parliament are the people's representatives'<sup>38</sup> limiting participation to the people's representatives in Parliament. In the regions, the Minister said, participation was guaranteed through the members of the regional parliaments. At the national level, the discussions about this act formed another act of participation. Moreover, intended or not, the Minister made the role of the government more active than that of the people's representatives: the government 'governs' whereas the MPs 'are representatives'. The examples of ongoing participation the Minister presented further illustrated the limited role he saw for the people, for instance, scouts and other groups such as the association of soccer-clubs ought to take part in yearly planting activities.<sup>39</sup> Furthermore, the government would stimulate and supervise conservation groups engaged in spreading information. With the same aim, the Forestry Department would form conservational cadres in conservation areas.<sup>40</sup> Other forms of participation were the teaching of public servants and entrepreneurs as well as the existence of a special Forestry High School (SKMA). For direct input from the people there was the *Kotak Pos 5000*<sup>41</sup> and – unspecified – meetings with all kinds of groups, such as farmers and conservationists. In sum, all these examples were activities orchestrated or closely supervised by the government. Moreover, the Minister failed to provide details about these practices, which could have contributed to a better understanding of participation and appropriate details in the act to improve it.<sup>42</sup>

Led by the above-mentioned narrow definition of participation most speakers stressed the role of the government in the further discussion. FKPD stated that it was the government's responsibility to organise the people and their conservation efforts.<sup>43</sup> FABRI agreed that the government should stimulate the people's participation because it would not evolve by itself. In FPP's eyes it was important that the government remained in charge of giving direction to and supervising conservation groups. Otherwise there would be the danger

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37 SC 8 June 1990.

38 SC 12 June 1990.

39 These activities formed the so-called 'greening movement' (In. *gerakan penghijauan*) which in the past was known as 'greening week' (In. *pekan penghijauan*) (cf. chapter 12).

40 See also the case Pulau Seribu where members of such a 'cadre' complained about its very formalist character which did not stimulate to actively engage in conservation activities.

41 SC 19 June 1990. This P.O. Box, open for complaints from the society, was an initiative started by Vice President Sudharmono.

42 See for example comment by LIPI researcher Dr AS Hikam (*Kompas* 19 September 1998, 'Basmil Korupsi Perlu Moral Tinggi').

43 SC 19 June 1990.

of radical groups operating beyond the control of the government as had happened in the past.<sup>44</sup>

As to how the Government should approach the people, FKP and FPP were most outspoken. FKP proposed '*sadarkon*', a new acronym meaning that the people needed to become aware of the need for conservation through supervision, education and information.<sup>45</sup> This vocabulary was the same the government used in the context of *pembangunan* in general. The proponents considered the people to be like children in need of education and incapable of taking initiative themselves and the government, on the other hand, as the teacher who tells the children what direction to head and what to do. *Pembinaan* is even stronger in this sense and therefore hated by most people in the villages.<sup>46</sup> A direct translation of the concept of awareness in the international conservation discourse, *sadar konservasi* thus neatly fit into the Indonesian government's *pembangunan* discourse. Indeed, both the Indonesian concept of *pembangunan* and the international concept of environmental awareness contain a strong moral element implying that the people who lack it have not yet found the 'right' way of life.<sup>47</sup> The interest of the government in including this concept into the act was clearly to show that it had adopted the 'right' way of life and that it accepted the responsibility to lead its subordinates into the same direction.

Education about conservation, FKP claimed, should start in Kindergarten and continue until university. In the conservation campaigns societal organisations<sup>48</sup> and political parties including Golkar should also play a role. FPP used the opportunity to make a critical remark about the legal restrictions on political parties at the village level and expressed its hope that this was going to change 'in the decades to come!'<sup>49</sup> In FPP's views, education so far paid almost no attention to conservation. The government, they argued, should show films about the dangers of erosion etc. In addition, the FPP found it important to give 'guidance' to the people instead of only imposing 'prohibitions'. The act should 'stimulate' people to feel responsible.<sup>50</sup> However, people living close to or in conservation areas should not as easily be regarded as criminals. What was needed was a 'wise [*In. arif dan bijaksana*] preventive

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44 FPP gave the example of the BTI (Barisan Tani Indonesia), a farmers' mass organisation strongly influenced by the Communist Party PKI. SC 19 June 1990.

45 SC 19 June 1990.

46 Although *pembinaan* can mean 'development' it is more often interpreted as a form of governmental control since the development it supports is defined by the government. Van Langenberg pointed to the fact that the New Order government used it also as a depoliticising concept by emphasising its use for keeping the masses free from political forces and for the mobilisation of society to its own needs (Van Langenberg 1986). In this book, I translate it with 'supervision'.

47 Cf. Harré et al. 1999.

48 As in Act 8/ 1985.

49 SC 19 June 1990.

50 SC 19 June 1990.

approach'.<sup>51</sup> However, the speaker did not further clarify this and thus failed to create an alternative for the educational approach advocated by the FKP.

In sum, the various speakers defined participation as the near opposite of political participation.<sup>52</sup> They attributed the only active role to the government, which should strive to remain in control of and to 'activate' the people along previously defined lines. The attention for the people's needs voiced in the beginning was increasingly being pushed to the background.

### 18.5.3 Implementability

An issue all groups complained about was that the government's bill proposed 13 implementing regulations.<sup>53</sup> This, they said, worried them since the past had shown that if the government failed to issue these soon after the enactment of the law there would be no implementation. The government replied that matters of implementation should be regulated by governmental regulations for the sake of flexibility, that it had already prepared the implementing regulations and that they were to be issued soon after the law's enactment.<sup>54</sup> Strikingly, this governmental reply did not elicit any reactions from the legislators. How could the implementing regulations have been prepared before the parliamentary deliberations on the act? No one asked for more information on the drafts, for instance, to be able to judge whether inclusion into the act would be more appropriate.

FPDI at a certain point even used this same argument in response to FKP's proposal to include additional chapters on management, institutions and participation. Demonstrating the strength of the government's version of the discourse on lawmaking, FPDI stated that details should be stipulated in governmental regulations rather than in the act.<sup>55</sup>

At the last session of the SC most groups voiced once more their concern about the high number of implementing regulations provided for the act but they had failed to press successfully for including more details in the act or demanding that the government issue their regulations within a certain period.

Likewise, FPDI failed to get back to the issues of political support and manpower for the implementation and enforceability of the BCA it had raised in its first comment. As a consequence, only the stipulation on Civil Investigators (*Pejabat Pegawai Negeri Sipil*) evoked some discussion, which resulted

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51 SC 14 July 1990.

52 That was completely in line with other efforts the government had undertaken to depoliticize the Indonesian society, including the introduction of the earlier mentioned 'floating mass' policy which aimed at restricting the political participation of the people at the village level to voting once in five years.

53 SC 14 July 1990.

54 FGR 8 March 1990, SC 12 June 1990.

55 SC 19 June 1990.

in the addition that they must report their findings to the Public Prosecutor via the Police.<sup>56</sup>

Apart from the provisions for investigation, the governmental bill did not mention which institutions should implement or enforce the law, or which minister should be responsible for conservation. FKP pleaded for adding chapters to the bill dealing with the management of conservation areas and institutions for conservation but found no majority for this proposal.<sup>57</sup> The Minister restated once more that a government regulation rather than an additional chapter in the act should stipulate the institutional side.<sup>58</sup> The ABRI group commented that such a special chapter was unnecessary since the government had already explained that the existing institutions were to implement the act:

'So, we heard that no new institution will be established but that the existing institutions will be encouraged to participate in conservation activities. [...] do we need to make that a chapter?'<sup>59</sup>

What remained in the end was an exchange of promises and hopes. To strengthen his promise for a quick issuance of all required implementing regulations the Minister cited a speech of President Soeharto from 1989 for the occasion of the Day of the Environment to show the government's determination to implement the BCA.<sup>60</sup> Apparently, this speech was a more important guarantee for the implementation than guarantees that could have been built into the act itself (cf. chapter 4).<sup>61</sup> FPD's final remarks were exemplary for the tenor of the meeting:

'We hope [...] that the implementing regulations will soon be issued to make the act effective [...]. We hope that all sides involved in the implementation will fulfil their tasks as well as possible because we need to realise that however good and perfect this bill is, it will very much depend on its implementation, therefore we all hope that the implementers will be honest, serious and dedicated, to achieve the best possible result.'<sup>62</sup>

It is safe to argue that the legislators could have reduced the dependence on promises and hopes if their debates had focused more on safeguarding the bill's effectiveness in a concrete manner.

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56 Art. 39 (4) BCA.

57 SC 18 June 1990.

58 SC 19 June 1990.

59 SC 19 June 1990.

60 19 July 1990.

61 Cf. Bedner who also showed the relative importance of Presidential speeches compared to legislation (Bedner 2001, p. 29).

62 19 July 1990.

#### 18.5.4 Sanctions

Unlike implementability, the issue of sanctions raised much focused debate. FPP argued that since conservation would affect many people, a considerable number would be punished if the stipulation of the act were put into effect. Criminal sanctions should be applied only after three warnings.<sup>63</sup> FKP, on the other hand, advocated to make punishments more severe than in the government's bill by first increasing the maximum penalty from 100 to 500 million, and from 5 million to 100 million Indonesian Rupiah and by making custody and financial sanctions additional instead of alternatives. All other groups were in favour of the government's 'and/or' formulation. Their motivation differed, however. Exemplary of the group's fancy for formalism FABRI argued – legally incorrect – that this act could not stipulate sanctions beyond those of its 'mother act', the Environmental Management Act. FPP pleaded for the 'and/or' stipulation in order to protect the little farmer who would become the victim of the additional stipulation. FPDI stressed that it was the judge who should be able to decide to apply one or more kinds of sanctions. As a compromise, the government proposed to make the sanctions additional in the case of intent and optional for unintended violations of the act. Its argument was quite convincing, i.e. that in the case of intended violation by, for example, logging concessions it should not be possible to buy off custody and with it the loss of face.

Nonetheless the groups could not come to an agreement and postponed further discussion by first asking the Ministry of Justice and the Supreme Court for an expert opinion. The Supreme Court failed to provide any answer before the end of the debate, while the opinion of the Ministry did not help much since it did not express its favour for any of the options. It is unclear to what extent its additional remark – that legal experts favoured 'and' instead of 'and/or' in light of more legal certainty and limitations to the discretionary authority of the courts – helped convince FPP. In any case, after a lobby FPP agreed on the sole use of 'and'.<sup>64</sup> FPDI, on the other hand, half-heartedly insisted on waiting for the Supreme Court, stating that if needed they would agree on 'and' as well.<sup>65</sup>

Regarding the severity of punishment, the government proposed to punish destructive behaviour in strict nature reserves and the core sanctuary of national parks with 10 years of imprisonment and 100 million Rupiah (8000 US \$), using the EMA of 1982<sup>66</sup> and the Government Regulation on Protection

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63 SC 8 June 1990.

64 SC 15 June 1990.

65 SC 20 June 1990. The groups agreed to receive the Supreme Court's answer but that it would be received as a document without any consequence for their further discussions.

66 Maximum sanctions of 10 years imprisonment and a fine of 100 million Rupiah, ex art. 22(1).



Forest<sup>67</sup> as guidelines. These sanctions would be in accordance with the importance of the protected areas in question. High sanctions would work as a deterrent. Because of inflation FKP pleaded for accepting FABRI's proposal of a financial sanction twice as high, presenting this as a discount compared to its initial proposal of 500 million Rupiah (40000 US \$) fines. Its main argument was that such high sanctions would have a psychological effect and could demonstrate to the outside world how serious Indonesia was about conservation. FKP refused to accept FPP's argument that such fines were much too high for the common people. 'Of course', Soedarmadji argued, his group was conscious of the ordinary man, but to this end the judge had the possibility to apply a lower fine than this maximum. Likewise, FPP's argument that violators of the law nowadays were perceived as products of their society and that therefore reintegrating them should be more important than punishing them did not lead to lower sanctions. In the end, after the decision had been postponed again,<sup>68</sup> FPP lost its case.<sup>69</sup>

### 18.5.5 Conclusion

The analysis so far has demonstrated that most debates on serious and sensitive matters related to the question of how to balance economic growth, environmental protection and human rights were closed even before the formation of the SC. These included the evaluation of the conservation activities so far, the nature and extent of nature destruction and the scope of the solution, i.e. the question of whether conservation should be limited to specified areas or not. Taking the last issue as an example, it was striking how little debate developed. After all, FPP and FPDI had made some notable initial remarks that, so far, international conglomerates had pressed Indonesia to exploit its natural resources unsustainably, and that conservation policy should cover more than conservation areas alone. In addition, all groups and the Ministry repeatedly stressed that the colonial policy – which was built mainly on reserves – needed to be revised. The first remark could have paved the way to discuss the impact of trade and business on the management of nature and in what ways a new law could limit their negative effects, while the second remark could have initiated a debate on other instruments for nature conservation. However, the Ministerial draft did not pay any attention to placing conditions on international conglomerates activities in Indonesia and clearly centred on conservation areas as the main instrument of conservation.

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67 GR 28 of 1985.

68 Kamidya proposed to discuss the sanctions in the end after having reached an agreement on all other stipulations as the procedure used to be in interdepartmental teams. SC 25 June 1990.

69 PDI supported PPP's demand without adding much to the discussion.

Even in the SC most debates remained superficial. The main exception was the discussion on sanctions, which produced clear positions. This is probably because the issue was not about government responsibilities and therefore did not directly affect it. However, in general, no MP asked for arguments showing that proposed solutions could tackle a problem. Critical questions and demands did not succeed in changing the draft in any substantial way. Many of them were worded vaguely or did not get to the point, and moreover, they were not repeated when unanswered. The arguments used to refuse demands were not strong or convincing in the sense that they lacked evidence and details. Even obvious cases of misinterpretation did not make MPs insist on continuing the debate. Where the speakers defined concepts differently, these differences were glossed over until they disappeared from the debate entirely. In cases that MPs at first demanded guarantees from the government, they finally contented themselves with promises and hopes. As a result, the government succeeded in getting its draft through the process almost unscathed. Its most important strategy to this end was to close debates before they had really started.

In this chapter we will further analyse with what kind of arguments and strategies participants tried to close debates. The first mechanism was to not answer questions at all and was applied by the Minister mostly during the second stage of the parliamentary debates. Another strategy of the government has also frequently been mentioned before: to make promises where guarantees had been demanded. Other strategies were references to *Pancasila*, *pembangunan* and *pembinaan*, the postponing of decisions, and an emphasis on a fast enactment.

### 19.1 PANCASILA

The Minister in particular (but other speakers as well) frequently referred to the state ideology *Pancasila*. In response to the groups' first comments on the bill, the Minister mentioned it immediately:

'In principle, we can understand the thoughts which the groups have put forward. They will basically all complement each other since they are all inspired by *Pancasila*, the Constitution of 1945 and the Broad Lines of State Policy [...].'<sup>1</sup>

This statement suggested that the debates had to take place within the boundaries of *Pancasila* with a focus on harmony and consensus instead of on conflict and differences of opinion.

During the debates the Minister made many – albeit, more subtle – references to *Pancasila*. In general, he emphasised the agreements and simultaneously tried to downplay differences of opinion. A telling example is the following quote:

'that there is much agreement among us both concerning the basic thoughts and about the substance of this bill itself. Then regarding the issues that *create the impression as if there were disagreements, that only appears as such* [my emphasis, JA] since these issues need further explanations and clarification from the Government.'<sup>2</sup>

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1 8 March 1990.

2 Minister, 8 March 1990.

In some cases he transformed the question asked in his answer in a subtle way to avoid the real subject matter. For instance, in his reaction to FPDI's urge to include a broadly defined version of participation into the bill, the Minister said

'we need to explain that [in the draft] *public responsibility* [my emphasis] is actually not limited to mobilisation [as FPDI has said] but [that] the government also provided the people with rights in accordance with the existing regulations'.<sup>3</sup>

Here, the Minister reduced 'participation' to 'responsibility', a building block of the *Pancasila* ideology: the government used to stress that everybody held the responsibility to strive for a harmonious atmosphere in society. The fact that the Minister did not even make the effort to provide evidence or details to support his statement made clear that he considered the government to not really be accountable to Parliament.

Another signal for the politicians involved that the Minister appreciated comments in line with *Pancasila* more was his praise of FKP, the group that had suggested the inclusion of an entire chapter on participation. He reminded others to 'appreciate FKP's opinion that participation and public awareness needed to be developed continuously'.<sup>4</sup> FKP had framed its plea as, among other things, the implementation of the GBHN and related participation in line with the government's discourse to supervision (In. *pembinaan*), education (In. *pendidikan*) and information (In. *penyuluhan*).

Another example of the Minister stressing the harmony between government and Parliament occurred when the Minister reacted to FPDI's quest to make explicit that 'the people' meant more than the 'small' people such as farmers and the like. The Minister wondered if this was really 'necessary' since 'we, sitting here together, are also the people'. 'Therefore', he continued,

'let's not create the impression that *the government walks alone and not together with the people* [my emphasis, JA], it is clear that the government or in this case the President has to implement the GBHN [...]. The most important thing is how to activate the people [...]'.<sup>5</sup>

This was a statement that could not be misunderstood by FPDI. It implicitly accused the group of challenging the concept of the integralistic state in which all parts were 'united' and acting 'together'.<sup>6</sup>

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3 12 June 1990.

4 8 March 1990.

5 12 June 1990.

6 See, for instance, ABRI's interpretation of *Pancasila* in Ramage 1993, p. 276. Likewise, Morfit argues that 'what *Pancasila* offers as a political ideology is unity rather than direction, meaning that it is unlike Mao's Great Leap Forward, for instance, 'not designed to excite mass participation in the development process or galvanize the nation into action'. Rather,

The same issue also came to the fore when FPDI argued in favour of compensation for people who would have to leave their land as a consequence of conservation. As quoted above, the Minister closed that debate by stating that MPs should not focus on executive mistakes but rather on cases where everything was going fine.

At another session of the SC the Minister stressed his appreciation for the parliamentary practices based on *Pancasila* by contrasting it to what he had experienced in the New Zealand Parliament:

[...] how enjoyable this meeting in Indonesia was compared to what I saw there [in New Zealand]. Here, no minister, whether woman or man, is interrupted, debated or even labelled an idiot. [There] I wondered, are these now civilised people? In this light I look at how enjoyable it is to be Indonesian since we still are capable of reaching a consensus through deliberations without insulting or depreciating other people.<sup>7</sup>

Discussions in various countries certainly differ in terms of style. My argument here is not that insulting legislators or government officials by calling them names is to be preferred to harmonious discussions, but that contrasting New Zealand to the government's interpretation of *Pancasila* is a form of manipulation by stressing that deviating from its consensus-oriented style is deviating from civilisation. The legislators could read the message implied: they were expected to avoid conflict and criticising the government during the debates.

## 19.2 PEMBANGUNAN

A discourse with the power to close debates before they really got started was *pembangunan*. The Minister used it, for instance, in the case of FPDI's critical request to consider isolated tribes as part of an ecosystem and to guard that the governmental efforts to integrate them into some kind of national culture did not destroy this ecosystem.<sup>8</sup> The Minister said that the government had 'many programmes to increase their quality of life'.<sup>9</sup> That was a clear reference to *pembangunan*, with its emphasis on programmes and projects. As conserva-

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'it provides an encompassing umbrella of unity' (Morfit 1986, p. 48). As Morfit argues, the opposite side of this coin is its exclusiveness. It does not permit any communist or fundamentalist Islamic opposition in the political arena (Morfit 1986, p. 48), nor, as the analysis of this lawmaking process shows, any criticism in Parliament that the government dislikes.

7 SC 15 June 1990.

8 12 February 1990.

9 For a discussion of the negative effects of this policy see Persoon 1985. For a discussion on the lack of scientific evidence for the government's assumption that its development programmes are advantageous for the economy of tribal people and the ecology of areas in which swidden agriculture is practiced see Dove 1986, p. 224-230.

tion was considered subordinate to the overall development process<sup>10</sup> the Minister easily pushed FPDI's argument – that developing them meant destroying the 'wholeness of an ecosystem' – aside; their role in the ecosystem would simply be taken over by another part of that ecosystem.<sup>11</sup> Taken further this argument means that conservation is not necessary at all since any loss of species would be compensated by some other species taking over its role – which comes close to the conceptualisation of the spiritualist discourse (chapter 7). However, no MP asked any questions and the issue of isolated tribes did not re-emerge in the SC. *Pembangunan* had thus proven effective in closing this debate.

A second example was the Minister's use of *pembangunan* to close the debate on subsidies for conservation areas. He wiped away FPP's plea for subsidies by expressing the hope that the people's representatives from the region referred to would do their best to 'develop' it. *Pembangunan* was too powerful to be questioned and thus, again, closed the debate.

Another word belonging to the *pembangunan* discourse, which the Minister applied to the same purpose, was *pembinaan* (En. supervision). When FPDI, for instance, wondered about the fate of people living and working in conservation areas,<sup>12</sup> the Minister responded that the government was to 'super-vise' them and that it could take 'measures of order', meaning forced migration to other areas 'while paying a compensation according to the existing rules'.<sup>13</sup> The FPDI spokesman did not ask for any details about this approach but accepted it as an answer to his question. *Pembinaan* thus closed this debate even before it had actually started.

### 19.3 EMPHASIS ON FAST ENACTMENT AND POSTPONING DECISIONS

Another way to quickly close debates was to postpone decisions. The Minister and the chairman of the SC were often quick to suggest that issues should be left to implementing regulations, to the 'working group' or from there to the 'small committee' often combined with a reference to the desirability of a fast enactment. For instance, when FPDI pleaded for the clarification of expressions such as 'conservation', 'nature reserve' and 'wildlife reserve' the Minister suggested they leave these questions to the 'language experts':

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10 Although conservation was said to be part of development, Heryanto provides a counter argument, saying that 'Pembangunan does not even pretend to refer to things presumably in "nature" or "natural processes". On the contrary, it refers to an exploitation of nature, as of human beings' (Heryanto 1995, p. 22). See also chapter 13.

11 8 March 1990.

12 12 February 1990.

13 8 March 1990.

[for] the problem of expressions I think we have language experts, experts especially for that, perhaps later we can make suggestions about expressions and commas, which sometimes have a meaning of their own. I know that Mr. Dufri [from FPDI, JA] is a lawyer and for lawyers the difference between a comma and a full stop, between end and beginning is important. For us, on the other side, I myself come from Tapanuli [North Sumatra, JA], this sometimes makes no difference. Thus, I want to add a bit: why did North Sumatra not win the Kalpataru?<sup>14</sup> [...] The answer was “Alah, for cleanliness look at the fish in the water.” Why, I asked. “Because fish continuously take a bath,” they said. That is right too, I think. So, they do not ever want to lose but search for arguments to defend themselves. [...] I want to bring in some humour since I see some tension [...]<sup>15</sup>

Although one could argue that this illustrated that the Minister conceived of language as an instrument, easily to be separated from its context,<sup>16</sup> it was also a strategy to circumvent potential difficulties in Parliament.

Equally important was the argument that the act needed to be delivered ‘on time’. From the first plenary session onward, the Minister pleaded for a fast enactment:

‘I suppose Parliament will agree that the faster this bill is enacted, the stronger the legal basis will be, which can be used as guidance in the implementation of the tasks in the field of biodiversity and ecosystem conservation’.

The question is obviously what he meant by a strong legal basis. If he meant an effective act, some questions should have been asked. However, it is more likely that he conceived of the act as a strong legal basis anyway, no matter what effects the act would have in practice.

The repeated plea for fast deliberations became a mantra during the lawmaking process. The chairman of the SC kept arguing that finishing on time was important and voiced his ‘optimism’ that the ‘family atmosphere’ (In. *suasana kekeluargaan*) in the committee would enable them to do so. In the course of the deliberations the slogan ‘*santai serius dan selesai*’ (En. relaxed, serious and completed) – the stress falling on *selesai* – both the government and the groups repeatedly stressed the need for a quick completion of the legislative process without giving specific reasons for the rush.<sup>17</sup> The *selesai* mantra showed its effect, for instance, when FPDI initially insisted on waiting for an answer from the Supreme Court to the question of whether to choose

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14 Price from the Ministry for the Environment for the cleanest city in Indonesia.

15 SC, 8 June 1990.

16 For a convincing argument against this conception see Massier 2003, p. 29-37. Massier pleads for conceptualising language as action, dependent on the actor and its context.

17 In general, according to Hartono, the discussions in Parliament may need up to one year ‘and (paradoxically) only in very important and urgent political matters or in matters concerning national development and the State’s budget, may the bill pass the DPR in the shortest time, that is two or three months’ (Hartono 1979, p. 14)

'and' or 'and/or' in the articles on sanctions but later half-heartedly stated that if necessary they would agree on 'and' as well.<sup>18</sup>

In two cases, the chairman pushed the 'fast enactment' argument too far, incurring serious opposition. The first case emerged when the Minister, at the groups' demand, presented a new version of chapters 3, 4 and 5, drafted in only a few hours.<sup>19</sup> When the chairman proposed to discuss these right away, groups protested, since they had not even had the time to read them. After a one-hour reading break they still could not agree to the schedule so the new draft was put on the agenda of the working group in order so they could still proceed in a timely manner. The second case emerged during the first session of this very working group when the chairman tried to speed up the process by proposing that all items should be passed on to one of the sub-committees without further discussion. Oeng Rumadji of FABRI rebuked that there would be no need for the working group if this was to happen. The chairman defended his proposal by saying that after the first two articles had been passed on he thought that passing the rest on as well was appropriate and would 'save his energy' (In. *daripada cape membacanya*).<sup>20</sup>

A similar situation occurred when the FKP spokesman – who apologised for this question in advance, in case it was being interpreted as criticism – asked whether it would still be possible for the SC to make changes to the proposed 'final' result of the SC. The chairman replied 'preferably not' which led to FPP spokesman Djafar Sidiq's protesting that they should strive for the best possible result and that it therefore should be allowed. In the end, the chairman agreed and said that formally even the plenary of the DPR could still make amendments. He defended his first reaction by stressing that they had agreed on completing the discussions on schedule.<sup>21</sup>

As the New Order discourse on harmonious and quick lawmaking was generally strong enough to curb discussions, the SC managed to finish the debates regarding the bill within a remarkable 37 days.<sup>22</sup> Surprisingly, the SC's chairman Djamaluddin Tambunan stressed in his final remarks that deliberations in the *Pancasila* democracy take a long time. FABRI's spokesman Soebagyo also stated that his group was surprised that the discussions were not completed sooner since the act concerned such a 'technical matter'.<sup>23</sup>

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18 SC 20 June 1990. The groups agreed to still receive the High Court's answer but that it would be received as a document without any consequence for their further deliberations.

19 Since the lobby in Taman Safari ended on Sunday night and the next session commenced the morning after, the Forestry officials did have only some hours to clear this job.

20 WG 25 June 1990.

21 SC 14 July 1990.

22 SC 14 July 1990.

23 SC 14 July 1990.



## 19.4 COUNTERSTRATEGIES OR THE POWER OF DISCOURSE

Speakers of the groups also used a number of strategies to get their proposals and demands for the act accepted. One strategy, for instance, was to repeat something the Minister had said and then present one's demand as if consistent with the quote. Another strategy was to refer to practices in the field and experiences of the past. However, none of these strategies appeared successful. Sometimes this was due to the lack of support from the members of other groups who called proposals 'sympathetic' or even 'brilliant' but in the end did not support them. Even in those cases where the groups put forward similar arguments they chose not to support each other but focused on their own conversation with the Minister instead.

The strategy used most often by the groups was the reference to *Pancasila*, *pembangunan* and other related concepts of the *pembangunan* discourse. Here the question of to what extent this was really a strategy or instead an example of the power of discourse arises. Most likely, it was both.

FKP spokesman Soedarmadji said, for example, at the SC's first meeting, on 8 June 1990:

'The list of problems<sup>24</sup> [...] in principle does not show striking differences in opinion. Maybe this is because of the awareness of the various groups of their mission to take care of the suffering of the people as an extension of *Pancasila*.'

This statement was very similar to the one made by the Minister. As he had, the speakers of the groups tried to make differences appear small. The idea behind such statements, especially from the groups, seemed to be to get one's proposal accepted by convincing the others that it was actually not different from what they wanted. Here, *Pancasila* and other concepts related to the official *pembangunan* discourse thus served as a common story to find allies. As this was the main strategy employed, the list of similar statements could fill a considerable number of pages of this book. Words that dominated these statements were 'family atmosphere' (In. *suasana kekeluargaan*),<sup>25</sup> 'harmony' (In. *harmoni*), 'openness' (In. *keterbukaan*), and 'deliberations to reach a consensus' (In. *musyawarah untuk mufakat*).

However, the strategy did not really work because it could be used as a boomerang by the government to silence criticism. Whenever an MP attempted to open a debate to suggest a critical amendment of the draft, the government could, with another reference to the same discourse, close the debate.<sup>26</sup> Its effectiveness is illustrated by the fact that even FPDI, the group with the most

24 The list that served as a basis for the debates in the SC.

25 See for the relevance of this concept also, for instance, Ramage 1993, p. 273.

26 Cf. Ramage who called the NGOs' strategy of the early 1990s to choose Pancasila as their 'terms of references' a weak strategy (Ramage 1993, p. 422).

critical questions, accepted *Pancasila* as a clear boundary for its own political space, not returning to any of its initial critical remarks later on. It neither demanded the government state which rights were granted through which article nor did it insist on clarifying why it wanted the bill to mention that not only 'small' people were the ones to be regulated. 'Harmony', 'the President' and 'GBHN' silenced the FPDI spokesman. In fact, an implicit rule was that insisting was not acceptable. The parliamentary minutes analysed for this chapter suggest that the members of Parliament without exception in the end accepted the dominant interpretation of *Pancasila* without any challenge. Apparently, the government and its discourse on lawmaking were too powerful to allow for any effective counter-discourse. The government succeeded in maintaining a system of 'one big strong voice'.<sup>27</sup>

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27 Van Langenberg 1986 citing Soeharto.

The parliamentary debates analysed so far resulted in an act intended to form the future legal basis for Indonesian conservation activities. Considering that as such it had great implications for actors living or working in or close to conservation areas, that there are no academic publications on the quality of this act and that the act is currently under revision, suggests that it is worthwhile to also discuss the act in terms of the rule of law discourse.

Eijlander and Voermans have listed a number of basic expectations<sup>1</sup> of legal acts. These include that citizens expect an act to create clarity about rights and obligations, that governments expect an act to formulate the rules on the basis of which they can rightfully and authoritatively govern and that judges expect an act to enable them to decide disputes. Given that Indonesia has always claimed to be a *rechtsstaat* (In. *negara hukum*) one would expect to find references related to rule-of-law expectations. Indeed, some of the objectives formulated to solve the problem of decreasing biodiversity and degrading ecosystems – including ‘to provide a clear direction for Indonesia’s conservation policy’, ‘to ensure the government’s attention for conservation’ and ‘to ensure the people’s understanding and awareness of the need of conservation’ – point in the direction of defining obligations. In addition, the objective ‘to reflect the aspirations of society’ could also reflect the wish to ‘rightfully’ govern. However, as the expectations put forward by the Minister and the four groups in the initial stages of the parliamentary debates show, the rule of law was only one discourse among others. The other expectations – ‘to improve the existing colonial and post-colonial regulations’, ‘to increase the people’s welfare’, and ‘to show Indonesia’s commitment to conservation’ – reflected other ideals such as nation building, development, and silencing foreign criticism.

The following discussion of the act will reflect on the questions of to what extent the act warranted the realisation of the above mentioned expectations and what this tells us about the dominant conceptualisations of the rule of law, society and conservation in this case.

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1 Eijlander & Voermans 2000, p. 17-18.

## 20.1 PROVIDING A CLEAR DIRECTION FOR THE CONSERVATION POLICY

One hope the Minister and the groups had expressed was that the BCA would provide a clear direction for conservation policy. And indeed it does. It describes the goals of conservation in Indonesia and provides for definitions and general provisions about the two major instruments for conservation: a protection status for certain areas and for certain species.

The main goal described in the act is one of conservation serving development, which we could label as '*pembangunan-conservation*'. With the exception of species protection, it is limited to certain territories. For these the BCA creates legal boundaries for economic exploitation. One important aspect of *pembangunan-conservation* is thus that exploitation-oriented sectors do not have to consider conservation in all their activities. Another feature in this respect is that the BCA creates the legal basis for a new instrument: the national park, which partially allows for touristic exploitation.

### 20.1.1 Practice

One way to judge whether or not the BCA has indeed provided a clear direction for policy is to examine to what extent the definitions of the BCA have influenced later regulations.

Acts issued after the BCA have indeed more or less adopted its definitions. The BCA defines conservation of natural resources as the 'management of natural resources wisely used in order to ensure their continuity and taking care of and increasing the quality of their diversity and value.'<sup>2</sup> The EMA of 1997 defines conservation in a similar way, as 'management of unrenovable natural resources to ensure their wise use and of renewable natural resources to ensure their continuing existence by taking care of and increasing the quality of their value and diversity.'<sup>3</sup> The Forestry Act of 1999<sup>4</sup> does not define conservation as such, but has adopted the BCA's definitions of nature reserve and nature conservation area for forests areas serving conservation functions.<sup>5</sup>

With regards to protected areas there is no standard set of terms, as a joint study by the Indonesian Centre for Environmental Law and the Natural Resources Program concluded.<sup>6</sup> This study found that in 1998 Indonesia had some 157 regulations linked to Protected Area Management, many of them issued after 1990. Overall, there is little consistency in these regulations.

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2 Ex art. 1 BCA.

3 Ex art. 1 (15).

4 Act No. 41 of 1999.

5 Ex art. 1 (10) and (11). In this act these areas are called *kawasan hutan suaka alam* and *kawasan hutan pelestarian alam*, whereas in the BCA they are called *kawasan suaka alam* and *kawasan pelestarian alam*.

6 Sponsored by USAID; ICEL & NRM 1998, p. 3.

Although the BCA, for instance, prohibits exploitation of nature reserves, subordinate regulations, such as joint decrees of the Mining and Forestry Department, make this very exploitation possible.<sup>7</sup>

In conclusion, it is fair to say that in theory the BCA provides a clear direction for the country's conservation policy. This direction is one of '*pembangunan-conservation*' as it subordinates conservation to the greater goal of economic development. In practice, acts issued after the BCA have taken it into account but lower regulations have stretched its policy guideline to the advantage of economic exploitation. Subordinate regulations and development practices show that the theoretically clear direction of policy is of limited use due to the systematic ignorance and negligence of the BCA (see part IV).

## 20.2 ENSURING THE GOVERNMENT'S ATTENTION FOR CONSERVATION

In the course of the debates the speakers of the four groups expressed the need to ensure that the government would pay sufficient attention to conservation. As the preceding section has shown, not without reason they appeared to be concerned about the implementation and the enforcement of the act. However, they did not succeed in translating these concerns into provisions in the act. The need of implementation regulations, the lack of provisions for personnel and institutions, as well as for financial and control mechanisms all bear testimony to this.

### 20.2.1 Implementing regulations

The Minister refused to include provisions about personnel and institutions in the act. Instead, he stated that the existing institutions would implement the act in the beginning and later on the institutional arrangements could be adapted to what was needed in the field. With regards to personnel he did not say or promise anything at all. In addition, the Minister kept saying that for the sake of flexibility all details for the implementation would be articulated in government regulations. However, the BCA did not oblige the Forestry Department to quickly issue these implementing regulations. Neither did it contain any details, which would have forced the Ministry to implement the act immediately. As a consequence, many regulations have still not been issued at present, while those in place often state that details will be regulated in

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7 ICEL & NRM 1998, p. 23, 49-50. One such example is *SKB Menteri Pertambangan dan Menteri Kehutanan nomor 969.K/05/M.PE/1989, nomor 429/kpts-II/1989 tentang Pedoman Pengaturan Pelaksanaan Usaha Pertambangan dan Energi di dalam Kawasan Hutan*. Art. 3.1 makes mining possible in strict nature reserves after hearing the considerations of the Minister of Environment and LIPI.

ministerial decrees. For national parks, for example, it has taken some seven or eight years for all needed regulations to be issued (see chapter 24).

In sum, the Minister had apparently lied about the already prepared implementing regulations and thus the MPs for good reason feared that their issuance would take a long time. Not including details in the BCA about implementation or any obligation or time frame for issuing implementing regulations effectively deprived the public of all legal instruments to ensure the government's attention to conservation.

### 20.2.2 Financial provisions

The BCA also lacked financial provisions. It does not regulate anything about the use of revenues from conservation activities, including the fines for offences of the BCA. As a developing country Indonesia suffers from a perpetual budget deficit, so not surprisingly, conservation activities are not a priority on the country's development agenda. Any activity in the field is now financed either, for 40-55 %, <sup>8</sup> through international funds, on a project basis by the Forestry Department's budget or by the Reforestation Fund. This financing mechanism has resulted in a 'project-culture' that is very sensitive to corruption as the case study of Pulau Seribu will show (chapter 25). Therefore, financial stipulations in the BCA would have been a useful, if not obligatory, instrument to finance the maintenance of protected areas and other conservation activities.

### 20.2.3 Control mechanisms

In addition, the act has failed to create control mechanisms for implementation, only providing a general normative framework. The lack of control at various levels is another result of the act's vagueness on implementation. The fact, for instance, that the government holds the discretionary authority to declare protected areas results in a lack of parliamentary control contrary to, for instance, New Zealand.<sup>9</sup> As we have seen, this was precisely the intention of the government. MPs should focus on where the executive functioned well.

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<sup>8</sup> Rhee et al. 2004, p. 10.

<sup>9</sup> For further information see <http://www.doc.govt.nz/About-DOC/002~Legislation/002~National-Parks-Act-1980.asp> .

### 20.3 ENSURING THE PEOPLE'S UNDERSTANDING AND AWARENESS OF THE NEED FOR CONSERVATION

Another objective the Minister and the MPs wanted to realise was to ensure the public's understanding and awareness of conservation. The act clearly states that the government is the only driving force in the field of conservation. It has to educate and inform the people about conservation to get them to participate.<sup>10</sup> How this is to be achieved the act leaves to a governmental regulation that is yet to be issued.<sup>11</sup> The BCA thus fails to realise this objective, while not issuing the required regulation again raises doubts about the seriousness of the government.

The precise formulation of this issue makes clear that the Minister and the DPR interpreted the rule of law in a way that does not attribute any rights to the people. The BCA positions the government as teacher and the public as children in need of education without paying any attention to their other needs and realities. A government regulation on conservation education would have required trust between the government and the people. After all, children only learn if they trust their teacher. However, in 1990 and certainly after the fall of the New Order, such a relationship was non-existent (as the case studies in part IV will show).

Ensuring people's understanding of conservation would have required another approach. The DPR should have thought about more concrete ways to achieve a broad societal basis for nature conservation. Two potential ways would have been to promote the benefits of nature conservation for those concerned and to actively involve them instead of limiting them to merely receive information and education.

### 20.4 IMPROVING THE EXISTING REGULATIONS

The BCA was to replace the colonial regulations in the field of nature conservation that were considered to no longer be in accordance with legal developments and the national interest.<sup>12</sup> There was a clear consensus in parliament that this was a good idea. The BCA replaced the *Jachtordonnantie* 1931,<sup>13</sup> the *Dierenbeschermingsordonnantie* 1931,<sup>14</sup> the *Jachtordonnantie voor Java en Madoera* 1940<sup>15</sup> and the *Natuurbeschermingsordonnantie* 1941.<sup>16</sup> Thus, the BCA integrated several old regulations on the protection of animals and the issues of hunting

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10 Ex art. 37 (1) and (2).

11 Ex art. 37 (3).

12 Consideration (e), BCA.

13 Indisch Staatsblad 1931 Nummer 133.

14 Indisch Staatsblad 1931 Nummer 134.

15 Indisch Staatsblad 1939 Nummer 733.

16 Indisch Staatsblad 1941 Nummer 167.

and nature protection in one new law. However, apparently for the sake of nation building, *replacing* the colonial regulations was an objective in itself. The question of which parts of the existing regulations were still useful and which needed to be replaced was not addressed. The fact that few Indonesians can read and understand Dutch, combined with the time pressure, certainly did not encourage the MPs to consider the colonial regulations themselves.

To analyse what exactly the BCA changed, the following comparison of the BCA and the *Natuurbeschermingsordonnantie* of 1941 (henceforth NBO)<sup>17</sup> will pay special attention to the criteria for, reasons for and objectives of nature reservation, prohibited and permitted activities in reserved areas, and authorities in the field of nature conservation.

#### 20.4.1 Criteria, reasons and objectives of nature reservation

The grounds on which the colonial and the Indonesian government wished to reserve areas for nature conservation differ enormously. Whereas in colonial times the 'extraordinary scientific, cultural or aesthetic value'<sup>18</sup> of an area and its 'soil conditions, overgrowth, fauna, flora or natural beauty' formed the major reasons for its reservation, the corresponding Indonesian criterion is an area's 'certain characteristics'. For wildlife reserves these characteristics are their 'biodiversity or the uniqueness of animal sorts (or both) the continuing existence of which can be served by intervention',<sup>19</sup> while for national parks the prerequisite is an 'authentic ecosystem'.<sup>20</sup> Thus the BCA introduced new concepts, i.e. biodiversity and ecosystem, without providing information about values justifying the reservation of nature for conservation purposes.<sup>21</sup> It is rather vague about when plants, animals and the like were to be regarded as 'extraordinary' or 'unique'<sup>22</sup> because the formulation of the precise criteria for the establishment of all kinds of conservation areas was delegated to governmental regulations.<sup>23</sup>

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17 With regards to the protection of animals not much changed. The main stipulations of the old *Dierenbeschermingsordonnantie* 1931 were included in the BCA in art. 21, 22 and 36. In terms of authority the BCA was less precise than the DBO, as in the case of the NBO (see further on in the text).

18 Art. 2 *Natuurbeschermingsordonnantie* 1941. The cultural value was added only in 1941.

19 Ex art. 1 (11) BCA.

20 Ex art. 1 (14) BCA. The definitions for Grand Forest Parks and Nature Recreation Parks do not mention any natural characteristics. Art. 1 (15) and (16) only mention the use of these areas.

21 For an argument in favour of basing nature conservation policy on intrinsic values see Jepson 2002.

22 The Forestry Act of 1967 still stated that nature reserves are protected in the interest of science and culture (art. 3 (3a and b)).

23 Ex art. 8 (2), 16 (2), 18 (2), 29 (2) BCA.



Regarding the reasons for reserving areas, the BCA is more precise than the colonial regulations. It mentions various 'functions': 'biodiversity conservation and serving as life supporting system'<sup>24</sup> for nature reserves,<sup>25</sup> and 'sustainable use of its natural resources and their ecosystem'<sup>26</sup> as an additional function for nature conservation areas. The colonial regulations, by contrast, state that areas are reserved where the 'untouched preservation'<sup>27</sup> or the 'protection of fauna, flora or natural beauty is desirable to the public interest'.<sup>28</sup>

The formulation of the BCA suggests a more scientific and therefore more testable approach to nature reservation. However, the failure to establish an obligation for the government to make inventories of areas prior to their establishment as conservation areas (see above) undermines the testability of the approach.

#### 20.4.2 Prohibited activities

The strictest prohibition of the NBO, i.e. of access in general for strict nature reserves,<sup>29</sup> is absent from the BCA, but apart from that the BCA does not differ much from the colonial regulations. It prohibits 'all activities that can result in change of the untouched state of the area', 'including reducing or destroying the function or size of the area as well as introducing foreign sorts of plants and animals'.<sup>30</sup> The elucidation of the BCA defines the meaning of 'change' as 'destroying the untouched state of the area and its ecosystem, hunting wild animals present in the area and introducing foreign species'.<sup>31</sup> The colonial ordinances give more precise examples of prohibited activities. Only with regards to protected plants and animals does the BCA lists which activities are prohibited, including 'taking away', 'owning', and 'trading'.<sup>32</sup> Especially for reserves and core zones of national parks, the act adds the prohibition of introducing new plants or animals.<sup>33</sup>

The BCA's prohibitions for wildlife reserves are the same as for the strict nature reserves and are therefore stricter than those of the colonial days. The

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24 According to art. 6 BCA such system is the 'natural process of various living and unliving elements which guarantee the continuity of life'.

25 Ex art. 1 (9) BCA.

26 Ex art. 1 (13) BCA.

27 Ex art. 2 (2) NBO.

28 Ex art. 2 (1) NBO.

29 Ex art. 4 (1) NBO.

30 Ex art. 19 (1) and (3) BCA.

31 Elucidation art. 19 (1) BCA. According to art. 19 (3) 'foreign sorts' are sorts of plants and animals that did not exist in the area originally.

32 Ex art. 21 BCA.

33 Ex art. 19 (3) BCA.

NBO of 1941 prohibited the *damaging* of a wildlife reserve's flora and fauna.<sup>34</sup> Since these colonial rules aimed only at protecting wild animals and plants in the wildlife reserves it is not surprising that the prohibitions are not as far-reaching as they are for the strict nature reserves. The BCA, on the other hand, strives for protection of entire ecosystems in the strict nature reserves, wildlife reserves and sanctuary zones of national parks, which makes it necessary to maintain the prohibition of any *change*.<sup>35</sup> Exceptions to this strict rule form the other zones of national parks where only those activities not in accordance with the zone's function are prohibited.<sup>36</sup>

### 20.4.3 Permitted Activities

Major differences between the colonial and the 1990 regulation become apparent when we compare the stipulations concerning permitted activities. Under the colonial rule their number increased over the years. It began with permission for scientific activities,<sup>37</sup> which was soon followed by a rather broad permit for all 'activities aiming for the increase of the reserve's effectiveness' and for the reduction of abundant animals.<sup>38</sup> The latter is still valid for wildlife reserves.<sup>39</sup> Later on, activities with cultural aims were allowed too,<sup>40</sup> which allowed traditional societies to keep up hunting practices that were questionable from a conservationist point of view.<sup>41</sup> This permission was not continued in the BCA. As we have seen above, the Indonesian government opposed it by arguing that traditional societies should be developed rather than preserved.<sup>42</sup>

A major difference between the NBO and the BCA is the licensing for tribal economic activities: The BCA does not provide for licenses to collect forest products, graze cattle and coastal fishing.<sup>43</sup> Significantly, it does not stipulate *anything* about the role and rights of the people traditionally exploiting the

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34 Ex art. 5 (1) NBO.

35 Art. 33 (1) BCA contains the same prohibition of change for the sanctuary zone of a national park.

36 Ex art. 33 (3) BCA.

37 Ex art. 3 (2) Natuurmonumentenordonnantie (NMO) 1916; art. 3 (6) Natuurmonumenten- en Wildreservatenordonnantie (NMWRO) 1932; art 7 (a) NBO 1941; art. 17 (1) and (2) and 31 (1) BCA. Art 8 (c) NBO and art. 22 (1) BCA explicitly mention the possibility to collect animals and plants for scientific purposes.

38 Ex art 3 (6) NMWRO.

39 Ex art. 19 (2) BCA. The elucidation mentions food and drinking facilities for the wild animals as examples.

40 Ex art. 7 (a) NBO.

41 See for example the debate on the hunting of birds-of-paradise in Papua (Cribb 1997a).

42 An exception forms art. 31(1) BCA which allows cultural activities in nature conservation areas as long as they do not reduce the function of the area.

43 The NBO creates this possibility in art. 8 (b).

areas to be reserved. As noted above, this reflects a very specific interpretation of the rule of law. In line with the *pembangunan* discourse, the act does, however, provide for licensing touristic exploitation in the special exploitation zones of nature conservation areas,<sup>44</sup> 'giving local people the opportunity to participate in this exploitation'.<sup>45</sup> But although the BCA does mention local people in this article, it attributes wide discretionary authorities to the government. It is the government that decides whether a license is given and to whom; local people have no legal right to demand participation.

The permit for touristic exploitation may even include the building of touristic infrastructure on the basis of a management plan.<sup>46</sup> Clearly, the permission for this kind of economic exploitation corresponds with the colonial stipulation concerning wildlife reserves allowing forest exploitation in accordance with previously approved plans.<sup>47</sup> Though the BCA requires a management plan<sup>48</sup> it again leaves details, such as the criteria for approval of such plans, to another government regulation.<sup>49</sup>

From the Indonesian government's perspective, with its focus on *pembangunan*, the new stipulations concerning tourism clearly made an improvement. The omission of licenses for more traditional activities was also in line with the government's pursuit of modernisation. But for traditional farmers and fishermen, the act was no improvement because of its failure to allocate any precise rights to them.

#### 20.4.4 Authorities

Another major difference between the BCA and the NBO is that the BCA is less specific in regulating authority for nature conservation. In many cases the BCA simply states that 'the government' holds the authority to, for example, manage conservation areas. This vagueness decreases the extent to which the act can be implemented and creates a dependency on further regulations. It does not even state that the Forestry Department would be the leading agency in the field. The only positive exception to this pattern is the stipulation about investigations, which not only specifies who is in charge of investigations but also the rights of special investigators and some indications about procedure.<sup>50</sup>

From a perspective in favour of legal harmonisation and from that of internationally operating conservationists, the integration of the CITES formula was an improvement. With its ratification of the Convention on International

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44 Ex art. 31 (1) BCA.

45 Ex elucidation art. 34 (3).

46 Ex art. 34 (2) BCA.

47 Ex art. 4 (2) NMWRO.

48 Ex art. 34 (2) BCA.

49 Ex art. 34 (4) BCA.

50 Art. 39 BCA.

Trade In Endangered Species of Wild Fauna and Flora (henceforth CITES)<sup>51</sup> in 1978, Indonesia followed the international community by differentiating between species threatened by extinction and rare species. Its inclusion in the BCA also made it possible to apply more severe sanctions in the case of an animal threatened by extinction being killed, e.g. an orang utan worth ‘tens of millions of [Rupiahs]’.<sup>52</sup>

Creating the possibility to declare nature reserves as biosphere reserves is another example in this category of integrating international instruments into the national legislation.<sup>53</sup>

#### 20.4.5 Improving postcolonial regulations

The Minister specifically mentioned the Forestry Act of 1967 and the Fisheries Act of 1985 as regulations to be improved by the BCA. Compared to these, the BCA obviously focuses more on conservation than exploitation. It provides for more kinds of conservation areas than the Forestry Act<sup>54</sup> and is more precise about prohibited activities. Furthermore, due to its more general formulation it can be applied to both terrestrial and marine resources and their ecosystems. In conclusion, the BCA provides a clearer legal basis for conservation activities than the Forestry and Fisheries Act.

A major disadvantage of the BCA, however, is that it focuses solely on conservation areas instead of trying to integrate conservation and exploitation in general. As we have seen above, that was a ministerial choice that raised only little criticism among MPs.

In sum, reflecting on what exactly the BCA changed in comparison to the colonial regulations, the BCA continued many of the colonial approaches but also adapted the existing regulations to developments in the field of conservation. Apart from that, it reflected a very specific interpretation of the rule of law that was far more advantageous for the government and entrepreneurs

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51 This convention finds its basis in an IUCN draft adopted in 1963. It went into effect on July 1, 1975. In three appendices it lists “species threatened with extinction”, “species not necessarily threatened with extinction but of which trade must be controlled in order to avoid utilization incompatible with their survival”, and “species that are protected in at least one country”. CITES controls trade in the listed species with a licensing system. For further information see, for example, <http://www.cites.org/>

52 Explanation by the head of the legal office Kamidya, WG 25 June 1990.

53 Ex art. 18 BCA. The BCA defines a biosphere reserve as an ‘area with a virgin or unique ecosystem or an already degraded ecosystem, under full protection and for scientific and educational purposes.’ (art. 1 (12)). Art. 18 (2) foresees in an implementing regulation for details about the designation. The fact that this implementing regulation has not been issued may be one reason that no new areas have been declared biosphere reserves since 1990. Another reason may be a lack of national funds.

54 This act only mentions strict nature reserves, wildlife reserves and recreation/ hunting parks (art. 3 (3) and (4)).

than for people living in or close to existing or potential nature reserves. In particular, the large amount of discretionary authority for unspecified governmental agencies deserves mention, as it made the act in many instances much more vague than its predecessors, with possible negative effects for nature and people.

## 20.5 INCREASING PEOPLE'S WELFARE

Just as with the rule-of-law concept, the BCA gives a very specific interpretation of the concept of 'people's welfare'. No doubt, at a very abstract level, the BCA is meant to increase the people's welfare. If all actors in the country conserve or sustainably exploit the country's natural resources and their ecosystems, it will obviously benefit the Indonesian people more and for longer than if they don't. However, if one takes a closer look, the act is more beneficial to some actors than to others. First, the Forestry Minister holds the power to determine which areas fall under his authority and which do not. Second, the research and education community gets exclusionary access to many of these areas. Third, entrepreneurs in the tourism sector benefit from the act since they can get exclusionary access to certain zones of conservation areas for their business. As stated by the Minister, the management of conservation areas and the preservation of species were undertaken 'in the interest of science, education, tourism, hydrology, genetic material etc.'<sup>55</sup>

The 'losers' are especially farmers, fishermen and others who live and make their living in conservation areas. The act does not provide for any alternatives for them. The BCA could have regulated that the tourist exploitation should economically benefit the local population. However, the existing provision and the corresponding provisions in the implementing regulation GR 18 of 1994<sup>56</sup> were not detailed enough. In addition, as the regulations fail to curb possibilities to circumvent such provisions, they are of little use. The Pulau Seribu case in part IV will show how this is a major flaw of the act.<sup>57</sup>

Thus, the act takes a highly specific view of how to achieve 'people's welfare'. In accordance with the dominant interpretation of the *pembangunan* discourse in the early 1990s, it grants exclusive access to conservation areas for some specific privileged groups. It positions the local population outside the reach of any possible direct benefits of conservation.

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55 29 January 1990.

56 Art. 10 (e) provides that the entrepreneur is required to 'involve local people in his business activities', see also chapter 4.

57 Entrepreneurs claimed that they could work only with people with a specialised hotel education which was out of reach for the local population. Even the local fishermen did not benefit from the resorts since the entrepreneurs preferred to buy their fish in Jakarta.

## 20.6 REFLECTING THE ASPIRATIONS OF THE SOCIETY

The objective of reflecting the aspirations of society is obviously linked to the previous one. Many parts of Indonesian society aspire to a better economic situation. However, the BCA apparently defines society in a very specific way. Entrepreneurs in the ecotourism sector as well as scientists probably feel that the BCA reflects their aspirations. On the other hand, there is only one issue in the BCA that reflects the aspirations of poorer segments of society: compensation in case of the withdrawal of land rights (art. 9 (3)). PDI wanted this included into the act and partly succeeded, as it was included in the elucidation. But other critical remarks concerning this issue failed. However, if one had asked the MPs at the time about whether or not the BCA reflected the aspirations of society they would almost certainly have said yes. For them, being representatives of society meant, by definition, striving for realizing the people's will.

## 20.7 SHOWING INDONESIA'S COMMITMENT TO CONSERVATION

From the Minister's point of view, the BCA achieved this final objective. He said the act would make it easier for the nation, the people and especially for the government to prove that the Indonesian nation had been active in conservation for a long time already, but now needed to regulate it.<sup>58</sup> The fact that '*konservasi*' rather than '*pelestarian*' was chosen as the title for the act indicates that the act was intended to show something to the outside world. As much as the Minister, during the debates, had attempted to show that even the histories behind the traditional puppet theatre had always been full of concern for nature conservation and that it thus was nothing foreign at all, the term '*konservasi*' definitely was. As ABRI spokesman Zainuddin said: '*konservasi* ... is taken from a foreign language, the broader society does not yet know its meaning'.<sup>59</sup>

## 20.8 CONCLUSIONS

In conclusion, the Biodiversity Conservation Act reflected a very specific interpretation of especially the concepts of conservation, society and the rule of law. Within these interpretational frames the act certainly was an improvement. But for people with other frames, the BCA was disappointing.

The act defined conservation as a kind of '*pembangunan-conservation*', a type of conservation serving rather than balancing a centrally orchestrated

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<sup>58</sup> 8 June 1990.

<sup>59</sup> 11 June 1990, cf. the quote of the director for conservation in the introduction to part II.

economic growth. The act paved the way for *pembangunan*-conservation in at least six ways: first, it limited conservation to specific territories and thus created the possibility for various actors to exploit nature, except for protected species, in the rest of the country. Even within some reserved territories, most notably the national parks, it allowed for limited economic exploitation (tourism). Second, the act was intended to silence foreign criticism to ensure the continuity of foreign development-aid rather than to change problematic behaviour of specified actors other than local residents. Third, it defined participation as mobilisation, attributing the central government – in particular the Forestry Department – the only leading and activating role. Fourth, the act nowhere specified which part of the government should do what and left much discretion for the Forestry Department by calling for 13 implementing regulations. Fifth, it authorised the government to issue licenses for tourism in national parks, which could be seen as a chance to negotiate ‘contracts’ with clients. Sixth, it did not provide for mechanisms to control the government. Especially the last issue reduced the act’s potential to form part of a solution for the problem of decreasing biodiversity and degrading ecosystems.

The act lacks attention for effectively changing the problematic behaviour of specific actors. The parliamentary debates did not deal extensively with problem-solving. To start with, the problems at hand were not articulated in enough detail. Then, the debates did not focus at all on either identifying the actors that caused the problems at hand or on their problematic behaviour. One may add that the behaviour of officials sustaining the problematic behaviours of other actors should have been addressed. Hypotheses about why actors behaved as they did were hardly uttered and not at all tested.

Instead, it seems that the proponents of the BCA mainly strove to create the legal basis for national parks that since the 1980s were under development and to make a gesture to the international community<sup>60</sup> without intending to really search for substantive effectiveness. Other evidence for this forms the importance MPs and government representatives attributed to symbols. This became especially clear when all groups stressed how ‘beautiful’ it was that the act ended up consisting of 45 articles. In the eyes of the Minister there rested only one blot on the act:

‘How beautiful would it have been if it had had 17 chapters but that is apparently not always the case. But what is more important is that this Act was enacted with

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60 Cf. Cohn who points at the possibility that ‘legislation may be a political show of power in response to crises or issues that attract strong pro-legislation forces’ (Cohn 2001, p. 480). See also Schuyt who argues that since legislation fulfils many more roles than just an instrumental one the effectiveness approach is by definition of a limited value (Schuyt 1983, p. 178).

45 articles in the 45<sup>th</sup> year of the Indonesian independence. This will help to remember and get to know it more easily.<sup>61</sup>

On the basis of what has been said above, we may thus conclude that the BCA was mainly a symbolic law that aimed to silence foreign criticism and help build the nation rather than to be substantively effective. An additional symbolic function may have been to claim authority.<sup>62</sup> For the Forestry Department the protected area approach formed a possibility to claim authority over more conservation areas than in the past. That this desire to control territory has always been one of the Ministry's major stakes in conservation policy has been suggested before, for instance by Peluso and Vandergeest.<sup>63</sup>

Another function may have been to rationalise existing inequalities. After all, the BCA does not seriously address the economic situation of people living close to or in protected areas. On the contrary, it ignores that the envisaged conservation areas were inhabited or exploited in spite of some members of Parliament mentioning this fact during deliberations. It was thus not a matter of lacking knowledge but a deliberate choice.

Veerman has suggested that laws can also serve to displace problems.<sup>64</sup> This could well be true for the BCA as it replaced the problem of how to reconcile or negotiate the various interests in natural resources to the implementation phase. If the government had intended to create a workable situation for such negotiations in the field this might not have been a problem. They could have, for instance, created a communicative law.<sup>65</sup> This would have required more details in the act about how to spread information and organise debates about the norms in need of specification. Another possibility would have been to create through the act a mechanism for negotiations in the field, for example, local representative councils weighing various interests in the national park in light of specified principles. The BCA did not provide for such a mechanism.

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61 SC 14 July 1990. The Indonesian Independence was declared on August 17<sup>th</sup>, 1945, which attributes a special symbolic value to the number 17.

62 Edelman 1977, Edelman 1987.

63 Peluso & Vandergeest 2001.

64 Veerman differentiates between an instrumentalist, astounding, problem displacing, symbolic and value expressing and consolidating function of a law (Veerman 2004, p. 19-20). Another author that has theorised about symbolic laws is Aubert (see ch. 4). However, I do not think that the BCA is an example of a symbolic law as defined by him: it is much less a compromise than the result of power politics of the Indonesian government at the time. Neither is it an example of a law with a signal function. Neither deliberations nor the situation in the field suggest that there existed a diffuse feeling in the Indonesian society that only needed to be transformed into concrete norms in a law. On the contrary, the act would have required a broad debate, either in Parliament or in the wider society, to have increased its potential.

65 Witteveen & Van Klink 2000.



In 1992, Sanit published some general, critical remarks about Indonesia's lawmaking practices, stating that the government succeeded in controlling the whole debate in the SC.<sup>66</sup> In support of this, my analysis has demonstrated how this control worked during the debates on the BCA. Through various strategies ranging from ignoring or intentionally misinterpreting critical questions to using specific concepts of the *pembangunan* discourse, the Minister of Forestry successfully avoided or closed unwanted debates. The speakers who wished to critically discuss the government's bill did not succeed in countering this strategy in an effective manner.

Two findings stand out. The first one relates to the quality of arguments. The Minister and most speakers of the four groups used mostly opaque language, especially regarding concepts. What did the Minister, for instance, actually mean by a 'clear direction', what did he mean by 'legal certainty', and had he actually thought about how the two related to each other? Perhaps he even used them as buzz words without having a clear idea about them. Likewise, a reference to 'governmental efforts' was just too imprecise to make the government accountable. As a consequence, no satisfactory weighing of the various interests in society related to nature conservation took place. Considering the Minister's efforts to close and curb any discussion about the existence of these interests, this had been exactly what he wanted.

Second, the expectations of the Minister and MPs that a law was enough to solve the problem of a decreasing biodiversity and ecosystems lacked any sense of realism. Given the nature of these expectations and due to dominant discourse, the act as an instrument to solve this problem could only be disappointing. However, it served various symbolic functions well.

This brings us to the result of the lawmaking process, the act itself. It was overall a continuation of existing policies. It integrated a number of existing regulations and was adjusted to new conservation concepts and instruments. However, the BCA was much less concrete than its predecessors and thus unsatisfactory for general objectives of the rule of law, such as clarity and accountability.<sup>67</sup>

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66 Sanit 1992, p. 11-15.

67 For a detailed overview of elements that can form part of the rule-of-law concept see Bedner 2004.



The second case dates from August 1999, when the Ministry for the Environment (now *Kementerian Lingkungan Hidup*, henceforth: KLH) for the second time organised a national co-ordination meeting for environmental management (*Rapat Koordinasi Nasional*, henceforth: Rakornas) entitled 'Reformation of environmental management at the doorstep of the 21<sup>st</sup> century'.<sup>1</sup>

Due to the political uncertainty following the end of the New Order regime and the economic crisis, it had long been unclear whether this second Rakornas would take place in 1999 as scheduled. It was delayed several times, but all of a sudden it received approval and had to be prepared in a very short time.<sup>2</sup>

### 21.1 THE POLICYMAKING PROCESS

In accordance with the new political climate of *Reformasi*, KLH stated that it wanted to use this meeting to openly discuss performances of the past and make plans for the future. The director for the natural environment at KLH, Aca Sugandhy, stressed that the result should not be based on bureaucratic deliberations only as usual but ought to draw from the 'input of all stakeholders'.<sup>3</sup> Thus, KLH presented participation as the core idea of this meeting. Significantly, it defined participation much more broadly than the Forestry Minister and the groups in the Indonesian Parliament had done in 1990. Instead of claiming that the bureaucrats at KLH by definition represented all interests in society, KLH had invited 250 participants from central government

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1 Rakornas II Pengelolaan Lingkungan Hidup, "Reformasi Pengelolaan Lingkungan Hidup Menyongsong Abad ke-21", 9-11 August 1999, Jakarta. Five years earlier, in 1994, the then Minister for the Environment, Sarwono Kusumaatmadja, initiated the first meeting for a better co-ordination of all actors involved in environmental management in Indonesia. As a result of that meeting the participants agreed on a number of co-ordinating mechanisms (see also Arnscheidt 2003), among which was a nation-wide co-ordination meeting once every five years.

2 According to a junior employee of KLH, the Ministry had only two weeks to prepare the meeting. Some critics suspected that the sudden hurry was to be explained by President Habibie's wish to gain some credit for his re-election (the presidential elections were scheduled for October).

3 10 August 1999.

agencies with tasks related to environmental management,<sup>4</sup> from provincial governments,<sup>5</sup> the provincial and district environmental impact management agencies (In. Badan Pengendalian Dampak Lingkungan Daerah, abbr. Bapedalda Tk. I and II), from business associations, environmental non-governmental organisations and from the environmental study centres of several state universities. Observers from regional and international organisations had been invited as well.

This list reflected two important changes in the political situation of Indonesia. First, NGOs and student groups had gained prominence as they, with broad popular support, had forced the Soeharto regime to resign and give way to reforms. Second, the regions were going to play a much more prominent role in environmental management due to the enactment of the Act on Regional Autonomy<sup>6</sup> of 1999 that was to go into effect a few months after the Rakornas.

Whereas the officials from the centre and the regions strongly answered KLH's call, some of the NGOs chose not to accept the invitation. The reason was their dislike of Panangian Siregar, the Minister for the Environment, who, in their opinion, did not understand much and cared even less about the environment, having gained the Minister's post simply because of his party background.<sup>7</sup> Walhi<sup>8</sup> and the Indonesian Centre for Environmental Law (abbr. ICEL) were the most outspoken NGOs on this matter,<sup>9</sup> although ICEL sent some observers. The Indonesian World Wildlife Fund (abbr. WWF) at first made public its intention to not attend the meeting but changed its mind eventually 'for the sake of the environment'.<sup>10</sup> Likewise, some of the representatives from the private sector and from universities did not appear too eager even to attend the panels they were invited for, either because they considered the meeting not in their interest or not important enough. Thus although KLH presented participation as much broader than in 1990 not all actors were convinced of its integrity.

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4 Represented were KLH, the Environmental Impact Management Agency (In. Badan Pengendalian Dampak Lingkungan, abbr. Bapedal) and various sectoral departments.

5 Represented were the four environmental management representatives of the governors and the heads of the provincial agencies responsible for development planning (In. Badan Perencanaan Pembangunan Daerah, abbr. Bappeda Tk. I).

6 Act No. 22 of 1999 on Regional Autonomy (amended through Act No. 32 of 2004).

7 PDI, the party the later President Megawati Sukarnoputri originally was a member of. After a Soeharto backed coup against her leadership at a PDI congress in 1996, however, she decided to continue her political career in a new party, the PDI-Perjuangan (abbr. PDI-P).

8 *Wahana Lingkungan Hidup*, an influential Indonesian wide organised network of environmental NGOs, internationally aligned with 'Friends of the Earth'.

9 See for example *Kompas* 12 August 1999, 'Rakornas LH hanya basa-basi'. As the third case (chapter 22) will show the co-operation with NGOs improved when Sonny Keraf became Minister for the Environment (personal communication, Sudharto P. Hadi, 26 September 2008).

10 Executive director of WWF, Agus Purwono, 10 August 1999.

The arguments of those actors choosing not to accept the meeting reflected the oppositional discourse that argued that the government consisted of individuals primarily occupied with their personal power and personal gain. To this end, they argued, the government representatives concerned had developed and practiced an attitude of 'keeping up appearances'.<sup>11</sup> Organising the co-ordination meeting was thus not seen as a genuine attempt to improve the policymaking process and its results. Consequently, participating was interpreted as support for this strategy of keeping up appearances rather than as an opportunity to contribute to a better policy.

The result KLH claimed to hope for was an agreement about the formulation of policy principles and a national strategy for environmental management for the next 25 years, an action plan for the next five years, and a program indicating priorities and activities for the next year.<sup>12</sup> The result of the meeting was to serve as input for the sessions of the MPR working group that had to prepare the 1999 Broad Guidelines of State Policy (GBHN) and the general session of the MPR at which the political decision about this GBHN was to be made. KLH refrained from being too explicit about how the agreement it hoped for was to be achieved. It did not use the terminology of *musyawarah untuk mufakat* (En. debates to achieve a consensus) that had determined the debates in 1990. However, the structure of the meeting suggests that KLH did not opt for a radical change in policymaking practices, as will be outlined below.

The meeting was officially opened by the Indonesian President, in his palace. The rest of the first day was reserved for speeches of representatives of various departments<sup>13</sup> (Home Affairs, Finances, Forestry and Plantations, Industry and Trade, and Mining and Energy), non-departmental government agencies (KLH/Bapedal and the National Development and Planning Board, henceforth: Bappenas) and the National Defence Institute (Lembaga Ketahanan Nasional, henceforth: Lemhanas) about their strategies and policies concerning environmental management. After each 25-minute presentation there was room for one or two comments or questions from the audience and then a short response from the speakers. Thus, the whole first day of the meeting was reserved for top-down input.

During the second day four working groups were to evaluate environmental policies of the past and to discuss the drafts for future policies as prepared by the divisions for natural environment, man-made environment, social environment and Bapedal's directorate for law enforcement and dispute resolution. The working groups were chaired by a panel of experts who partly presented and defended and partly commented on KLH's draft and some 70 other members who could comment on and ask questions about the draft and

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11 I borrow this term from Vickers (Vickers 2001).

12 KLH 1999, p. 6.

13 Although the ministers were invited to give a speech, not all of them could attend the meeting personally, maybe because of the short notice about the precise date of the meeting.

statements of the panel members. At the last group session in the evening the working group was to draft a text that could serve as input for the new GBHN, 5-year-plan and the action plan for the year 2000-2001. For this purpose, KLH had prepared a draft result text. The structure of the working groups was thus very much one of inviting bottom-up input from participants for minor changes, but certainly not to invite major challenges to KLH's objectives.

The plenary sessions of the last day were reserved for presentations of the results of the working groups, comments on these presentations from the audience and for reaching an agreement about the final text of the meeting.

Based on observations of all plenary sessions and all sessions of working group 1 on the natural environment, further analysis will show that this structure of the meeting (together with the fact that many participants interpreted the new freedom of debate primarily as an outlet for all kinds of grievances rather than as an opportunity to really influence policymaking) led to a result that was very similar to the draft KLH had produced in advance.

## 21.2 THE DEBATE

### 21.2.1 The Presidential and Ministerial speeches

In their speeches, the President and the representatives of departments and non-departmental state agencies discussed general developments, i.e. the impact of globalisation for Indonesia, the effects of the economic crisis that had hit the country in 1997, and the impact of *Reformasi*, in particular the decentralisation that had been effectuated in 1999, on environmental problems and problems related to environmental policies.

All speakers said they were highly concerned about the environment and argued that the Indonesian government needed to pay more attention to this matter. Apparently, in 1999, just as in 1990 when 'ensuring the government's attention for conservation' was formulated as an objective of the BCA, the government was willing to acknowledge that things could be improved. This was in many cases translated into terms such as 'need to be made more perfect' (In. *disempurnakan*).

The motivation of the speakers to press for more governmental attention for the environment ranged from external threats of sanctions and boycotts to internal threats of overexploitation as a consequence of both development and the economic crisis. Some of the speakers were concerned about the sustainability of economic growth, such as the Minister of Industry and Trade who said that

'many activities that are oriented toward the exploitation of natural resources cause pollution and environmental destruction and a decrease of the environmental quality and of the availability of natural resources as capital for development for now and in the future.'

This concern was shared by many other speakers whose motivation, however, was fear of international boycotts and sanctions if Indonesia failed to demonstrate a concern for the environment. This was a real threat considering that the months preceding the Rakornas had been dominated by vast forest fires, and the governments of the other ASEAN countries in particular increasingly pressed the government to take firm steps to stop the fires.

Others, notably the Minister for the Environment and the Minister of Forestry, suggested they be more concerned about the environment *per se*. The Minister for the Environment pointed in this context to the sectors and their tendency to let their sectoral interest prevail over environmental considerations. The Minister of Forestry (not Hasrul Harahap who had defended the BCA in 1990 but Muslimin Nasution) said that conservation areas were threatened by the economic growth of mining, transportation and housing sectors and by poor people plundering natural resources. Not protecting the environment would eventually affect the quality of life:

‘The bad quality and quantity of biodiversity will cause a decrease of the quality of life since mankind depends on the natural environment for water, air, raw materials, medicines, and other commodities and services.’

He thus defined human needs broader than economic growth, a lesson he had learned from the economic crisis:

‘The economic crisis that has hit us has made us aware that development only based on economic growth does not sufficiently create welfare for the people.’

This fact had made the Forestry Department aware that conservation needed to be directed more at increasing the welfare of the common people. The Minister therefore repeated that sustainable development contained ecological, economic and social elements – a change of position compared to his predecessor’s who in 1990 had silenced any remark about poor people by referring to *pembangunan*.

In terms of remedies, not all ministers were equally outspoken. Some of them stuck to describing problems and their possible explanations, but others did formulate solutions. The Minister of Forestry partly reproduced the Biodiversity Conservation Act by citing that conservation needed to encompass protection, preservation and sustainable exploitation. For another part, he focused on increasing the commitment of actors involved in the management of conservation areas with attention for, among other things, human resources and money. Thus, although admitting that the managing agencies were not yet working effectively, he explained this as primarily due to technical factors. The same idea of strengthening governmental agencies, developing human resources and providing sufficient funding to environmental management agencies was a solution many other ministers fancied; this was by no means a new idea but part of the *pembangunan* discourse.

Another remedy that could have dated from the New Order period as well was proposed by the Minister of Industry and Trade who suggested a change in technology, this time towards clean technology. Whereas this suggestion could admittedly have been made by any minister of any other capitalist nation, the next solution was more typically Indonesian: the President, together with the Minister for the Environment and the Governor of the National Defense Institute, argued that including the idea of environmental resilience in the concept of national resilience could solve the problem that *pembangunan* still did not sufficiently take environmental elements into consideration. 'Resilience' is in fact a military concept, here broadened to include the environment.<sup>14</sup>

Next to these old ideas there were also those reflecting the *Reformasi* discourse. The Minister of Mining and Energy, for instance, pleaded for a 'partnership' (In. *kemitraan*) between stakeholders that should be characterized by the principle of mutual, democratic respect. These were new words gaining currency in public debates in Indonesia.

Likewise, the Minister of Forestry, contrary to his predecessor in 1990, proposed giving more attention to communities living in and around conservation areas by developing 'community based conservation and management' and to empower *adat* communities in conservation by stimulating original Indonesian management systems such as *sasi* on the Moluccas, *subak* on Bali and *repong damar* in Lampung. The concepts of community based management and of empowerment were new and belonged to *Reformasi*. The idea of stimulating *adat* management systems, by contrast, had already been propagated by Indonesia's first Minister for the Environment, Emil Salim.

In addition to these people-oriented solutions was the new idea of decentralization. The Minister of Mining and Energy proposed replacing the existing sectoral development approach with a regional one. This should be done, he argued, by basing development on spatial planning which in turn should be based on development priorities and the environmental and social carrying capacity of a region.

Similarly, the Minister for Home Affairs saw a clear role for regional planning agencies: these needed to take into account the environment, while the new regional environmental impact management agencies (Bapedalda) should control regional development initiatives.<sup>15</sup>

The Head of the Central planning agency (Bappenas) agreed to allow the regions a larger role in policymaking as the existing policymaking structures were too 'centralist'. However, he combined this with a people-oriented

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14 Being a military concept it reflected the fact that the Indonesian Army had played a prominent role since the Indonesian revolution preceding the nation's independence.

15 In practice, Bapedalda's capacity to control regional development depends on the commitment of governors, mayors and district heads, as Bapedaldas are considered as 'complementary agencies' (personal communication with Sudharto P. Hadi, 26 September 2008).



approach as he pleaded for strengthening regional agencies but also the people whom he – again – described as ‘partners’. Significantly, he even pleaded for more ‘democratic and bottom-up policymaking with public hearings’ which suggests that Bappenas at this point in time was already thinking about the public consultation process it was to support in the third case analysed in this part of the book.

In sum, although all speakers said they were concerned about the environment and its role in the Indonesian development process, they produced widely different arguments. Some ministers kept arguing for more attention for the environment in order to sustain Indonesia’s economic growth. The remedies they proposed dated from the New Order. Other ministers concluded from the collapse of the New Order that it was time to increase the attention for environmental and social aspects of sustainable development. They primarily proposed decentralization and forms of public participation as remedies.

### 21.2.2 Short reaction to the speeches

In general, the participants did not refrain from criticism of the top-down input from the ministers. To give an example, they raised doubts about the significance of the meeting in general, considering that the result of the first co-ordination meeting in 1994 had resulted in a couple of mechanisms that in the end did not work. A concern about a perceived lack of effectiveness of governmental instruments was at the core of such statements, reflecting the *Reformasi* discourse that questioned all practices of the New Order.

Interestingly, most of the answers given by officials reflected the same discourse. Questions about law enforcement in the context of forest fires and the role of the army, for example, produced answers as

‘We are a *rechtsstaat* (In. *negara hukum*), but it is still theatre (In. *masih sandiwara*). Law needs to be the guiding principle. [...] Poor Pak [Soe]Harto, nobody dared to tell him the truth, all reports were ‘*Asal Bapak Senang*’,<sup>16</sup> that is what we need to change.’<sup>17</sup>

and

‘[...] all people are involved, all of them share in the timber game.’<sup>18</sup>

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16 This expression means that people around President Soeharto used to adopt an attitude of ‘keeping him satisfied’ at whatever cost.

17 Governor of the National Defence Institute, 9 August 1999, own translation.

18 Director-general of the Forestry Department, 9 August 1999, own translation.

These statements suggest that government officials at this meeting wished to demonstrate that they dissociated themselves from the New Order. The discourse of all participants created a strong consensus that the New Order had produced bad practices and that it was time to create something new. Due to this consensus no question or criticism seemed taboo.

Whilst enabling all kinds of criticism of the New Order, the *Reformasi* discourse simultaneously restricted the space for statements in support of the Soeharto regime. Participants felt, for example, confused about the use of the military expression of environmental resilience.

This did not mean that there was a consensus of doing everything different from the New Order, as the example of the issue of economic growth demonstrated. Where especially NGO representatives reproduced a complaint frequently heard in these days<sup>19</sup> that the central government was too focused on economic growth, the representative of the National Planning Board defended this focus by referring to the growing population. He also considered the continually increasing dependence on foreign aid necessary so as to not delay the country's economic development. In addition, he presented the path of borrowing money as normal and leading to success as

‘the rich countries of today used to borrow money as well before becoming rich and Indonesia will, maybe after a decade, be in their present situation, and not need any more foreign aid.’

In sum, the *Reformasi* discourse enabled the participants at the Rakornas to utter all kinds of criticism of the New Order but was also unspecific enough to allow for a continuance of old approaches.

### 21.2.3 KLH's draft policy on the natural environment

This same reluctance to abandon everything from the New Order is reflected in KLH's draft policy on the natural environment. Reading through the one-line descriptions of proposed programmes reveals many old concepts, although some new ones as well.

It was in the working groups that KLH officially presented its draft. This fifty-page document contained an evaluation of the environmental management of the last five years, its problems, challenges, obstacles and opportunities,

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19 See, for instance, [http://www.bapedalda-makassar.go.id/isu\\_opini/05062003.asp](http://www.bapedalda-makassar.go.id/isu_opini/05062003.asp) for a statement by Otto Soemarwoto, a retired professor of a Bandung university, that the national development programme did not succeed in incorporating the principles of sustainable development due to the fact that most parts of the bureaucracy and the society at large considered a truly sustainable development to be too expensive.

and proposed policy for the next 25 years, a strategy for the next five years and programmes for the next year.

The policy for the coming 25 years focused on the management of protected areas, the rehabilitation and conservation of natural resources – especially in river areas and former mining sites – and the control and rehabilitation of nature destruction as a consequence of forest fires. For the last issue, KLH proposed a new law that, among other results, should regulate tasks and authorities of agencies and responsibilities of the government, the private sector and the people. In addition, KLH proposed 20 programmes for the management of the natural environment and another 13 for the control and rehabilitation of nature destruction.

Familiar were notions like ‘development of a management system for...’ (In. *pengembangan sistem pengelolaan*), ‘development of technology’ (In. *pengembangan teknologi*), ‘increase of protection’ (In. *peningkatan perlindungan*), ‘standards’ (In. *baku mutu*) etc. These were very much the words of the *pembangunan* discourse of the New Order government. New were the focuses on forest fires and on ‘effective management’ of protected areas. Whereas the focus on forest fires was evidently needed to solve a huge problem, both focuses aimed to silence foreign criticism and at the same time reflected the critical attitude of the *Reformasi* discourse towards the past performance of the government. New were also other *Reformasi* ideas about a greater, ‘active role’ for the people, ‘partnership’, ‘just exploitation’ and about developing a system of traditional knowledge about conservation. And, last, was a remarkable programme about biodiversity conservation in agriculture and unprotected production areas. A similar issue had been raised by PDI in 1990 but had not been integrated into the BCA.

The draft was thus a merger of technocratic *pembangunan* ideas and the more people-oriented *Reformasi* discourse.

#### 21.2.4 The debate within the working group on the natural environment

The debate within the working group centred on three main issues and largely consisted of variations on the same environmentalist theme, i.e. how to get more actors in the Indonesian development process to take the environment into account. Another part of the debate concerned *Reformasi*, in particular about how to develop new governmental behaviour and to what extent non-governmental actors should participate in environmental management and decision-making. A third part of the debate, finally, was about decentralisation. It reflected the high degree of uncertainty about the present and future situations of environmental management among the participants that resulted from the new Regional Autonomy Act.

After KLH had presented its draft policy the panel members commented on the draft.<sup>20</sup> The general atmosphere was one of criticism. The representative of PSL Unhas, for instance, complained about the short time for preparation of the session: 'I only had one night to read all the input and to prepare my speech.' The WWF director showed his overall critical attitude towards the Minister by opening his speech with the words: 'I had already decided not to come, but then I changed my mind for the sake of the environment.' After the comments from the panel, the participants in the audience could pose questions (in most cases participants did not ask a question but described the problems in their region), which was then followed by a reaction from the panel.

In terms of substance, one argument dominated the discussion. It concerned the critical assessment of the performance of regional governments and agencies in environmental management:

'In the distribution of authorities between centre and regions we need to be careful. Certain tasks can be handed over. But there are other tasks, especially strategic ones, that need to be reconsidered, where the centre needs to have the authority to take action. Here is an example from South Sulawesi. There is an area that is destined to become an international conservation area but people regard it more as a supplier of marble and cement. Another example is about the pollution of the river Jeneberang. NGOs and several government agencies already reached a consensus that the mining of sand and stones (In. *galian C*) is very destructive. But when asked about that, the regional government always explains it with its need of income (In. *pendapatan daerah asli*). So, the regional government acknowledges the destruction but considers its income as more important.'<sup>21</sup>

Participants thus feared that economic considerations would prevail if decision-making authority regarding implementation of sustainable development were transferred to the regions.

Whereas most of the comments got stuck in descriptions of similar problems from other regions and in formulating the need for decision-makers to take the environment into consideration, some of the participants also thought

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20 The panel of the working group on the natural environment consisted of KLH's Director for the Natural Environment who presented the draft text prepared by him and his staff, KLH's expert (In. *staf ahli*) on the global environment who acted as the moderator, the head of the environmental study centre of Hasanuddin University (PSL Unhas), the executive directors of WWF Indonesia and the NGO Kophalindo, and a representative of the Directorate for Nature Conservation of the Forestry Department. It thus represented KLH, environmental scientists, NGOs active in the field of nature conservation and the Forestry Department. Not present for unspecified reasons were the invitees from the environmental study centre of Bogor University (PSL IPB) and from the business association MUIPB.

21 NGO representative, 10 August 1999. Also according to Sudharto P. Hadi, regional government interpreted regional autonomy as an 'opportunity to gain more regional income without considering the environment' so forest destruction increased from 1,6 million ha per year to 2,5 million ha per year (personal communication, 26 September 2008).

about how to achieve this. One proposal reflects a belief in the need and possibility to educate people in the regions to become environmentalists. Other people appeared to be primarily concerned with the need to counter the power of regional actors, as the pleas for quickly installing the regional environmental impact management agencies (Bapedalda) and maintaining a powerful centre in environmental affairs show.

Apparently, most participants shared this frame of a power game. They were dissatisfied with the present institutional setting in which it was KLH's main task to formulate environmental policies and to 'co-ordinate' the activities of other governmental agencies. The two major concerns in this respect voiced at the Rakornas were 'ego-sectoralism' and 'co-ordination'. Ego-sectoralism was an issue that in 1990 already had been mentioned once by the PPP group during the parliamentary debates about the BCA. Likewise, the Minister for the Environment had referred to it without using the exact expression. It meant that the sectoral departments let sectoral interests rather than environmental considerations determine their decisions. A government official from Bali noted, for instance, that the Environmental Management Act of 1997 stated that the sectors were responsible for the implementation of environmental policies, which she considered problematic because the sectors simultaneously had to issue licenses. In 1999, this phenomenon that the sectoral departments did not share the environmental frame of KLH was the most frequently used explanation for KLH's ineffectiveness.

According to various speakers, a case in point was the Environmental Impact Assessment (In. *Analisa Mengenai Dampak Lingkungan*, abbr. AMDAL). They described the environmental impact assessment procedure as a 'pure formality' (In. *alat administrasi saja*) without any real significance, as, for example, the case of Freeport<sup>22</sup> had shown. An NGO representative therefore concluded that the government was not serious about protecting the environment since in the context of the use of natural resources reality differed from the rule prescribed by the Constitution. Although art. 33 (3) stipulated that 'all natural resources shall be controlled by the State and shall be used for the people' in reality, the speaker said, the 'government usually forgets about the last part of this sentence'. In 1990 PDI legislators had also questioned the seriousness of the government's intention to conserve nature. However, at that time one of the sectoral departments – Forestry – had been their debating partner. The Minister had chosen not to react to the PDI question. In 1999, there was a broad consensus between NGOs and officials from the Ministry for the Environment about the lack of political will of many sectoral departments to take the environment into consideration.

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22 PT Freeport Indonesia has been exploiting a huge gold mine in West Papua since the 1970s. The New Order government issued permissive licenses for the operations of this American enterprise without monitoring or sanctioning the environmental and social effects it produced. For a detailed analysis see Leith 2002.

Participants had several ideas about how to stop ego-sectoralism. KLH as well as some regional officials proposed an approach based on a region's biodiversity instead of on sectoral interests. Exactly how this was to be achieved and implemented was not discussed, however.

Others pleaded for 'environmental resilience' (dealt with above) and 'co-ordination'. In this case, co-ordination was interpreted as giving one agency the power to eventually force someone else to act in accordance with the environmental frame. However, participants agreed that this was not feasible in practice. In the past KLH had already attempted to co-ordinate through its so-called 'one-door policy' – obliging departments to send their policies to KLH for a check in terms of environmental sustainability. However, environmental officials complained they actually lacked the authority to 'co-ordinate' officials of higher echelons<sup>23</sup> since their position was lower in the bureaucratic hierarchy. So, proposals to go further down this road by obliging sectoral departments to *keep* KLH informed about how they were to implement their policies, to ensure that the departments were taking the environment into consideration, would also not work.

One participant concluded that as a consequence environmental management should be positioned directly under the President, but most other participants argued that KLH should become a full department to be able to counter 'ego-sectoralism'. An NGO representative added that decentralisation also demanded a central agency stronger than KLH at present. As the Director for the Natural Environment from KLH commented, there have always been discussions about KLH's weak position and insufficient powers. Already under Indonesia's first Minister for the Environment pleas were made to transform KLH into a full department but nothing had ever come of it. Under Sarwono, the second Minister for the Environment, some people suggested they shut down KLH and maintain (a stronger) Bapedal. In the end, the working group showed a clear consensus that KLH should become a full department with implementing tasks.<sup>24</sup>

In line with environmentalist discourse, many participants thought a change of attitude was most needed. Indonesian society as a whole needed to be convinced of adopting environmental morals and ethics. One NGO representative even went as far as to propose an environmental screening for 'development agents' (In. *agen pembangunan*) to ensure that only people with the right attitude were admitted at positions where decisions about development were made.

In addition to complaints that environmental policies were too permissive and that few officials used an environmental frame in either the regions or

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23 Civil servants representing the environment in many cases belong to echelon 4, whereas those to be co-ordinated are echelon 3 officials.

24 In 2002 Bapedal was merged with KLH which, however, did not decisively increase the Ministry's power vis-à-vis the sectoral departments.

at the centre, a lot of confusion emerged over what each department or non-departmental agency was actually responsible for. This uncertainty had increased due to Act 22 of 1999 on Regional Autonomy. Among participants from the region it even developed into unease, making them request directives from the centre, for instance, for handling the environmental consequences of the increasing poverty. Some bureaucrats clearly preferred the certainty of the old days. Uncertainty also existed regarding the financial consequences of further-reaching autonomy. Participants feared that the financial (in)capability of regions would determine their policy. The official answer was a typical *pembangunan* reaction, i.e. that it remained the task of the central government to reduce poverty in the regions and to ensure an even distribution of wealth.

Another issue in this context was the responsibility for conservation, which demonstrated that the Forestry Department, despite its references to, for instance, community-based natural resources management, still reproduced the discourse of the New Order. Its representative not only stressed that even with Act 22 of 1999 conservation remained the task of the central government, but also that his Ministry's hesitation about whether or not districts or municipalities would be capable of managing such conservation areas originated in the bad experiences delegating responsibility for managing protected areas (In. *kawasan lindung*) to the regions. In order to prevent a recurrence of such experiences he suggested making sure that in these cases central authority could not be delegated to the regions and that the parks were administered with a decent management approach, especially in the fields of human resources and financing. In both cases, the uncertainty about regional autonomy produced familiar New Order pleas in favour of more central authority.

Finally, some participants argued in favour of more participation. However, their use of the concept demonstrated that the discourse on participation was very unspecific. Participants from the provinces as well as from NGOs stressed the importance of having 'the people' and NGOs play a role in environmental management, including decision-making about development. Such arguments in favour of more participation had formed part of the oppositional discourse since the early 1990s and remained an important concept of *Reformasi*. Reactions from the panels were positive. However, they reflected a conceptualisation of participation very similar to the one in 1990. The Director for the Natural Environment referred to Canada, where NGOs and students helped to fight forest fires (and were paid for it). Especially for national parks, the representative of the Forestry Department repeated several times that the government needed the NGOs because society trusted them more than the government and society could play a role in the surveillance of the parks. Clearly, both officials still approached participation as something to be directed by the government.

Another *Reformasi* discourse focused on transparency. A representative from East Java suggested, for example, that the process of decision-making should be more open. Closed decision-making – such as in the cases of the

reclamation of the coast in the north of Jakarta and the 1-million hectare project of peat land in central Kalimantan – should be avoided in the future. Instead, the government should be transparent about the objectives, the economic value and the effects on people and the environment of a planned development project. In the particular opinion of NGOs, transparency and involving all stakeholders in decision-making would lead to environmental protection and welfare for the people.

In sum, there was a struggle between those wishing to strengthen environmentalism through education and those thinking that this could only be achieved by creating powerful environmental institutions, either at the centre or in the regions. These different arguments reflected different environmental discourses. Whereas the first group of participants defined the problem as a lack of knowledge, the second group considered a lack of political will as the major obstacle, one that could only be countered with power. Finally, the debate revealed that participants interpreted participation in various ways. Representatives of the government tended to define it in limited terms with the government remaining in control. NGOs pleaded for broadening participation to include society in decision-making about development.

#### 21.2.5 The plenary sessions

On the third day of the meeting when many participants had already left, the working groups presented the results of their discussions (see below).

After the presentations the debate about institutions, human resource development and the consequences of the Act on Regional Autonomy for environmental management continued without new insight.

Only a single critical remark was made about the vagueness of the action plans formulated in the draft and the result of the working groups. According to the speaker of an NGO they lacked information about who should do what and when. This presents a parallel with the first case of the BCA, both in the lack of details about the implementation phase and in the fact that criticism of this kind did not result in either a discussion or an amendment to the final text.

The final part of the meeting was a debate on an amendment of the 'national environmental paradigm', which had been introduced at the first co-ordination meeting five years before. The purpose of this rather symbolic explanation of the environment was officially to increase attention for the environment among a wider public. In the end, the draft sentences were shortened in a few cases in order to reduce their complexity and thus be easier to remember. Participants showed little interest in this part of the meeting, one of them explaining to me that it was the Minister who had insisted on it.



### 21.3 OUTPUT: THE FINAL TEXT ON THE NATURAL ENVIRONMENT

The final text of the working groups had been drafted at the last session of the second day, in the evening. Prepared by KLH only small changes were made, without much discussion. With less than one quarter of the ca. 70 group members there, attendance at this session was very meagre. It was mainly the representatives of NGOs who were eager to attend because of their well-founded distrust of the executive, as the following quote of an NGO representative illustrates:

'That is how it works: we just had the discussion but the result is already in the computer. How is that possible? It was ready before the discussion. [...] Earlier on they tried it again: If you trust us you do not need to come to the session tonight to discuss the result of the working group. [...] I will for sure because I don't believe anything anymore.'<sup>25</sup>

Apparently, this person was no longer ready to accept promises from the government but chose direct control. However, he was one of the few.

It was not clear at all how decisions about what should and shouldn't be included in the final text were made. There was no clear mechanism of proposing, debating or voting. Questions were asked and comments were made. Sometimes a chair of a session would support a comment, other times he would give an answer and invite a following question.

The final text contained a plea for a strong centralist authority and many technocratic solutions to protect the environment. In addition, it referred to many concepts the New Order government had incorporated in its *pembangunan* discourse, including 'resilience' and 'co-ordination'. Apart from that the text partly used *Reformasi* language when pleading for a more 'active' role for the people, 'partnerships' and 'developing a system of traditional knowledge'. Although these seemed to indicate a change in approach, they did so only at first sight. The debates have made clear that there was no consensus on the meaning of such concepts and that most government representatives tended to interpret them in a way very similar to the 1990 case. The Rakornas text also does not change the New Order tendency to grant far-reaching authorities to the central government. It lists one-line project descriptions without providing any details about the desired time scale or responsibilities for their implementation.

In the text the input from the various Ministers is clearly indicated as such, whereas it requires a careful comparison of the draft and final texts to see which comments from other participants influenced the meeting's output. The five pages of top-down input summarise the speeches of the first day and are dominated by references to environmental resilience, creating an environ-

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25 Personal communication, 10 August 1999.

mentalist attitude, strong environmental institutions, decentralisation, partnership between the government, the business sector and the people, and especially the development and environmental elements of sustainable development. The next seven pages are very similar to KLH's draft.

The most important changes consist of an added paragraph about institutions, about human resources and about the 'evaluation of the role of central and regional environmental management institutions'. The paragraph about institutions reflects the frame of environmental management as a power game, as it proposes the establishment of a Department for the Environment that could be modelled after the examples of The Netherlands, Thailand, Singapore, Germany and Australia, and the rapid establishment of regional environmental impact management agencies. The paragraph about human resources mentions that personnel in the regions needs to be 'repaired' (In. *pembenahan*) through a better recruitment system, better training and education and better career perspectives. The ideas behind this recommendation are that either environmentalists should be selected for and kept in the regional environmental control agencies or that other people should be educated to become environmentalists. The new paragraph about the evaluation of regional and central institutions in the field of environmental management argues that the centre needs to maintain authority for environmental management due to the 'different interpretation of *pembangunan*' in the region. One field of environmental management that should not be decentralised is the management of conservation areas. The story behind this argument is that central institutions are by definition more environmentalist than regional ones.

Despite these additions to the final text a number of arguments were not included. Claims that the decision-making process should include more stakeholders and become more transparent and that the government still seemed to focus on economic growth rather than on environmentally sound development are nowhere to be found. And recommendations to change the bureaucratic rank of environmental officials in order to make co-ordination effective and action plans more concrete had no effect. The New Order priorities of top-down decision-making and economic growth were still dominant.

#### 21.4 CONCLUSION: ARGUMENTS AND STRATEGIES

Although presented as something new, the Rakornas was primarily a continuation of old practices and resulted in a text that was dominated by *pembangunan* concepts recommended to increase the support for environmentalism in Indonesia. However, part of the meeting as well as part of the final text also reflected the new *Reformasi* discourse.

The main strategy of the Ministry for the Environment was to allow for 'input' (In. *masukan*) to demonstrate its intention to practice participation. The Rakornas allowed for both top-down and bottom-up *input*, not less and not

more than that. Reserving about 40 percent of the time and the final text for ministers from other departments to 'give their direction' (In. *mengarahkan*) for future environmental policy reflected that KLH had no radical change for policymaking in mind. And, in spite of all the *Reformasi* talk about participation, the great consensus that New Order practices should be changed, and the different setting with different actors and a different aim, the structure looked much like the one of the lawmaking process of 1990. It still very much depended on KLH's willingness to explore issues in the debate and to either change its draft or not. This was mainly due to the lack of a clear and transparent decision-making mechanism. The one clear change was that no one referred to *Pancasila* and its underlying idea that people had to achieve a consensus without conflict.

Importantly, the critical atmosphere during the working group sessions did not lead to debates. The more critical voices who doubted the usefulness of the meeting and asked questions about the general direction of policy were not organised and so remained voices in the wilderness. In addition, the only strategy at their disposal – arguing in favour of change – was also used by all other actors. The *Reformasi* discourse allowed everyone to utter criticism but in no way obliged KLH to include it in the final text. *Reformasi* was just too vague to enable radical change and allowed for sticking to nearly unchanged practices.

In fact, instead of leading to debates the prevalence of old decision-making structures led to a quick decrease in attendance at the sessions. After dinner, for example, normally only one third of the participants reappeared at the next session and only one third stayed until the meeting was closed. Most attendees left after receiving their certificate testifying their attendance. Likewise, the concentration during the discussions decreased rapidly in the course of the meeting, maybe in part because of the full programme.

The comments showed a great consensus that things needed to change and that the environmentalist element of sustainable development needed to be strengthened in the Indonesian bureaucracy. Even those departments that were alleged representatives of the so-called ego-sectoralism defended the environmentalist frame at the meeting.

Yet, there appeared to be a balance between support for remedies belonging to the *pembangunan* discourse and to *Reformasi* to increase the influence of environmentalism in the development process. It was primarily the NGOs, KLH and – contrary to its position in 1990 – the Forestry Department arguing in favour of 'partnerships', 'strengthening' or 'empowering the people', and 'community-based natural resources management'. To this Bappenas added decentralisation and bottom-up policymaking, which met with opposition from Forestry, KLH and the regional Bapedaldas which argued in favour of a more centralist environmentalism and emphasised their doubts about the capability and will of regional governments to take the environment into account. This reluctance at the same time reflected that they interpreted 'partnerships' etc.

in a specific, centralist, and thus *pembangunan* way. All participants also, and most ministers exclusively, thought *pembangunan* concepts such as environmental resilience, technology and management, supported environmentalism in Indonesia, thus showing the continuing importance of the *pembangunan* discourse.

Finally, contrary to the MPs in 1990, most participants of the Rakornas thought that changing the attitudes of people, particularly government officials, through education was not enough. Instead most participants favoured strengthening the position of the environmental government agencies vis-à-vis the other government players in the power game of Indonesian politics. Significantly, this meant that the decentralisation of environmental management needed to be carefully reconsidered. As the demand for strong environmental agencies was in line with KLH's own perception it readily included this 'input' in the final text.

At the meeting the opposition in favour of radical change was too small and unorganised to be significant. It lacked a clear vision about an alternative decision-making model, which enabled KLH to talk *Reformasi* but continue old practices.

In the third case, contrary to the first two cases, NGOs active in the field of environmental law and rights for *adat* communities played a prominent role. They were determined to struggle for a radical change in the field of natural resources management in Indonesia. To realise that dream they started to propagate the idea of drafting an encompassing act on natural resources management after the model of a comparable act in New Zealand.<sup>2</sup> Not long after the initial idea had been born the NGOs attempted and succeeded to establish a coalition with prominent academics in the field of environmental law, the then Minister for the Environment, Sonny Keraf, and officials from Bappenas.

### 22.1 PROCESS

This coalition pursued two main strategies to find support for a new legal regime for natural resources management. The first was to build as much popular support as possible. The second was to follow the regular path of lawmaking.

As part of the first strategy the coalition organised a multi-stakeholder conference on natural resources management. This attempt to put the environment back on the political agenda was perceived as necessary because since the beginning of *Reformasi* politicians increasingly focused on 'broad political issues'.<sup>3</sup> The new Minister for the Environment, Sonny Keraf, readily agreed to chair the meeting. One of the main outcomes of this conference was the recommendation to draft an act on natural resources management (henceforth: NRM Act).

As a next step and in accordance with the regular procedure for lawmaking the Ministry for the Environment (henceforth: KLH) asked the President on 11 September 2000 to be granted the role of sponsoring agency for the drafting process of the NRM Act, which it got on the 19<sup>th</sup> of February 2001.

However, KLH did not wait for this formal assignment. Soon after the conference the coalition, headed by KLH, organised meetings and discussions

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1 *Rancangan Undang-Undang Pengelolaan Sumber Daya Alam*, abbr. RUU PSDA.

2 Personal communication with an NGO activist, 14 May 2007.

3 Personal communication with an NGO activist, 14 May 2007.

in preparation of the draft and already in the beginning of February 2001 KLH together with experts from universities, representatives from NGOs and various governmental agencies, including the Forestry and Mining Departments, discussed the first background paper for the bill.

Simultaneously, another coalition of land tenure reformers and environmentalists lobbied the members of the People's Consultative Congress (In. Majelis Permusyawaratan Rakyat Republik Indonesia, henceforth MPR) in 2001 to issue a decree on land reform and NRM.<sup>4</sup> The environmentalists would have preferred to lobby the MPR to include a mandate for the NRM Act in its Decree IX of 2001. However, absent an agreement on the need for this act, this was not pushed any further. Some groups were of the opinion that a NRM Act was too clear a statement in favour of capitalism and favoured instead reform aimed at increased implementation of the existing Agrarian Act of 1960, a more socialist approach to land and natural resources. As a result of such internal disagreements the MPR postponed the actual decision about how to reform the relevant legislation and did not formalise any obligation to radically change the NRM approach.

In the end, the decree recognized the MPR's responsibility to resolve the problems of poverty, structural inequalities, environmental degradation and social conflict caused by the present legislation. Furthermore, it formulated important principles for future policies in the field of land reform and NRM and mandated the President and Parliament to soon regulate these issues and to either 'revoke, change and/or replace existing regulations not in line with the principles determined in this decree'.<sup>5</sup>

### 22.1.1 Building broad public support: public consultation

In accordance with its aim to create as much support for the act as possible the coalition for the NRM Act decided to consult the broader public about the problems they experienced in the field of NRM and about possible solutions. This process, that came to be known as '*konsultasi publik*' (abbr. KP), intended to make the future act more 'legitimate', 'democratic' and 'just' and 'thus

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4 MPR Decree IX of 2001; for a discussion of the Decree and the lobby preceding it see also Lucas & Warren 2003. Prior to lobbying the MPR the NGOs screened acts related to the environment (including the BCA, Mining Act, Forestry Act, Fisheries Act and Environmental Management Act) in terms of criteria such as participation, sustainability, the acknowledgement of traditional rights, co-ordination and harmonization (personal communication with Sudharto P. Hadi, 26 September 2008).

5 Ex art. 6 MPR Decree IX/2001, compare for Lucas & Warren 2003. They state that major weaknesses were that it excluded state land administered by the Ministries of Forestry, Mining and Energy and Marine Affairs and Fisheries and that it renewed old promises of justice without clarifying how to actually realize them.

implementable'.<sup>6</sup> Participation was thus defined as a solution for problems with legitimacy and implementation of regulations.

However, apart from this official rationale for the consultation process different actors also held other expectations:

'For some it was a way to really listen to the people in the field and learn more about their wisdom of managing natural resources and about the concept of bio-region. Others hoped to obtain an objective justification for the act from the majority of the people. In the first respect, the result was disappointing since most attendees of the meetings were people that had been socialized by NGOs (In. *binaan LSM*) and thus mainly reproduced our own discourses.'<sup>7</sup>

Be that as it may, this new process of public consultation together with all other activities belonging to the strategy of building popular support reflected the element of the *Reformasi* discourse that disapproved of everything associated with the New Order and the state. The public consultation was designed as an alternative or at least as an additional element of the regular, formal way of lawmaking. It was a new practice that was meant to help rebuild trust in the state.

Together with the National Development Planning Board, Bappenas, NGO representatives and academics, KLH formed a core team (In. *tim inti*) that was, among other things, to organise a public consultation process on the issue.<sup>8</sup> From December 2002 to April 2003, the working groups gathered stakeholders at 159 locations at the village, sub-district, district, provincial and national level. In addition, the media spread numerous adds<sup>9</sup> that – just as KLH's website did – asked for input from the interested public.<sup>10</sup>

Actors consulted were the central and regional governments and parliaments, local (including *adat*) groups, academics, experts, professionals and observers with various disciplinary backgrounds working at universities, in business or for NGOs. Local institutions were made responsible for the implementation of the public consultation.

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6 Personal communication with an NGO activist, 14 May 2007; Kartodihardjo et al., p. 16.

7 Personal communication with an NGO activist, 3 September 2007.

8 In January 2003 the Minister for the Environment gave the team an official status by issuing decree 2/2003 on its composition. The members were the Minister for the Environment Nabel Makarim and one of his deputies, Hoetomo, who would set out the general direction (In. *pengarah*) and Koesnadi Hardjasoemantri and Daud Silalahi as chair and vice chair. Ordinary members were the academics Sudharto P. Hadi and Hariadi Kartodihardjo, Effendy A. Sumardja from KLH, Indra Darmawan from Bappenas, Mas Achmad Santosa (a former NGO activist but here listed as 'environmental expert', and Ismid Hadad, Wiwiek Awiati, Sandra Moniaga and Longgena Ginting representing four NGOs. Apart from this core team there was also a technical team formed responsible for the more technical aspects of drafting.

9 Suwarno et al. n.y., p. 9-13.

10 [Http://www.menlh.go.id/i/art/pdf\\_1057702702.pdf](http://www.menlh.go.id/i/art/pdf_1057702702.pdf).

In addition to the public meetings focus group discussions were organised with academics specialised in the environment and NRM, economists, entrepreneurs and *adat* groups to get a better insight into the nature of the critical issues and the perceptions of entrepreneurs who, although invited, scarcely attended the public meetings.<sup>11</sup>

Most participants welcomed this experiment although some of them were critical with regard to the question of representation, accessibility and transparency<sup>12</sup> and the priority the working group gave to lawmaking instead of first solving the existing conflicts.<sup>13</sup> They perceived 'the academic approach' as 'reducing problems' and producing 'nothing but a technical solution' while what was needed was a 'creative and imaginative solution'.<sup>14</sup> Others were cynical about what the DPR would do with their input. Were the members of Parliament going to use this new practice of participation as a strategy to silence criticism and thus to keeping up appearances or were they really going to pay attention to the 'aspirations' of the people?<sup>15</sup> Such questions and doubts reflected the most radical frame of the *Reformasi* discourse that consisted purely of a deeply rooted distrust of state institutions.

After the process had been completed the organisers acknowledged some problems as well. According to Kartodihardjo, the public consultation process worked well to identify problems but encountered difficulties in linking these to the 'bigger picture'<sup>16</sup> and thus to possible solutions. Likewise, one of the initiators of the lawmaking process and the idea of public consultation concluded that the process had turned out to be more difficult than expected:

'The process of public consultation appeared to be difficult and expensive. What was difficult about it was to determine who were the stakeholders, how to ensure that the consultation was conducted in the same way at all places and to decide when to actually consult the people. Actually, it would have been good to consult

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11 Kartodihardjo, et al. [n.y.], p. 18.

12 See, for example, *Suara Pembaruan* 3 March 2004, 'Pembahasan RUU PSDA Harus Lebih Transparan: Konflik Muncul Karena Hak-Hak Masyarakat Adat Tak Pernah Dihargai'.

13 Personal communication with a member of the working group, 14 June 2003 and *Walhi* 19 August 2003, "'Agrarian and Natural Resources Management Reform Now!' was the Civil Society Cry During the people's Assembly (MPR) Annual Sitting' ([http://www.eng.walhi.or.id/kampanye/psda/gugatan/agr\\_natural\\_res/](http://www.eng.walhi.or.id/kampanye/psda/gugatan/agr_natural_res/)).

14 Kartodihardjo, et al. [n.y.], p. 18.

15 Personal communication with one of the organising NGO activists, 14 June and 4 July 2003. The expression he used was '*demokrasi pintu gerbang*', meaning that nobody knows exactly what is going to happen to the input from outside the Parliament. Lucas and Warren report on a case from 2001 that illustrates this same sort of public distrust and the official reaction to it: 'To the [farmers'] protest that the Policy Decision showed no serious intent to eliminate the causes of the suffering of rural farmers, a delegation from the MPR Committee responded with a familiar and vacuous claim: "For a full year we have travelled throughout Indonesia and have taken in all the aspirations that have been coming forth from the people" (Lucas & Warren 2003, p. 121).

16 Kartodihardjo, et al. [n.y.], p. 17.



them three times: once about the idea, then about the first and the final draft. However, consulting them only once cost more than US \$ 250.000 (IDR 3,1 billion). That was not only for transportation but also pay people to attend. After all, people were only willing to attend meetings when they were getting paid. They do not yet regard the law as important. Only few groups are really interested; others are more concerned about other matters. Also, what happened was that there were some 'free rider' facilitators who used the consultation process to achieve their own objectives. Some of them, for instance, belonged to the group that favoured keeping the BAL of 1960 as the main legislation but to make it more implementable. As a result, the workshops they led rejected the idea of an NRM Act.<sup>17</sup>

These conclusions show that organising such processes in the future will be difficult to realise because of the enormous expenses. And one would need even more in order to consult the public in a satisfactory manner, with clear improvements regarding representation and facilitation – including a desire to more tightly control the discourse of the facilitators.

### 22.1.2 Interdepartmental discussions

During and after the public consultation KLH focused on an element of the formal lawmaking procedure, i.e. the interdepartmental discussions. These took place on February 5<sup>th</sup>, 2001, November 19<sup>th</sup>, 2002, January 13<sup>th</sup>, February 27<sup>th</sup>, March 14<sup>th</sup>, April 29-30<sup>th</sup> and May 23-24<sup>th</sup> 2003. Between the March and April meetings the departments were asked to send written comments on the bill. It deserves mentioning that not all government agencies attended all meetings. In addition, KLH held a bilateral meeting with the Department for Energy and Mining on March 11<sup>th</sup> 2003.

### 22.1.3 Delay

In October 2003, the preparatory process for the NRM Act was suddenly called to a halt. The then Minister for the Environment, Nabil Makarim, who had taken over the post from Sonny Keraf at the end of 2001, declared that he thought it better to postpone further discussions until after the general elections in 2004 since in his opinion the lobbying by community groups and sectoral departments had not led to 'a clearer concept of NRM'. As a result he disagreed with a number of stipulations in the draft. These included the authority given to *adat* communities which could be disadvantageous for the environment since not all *adat* communities subscribed to sustainability.<sup>18</sup> This led to an outcry

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17 Personal communication with an NGO activist, 14 May 2007.

18 *Media Indonesia* 7 October 2003, 'Perombokan RUU PSDA Bisa Picu Kerusakan Lingkungan'.

from all NGOs that had been involved in the process since they feared postponement would give the sectoral departments the opportunity to reform their own legislation without having to consider the NRM Act and thus to bury the draft.<sup>19</sup>

Others explained this delay in different terms. Sonny Keraf, for example, thought one reason was KLH's lack of money: 'When the DPR discusses a draft, large amounts of money are needed. I believe that KLH does not possess large amounts to push the draft through the DPR.'<sup>20</sup> It is not clear whether he was referring to corruption or to the fact that KLH had to pay for meetings not funded by the regular DPR budget. In the event that he was referring to corruption his view was supported by Professor Koesnadi, at that time the most renowned Indonesian scholar in the field of environmental law, who said 'it was very difficult for us to say that the DPR was corrupt, so we looked for another way to postpone the process.'<sup>21</sup>

Koesnadi's support for this delay made two things clear. First, his approach was a strategic one. He preferred to wait for a composition of Parliament that would be favourable to getting the NRM Act passed. In 2005, he was much more confident than in 2003 since 'now there are many former students of mine in responsible positions.'<sup>22</sup> This we can interpret as a strategy of playing it safe. At the same time it reflects a sort of clientelism as he obviously expected his former students to be ready to support any proposal from him. The second thing this support of the delay made clear was that within the coalition the consensus about which course to take was fragile.

This impression was confirmed by an NGO activist who argued that the participating NGOs consisted of three major groups:

'There was the radical group that wanted to stop all mining and logging and there was a moderate group that supported development only under the condition that at the same time the environment was protected. In between these groups there was a grey group. The radical and moderate group both made up 40% each, the grey group 20%. The coalition was not solid and there were many disagreements.'<sup>23</sup>

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19 See, for instance, the press release by ICEL at <http://techscape8.com/~iceloid/privdocs/4c3fd57d5b557a4ce8592fde76244e12.htm>, which speaks of a lack of 'fighting spirit' of KLH which will benefit the economic growth lobbies. For a similar reaction by Sonny Keraf see *Media Indonesia* 9 October 2003, 'Jangan Hapus Keberadaan Masyarakat Adat Di RUU PSDA'. An NGO activist tried to look at it from the bright side: 'this gives us the possibility to first strengthen the civil society'. In addition, also according to her, there were still a number of issues that needed clarification such as the concept of bioregion and what should be the relationship between NRM and spatial planning (Personal communication, 10 October 2003).

20 *Media Indonesia* 9 October 2003, 'Jangan Hapus Keberadaan Masyarakat Adat Di RUU PSDA'.

21 Personal communication with Prof. Koesnadi, 14 January 2005.

22 Personal communication with Prof. Koesnadi, 14 January 2005.

23 Personal communication with NGO activist, 3 September 2007.

Most likely, the academics,<sup>24</sup> KLH and Bappenas felt a stronger bond with the moderate group than with the radical one.

One disagreement between these ‘moderates’ and the ‘radicals’ concerned the question of what compromises were acceptable. On one side of the coalition the Ministry for the Environment supported by academics such as Koesnadi, was ready to search for compromises to get the bill enacted. On the other side were some of the NGOs that initiated the lawmaking process. They became increasingly disillusioned during the process and accused the other coalition members of sacrificing the ideals behind the bill for other objectives. According to several NGO activists, the Ministry for the Environment ‘regards the process just as a normal project’.<sup>25</sup> It had become more concerned about enacting – and thus bringing this project to an end – than about what to enact. ‘That is related to the fact that the Ministry’s performance is measured in terms of enacted acts.’<sup>26</sup> One NGO activist also condemned the compromises agreed upon by academics such as Koesnadi:

‘Apparently Koesnadi now agreed upon a compromise that I think goes too far. I withdrew from the process because I think that too many compromises have been agreed upon. The last draft is only about co-ordination. That has been forced upon us. And that even though Indonesia is so bad at co-ordination! The initial idea was that the sectors should slowly disappear. That in each bioregion areas for conservation, for production etc. should be determined. We could have realized that with a transitional scheme. In about five years we want to be there, then over five years there, etc. So, everybody would know precisely what to expect. But Indonesia is apparently not capable of making radical changes. Only small steps, except for the Declaration of Independence. The sectoral departments are too conservative. They are kingdoms.’<sup>27</sup>

In her opinion, the compromises reached in 2006 had sacrificed the initial objective of the NRM Act. As a consequence she saw no other option than to withdraw, at least temporarily, from the process.

With no NGOs taking the initiative to further push the process, the bill has not been sent to Parliament or even been included in the list of legislative priorities of the DPR yet.<sup>28</sup> More likely than not this delay will lead to the prior amendment of sectoral legislation, such as the Mining Act, that the proponents of the NRM Act had wanted to prevent. There has been another

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24 Apart from Prof. Koesnadi from UGM, Prof. Daud Silalahi (Unpad), Prof. Sudharto P. Hadi (Undip), Dr. Asep Warlan (Unpar), Dr. Hariadi Kartodihardjo (IPB), Indra Perwira (UNPAD), and Myrna Safitri (UI) were involved in the process at this stage (Kartodihardjo et al. Prof. Maria Soemardjono (UGM) had withdrawn from the process earlier since she was too busy with her work at the National Land Agency (BPN).

25 Personal communication with an NGO activist, 3 September 2007.

26 Personal communication with an NGO activist, 25 May 2007.

27 Personal communication with an NGO activist, 6 October 2006.

28 The so-called *Program Legislasi Nasional* (abbr. Prolegnas) (Hukumonline.com 2005).

important delaying factor, however, which will be discussed below. This concerns the strategy chosen by the Forestry and the Mining Departments in particular.

## 22.2 THE DEBATE

The following paragraphs will analyse which discourses dominated the academic background paper drafted by the coalition, the public consultation and the interdepartmental discussions, and which strategies actors used to either create support for the bill or to oppose it.

### 22.2.1 Academic background paper<sup>29</sup>

This paper was meant to provide the government, parliament and society with 'insights into the urgency of basic principles for sustainable NRM [...], the urgency of drafting an NRM Act [...] and to facilitate the drafting of the principles, objectives and articles regulated in the NRM Bill'.<sup>30</sup> The two main arguments made in this paper were that the Indonesian NRM needed to change radically and that a new act was the appropriate instrument to achieve this. After having been drafted in pieces from at least November 2000<sup>31</sup> by various members of the coalition,<sup>32</sup> it had been discussed at various meetings throughout 2001 and 2002 and 'finalised' at a meeting in September 2002.<sup>33</sup> As such it served as a basis for the negotiations with other departments.

The document began by describing the 'empirical situation of NRM', proceeded with a legal analysis of national legislation in the field of NRM and the legal situation in New Zealand and the Philippines, explored the concept of 'bioregion', listed the documents that provided the legal mandate for the drafting process and a number of concepts, and principles, and referred to issues that according to the coalition needed to be included in the act.

#### 22.2.1.1 'Empirical situation'

The definitions of problems in this first part of the academic background paper showed that the coalition argued in favour of an interpretation of sustainable

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29 Tim Inti 2002. Prior to this academic paper, a less detailed background paper had been drafted about the motivation for the bill.

30 Tim Inti 2002, p. 6.

31 Suwarno et al. n.y., p. 249.

32 Personal communication with an NGO activist, 25 May 2007.

33 Suwarno et al. n.y., p. 250-251.

development that primarily paid attention to ecology and social justice. The few but apparently strong voices in favour of economic growth that had prevented the debate at the Rakornas from developing in this direction were not heard in this text. Still, in two ways, the text was a continuation of the discourses that had also dominated the Rakornas: the authors mainly reacted against what were from their perspective unsustainable practices of the New Order regime and at the same time doubted the potential for regional autonomy to improve this situation.

The authors' main criticism of the New Order's NRM policy and practices concerned the priority these had given to economic growth at the expense of the environment and the people. According to the text, the New Order regime had translated its wish for economic growth solely into the exploitation of nature. By doing so, it had reduced nature's functions to commodity production and neglected its 'public functions' such as the protective function of forests for river basins. The authors condemned the New Order approach toward nature for being 'reductionist' and 'partial' instead of 'holistic' and 'comprehensive'. For the authors the main symbol of this approach was the sectoral departments that had too many authorities and were not counter-balanced by a powerful co-ordinating department and strong regulations.

In addition, the text refused the 'centralist' and 'elitist' nature of the New Order practices that had neglected 'equity' and produced 'imbalance'. This had disadvantaged *adat* communities that were not granted the 'space for access, interests and rights of control, exploitation and management of natural resources'. As the main symbols for this problem the authors referred to the deteriorating political, economic, and cultural situation of *adat* communities and the occurrence of conflicts and environmental degradation.

Next to opposing the New Order the authors also, just like the majority of Rakornas participants, spoke out against those practices of *Reformasi* which they perceived as a 'replication' of the sectoral approach:

'With the new power that has been given to regional governments there is a trend that regional governments neglect or more intensively increase their regional income without attention to environmental balance and security.'

In other words, the authors feared that the regional governments framed nature in the same way as the sectoral departments, i.e. as something to exploit to create income. This, together with technical management incapacibilities and ignoring the local people's needs, the text continued, would most probably result in an irreversible loss and destruction of natural resources.

In sum, the main story behind this section was that the sectoral departments of the central government and the regional governments had not paid enough attention to the environment and the needs of *adat* communities, which in turn had had negative consequences for the environment.

### 22.2.1.2 Indonesian regulations in the field of NRM

According to the academic background paper, the Indonesian regulations in the field of NRM reflected the same lack of attention for environment and people as observed in practice and therefore needed to be replaced by a new legal regime: the NRM Act. The early New Order regulations in particular were geared toward exploitation and ignored the interest of conservation and sustainability. They were 'apparently used as an instrument to support economic growth'.<sup>34</sup> In addition, they were 'oriented toward big investors' and 'as a consequence ignored the interest and access to resources of *adat* communities and destroyed their economic potential'.<sup>35</sup>

Furthermore, the authors found that the regulations were based on an ideology of state control and state exploitation of natural resources, which made NRM 'centralist'.

Another feature of these regulations was that they were 'sectoral' regulations:

'The government has implemented the [natural resources, JA] management in a sectoral way. Consequently, natural resources have not been regarded as an integrated ecosystem. This implies that the institution-building in the field of NRM has not occurred in an integrated and co-ordinated way. Consequently, each sector has tended to walk alone in accordance with the vision of the respective sector.'<sup>36</sup>

Hidden behind this conclusion was the argument that NRM should be regulated in a more co-ordinated and integrated manner.

In addition to this story about sectoralism, the analysis argued that the later New Order regulations did not proportionally protect human rights in the field of control, exploitation and management of natural resources. Instead, the regulations issued after 1990 maintained a state-based resource management approach with little integration and co-ordination between sectors, and limited recognition of *adat* rights. Finally, they still did not clearly regulate the accountability of the government to the public. The BCA, for instance, was criticized for limiting the definition of public participation to mobilization of the public and for not being clear about which governmental agencies should be responsible for conservation. As a consequence, there was 'a lack of integrated conservation activities as each agency had its own interpretation of conservation in accordance with its sectoral policies'.<sup>37</sup> The text thus argued for 'genuine public participation' and for organizing the institutional landscape

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34 Tim Inti 2002, p. 21.

35 Tim Inti 2002, p. 21.

36 Tim Inti 2002, p. 21.

37 Tim Inti 2002, p. 16.

in a way that obliged sectoral agencies to interpret conservation in a specific manner.

During *Reformasi*, the text concluded, the existing regulations on NRM were still not being amended to integrate principles of just, democratic and sustainable NRM.

The final conclusion of this analysis stated that the government needed to draft an NRM Act soon to accommodate the sustainability of the functions of natural resources, to increase public participation, transparency and democratisation in the field of NRM, to create co-ordination and integration between sectors, and to further 'good environmental governance'.

In sum, the authors argued there was a need for a new regulation that would radically change Indonesian NRM. The key ingredients of this new regime would be co-ordination, integration, and participation to ensure more attention for the environment and the rights of especially *adat* communities. It deserves mentioning that these key ingredients were by no means new. Coordination and integration in particular, but during the later years of the New Order also the notion of participation, formed a frequently used part of the *pembangunan* discourse. However, the interpretation and implementation of these concepts needed to be transformed into a version corresponding to the ideals of a transparent, democratic and environmentally sustainable governance that formed the core of the specific *Reformasi* discourse propagated by environmental and human rights NGOs.

#### 22.2.1.3 *Regulations from the Philippines and New Zealand*

The next section of the academic background paper discussed the lessons for the NRM Act from the legal regimes of New Zealand and the Philippines. The text gave no explanations for the rationale behind this analysis and its conclusions, which would have facilitated those who had to decide about an Indonesian NRM Act.<sup>38</sup> Thus, it apparently did not aim to convince others of the need of an NRM Act but rather provided two specific options for those who were convinced of its desirability anyway.

#### 22.2.1.4 *The bioregional approach in NRM*

This section was interesting for its argument that using a bioregional approach in future natural resources management in Indonesia would have numerous positive effects.

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38 According to Sudharto P. Hadi, the motivation for choosing these two countries was that they demonstrated a proper management of natural resources by a single Ministry for the Environment and Natural Resources. The coalition dreamed of a similar situation for Indonesia (personal communication, 26 September 2008).

According to the text, 'bioregion' is a concept that has its roots in biogeography, a science that studies distribution patterns of plants and animals. However, the text went on, the concept of bioregion goes further than that. It takes into account ecosystems and past and current human activities as well as plans for the future. At the core of this concept is the idea that bioregions are not established in a top-down manner but that they already exist and only need to be discovered.

To this end two kinds of research need to be conducted: one that investigates the patterns of distribution of plants and animals and one that examines how people in this region live, what features of their environment they value and why, and how they imagine their future in their environment. This valuing and imagining the text calls 'the understanding or ideology of bioregionalism' (In. *paham atau ideologi bioregionalisme*).

However, next to the empirical side of discovering bioregions, the concept seems to contain a normative side as well:

'The key to success of the implementation of the concept of bioregion is to understand to what extent a community understands the values of bioregionalism [in a certain bioregion, JA] and to think of ways to increase the quality of this understanding of the values of bioregionalism.'<sup>39</sup>

This statement is in the original rather confusing due to the lack of a definition of the term 'bioregionalism'.<sup>40</sup> However, the core claim seems to be that communities need to be educated about the environmental values of their living environment if they do not already know and appreciate them. Bioregion thus appears to be more than the distribution patterns of plants and animals and the human appreciation of their environment. It appears to be a specific, ideal appreciation of a particular environment. And apparently, some unspecified actor had to intervene in cases in which this appreciation did not match the ideal. This argument sounds very familiar. It is the same one we know already from the protection against disaster and the nature protection discourses and the later discourses inspired by these two. Not surprisingly, the text therefore also referred to 'awareness' when explaining the purpose of community education:

'Increasing a community's understanding of bioregionalism will create a high and deep awareness of its space and environment. Furthermore, the awareness for its space and environment will develop the awareness of local communities for owning

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39 Tim Inti 2002, p. 43.

40 The text would make most sense if bioregionalism was to mean 'the environmental values or functions of a bioregion'. In that case, however, some of the words in the original text could have been omitted.



(sense of belonging), conserving, and protecting its environment including the social life of a local community.<sup>41</sup>

Here, we encounter old ways of thinking common to conservationists and environmentalists in general, and that can be summarised as ‘if only people know more about their environment they will understand that they will need to change their way of life’.<sup>42</sup> Furthermore, the quote reveals that at the core of the bioregional approach is the ‘community’. This notion assumes a high degree of homogeneity.

On the whole, the text left little doubt about the conviction of the authors that the bioregion approach would solve the problems of NRM in Indonesia. After all, according to the text, the bioregional approach meant

1. reducing the dichotomy and asymmetry between cities and villages in sustainable development;
2. unifying and synchronising development activities of land and sea;
3. integrating ecological, economic and social components by being people- and local stakeholder-based, and being trans-regional and trans-sectoral which would encourage conflict resolution between regions, sectors and stakeholders;
4. encouraging co-operation between regions and enabling a system of incentives and disincentives between regions;
5. a bottom-up, trans-regional and trans-sectoral approach so that interests of the above mentioned sensitive groups can be recognised and accommodated;
6. recognising this [sic] diversity and adapting development to local characteristics (the local ecosystem and culture);
7. using a decentralised approach and safeguarding justice, gender equality and greater access to natural resources for local people, a transparent and responsible system (accountability) and using development indicators that take into account the reduction of natural resources and the environment;
8. a trans-regional and trans-sectoral approach that encouraged integrated law enforcement although the law and legal system are still weak;
9. recognising social cultural diversity, including *adat* law, providing space for the growth of local legal systems that are more in line with local NRM values so that the public participation in law enforcement will increase;
10. recognising NRM rights of the people so that the state can give the people a mandate for NRM. By this the local people possess the legal power to regulate the NRM and to prevent an excessive exploitation.<sup>43</sup>

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41 Tim Inti 2002, p. 43.

42 At the end of the section on the bioregional approach the text listed principles and stakeholders that needed to be included in the NRM according to the bioregional approach and ‘elements of bioregions that needed to be taken into account in NRM’ and of elements of the ‘character of bioregions’. However, these lists did not add any new stories or arguments in favour of the approach.

43 Tim Inti 2002, p. 45-46.

This list reflects a highly specific version of the sustainable development discourse, differing especially from the government's version in case one and two. The first building block is the idea of equal distribution of the benefits of development, which had officially been part of the *pembangunan* discourse (in the form of '*pemerataan*') but according to this *Reformasi* discourse had not been realized. This need for more equality is interpreted in a geographical and a social way. Villages as well as local and especially *adat* people and women are understood as those geographical entities and parts of society that had not drawn any benefits from *pembangunan*. References belonging to this part of the discourse include 'decentralisation', '*adat*', 'access for local people', 'interests of sensitive groups', 'justice' and 'gender equality'. The second building block of approaching land and sea as an integrated system was new indeed as none of the former discourses had paid attention to this aspect. As the third building block the notions of 'bottom-up', 'local legal systems', and 'a mandate for the people' catch the eye. These notions imply a reduction of the role of the state. Maybe also the notions of trans-sectoralism and trans-regionalism form part of this block as sectors and regions are symbols of the state organization that is believed to produce undesirable results.

#### 22.2.1.5 *Legal basis for the drafting of the NRM Act*

The document listed five legal documents that were to provide the mandate for drafting the new act. These were the preamble of the 1945 Constitution, MPR Decree IV of 1999 about the Broad Guidelines of State Policy that 'the efficient making use of natural resources [...] was to be regulated by law',<sup>44</sup> MPR Decree IX of 2001, and Laws 25 and 35 of 2000: the national development programme (*Propenas*) for 2000-2004, which mentioned making a new Act for NRM as one of the main activities under Programme 4 on institutions and law enforcement in the field of NRM and the conservation of the environment, and the Act on the Budget and Development Year-plan for 2001. Both acts the DPR had enacted on the basis of the GBHN 1999 that the Rakornas had provided input for.

#### 22.2.1.6 *Scope of the academic background paper*

The next section of the academic background paper served to translate the conclusions of the preceding sections into legal principles.<sup>45</sup> It began by

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44 Ex chapter IV, 4 (Tim Inti 2002, p. 48).

45 The legal principles mentioned were 1. continuity and sustainability, 2. justice, 3. democracy, 4. transparency, 5. participation and public accountability, 6. holism, 7. precaution, 8. eco-efficiency, 9. optimal protection and biodiversity, 10. 'the destructor pays', 11. legal pluralism and 12. recognition of *adat* rights.

defining a number of key concepts and creating a framework for the new NRM Act.

### 22.2.1.7 *Conclusions and recommendations*

The concluding section commenced by listing again four of the five legal sources that had to demonstrate to opponents of the bill that there existed a legal mandate for drafting the NRM Act, which showed their importance for convincing other actors of the need for this act. Furthermore, the coalition concluded that the environmental degradation and the quality of the existing regulations were arguments in favour of a new act.

On the whole, the academic background paper attempted to make two arguments: one, Indonesian natural resources management needed to radically change and two, Indonesia therefore needed a new act. In support of the first argument the paper drew a picture of the present situation that was characterised by a state-centered, top-down and segmented style of decision-making that was exploitative, favoured certain groups in society at the expense of most notably *adat* communities, and led to environmental and social destruction. This was not only apparent from a decrease of Indonesia's biodiversity and environmental destruction but also from social conflicts. The authors argued that a lack of principles regarding sustainability, justice, democracy, transparency, participation and accountability in the existing regulations were responsible for this undesirable situation. Together with the focus on the legal mandate for the new act this formed the cornerstone for demanding the drafting of the NRM Act.

This leads us to an interesting paradox: despite demanding more participation in lawmaking processes the authors of this background paper were already convinced that a new act was the only possible way to radically change Indonesian NRM. The legal background of some of the authors, as well as the fact that all of them subscribed to the same specific discourse in favour of a radical change, may explain this conviction. However, the authors based their argument on assumptions rather than on evidence, as one would expect from an academic paper. The most important assumption was that a new act was the best solution to the problems presented. The pros and cons of this and other options, such as reforming existing regulations and institutions, were not discussed. Other assumptions included that granting local and *adat* communities a greater role in NRM, establishing a co-ordinating department and using a bioregional approach would produce all the positive effects listed in the paper. The undisputed conviction that a new act was the one and only desirable solution may explain why the text did not focus on convincing those with different frames. As such it did not create a strong position for the interdepartmental negotiations.

### 22.2.2 Public Consultation

After having discussed the issues dealt with in the academic background paper, we will now turn to those raised during the public consultation process.<sup>46</sup>

Considering the strong argument of the authors of the academic background paper in favour of a new act it deserves special mention that participants of the consultation meetings in various regions raised doubts about this. Speakers wondered, for example, whether such an act could possibly accommodate the differences in character of the regions and the peoples of Indonesia. Another question was how to be sure that this bottom-up process did not end up with a top-down result since people had the feeling that the central government did not want to let go of authority.<sup>47</sup> As the whole public consultation process was being organised around the intention of drafting such an act it would have been interesting to know how such questions were being dealt with at these meetings, i.e. whether the organisers were open to such doubts at all and with what kind of arguments they tried to convince those in doubt. But, unfortunately, there are no materials available.

Apart from this special issue, the authors of the book, when describing the process, conclude that three main issues dominated almost all meetings organized, i.e. NRM, control over land, and institutions.<sup>48</sup>

To provide some more details, the following section will describe and analyse problems and solutions that were discussed at meetings on Sumatra. Meetings in other parts of the archipelago produced similar definitions of problems and solutions although there were certainly regional differences. Java, for instance, was special in the sense that the resistance against a new act was more outspoken than in other regions. Instead, the farmers there demanded an equitable land reform and declared they would only be ready to support new regulations that take the side of the poor (In. *berpihak kepada*

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46 It needs to be noted that although the documentation of the process attempted to objectively report on the process and its results, it still lacked details about the facilitation of the meetings that would have been useful for the analysis of this case, i.e. to describe with which questions meetings were introduced and what the background of speakers were and to give more direct quotes. This information would have made it possible to see which actors and factors determined the discourses that dominated the discussion. After all, it would be important to know, for example, whether farmers or poor fishermen or only NGOs and academics cared about biodiversity and about the protective functions of nature. What the documentation did mention was that in some cases, such as on Java, the facilitators had directed the discussion according to their own agenda. In other cases, invited resource persons directed the discussion. What made providing the information mentioned above difficult was that, unfortunately but maybe also unavoidably, the facilitation and thus also the questions that were being asked differed from location to location.

47 Suwarno, et al. [n.y.], p. 26.

48 Suwarno, et al. [n.y.], p. 16.

*rakyat*).<sup>49</sup> They thus produced a more socialist discourse than participants on Sumatra.

### 22.2.2.1 Sumatra

The three main problems discussed at the meetings on Sumatra were the discriminatory application of laws, ecologically unsustainable practices, and conflicts between various actors. These reflected a discourse on the rule of law that pleaded for fairer rules and governance in the interest of the 'people', and a discourse on environmental management that presented traditional and local actors as better managers than modern or distant actors. As such, the participants at these meetings had apparently entered into a discourse coalition with the organisers, though without automatically supporting the argument in favour of a new act.

People at one meeting said to believe that regulations only served the interests of investors. Ordinary people, in contrast, were being arrested by forestry officials for collecting wood. This surprised them

'since these people were being used by them [some high officials, maybe head of district? Or people's representatives?, JA] to climb to the throne of power. But various regulations that were enacted by the regional Parliament as the people's representatives, as a matter of fact squeezed the people. For decades the people had had their swiddens there, the people had already planted old trees such as durian which were ready to be picked, but then they were arrested.'<sup>50</sup>

What was even worse, according to this source, was that after the arrest the logging increased because the administration gave a license to a sawmill and a timber factory 'owned by people from outside the region'.

This story is interesting for the attention it pays to the problem of the discriminatory application of regulations and because it indicates what these 'small people' expect from the government, their representatives and the law, what kind of strategies they use to achieve their objectives, and what they base their resource claims on. The people in this example seemed to know that regulations should be general and that all people should be treated equally before the law. That this was not the case in practice was condemned maybe due to some kind of belief in the rule of law and justice, but maybe also due to betrayed expectations related to the old patrimonial principle of reciprocity (cf. chapter 7): if I support someone with claims for power I expect him to return this support in times that I need it, and thus to act in my interest. Reference to the 'throne of power' may be interpreted as an indication of such

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49 Suwarno, et al. [n.y.], p. 79-80.

50 Suwarno, et al. [n.y.], p. 33-34 citing Usman Rajo Alam, Kecamatan Koto Tangah Kodya Padang, 17 February 2003.

patrimonial thinking. However, apparently the other party to this 'social contract' did not (or no longer?) respect it. Finally, the quote offered above reveals that the people in this case claimed resources on the basis of custom: they had already been using them for decades without anyone protesting so there was no reason to suddenly fear arrest. The fact that, according to this speaker, the government issued licenses to strangers afterwards implies that the government apparently had entered into a new contract instead<sup>51</sup> – this time with investors from outside.

Another problem mentioned again concerned the impression of the participants that the government was interested only in increasing the regional income and thus in exploiting nature and not in taking care of it. What made this even worse was that the regional government interpreted the term 'regional income' (In. *pendapatan asli daerah*, abbr. PAD) in a way that did not benefit the common people, namely as 'money that flows to the cashier of the regional government' instead of taking into account the 'rise and fall of the income and the welfare of the people'.<sup>52</sup> Thus, again, this was interpreted as a case of favouring a certain group – this time, the officials themselves – above others.

Other problems raised concerned ecologically irresponsible practices such as deforestation and pollution caused by oil palm plantation holders, which implied that local and traditional actors are the better managers of natural resources. The deforestation practices of plantation holders were condemned for ecological and social reasons. They were accused of causing the 'total destruction of biodiversity' (In. *pembinaan keanekaragaman hayati*) and 'of the life of people' (In. *merampas kehidupan masyarakat*) as they 'disturbed the swidden cultivation' (In. *mengganggu aktivitas perladangan*) and 'often caused the forced and violent expropriation of land, sometimes with the help of the security forces' (In. *proses pembebasan lahan pun sering dilakukan dengan pemaksaan dan kekerasan, bahkan melibatkan aparat keamanan*). In addition, the participants of this meeting said that the plantations disturbed the functioning of river basins (In. *daerah aliran sungai*, abbr. DAS) and suspected that they caused droughts and floods. The pollution by plantation holders was said to have caused a decrease of the fish stock and to have endangered the public health: one man who drank water from the river contaminated with pesticides from the plantations had died. Finally, the plantation holders were held responsible for the emergence of social conflicts due to unclear information about the positive and negative effects of plantations.<sup>53</sup>

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51 Cf. a similar argument made by legal scholar Tristram Moeliono that the Indonesian government has been using regulations to force others to enter into negotiations about such contracts (personal communication, spring 2007, Leiden).

52 Suwarno, et al. [n.y.], p. 34.

53 Suwarno, et al. [n.y.], p. 35.

The summary of the meetings dealing with this issue contained a reproduction of the biodiversity discourse and some version of the protection against disaster discourse. In addition, people apparently reproduced a counter-discourse based on stories about nature forming the source of livelihood of people and about local people being the rightful users and better guardians of especially the protective functions of nature. By reproducing the protection against disaster discourse the speakers demonstrated that, contrary to the plantation holders, they knew about these functions and behaved accordingly. They seemed to lack trust in the good intentions of both the plantation holders and the government. As said above, unfortunately, the sources available for this analysis are not detailed enough to disclose whether the speakers at this meeting were all farmers and whether or not they were being assisted by NGOs in their struggle against the plantation holders. This makes it hard to say to what extent they had entered into a discourse coalition with those NGOs and other actors striving for radical change or if they were just being presented as a coalition partner by these actors.

Other conflicts referred to during meetings on Sumatra concerned those between traditional and modern fishermen. Modern destructive fishing techniques, including the use of *pukat harimau*, bombs and cyanide, were said to destroy the coral reefs and as a consequence to negatively affect the income of traditional fishermen, since the quality and quantity of fish decreased. What made the situation worse for the 'traditional' fishermen, meaning those refraining from destructive methods, was that the others were not stopped but rather supported by the security forces.<sup>54</sup> Here we see again an argument in favour of traditional NRM that is presented as more ecologically friendly and at the same time as not getting the space it deserves.

People also recorded problems related to protected areas. These concerned the unclear and arbitrary character of boundaries and – apparently for the speakers closely related to this problem – the lack of possibilities for participation in planning and decision-making. In a few cases, the boundaries were even said to have been changed by officials to the disadvantage of the people.<sup>55</sup> Apparently, showing Dutch maps and referring to Dutch regulations was one of the – unsuccessful – strategies employed by farmers who felt disadvantaged by the borders of this protected area. Regarding the issue of participation, people accused the government of not learning from past mistakes.<sup>56</sup>

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54 Suwarno, et al. [n.y.], p. 37.

55 Suwarno, et al. [n.y.], p. 37-38. People liked to refer to old Dutch borders to make their case. These old borders must have been borders of another form of protected area since national parks only started to be established in 1980.

56 This sounds more like an accusation of NGOs or academics than of farmers but unfortunately the documentation material is not detailed enough to draw any conclusions of this type.

The participants made many proposals for how to solve the existing problems. These contained arguments in favour of better care for the environment and the welfare of the local people, in favour of conflict resolution and justice, and in favour of more participation.

Conspicuous is the considerable overlap of the environmentalist and *adat* argumentation with the academic background paper. However, the public consultation meetings also produced very different arguments, most notably for the field of conflict resolution and in favour of the just implementation of existing regulations instead of the issuance of a new one.

Other proposals concerned future policies: general policies, policies about public participation, forestry, spatial planning, sea and coasts, agrarian affairs, and distribution of profit from NRM. Quoting these would take too much space. But the general impression they create is that most of them originate from officials, NGOs, and academics rather than from the general public. Most of them sound quite technical, as for instance the need for a department for NRM and land affairs.<sup>57</sup> Surprisingly, some of the proposals even implicitly argue in favour of an NRM Act as they, for instance, recommend the review of an existing law to 'become input for the drafting of the NRM Act' (In. *untuk menjadi bahan penyusunan UU PSDA*). Apparently, the formulation of the recommendations was more dominated by NGOs, bureaucrats and academics than by the discussion about the problems.

Another observation about almost all the proposals listed in the entire documentation of the public consultation process is that they, unfortunately, were not linked to problems. As this was also the case in the academic background paper it seems a general phenomenon. Linking problems to solutions could have made the debate much more structured and thus easier.

In sum, the public consultation process as a whole revealed that many participants doubted the NRM Act would solve the existing problems. These were presented primarily in terms of a government not taking good care of the environment or the majority of the people, and therefore not deserving of trust. Aggrieved at the governmental treatment, they presented themselves as the better managers of the country's natural resources.

#### 22.2.2.2 AMAN's position paper

Next to participating in meetings organised within the public consultation process, *adat* communities, represented by the umbrella organization AMAN (*Asosiasi Masyarakat Adat Nusantara*), also wrote a position paper containing their 'key thoughts as input for the team drafting the NRM Act'.<sup>58</sup> This paper reflects a strong discourse coalition between AMAN and at least some of the authors of the academic background paper. A recurrent argument is the one

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57 Suwarno, et al. [n.y.], p. 39-41.

58 AMAN position paper 2003.



in favour of far-reaching participation in NRM. The AMAN paper presented significantly more convincing reasons in support of this argument than the academic background paper as it explained in more detail what was at stake for *adat* communities. In addition, AMAN pleaded for thorough control of the implementation process once the NRM Act had been issued.

The main problem according to the AMAN paper was that *adat* communities had been excluded from policymaking and implementation processes. Instead, the public debate had focused on how to define *adat* communities. This debate had been institutionalised in various laws in the form of stipulations giving the government the authority to recognize *adat* communities as still existent. In response AMAN wanted instead to strive for recognition, respect and protection of *adat* communities and their rights. The *adat* communities were said to be more closely linked to land and resources than anyone else:

‘The relations between community and land and natural resources are special because they determine each other’s existence. Land and forest, for instance, not only form an economic source of life but also, importantly, form a cultural source for *adat* communities. *Adat* communities build their systems of governance and justice, their local beliefs and their arts on their intense interaction with land and forest and get inspiration from it.’<sup>59</sup>

Another special feature of this man-nature relation, contained in the AMAN paper, was the claim by *adat* communities that their relation with land and resources had produced rights. These differed from other claims for land and resources by other actors, most importantly in terms of time:

‘it is a fact that communities living in various places in Indonesia have systems of self-governance [In. *pengurusan diri sendiri*) and of NRM based on systems of values and understanding that have evolved from an intense interaction with nature that has been going on for a very long time already. This intense relation with nature has also produced various forms of resource rights for *adat* communities.’<sup>60</sup>

The story that *adat* communities had had a long term relation with land and resources thus formed the basis for claiming special rights also linked to the culture and identity of those communities: ‘These rights also determine the special cultural identity based on a system of values that varies from one group to the other.’<sup>61</sup> *Adat* communities thus defined themselves through this relation. Destroying it would mean to destroy the *adat* communities, and AMAN explained the emergence of many conflicts in such terms.

The NRM Bill was a first step in the right direction, according to AMAN, since it made a start by recognising and protecting *adat* rights. As input for

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59 AMAN position paper 2003.

60 AMAN position paper 2003.

61 AMAN position paper 2003.

the lawmaking process AMAN pleaded for clear and consistent regulations to prevent sectors from formulating sectoral definitions of *adat* communities and for controlling the process of 'translating this bill into lower regulations and implementing regulations at the regional level'. This quote made clear that AMAN distrusted the whole lawmaking and implementation system. By pleading for a controlled interpretation of an NRM Act and thus keeping the discourse contained in the act specific, AMAN hoped to be able to control the act's benefits for *adat* communities.

As a specific suggestion, AMAN stated that the definition of *adat* communities should include reference to the rights that had emerged from the relation between people and nature and to their special identity, since this formed the main difference between actors with competing claims. In addition, where the bill stipulated that the state recognises the rights of *adat* communities on natural resources, AMAN wanted the bill to 'recognise the existence of *adat* communities and the rights that go along with their existence', which was not contained in the bill. Finally, where the bill granted 'protection to the existence of a variety of management systems that supported the sustainable exploitation of natural resources' AMAN argued in favour of protection for 'the existence of *adat* communities and the rights that come along with them as well as the variety of management systems...'. After all, in the opinion of AMAN, it was the existence of communities and their rights that determined the existence of various management systems.

To sum up, AMAN supported the issuance of an NRM Act that it perceived as a vehicle for recognition, but at the same time the association pleaded for caution during the implementation phase. In terms of discourse, AMAN presented *adat* communities not so much as environmentalists but rather as the historically rightful managers of natural resources with the highest stakes.

### 22.2.3 Minutes of interdepartmental meetings

So far, I have focused on the academic background paper, the public consultation and the AMAN position paper. In the analysis of these data I have identified the dominant discourses and pointed out existing discourse coalitions. I will now turn to the issues raised during the first political debates about the proposed NRM Act at various interdepartmental meetings. Here, the coalition of the Ministry for the Environment, Bappenas and NGOs for the first time really had to convince other actors of the need for the NRM Act and of the coalition's version of it. Seen in this light it is surprising that, although some of the quotes given below might suggest otherwise, most notably the first meeting did not have the character of a discussion. It appeared more as an opportunity for participants to place comments, comparable to the concept of 'input' that had dominated the Rakornas. Participants often did not directly

react to questions or comments by others so in many cases they did not even try to convince speakers expressing doubts about the need for an NRM Act.

### 22.2.3.1 *The 27 February 2003 meeting*

This first meeting was characterised by a tense atmosphere that can even be felt when reading the minutes. The Mining Department in particular appeared radically opposed to the act. To win its case, its representatives followed interesting discursive strategies, as the analysis will show.

Although signalling a general readiness to take the act into consideration when revising its own sectoral regulations, one representative of Mining primarily pleaded for consulting entrepreneurs in the drafting process. His colleague said he also principally supported the act 'although he had not yet received a draft', but he hoped that it would support the investment climate (*In. mendukung iklim investasi*) – or in other words economic growth and thus *pembangunan*. He also demonstrated that he had read the academic background paper as he said that it and the MPR decree IX of 2001 both stated that there existed imbalances between the concepts of NRM that needed to be reconsidered. He had also found such an imbalance in the draft of the act that had apparently been distributed at the meeting. He referred to two articles that in his opinion demonstrated such a conceptual imbalance:

'This can be seen in that one of the articles of the draft stipulates that natural resources are controlled by the State, whereas in another article *adat* communities are recognised to manage natural resources.'<sup>62</sup>

The speaker thus conceptualised state control of resources as something all-encompassing, not allowing for resource management by *adat* groups. Ironically, he did not see management by entrepreneurs to be in conflict with state control, signalling the close relation between the two in his mind.

Not surprisingly, this representative of the Mining Department was very much concerned about the position of the mining business under the proposed act. Just like his colleague, he also wanted to consult entrepreneurs

'within the framework of security title [sic! Probably meaning 'tenure security', JA] in accordance with the principle of justice. That is necessary considering that the act gives guarantees to *adat* communities where actually the government already has issued licenses for NRM to investors so that the rights already are with the investors. This, we need to discuss to come to a win-win solution.'<sup>63</sup>

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62 Rizal Chairil, Mining Department, 27 February 2003.

63 Rizal Chairil, Mining Department, 27 February 2003.

This quote formed a neat example of the strategy of using the words of one's opponents to win one's case. It referred to tenure security, rights and the principle of justice, all concepts generally belonging to the discourse countering the government and favouring change. Yet, here a government representative used the same words to defend the status quo. Although the speaker also signalled that he was ready to look for a situation that was in everybody's interest, one cannot be sure if this was a genuine intention or just another strategy.

The statement raised some irritation on the side of the NGOs. One of their representatives said that the drafting team had already planned a dialogue with entrepreneurs, demanding that the Mining Department be patient. Here, she proceeded, 'we hope for more *constructive* [emphasis added, JA] criticism so that the items that we agree upon can be given form in the act.'<sup>64</sup> Apparently she felt that the representatives from the Mining Department were playing games, perhaps due to the choice of words quoted above.

The (undisclosed) representative of the Agrarian Department appeared to be more co-operative than his colleagues from the Mining Department by focusing on the consequences of enactment. He showed concern about the expected work load, possible overlap with existing regulations and possibilities for misuse of the proposed act. He wondered whether this act was going to be an act next to existing acts or whether it needed to be seen as an 'umbrella act'. The speaker in some way showed a preference for an umbrella law as in the other case the act would possibly produce implementing regulations that could lead to conflicts with regulations in his department. However, he was still concerned about the consequences this act would have. He wondered whether all 53 existing acts that related to NRM needed to be adjusted. Next to this concern of the possible work load that was to be expected, he wondered what the scope of this act would be. After all, he said, there already existed an act on spatial planning regulating planning and exploitation. Finally, with regards to *adat* communities he pleaded for a 'real check' (In. *harus dikaji secara benar-benaran*) in order to prevent 'fake *adat* communities' (In. *masyarakat adat jadi-jadian*) from coming into existence.

Coalition member Agus Prabowo who represented the national planning board, Bappenas, was one of the few who responded to the comments made by others, providing a potential point of departure for negotiations between the more exploitation oriented departments and the conservation oriented coalition:

'After having listened to a number of opinions and comments, I get a bit of a picture about what needs to be regulated in the NRM Act, i.e. a balance between conservation and sustainable exploitation with a philosophy that natural resources

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64 Wiwiek Awiati, ICCEL, 27 February 2003.

are a gift from God and entrusted to us. Therefore the issue is how this act searches for this balance and hopefully this can also be measured.<sup>65</sup>

However, the various participants basically ignored this proposal to create mechanisms to weigh conflicting interests.

Prabowo was also the only participant referring to the public consultation process. In Aceh, he said,

‘it was like entering the cage of a tiger. They wanted a guarantee that the results of the public consultation process would be integrated into the act. They [...] also wanted the people to become the owners of the natural resources. And then, there is the problem of time. If the Ministry for the Environment presents the draft in March to the DPR, and the public consultation is not finished before June, that needs to be reconsidered. Otherwise we will be accused of deceiving the public.’<sup>66</sup>

Prabowo thus reported on the atmosphere of the public consultation and about two participation-related concerns aired in Aceh. He also seemed worried about the coalition’s credibility.

Walhi’s representative shared this concern but drew different conclusions, pleading for – again – more participation. He said there was a need for ‘more public debate to increase support’ for the act. This sounded more like a strategic comment made to his fellow proponents of the bill than an attempt to convince its opponents.

With regards to the demand made by one of the Mining Department’s representatives to consult entrepreneurs it needs to be noted that this had already been planned within the framework of the public consultation process. The focus group discussion revealed that the entrepreneurs did not succeed in agreeing on the nature and extent of the problems of the current NRM practices – *the* major problem not acknowledged by the coalition. On average they seemed to perceive sustainable ecology and sustainable economy as conflicting interests and therefore did not take sustainable ecology into consideration.<sup>67</sup> Thus, the Mining Department could be sure of the entrepreneurs’ support for its opposition against the act.

### 22.2.3.2 *The 14 March 2003 meeting*

At the second meeting some of the participants already commented on specific articles of the draft that had been distributed at the first meeting. The Department for Defense and Security’s representative, for instance, said the following about the feasibility of the act:

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65 Agus Prabowo, Bappenas, 27 February 2003.

66 Agus Prabowo, Bappenas, 27 February 2003.

67 Kartodihardjo, et al. [n.y.], p. 31.

'The word "equal distribution" [In. *merata*] will turn into a boomerang for the government [...] and the expression 'not causing asymmetries', that is very difficult to realize [...] and "each person has natural resources rights", that will turn into a boomerang.'

Although not generally opposed to the act, he was clearly very concerned about its practical consequences.

More than these comments, however, two fundamental issues dominated this meeting and led to the first real discussions: the pressing question of whether the act was desirable at all and, the point raised earlier by the representative of the Agrarian Department at the February meeting, what the act's legal position should be.

The representative of the Co-ordinating Minister for Economic Affairs, was the first to wonder whether this act could rule over other acts considering they were all *acts of parliament*. This reflected that in the Indonesian lawmaking and implementation practice the principles for judging which regulation should prevail in the event of conflicting regulations belonging to the general legal discourse, such as 'new above old' and 'specialized above general', were far from self-evident.<sup>68</sup>

While the representative from the Department for Marine Affairs and Fisheries did not get further than repeating the old mantra that the participants needed to reach a consensus about the legal position of this act, the Cabinet Secretariat's representative tried to circumvent this problem of conflicting regulations by concluding that 'we need to first agree whether with this act all existing acts need to be revised.' In addition to a concern for certainty this quote also reflected the fear that in that case all regulations needed to take another look towards *adat* communities, as in the proposed act.

The Forestry Department's representative argued that if one needed an umbrella act, the Forestry Act 41 of 1999 should fulfil this role. After all, in her opinion, this act already regulated the *adat* issue. A little later she added that the proposed act was moreover too detailed for an umbrella act. She was not by definition opposed to the idea of an umbrella act but she considered the Natural Resources Act primarily an act about or even in favour of *adat* communities – and thus not, one may add, in favour of foresters.

The Indonesian expert on environmental law, Professor Koesnadi, was the only representative of the coalition who defended the idea that the NRM Act should function as an umbrella for old as well as for new regulations. He stated that

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68 While this discourse seems to play a role in criminal law cases and in administrative cases, technical and implementation guidelines (In. *petunjuk teknis, petunjuk pelaksanaan*) are decisive for the interpretation and implementation of laws, especially in interactions between state and citizens, and state and consultants. These guidelines can be written or oral instructions from all kinds of state institutions, including the Supreme Court (personal communication with Tristam Moeliono, 10 September 2007).

'one of the principles for this act is sustainability, i.e. sustainability for the coming generations. [...] At this moment the regions do not understand NRM. Therefore, the NRM Act will act as reference for all NRM. In addition, it will form the basis for national and regional regulations.'

What's significant about his comment is that Koesnadi did not accuse the sectoral departments of not being willing or not taking care of the environment but searched for a story that was acceptable to all participants at the meeting. He did not emphasise the 'ego-sectoralism' that had frequently been referred to at the Rakornas and in the academic background paper, but the regional incompetence. He thus hoped to convince the representatives of the central government of the need to support this new act. At the same time his comment was meant as a response to those who wished to maintain the status quo.

The latter included the representative of the Minister for the Eastern Regions of Indonesia, who argued against the intention to create a National Council for Sustainable Development. The tasks and authority of this council would overlap (In. *tumpang tindih*) with those of existing institutions, a type of story more usually produced by critics of the government.

The Department of Industry's representative also opposed this council, arguing that creating a new institution at the central level was not in line with 'regional autonomy'. In fact, she made clear that in this context she gave prevalence to this story, which she interpreted as supporting a 'slim central government', above the story about 'regional incompetence', Koesnadi had proposed.

Next to criticism of the creation of this council, the more general arguments that had already dominated the first meeting were put forward against changing the status quo. The Mining Department's representative, for instance, repeated 'don't let this act disturb the sectoral laws [...] and don't let this act stipulate the open property of *adat* communities. That will disturb investments.' One of his colleagues also argued in favour of investment, adding that this year was declared to be the 'Year of the Investment'. However, according to him, 'this act appeared to be very much opposed to this, considering that we need to increase the state income'. A new argument against the act was offered by the representative of the Co-ordinating Ministry for the Economy, who stated that clarity about what exactly the MPR's Decree IX of 2001 had ordered was needed first.

Without reacting to this, again, Professor Koesnadi attempted to find a story that all participants could embrace, stressing that the concepts behind the proposed act were not new, that all participants in fact had the same objective and that the main problem resulted from the regional governments:

[The act] is no setback but all this is an accentuation of existing concepts since none of us want the destruction of our natural resources. However, in the practice of the regional autonomy the natural resources are being destroyed already. There-

fore we need to reconcile to further discuss [everything] to achieve a shared understanding.'

The representative from the Department of Industry appeared unimpressed, reproducing the story of 'weak law enforcement' as the main problem: regulations should not be changed when implementation is the problem.

The final argument produced against the act focused on the permission for the Ministry for the Environment to lead the lawmaking process. In support of the new act, the representative of the Department for Foreign Affairs started by saying that it was not the state secretariat that had given the permission but the President. If the President himself had agreed with the act, this argument suggested, the participants of the interdepartmental meetings should not dare to disagree.

However, the Cabinet Secretariat's representative immediately took the edge off this argument by stating that a permission to lead the lawmaking process did not mean that a lawmaking process needed to proceed if it 'caused confusion' (In. *menimbulkan kerancuan*) between the sectors. Immediately, a bureaucrat from the Mining Department started to refer to examples from the past when her Department had received permission to propose an act but without result. Furthermore, she said about Koesnadi's story of 'regional incapacity' that the Regional Autonomy Act already provided for this problem. Therefore, she ended her plea by saying 'we should check the MPR's Decree IX/2001'. As if he had been waiting for this remark, Koesnadi's colleague immediately reproduced the decree stating that all sectors should review the existing sectoral regulations.

The speaker of the legal bureau of the Forestry Department, Wasdja, finally, showed that the sectoral departments felt attacked by the proposed act when concluding that 'if the lawmaking process is continued, refrain from bringing the sectors into discredit. The act should be reconsidered in this respect.' Other remarks were probably motivated by the same feeling. Professor Koesnadi had realized that and therefore tried to direct the attention to the regions as the cause of the problem, but without much success. At this meeting the resistance against the act turned out to be immense.

In sum, speakers refused to support the act for the following reasons: it would endanger investment, it overlapped or conflicted with other regulations, and there was no legal mandate for drafting it. Significantly, there was only one member of the coalition who tried to turn the act's enemies into supporters by searching for a story acceptable to them. No direct questions were posed about what opponents would regard an acceptable solution. An interesting



feature was also that the minutes were never discussed at the following meeting.<sup>69</sup>

### 22.2.3.3 *The 29-30 April 2003 meeting*

By virtue of the participating academics the atmosphere at the following two meetings was much less tense. According to an NGO activist, 'as NGOs we really needed the academics since nobody would listen to us when we said something.'<sup>70</sup> Increasingly, participants commented on specific articles, but the contentious issues of the desirability of the act and its status vis-à-vis other regulations remained unresolved.

To further a solution, the representative from the Department of Industry made a conciliatory proposal:

'Considering that there are still parties that question the need for the NRM Act, maybe it would be an idea to have the sectors present the sectoral regulations, compare them to the MPR Decree IX/2001 and what is not in accordance with this decree or not yet covered should be regulated by this act.'

However, the representatives of the Forestry Department and of the Cabinet's Secretariat still pressed the question of what the act 'really aimed for' (In *kemana arah RUU PSDA yang sebenarnya?*), and whether it was really needed. The latter speaker continued with a whole list of problems that neatly summarized other comments. It was formulated as if the speaker spoke for a whole group of participants:

'And if we look at the draft of March 14<sup>th</sup>, we do not see many changes. How does this act relate to the other organic acts considering that a part of its substance is already regulated in the other sectoral acts? The statements in the general elucidation very much force the sectoral acts into a corner. We would like that to be changed; the draft about the *adat* communities is not clear; the National Council for Sustainable Development the sectors do not yet agree with because its main task overlaps with the tasks of other institutions. Can the act provide answers to the sectoral problems?'

In short, the proposed act invaded the jurisdiction of other regulations and institutions. Other complaints were that the earlier discussions had not yet resulted in many changes and that the act aimed too much at scapegoating the sectoral departments.

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69 I must note here that some of the quotes were too vague to make sense of. According to one participant, the minutes had in fact not been intended to be made public. Even she had had to ask for them (personal communication with an NGO activist, 25 May 2007).

70 Personal communication with an NGO activist, 25 May 2007.

At the end of this meeting it was decided to temporarily leave out from the discussion (In. *dipending*) the issues of the National Council for Sustainable Development, of the *adat* communities and of the bioregional approach.

#### 22.2.3.4 *The 23-24 May 2003 meeting*

This meeting, again, focused on concrete articles of the draft. Comments concerning the interpretation of concepts in fact all argued in favour of the status quo. They included the fear of the Department for Infrastructure that the word 'restoration' (In. *pemulihan*) could be interpreted as 'opposed to development' (In. *anti pembangunan*) and the argument of the Forestry Department that granting people rights was difficult to guarantee and could make great numbers of people demand compensations.

Members of the coalition seemed to have realized at some point that their strategy was failing. Therefore, they made two new proposals to achieve an agreement on contested issues. A representative of the Ministry for the Environment proposed a special meeting to discuss the concept of bioregion with the Forestry Department, while the Department for Marine Affairs and Fisheries, the NGOs and Professor Koesnadi asked the participants to propose their own draft about *adat* communities 'with a win-win solution' (In. *dengan win-win solution*).

#### 22.2.3.5 *Written objections from state agencies*

After these four meetings the departments were asked to send in written comments on the draft. Not surprisingly, the main objections against the NRM Act were put forward by the Forestry and Mining Departments.

The Forestry Department's refusal to support the bill reflected a specific legal discourse that was opposed to umbrella acts and to parting with the control over revisions. The first point the department built its argument on was that the legal structure did not provide for acts that were higher or lower than others. Therefore, speaking of an umbrella act was not considered correct. Second, replacing other acts with the NRM Act was not considered correct either since 'every act has a specific structure' which would make it impossible to replace all of them with a single one. As its third reason to refuse the bill the Forestry Department pointed to the MPR Decree IX of 2001, which had ordered a revision of the existing legislation in the field of NRM. To implement this decree, it argued to not deviate from the 'usual procedure':

'If one wishes to revise one or more sectoral regulations, as ordered by MPR decree IX, in accordance with the usual procedures these laws can be revised one by one. [...] If one or more acts in the field of NRM will be revised, this revision will, in accordance with the usual procedure, not be fused in one draft as in the NRM Act

but will take the form of a revision of individual acts. Therefore we can not agree with the NRM Act.<sup>71</sup>

It concluded its letter by stating that if one wanted to draft an NRM Act it should be limited to formulating principles. All sectoral regulations dealing with NRM, on the other hand, should be revised by the responsible sectors themselves.<sup>72</sup>

The Mining Department followed a similar line of argumentation. It also claimed that the legal system did not provide for umbrella acts and that the MPR Decree had not called for this special act but for revising the existing regulations. To stress that it was dedicated to implement this decree it listed a number of regulations under revision. The Mining Department added one new argument, i.e. that the NRM Act was not in line with art. 33 (3) of the Constitution as it granted NRM rights to *adat* and local communities instead of to the state. Therefore, it concluded that the bill's concept of NRM was debatable:

'The Mining and Energy Department right from the beginning of the interdepartmental meetings at the Ministry for the Environment and at bilateral meetings has voiced its objections against the concept of NRM that has been drafted in the NRM Act since this concept is not in accordance with the legal principles regulated in the Mining and Energy regulations. Based on these considerations we are of the opinion that before proceeding with this act all sectoral agencies need to discuss the academic draft.'<sup>73</sup>

This proposal came as a complete surprise since the academic background paper had played no role whatsoever during the meetings. Significantly, on this last issue the Mining Department's argumentation differed enormously from the Forestry Department's one: where Forestry said that the NRM Act should be limited to formulating principles, Mining rejected the proposed act on the grounds that these very principles which it regarded as opposed to the existing 'Mining principles'. Apparently, the Forestry Department thought that such a 'limited' act would leave it with sufficient power to regulate its own affairs. It did not expect these principles to become binding *in practice*. By contrast, the Mining Department used the ideological difference as an additional argument to refuse the NRM Act.

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71 Reaction from Forestry Department, 15 July 2003.

72 In addition, as a minor point, the Department used environmental discourse arguing that the draft would increase the degradation of the existing conservation areas due to inconsistent provisions. As an example it quoted an article which determined that conservation areas were open for other activities whereas another article stipulated that activities except for research were prohibited.

73 Reaction from Mining Department, 29 July 2003.

### 22.2.3.6 The 9 September 2004 coalition meeting

On 9 September 2004 a meeting of the coalition revealed that 15 departments had sent in their comments. The existing draft had already adopted the results of the public consultations. To decide whether the departmental comments were acceptable or not the Minister for the Environment had formulated a number of criteria for the bill reflecting the ideals of sustainable exploitation, enforceability, acceptability and equity: it should effectively solve problems and safeguard the sustainable exploitation of natural resources by, for instance, limiting illegal logging; it should not produce serious negative side effects; it should be enforceable; it should be acceptable for the society at large; and it should not grant privileges to certain groups.

Furthermore, the minutes of this meeting show that the participants perceived the refusal of the bill by the Forestry and Mining departments as the biggest problem. Some of the participants made sense of this refusal by stating that these two departments still did not see the crisis of the natural resources in Indonesia or that their refusal was based on their 'ego'. Professor Koesnadi then proposed to organise an informal high echelon meeting with the two departments, demonstrating that he had drawn the conclusion that the only way out of this impasse was to informally create support among the leadership of these departments. Such informal meetings could be used to tackle both a refusal based on a lack of knowledge or understanding ('not seeing the crisis') and a refusal based on unwillingness to give up some of their influence ('ego').

The further discussion of the coalition at this meeting focused on issues of legislative quality, mainly related to certainty and feasibility. In the context of the latter, for instance, it was concluded that the guarantee to grant compensation to anybody experiencing problems as a result of resource exploitation 'needed to be exercised' (In. *perlu di'exercise*).

Furthermore, new attempts were made to find solutions to the resistance of the sectoral departments. These included an in-depth discussion of contested articles, such as the one mentioned above about compensation. Questions that needed to be answered included who would have to pay compensation and whether it was 'right and just' (In. *tepat dan adil*) to give compensation to people who 'did not have any legal relation' to resources, for instance illegal occupants of land.

As an additional strategy to convince the Mining and Forestry departments it was proposed to move the part of the considerations about the problems with the sectoral approach to the elucidation or to reformulate it in a more polite way. The reason for this proposal was that

‘the NRM Act does not need to “condemn” the earlier regulations (although reality shows that the statement made is true). This is meant to reduce the resistance of the sectors against the NRM Act.’<sup>74</sup>

This strategy thus intended to make the text less offensive for those governmental actors regarded as part of the problem.

#### 22.2.4 Some notes on the three major unresolved issues

The hitherto unresolved issues include whether or not the NRM should be an umbrella act or an ordinary act, the precise meaning of the concept of bio-region, and what kind of authority the *adat* communities should obtain.

##### 22.2.4.1 A framework law?

There was much political opposition against the idea of an umbrella act. Still, most opponents of the NRM Act framed their refusal in legal terms stating that the Indonesian legal hierarchy did not differentiate between umbrella and ordinary acts. This is indeed the case. Yet, especially in the field of environmental law, leading scholars, such as Koesnadi, have tended to plead for the enactment of umbrella laws. Those in favour of creating an umbrella law regard this as an instrument to oblige actors to strive for an interpretation of sustainable development that takes all three – economic, ecological and social – aspects into account rather than only the economic one.

The concept as proposed by Koesnadi has its origin in the Netherlands.<sup>75</sup> It does not mean that an umbrella act possesses any more legal force than ordinary acts. Thus, there is no way to have a judge review whether other regulations issued for the same policy field are in conformity with it. However, once Parliament issues a ‘*kaderwet*’ (Dutch for framework law), it is morally obliged to issue other acts of Parliament within this more general framework. As an additional advantage of umbrella acts, proponents see that it reduces the workload for Parliament as it helps the bureaucracy to adjust implementing regulations.<sup>76</sup>

If the obligation an umbrella act creates is only a moral one, why was the Mining Ministry so opposed to it? Apparently, the Ministry’s officials perceived

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74 From comments on RACT PSDA 9 September 2004, Hotel Bintang.

75 For more detailed and critical commentaries on umbrella acts in Indonesia see Bedner 2008 and Niessen 2003, p. 78.

76 In fact, in 1990 the Minister of Forestry used the same argument of flexibility to justify that his draft of the BCA required 13 implementing regulations. He did not, however, refer to the concept of an umbrella act. If he had done so and formulated his draft in a way that enabled implementing agencies to fill in the details according to the local circumstances, the act could have become more convincing.

even a moral obligation as a setback. In future parliamentary debates this would create a rather strong argument to weaken the influence of the sector. And indeed, environmentalists have been pleading for an umbrella act on NRM with this very intention: to reduce the opportunities for the various sectors of mining, forestry and the like to issue legislation which favours exploitation and downplays other interests, such as those of the environment or traditional or other marginalized communities. The example of the proposed stipulation to have licenses no longer issued by only the Mining Ministry but simultaneously by the Forestry Department and with the agreement of the local population<sup>77</sup> illustrates this well.

#### 22.2.4.2 Bioregion

The concept of bioregion was refused both on political and conceptual grounds. The coalition presented it as an important alternative approach for natural resources management and as a solution against sectoralism. They argued that the administrative borders often resulted in passing on the responsibility for sustainable management. However, not only the interdepartmental discussions but also the focus group discussion of academic experts in the field of environment and NRM revealed that this concept was still not very clear.<sup>78</sup> Even one member of the coalition admitted that she saw the public consultation as a way to learn more about bioregions, a concept which she did not really understand.<sup>79</sup>

That is no wonder, as the discourse about bioregion is very vague and contains various interpretations of this concept, ranging from liberal to radical.<sup>80</sup> Various beliefs, criteria and aims co-exist. According to Meredith's overview article, possible pitfalls include not acknowledging that bioregions are cultural constructs, drawing an ideology based on past situations as a strategy to counter rapid social change, 'assigning an activist agency' to territories, conceptualising bioregions as something homogeneous and static, and assuming that humans are associated with only one territory. However, Meredith also pointed to possible merits of the concept:

'learning the natural rhythms and biophysical components of a micro-region is both fulfilling and useful. Knowing the biogeography of the past aids in understanding present modifications, which in turn can provide a blueprint for wise future use (or non-use). Bioregionalism's cultural component might be approached in the same manner, focusing not exclusively on cultures of the past, but also on cultures of the present (who *actually* inhabit the bioregion) as well as cultures of the future (who can reasonably be expected to arrive, given the pace of global

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77 Cf. *Kompas* 21 December 2002, 'Libatkan Penduduk Lokal Dalam RUU PSDA'.

78 Kartodihardjo, et al. [n.y.], p. 29.

79 Personal communication, 3 September 2007, Leiden.

80 Meredith 2005, p. 84-85.

interaction). In addition, there are transients, both human and biophysical, which form an integral part of the bioregion.<sup>81</sup>

The concept of a bioregion could thus help to formulate rules about a wise future use of resources. However, preconditions for this would be to take into account past, present and future inhabitants.

Be that as it may, these possible merits did not form an solution to the problem that the concept was not well understood by many of the relevant actors. Nor did they respond to possible criticism including the assumed ideal bioregionalism, the question of how to prove that this concept would be able to solve the problems at hand and the lack of a discussion about how to change from the existing situation to the ideal situation in which bioregions formed the basis for the Indonesian NRM.

#### 22.2.4.3 *Rights of access to natural resources*

This third issue was also heavily contested. There were various positions in the debate on rights of access to natural resources. AMAN, at the one end of the spectrum, demanded unconditioned resource rights for *adat* groups and argued that the NRM Act needed to more explicitly recognise *adat* communities without giving investors or decision makers the opportunity to deny their existence as had frequently happened in the past.<sup>82</sup>

Opposed to the radical position of AMAN were more moderate ones. In 2004, one year after the drafting of the AMAN position paper, professor Sudhar-to, deputy at the Ministry for the Environment, showed that unconditional rights were not acceptable. He advised the drafting committee to formulate a clear environmental condition for granting resource rights to *adat* communities. He proposed to include in the definition of *adat* communities 'that their values support the continuity of the environmental carrying capacity.' Likewise, the economists who participated in a focus group discussion agreed that rights of access to natural resources in any case needed to be equalized and not favour certain groups in society.<sup>83</sup>

Not surprisingly, the most radical position at the other side of the spectrum was taken by the mining sector, which claimed that the attention for *adat* communities in the act, together with attention to the environment, was exaggerated instead of balanced with other – e.g. business – interests.<sup>84</sup> Although this sector, just as economists, claimed to favour a more balanced approach, this is doubtful considering its position taken at the interdepart-

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81 Meredith 2005, p. 84.

82 Kartodihardjo, et al. [n.y.], p. 32.

83 Kartodihardjo, et al. [n.y.], p. 30.

84 *Miningindo.com* 4 June 2003, 'Mining Ministry Rejects Bill on Management of Natural Resources'.

mental meetings. There the conclusion had been that the Mining Department and their supporters favoured the status quo.

### 22.3 CONCLUSION: ARGUMENTS AND STRATEGIES

According to an NGO activist, the main strategy of the coalition had been to directly lobby the Ministers and the President to create support for the NRM Act. Sonny Keraf, the Minister for the Environment at the start of the process, had agreed to this strategy. In the beginning only four ministers, including Sonny Keraf himself, Erna Witoelar and Rias Rasyid, and the President, Abdurahman Wahid alias Gus Dur, supported the act.<sup>85</sup> The strategy to lobby more ministers failed when Sonny Keraf was replaced in 2001 by Nabel Makarim, and in 2004 by Rachmat Witoelar. Neither of them attempted to lobby his colleagues at the sectoral departments. Apparently, the Ministers did not dare to because they were afraid that in the process they might lose their jobs. After all, 'the position of a minister is a political position and thus most ministers are preoccupied with surviving politically.'<sup>86</sup>

When asked about arguments used to convince other actors, an NGO activist replied:

'It was so *obvious* that there were so many problems ... floods, nature destruction through mining operations ... And the second argument was about *adat* communities. That was refused the most.'<sup>87</sup>

The story that nature destruction was perceived as an obvious and thus generally accepted problem was also used by Koesnadi, who at one meeting attempted to build support for the act by stating that 'none of us wants destroyed natural resources!' Yet, this story was not being reproduced by the opponents of the act and the strategy of finding a common story failed. The same happened to Koesnadi's attempt to gain support through the story of regional governments causing the major problem. The other actors just refused to reproduce it or draw the same conclusions. Instead, regional autonomy was used to weaken the proposed act and for some even remained the solution to the problems in the field of NRM.<sup>88</sup>

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85 Personal communication with an NGO activist, 24 May 2007.

86 Personal communication with an NGO activist, 14 May 2007.

87 Personal communication with an NGO activist, 24 May 2007; original emphasis.

88 Compare also for a comment made by Rachman Wiriosudarmo, chairman of Yayasan Ecomine Nusa Lestari, who said in 2000 that a NRM Act was no longer necessary. The regional heads should be given the full authority over natural resources. If he used this authority for improper purposes the people could dismiss him and elect a new leader (MinergyNews.Com, 10 October 2000).



As a final strategy, the coalition, again represented by Koesnadi, asked other actors to produce a draft of their own of the articles concerning the *adat* communities. Its effectiveness cannot be assessed properly, since the inter-departmental discussions were not continued and the lawmaking process has come to a halt.

The most prominent counter strategy of the main opponents of the proposed NRM Act, i.e. the Forestry and Mining Departments, was to reject the new act on legal grounds. The fact that the NRM act was to serve as an umbrella for other acts of parliament was labelled as 'not appropriate' and the legal basis for the act was presented as 'questionable'. Being questionable itself, this legal argumentation reflected that the two departments above all regarded law as a political resource<sup>89</sup> to block change.

In addition, the Mining Department – more so than the Forestry Department – rejected the proposed act on ideological grounds. By contrast, the Forestry Department opted for a strategy of keeping up the appearances of a consensus. Suggesting that it would accept an act that 'only' dealt with legal principles – no matter how much these differed from its own approach – indicated that it was ready to grant the coalition the victory of issuing the act without intending to practice it.

Other counter strategies included sending low-ranking officials lacking the authority to accept anything other than the status quo and reproducing words from discourses commonly used by critics of the government in support of their own objectives.

So far, the strategies of those actors pressing for an NRM Act have failed. In the eyes of some members of the coalition the draft had already been watered down: the early drafts granted the authority of managing new 'natural resources areas' (In. *kawasan sumber daya alam*) to a specific management agency (In. *badan pengelola*), while the 2006 draft determined that 'natural resources management is done through co-ordination'.<sup>90</sup> It thus reduced the proposed agency's role to co-ordination<sup>91</sup> no further defined than 'taking into account the interests of various sectors, regions and all stakeholders'<sup>92</sup> and thus lacking details about how to accomplish this. In addition, the process has come to a complete stop as the coalition has not succeeded in convincing central government actors of the need for the act.

At present, a number of NGOs in favour of the act are thinking of a more political alternative strategy, i.e. of producing a counter draft. It should be presented by some members of Parliament if the Ministry for the Environment's draft is to eventually be debated in Parliament. An NGO activist readily

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89 Cf. Oomen who described the use of law as a political resource in the context of South-Africa (Oomen 2002).

90 Ex art. 15 (2).

91 Ex art. 16 (1).

92 Ex art. 15 (2).

acknowledged the failure of all strategies used so far and explained the need for this new strategy as follows:

'By now I think it was the wrong strategy to not directly send the draft to Parliament as a private member's bill. After all, it concerns a radical bill. Bureaucrats cannot handle such bills. They don't want to go beyond harmonising existing regulations. And the present draft is nothing more than a lip-service reform. It is not of much use. It speaks of co-ordination but not of how to achieve it. It is not clear enough.'<sup>93</sup>

In her eyes, the process had shown that radical changes could not be achieved through the usual procedure. In this view, radical change was too politically contested and thus had no chance to be decided by bureaucrats. If it was to be negotiated by bureaucrats the result would unavoidably be a watered down version of the initial proposal. If in the future this strategy is followed, it will be interesting to see if and in what form the DPR will eventually enact this bill. Will the MPs accept the enormous changes towards a less state-directed and more participatory NRM? In other words, will they be more open to radical changes than the bureaucracy? On another occasion, the same NGO activist herself doubted this. After all, PKB was the only party she considered as supportive of the ideas of the NRM Act. Apart from that there

'are some individuals in the PDI-P, such as Sonny Keraf. In 1990 the party had to be critical to show that it was really a democracy we were living in. Right now they have become part of the system and are no longer critical. PKB maybe... Golkar? Forget it!'<sup>94</sup>

This list of political parties in favour of the proposed act does not appear very promising in terms of support for a radical change. So it remains questionable whether this proposed strategy will bring the NGOs closer to their goal.

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93 Personal communication with an NGO activist, 14 May 2007.

94 Personal communication with an NGO activist, 14 May 2007.

A comparison of three cases of law- and policymaking during the last two decades in Indonesia nicely shows which concepts have been contested and which discourses have dominated the results.

The dominance of the *pembangunan* discourse has been most conspicuous in enabling and constraining actors in their political struggle as it has kept structuring debates and their outcomes. As was explained in chapter 13 the dominant frame of *pembangunan* is one of economic growth and political stability presiding over all other objectives. A dominant story is that what is man-made and modern is preferable to what is nature-made and traditional. Another story important to *pembangunan* is that in the past ideological conflict had hampered economic growth. Such stories made the central government argue that it needed to free politics from ideological conflict and to take the leading role in the development process. In all three cases eventually the frame of economic growth and the leading role for the central government remained dominant, although its dominance was increasingly contested. Likewise in all three cases the emphasis on consensus dominated the debate. The first main practice reflecting this discourse was a form of debate mainly consisting of an exchange of comments, free of the obligation to defend one's position and to convince others or agree on a compromise. All three cases were dominated by this practice. In 1990, the Minister often ignored questions and MPs did not insist on answers to them. In 1999, the format of the Rakornas was that participants could provide input but that the Ministry for the Environment was not obliged to provide arguments or criteria to either or not take these into account. In the post-2000 case, the members of the coalition in favour of the NRM Act only in few cases tried to challenge arguments against it and demand a further discussion. The second practice was the tendency to grant far-reaching, sometimes even discretionary authorities to the central government.

The most important change that occurred after the fall of the Soeharto regime was that *Reformasi* helped to suppress the ban on ideological conflict of the past. This paved the way for, most notably, NGOs to explicate their own frame of change with divergent interpretations of sustainable development, participation, and good legislation. Another remarkable change was related to the scope of participation in law- and policymaking. In the first case the Forestry Department had consulted a small number of academics, experts and NGOs before sending the draft to Parliament. At the Rakornas KLH had gathered

some 250 participants to ask for their input and in the last case, the coalition organized a public consultation process with meetings at 159 locations bringing together thousands of people. In that respect, there was a clear trend toward including an increasing number of people in the course of such processes.

### 23.1 STORIES AND ARGUMENTS

In all three cases, there was a clear political struggle taking place about, most notably, the concepts of 'sustainable development', 'participation' and 'good legislation' and 'good policy'.

The most important contested concept was sustainable development or the question of how much value should be attributed to economic growth, ecological protection and human rights. In 1990, for instance, FPDI pleaded for not limiting conservation to protected areas that, if effectuated, would impact the dominant focus on economic growth. In addition, both FPDI and FPP – unsuccessfully – asked that attention be paid to the rights of people living close to or in protected areas. The government and at least two groups, on the other hand, saw conservation and human rights as subordinate to economic growth. The 1999 Rakornas was characterised by a strong consensus about the need for 'change', for 'more attention for the environment' – especially among the uninvited regional governments – and for more 'participation'. Behind these arguments the same different frames of sustaining economic growth, protecting the environment per se and granting the population more rights were still hidden. However, these differences did not lead to a struggle for discourse hegemony. In the third case, the post-2000 preparations of a bill on natural resources management, the positions were more openly opposed than in the earlier cases. The NGOs, together with academics, the Ministry for the Environment and Bappenas argued in favour of environmental protection and a delegation with authority to manage natural resources, whilst most sectoral departments (with the Mining and Energy Department in the lead) stressed the importance of economic growth, making clear that it did not want any change. The Forestry Department was in that respect much less open, by declaring to support an act as long as it did not cover more than legal principles – thus leaving many decision-making powers with the sectoral departments. In practice this would have made it possible to ignore the act, especially considering the high value attached to implementing regulations and even departmental circulaires for the implementation (cf. chapter 4). Likewise, the position of the coalition proposing the act was also formulated in a more confrontational way, as it immediately defined the sectoral departments as a large part of the problem.

Contested was not only how much attention should be paid to the environment in relation to the other two elements of sustainable development but also who the real scapegoat was, who needed to pay more attention to the

environment. Although actors in all cases started by criticising the central government, this did not stand up in the first or the second case and remained heavily contested in the third case. In the first case, the groups started off with a wish to ensure the 'government's and the people's attention for conservation' but the BCA definitely focuses more on 'the people' than on 'the government'. It has formulated a lack of knowledge as the core problem and 'awareness' (In. *sadar konservasi*) as a key solution. As this is integrated in the article on participation of the people, it is clear that the government (just like the colonial government in the past) positions itself as *not* in need of awareness, education and information. Just as at the beginning of the parliamentary debates of the BCA, at the start of the Rakornas even various representatives of the central government mentioned 'the government' as in need of becoming more environmentalist. However, in the end, the criticism almost exclusively focused on regional governments. Interestingly, this time the voices pleading to educate regional governments were as strong as those claiming a lack of political will in, above all, the sectoral departments and regional governments. This open criticism of a lacking political will was clearly made possible by *Reformasi*. In the third case the coalition regarded the lack of political will of the sectoral departments as the core issue. The dominant frame within the coalition was that it was 'obvious' that nature had been destroyed. It did not assume that the sectoral departments did not *know* that they needed to change their attitude and behaviour but rather that they did not *want* to. However, not surprisingly, the sectoral departments in particular rejected the attempts of NGOs, academics, the Ministry for the Environment and Bappenas to position them as the main problem.

Next to sustainable development, 'participation' was contested. As stated above, in the *pembangunan* discourse a leading role was given to the central government. In 1990, all groups frequently mentioned the need for public participation in nature conservation. However, only FPDI protested when the Minister and Golkar limited participation in decision-making to parliamentary representation and participation in conservation as directed by the government. By contrast, FPDI argued in favour of a more active role for the common people regarding not only obligations but also rights. At the Rakornas, again many participants, this time including the Forestry Department, pleaded for participation. However, most government representatives, with the exception of Bappenas that proposed the idea of public consultation, still conceptualized participation as something that ought to be directed and controlled by the central government. NGOs, on the other side, demanded much more: participation in decision-making about development. Yet, this difference in interpretation was not problematised and thus 'participation' closed the debate before it had really started. A new aspect of participation, which had played no role in 1990, was the role of regional governments. At the Rakornas, participants were divided about this matter that had gained importance with the Regional Autonomy Act of 1999. Some thought that the central government needed to

train officials of the regional environmental impact management agencies to create an environmental attitude among regional government officials and others thought that recentralisation was the only remedy for environmental protection. In fact, both arguments were in favour of a leading role for the central government. In the third case, this role for the first time was really contested. In the academic background paper for the NRM Act, the coalition pleaded for far-reaching participation of *adat* and local communities in particular. It was exactly this conceptualization of participation that sectoral departments rejected.

The participants in the three case studies also struggled about the use of law and policy and the concepts of 'good legislation' and 'good policy' though without using these terms. In the first case, although all groups supported the government's act, especially FPDI questioned whether it was to solve the problems at hand. For this group, substantive effectiveness definitely formed part of the concept of 'good legislation' whereas other groups, most notably FABRI, more or less seemed to assume that enacted legislation by definition was effective and that legislation was good if it silenced criticism. Although all groups showed a concern for the act's implementability, especially with regards to the high number of implementing regulations, FPP deserves special mention in this respect as it asked how to deal with people and enterprises living and operating in future reserves, which was another plea for problem-solving. Furthermore, for both government and groups, high sanctions were an important element of effective and thus good legislation. In the second case, we find a few actors that questioned the use of policy as a whole as experiences of the past had shown that they had no effect. In addition, there were actors defining 'good policy' as policy made in a participatory way, and others pleading for more details about the implementation, such as who should do what and when. In the third case, finally, the question of the desirability of a new act deadlocked the whole process. Already during the public consultation doubts about the act were raised mainly on the grounds of a lacking trust in the substantive effectiveness and justice of legislation. In the end, the opposition of most notably the Forestry and Mining Departments brought the process to a standstill. In their opinion good legislation was legislation that didn't deviate from the existing regulations. Apparently, the Forestry Department no longer thought that legal development was necessary.

### 23.2 STRATEGIES OF ACTORS IN THE STRUGGLE FOR DISCOURSE HEGEMONY

One important strategy many actors in the three cases used – though with different objectives – was to attempt to create the impression or keep up the appearance of a consensus. In 1990, both the Forestry Department and critical legislators did this primarily by referring to concepts such as *pembangunan* and *Pancasila*. The Forestry Department did so to discourage criticism and close

debates, while critical legislators tried to transform the dominant discourse. In 1999, all participants frequently referred to *Reformasi* or 'change', to 'attention for the environment' and 'participation'. Members of the Ministry for the Environment and the sectoral departments especially used these common arguments to signal their support for reforms. In doing so they tried to remain credible among the participants, to make the meeting acceptable and avoid conflicts. And in the post-2000 case, the coalition tried to launch common stories about the malperformance of regional governments and the deplorable state of the environment to create support for its proposed bill. The Forestry Department appeared willing to keep up the appearance of a consensus about the nature of the problems of the environment and the desirability of a new act to resolve them – however, only as a strategy to silence criticism and proceed as usual.

Another important strategy was to specify unspecific concepts. This strategy was used by the Forestry Department in 1990, which specified development as *pembangunan* and conservation as *pembangunan-conservation*. Likewise in the second case, which was dominated by the unspecific *Reformasi* discourse, the Ministry for the Environment successfully defined participation in decision-making as 'providing input'.

In the third case, the strategies used to oppose the bill really stand out. Concepts such as 'justice' and 'security' were appropriated from the NGO discourse and the coalition's proposal countered with the strong and specific *pembangunan* discourse, with an emphasis on economic growth, existing procedures, and central co-ordination and leadership.

### 23.3 ENABLING AND CONSTRAINING EFFECTS OF DISCOURSES AND THEIR STRUCTURES

As said above, *pembangunan* dominated the outcomes of all three cases. In other words, the actors in favour of change did not win the fight for discourse hegemony although *Reformasi* had paved the way for voicing more than one ideology. Although conceptualised as an alternative to New Order practices even the tendency to consult more and more people before making a decision on a draft policy or law did not enable those consulted in their struggle for influence. In the first case, the Forestry Department remained in firm control of the draft. In the second case, it was KLH that decided about including or ignoring inputs from the other participants without being transparent about its criteria, and in the third case, the coalition did not withdraw its NRM bill despite the many doubts about its desirability expressed during the public consultation. One improvement was that the Ministry for the Environment defined criteria for either or not incorporating input from the public consultation into the NRM bill.

In general, what constrained those struggling for change was the strength of those in favour of *pembangunan*. In 1990, the *pembangunan* discourse was too specific to allow for change and actors opposed to such change were too powerful. In 1999, the *Reformasi* discourse was too vague and the *pembangunan* structures for how to debate still too dominant. In the post-2000 case, finally, the sustainable development discourse was too heavily contested to allow for change.

In the case of the BCA, the structures of the *pembangunan* discourse, the small size of the opposition and the Minister's power to sanction non-compliance by re-calling legislators helped him to win the struggle against the few critical legislators. *Pembangunan* structures included the unwritten rule that legislators should not question or criticise the leading role of the central government but should praise it, that one should not insist on answers or compromises, or make demands, and that everything, including lawmaking, was subordinate to the objectives of economic growth and stability. Such structures allowed the Minister to avoid answering questions, to fob MPs off with promises where guarantees had been demanded, and to misinterpret questions, postpone decisions and press for a fast enactment at the expense of the quality of the lawmaking process.

In 1999, the Ministry for the Environment used the strategy to present the Rakornas as practiced participation and thus a real improvement of Indonesian policymaking. However, in the end, again, the debate turned out to be nothing more than an opportunity to utter grievances. The key notion of 'input' enabled the Ministry to decide by itself which comments to include in the draft without having to be transparent about its criteria. In addition, the discussions were chaired in a way that favoured the bureaucrats and experts rather than the audience: at all sessions people were invited to make comments and raise questions but the last word had a panel member or the chairman refusing a continuation of the same exchange of opinions. Participation was thus interpreted as granting the opportunity to throw up a ball without providing for long rallies with winners on both sides. While in 1990 the structures of *pembangunan* were so specific that no one dared to contest them, in 1999 *Reformasi* was too unspecific to force the Ministry to really change its practices. In any case, the few actors opposing these practices didn't clearly name differences in discourse or insist on debating them, either because they still respected the old *pembangunan* rule of non-insistence or because they lacked a specific alternative model for another type of debate.

The third case differed from the first two cases in the sense that the former opposition was the leading actor in the process that challenged *pembangunan* with a counter-discourse, being very specific about who to blame and praise and how to solve problems. As this counter-discourse was directly opposed to *pembangunan*, clearly, in this case it was not a common story that prevented a debate but the lack of such a story. In other words, most notably the Forestry and Mining Departments refused to accept the stories presented by the co-



aliation. They preferred to oppose them with stories of the apparently still powerful enough *pembangunan* discourse. The actors proposing the NRM Act, on the other side, both seemed to be taken by surprise and still submitted themselves to the consensus model. As they had departed from the idea that there was a consensus about the problematic situation of Indonesia's natural resources they did not appear ready to produce arguments to convince their opponents. On the contrary, they mostly listened to comments and questions and only in few cases directly reacted to these. But in no case did such a reaction lead to a further exchange of direct questions or arguments. The format of the debate had still remained unchanged.

In sum, in all three cases those in favour of change did not insist on a debate with obligations. By not insisting they (consciously or not) kept alive an important *pembangunan* practice.

#### 23.4 OUTCOMES

The fact that in all three cases concepts have been contested is not reflected in the outcomes of the case studies. Instead, *pembangunan* can be said to be the winning discourse in all three cases.

In the 1990 case, the Biodiversity Conservation Act defined conservation as a kind of '*pembangunan-conservation*', a type of conservation serving rather than balancing a centrally orchestrated economic growth. The act paved the way for *pembangunan-conservation* in at least six ways: first, it limited conservation to specific territories and thus created the possibility for various actors to exploit nature, except for protected species, in the rest of the country. Even within some reserved territories, most notably the national parks, it allowed for limited economic exploitation (tourism). Second, the act was intended to silence foreign criticism to ensure the continuity of foreign development-aid rather than to change problematic behaviour of specified actors other than local residents. Third, it defined participation as mobilisation, attributing the central government – in particular the Forestry Department – the only leading and activating role. Fourth, the act nowhere specified which part of the government should do what and left much discretion for the Forestry Department by calling for 13 implementing regulations. Fifth, it authorised the government to issue licenses for tourism in national parks, which could be seen as a chance to negotiate 'contracts' with clients. Sixth, it did not provide for mechanisms to control the government.

In the 1999 case, the draft environmental paragraph for the GBHN that came from the Rakornas resulted in a plea for a strong centralist authority and many technocratic solutions to protect the environment. In addition, it referred to many concepts the New Order government had incorporated in its *pembangunan* discourse, including 'resilience' and 'co-ordination'. Apart from that the text partly used *Reformasi* language when pleading for a more 'active' role

for the people, 'partnerships' and 'developing a system of traditional knowledge'. Although these seemed to indicate a change in approach, they did so only at first sight. The debates have made clear that there was no consensus on the meaning of such concepts and that most government representatives tended to interpret them in a way very similar to the 1990 case. The Rakornas text also does not change the New Order tendency to grant far-reaching authorities to the central government. It lists one-line project descriptions without providing any details about the desired time scale or responsibilities for their implementation.

The result of the post-2000 case was a draft for the NRM Act with a very uncertain future. That the bill, which in the beginning aimed for a radical change from a natural resources regime focusing on centralist exploitation to a regime of management delegated to *adat* communities, was not sent to Parliament can be seen as a result of the *pembangunan* discourse. Even if the watered-down 2006 draft were presented to Parliament it would be unlikely to be issued as something other than another homage to the 'co-ordination' of the past: while the NRM Act initially aimed to radically change the institutional landscape in the field of natural resources management, the 2006 draft no longer succeeds in doing so due to its emphasis on an undefined notion of 'co-ordination' and the fact that a detailed list of tasks (for yet to be established management authorities) has been wiped out and referred to a presidential regulation. Apart from this, it must be noted that it still gives many more details regarding rights and obligations of government and people than the BCA. However, as has been stated above, the future of the bill and thus also of these provisions is uncertain.

As the following part of the book will show, the lack of a debate on the BCA regarding problem-solving displaced problems to the arena of implementation. Significantly, the lack of a constructive debate observed in all three cases of policy- and lawmaking discussed in this part continued.

Part IV

Dominant discourses in national park  
implementation in Indonesia: case material  
from conventional and donor parks



The previous part demonstrated how much and in what ways the *pembangunan* discourse dominated the policy- and lawmaking arenas under the New Order and at the beginning of the *Reformasi*-era. This had two consequences for park management. First, the BCA opened national parks to some extent for tourism development, access to which became contested. Second, the actors involved in debates about policy and law had failed to focus on problem-solving and thus substantive effectiveness. Therefore, not surprisingly, the problems mentioned by critics of the government during the debates analysed above and the unresolved struggle about definitions of problems and solutions persisted and unfolded in the implementation phase.

This part of the book hence focuses on the discourses dominating the implementation of national parks. It will do so by analysing two conventional national parks, *Pulau Seribu* Marine National Park (henceforth Pulau Seribu) and *Kutai* National Park (henceforth: Kutai) where the conflicts were likely to be more prominent than in parks where the Forestry Department together with donor agencies tried to design compromises. Such compromises, including co-management schemes and integrated conservation and development schemes, were presented as an answer to the perceived lack of attention for local needs of participation and economic development in the conventional parks. However, until the present, conservation in all parks has remained problematic. I will argue that in all cases actors dedicated to nature conservation have found themselves in a discourse coalition with others primarily pursuing different or even opposite interests. In addition, they have experienced extensive and effective opposition from actors outside this coalition. However, fearing the loss of influence conservationists have not entered into a fundamental and ongoing debate with either of them about the need for and preferred form of conservation.

The discourses dominating the national park implementation have partly remained the same as in 1990 and partly changed. In 2000 and 2001, when the main part of the fieldwork for this implementation study was conducted, Indonesia's national parks were threatened by what conservationists and the Forestry Department label 'encroachment' and 'nature destruction' by people living in or close to national parks, new migrants and entrepreneurs looking for economic opportunities. The Director of Conservation Areas at the Forestry Department, Widodo Sukohadi Ramono, explained this in terms of policy and a change of attitude:

'Actually, there is no clear conservation policy, no good policy. But... right now we are living in a somewhat strange period. Many things are changing. We have laws but people do not comply with them. Right now, we are therefore preparing a Presidential Decree in support of the implementation of the Biodiversity Conservation Act. Actually, the decree does not stipulate anything new. It only more or less repeats what is stipulated by the Biodiversity Conservation Act. Still, we consider it necessary to issue this decree to protect the conservation areas. At the moment everybody does whatever he likes to do, everybody just thinks of himself. Why? Maybe because of the *eforia Reformasi*. In former times we were raised to respect the rights of others but now everybody just seems to think of himself. In former times, there was also discipline, but that has gone, too. It seems as if everybody is preoccupied with trying to make as much profit as possible. Maybe, the discipline will come back in times of scarcity. Right now, there are still too many resources. Right now, people do not yet realise that we need to conserve.'<sup>1</sup>

His quote reflects the confusion, powerlessness and resignation many bureaucrats dedicated to conservation experienced at this point in time and that they tried to counter what was happening under the guise of *Reformasi* by referring to 'old' values.

Still, within the national park authorities conservationist bureaucrats have tried hard to find support for conservation among various groups of actors, including agencies of the regional government, scientists, local people, and entrepreneurs. Their approach can be summarized with the key-term 'partnership' (In. *kemitraan*).<sup>2</sup> However, as the quote above already suggests they had little success. Although Widodo tended to explain this ineffectiveness of the national park policy with the lawlessness arising from all changes triggered by the regime change in 1998, the analysis will demonstrate that implementation had also been a problem earlier.

The empirical case material shows two types of struggles: one about policy and one about its implementation. The struggle taking place in national parks is thus not only about the precise interpretation of sustainable development but also about the government's performance. In Pulau Seribu, more than in the other cases, local actors have accused the national park authority of not really striving for the declared policy objectives but only attempting to 'keep

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1 Personal communication, 10 May 2001.

2 This key term reflects a relatively new discourse of 'partnership' that has been popular within the field of nature conservation in Indonesia since the late 1990s. Academic conferences have adopted the discourse as well, as demonstrated, for instance, by the panel 'Conservation through Partnership: Case Studies of National Parks in Indonesia' at the 4th International Symposium of the Jurnal Antropologi Indonesia, 12-15 July 2005, Depok, Indonesia. Likewise, a glance at recent publications dealing with nature conservation reveals a frequent use of words related to partnership. This discourse departs from the idea that 'conservation is always surrounded by enemies' (quote from Koen Meyer, UNESCO, at a discussion organised by Conservation International, Jakarta, 23 January 2003). It argues that those in favour of nature conservation therefore need to find partners who will join them in promoting nature conservation.

up appearances' (In. *berpura-pura*). Interestingly, some of the rangers openly shared the local critique of the implementation practices and struggled for more 'professionalism' in implementation. In all national parks various actors have contested the national park policy. Kutai has been special in this respect for the confrontational role the regional government played in this matter.

The literature on 'alternative' parks shows that so far pro-conservation coalitions have been fragile and temporary and bear the responsibility for creating new social conflicts. The struggle against the national park policy has continued from the outside and from within such coalitions.

The specific type of struggle dominating in Pulau Seribu has directed my attention primarily to park officials and local inhabitants and their respective debate on the performance of the national park authority. By contrast, in Kutai I have interviewed park officials and officials from the regional government of the East Kutai district to analyse their debate about conservation and regional autonomy.

As in the previous part on lawmaking and policymaking in this part the struggles for a change in policy and implementation will be analysed in terms of stories, arguments, practices and strategies actors use to convince others of their position. Most significantly, I will argue that even in the implementation arena a debate aiming for problem-solving does not take place or at least is effectively frustrated by many actors. Again, just as in the previous part, many actors appear preoccupied with maintaining or increasing their power and thus with the political effectiveness of their words and deeds.

However, before turning to the analysis it is important to first understand the formal position and tasks of the key government actor in the implementation and thus also in the struggle over policy and implementation: the national park authorities.

#### 24.1 THE NATIONAL PARK AUTHORITIES

At the time the fieldwork for this study was undertaken, Ministerial Decree 185 of 1997 regulated the organisation of implementing organisations in the field of nature conservation, such as the National Park Authorities (In. *Balai Taman Nasional*, abbr. BTN).<sup>3</sup> This decree described, first of all, the position of the organisation in the bureaucratic hierarchy. It is a technical implementing unit (In. *unit pelaksana teknis*) of the directorate for forest protection and nature

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3 The decree was amended in 2002 (Keputusan Menteri Kehutanan 6186/Kpts-II/2002), 2006 (Peraturan Menteri Kehutanan P.29/Menhut-II/2006) and 2007 (Peraturan Menteri Kehutanan P.03/Menhut-II/2007). The latest version will be discussed later on.

conservation (In. *perlindungan hutan dan pelestarian alam*, henceforth PHPA<sup>4</sup>) of the Forestry Department.<sup>5</sup> It is ranked at echelon 3, which makes it in practice impossible for its director to effectively communicate with higher-ranking bureaucrats from government departments and regional government agencies. It is led by a director<sup>6</sup> and is accountable to the director of PHPA.<sup>7</sup> Its main task is to implement the management of national parks in accordance with the existing regulations.<sup>8</sup> Art. 3 finally mentions more or less concrete activities for the implementation: (a) the drafting of a development programme for the national park, (b) the running, protection, preservation and exploitation of the national park area and its ecosystem, (c) promotion and information, (d) securing the area, conserving forest and environment, species and developing ecotourism and (e) administration. With the exception of administration, the activities are not further specified.<sup>9</sup> None of the activities is well defined. This lack of specificity gives a great discretionary authority to the park authorities. But it does not strengthen them vis-à-vis other governmental agencies.

Nor are the other regulations more precise. For the task of 'preservation' of a BTN we can, for instance, refer to GR 68 of 1998. This regulation lists activities falling under the heading 'preservation' for core, exploitation and wilderness zones. In core zones the activities are (a) protection and safeguarding, (b) inventory of the potential of the area and (c) research and development related to management.<sup>10</sup> For exploitation zones the third activity is research and development related to eco tourism (In. *pariwisata alam*).<sup>11</sup> In wilderness zones the first three stipulations are the same as for core zones. An additional activity is the management of the habitat and population of animals (In. *pembinaan habitat dan populasi satwa*).<sup>12</sup> All further stipulations concerning preservation in national parks were delegated to Ministerial Decrees.<sup>13</sup> Thus, again, this regulation does not address questions of how to conduct an activity and also fails to formulate principles that could guide the work of national park authorities and expected results.

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4 In the meantime the directorate has changed names twice. First, from 2001 onwards, it was called directorate for nature protection and conservation (In. *perlindungan dan konservasi alam*, abbr. PKA) and a few years later directorate for forest protection and nature conservation (In. *perlindungan hutan dan konservasi alam*, abbr. PHKA).

5 Ex art. 1 (1).

6 Ex art. 1 (2).

7 Ex art. 1 (1).

8 Ex art. 2.

9 Art. 5 specifies administration as matters related to personnel, finances, correspondence, archiving and household (In. *urusan kepegawaian, keuangan, surat menyurat, kearsipan dan rumah tangga*).

10 Art. 39.

11 Ex art. 40.

12 Ex art. 41.

13 Ex art. 42.



The only principles that Decree 185 of 1997 mentions are co-ordination, integration and synchronization. These apply to the work at the BTN and to contacts with other agencies.<sup>14</sup> What exactly is meant by these principles, why they are considered important and how they are to be implemented is not explained. There is only one article that, although not explicitly linked to co-ordination, could be interpreted as specifying the principle of co-ordination. It requires unspecified officials at the BTN to send copies of reports for their superiors to agencies with related work.<sup>15</sup>

For the relations between officials at a BTN it is important to note that according to decree 185 of 1997 the director is responsible for leading, co-ordinating, and supervising his subordinates.<sup>16</sup> He is also obliged to use reports he receives from them.<sup>17</sup> The subordinates, in their turn, are obliged to follow orders and are accountable to their leader.<sup>18</sup>

In addition, for national parks Ministerial Decree 671 issued in October 1997 and Ministerial Decree 597 issued in August 1998 contain job descriptions for all positions at the BTN. These include information about a position's place in the overall administrative hierarchy, mission and tasks, expected work results, required material, responsibilities and authorities, and requirements such as education. However, even these descriptions do not provide many more details about the tasks of a BTN. For the director of a BTN, for instance, decree 671 lists as expected work results 1. a work plan for the BTN, 2. supervision, distribution of work and direction for the implementation of tasks of his subordinates, 3. letters and decrees related to the national park, 4. reports on the activities of the BTN, 5. information and data for other agencies, 6. letters, and 7. meetings. These descriptions are too general to provide a clear guideline for the implementation. What is lacking is, for example, a guideline of how a work plan for the BTN should look, and what kind of information about the BTN's activities – whether in the form of reports or data – is expected and by whom.

Rangers decree 597 is rather detailed. It mentions 'preventing and limiting the destruction of forests and their products caused by humans, animals, fire and diseases'<sup>19</sup> as one of the two main tasks of rangers. This task is further specified as, among other things, patrolling, controlling licenses, reporting violations of law to the Police and preventing or prohibiting various activities, including settling and farming without a license, grazing cattle outside grazing areas and bringing logging equipment into protected forests.<sup>20</sup>

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14 Ex art. 15.

15 Ex art. 19.

16 Ex art. 16.

17 Ex art. 18.

18 Ex art. 17.

19 Ex art. 4.

20 Ex art. 5.

Regarding the task descriptions of office personnel there is an impression that regulations pay more attention to administrative than to practical conservation activities. The fact that administration is the only task specified in Decree 185 of 1997 and the fact that the administrative section of a BTN is much bigger than the conservation section support this. Another remarkable aspect is that the task descriptions for rangers seem primarily to be designed for forest areas. They do not specify what kind of activities rangers should prevent in marine protected areas.

That Decree 597 for rangers was issued in 1998 is reflected in its obligation for rangers to respect 'legal norms, social norms, human rights and the presumption of innocence'.<sup>21</sup> As it does not explain or specify these the drafters of the decree apparently assumed that rangers and their superiors knew the rationale for this provision and how to implement it.

Apart from the tasks described in the regulations just mentioned the fact that national parks are for the most part<sup>22</sup> financed by the national development budget creates another package of tasks. First of all, once a year the BTN needs to formulate project proposals with accompanying budgets. If a project proposal gets accepted, the BTN receives the money through the Forestry Department some time after the national budget has been decreed. Usually, the BTN then needs to send a report every three months about the progress of the project. At the end of the budgetary year a yearly report on the project is due. These reports usually focus on the financial aspects of activities rather than on effects in terms of protection, preservation and sustainable exploitation for a protected area or species. This has great consequences for what is labelled a successful project, i.e. a project that has used the whole budget rather than a project that has led to certain effects.

In conclusion, national park authorities need to conduct conservation and finance related activities. The conservation related activities are not well defined in the existing regulations. The finance related tasks form a significant part of the activities of the BTN and are not well connected to the objectives of conservation.

After I conducted my fieldwork, a relevant new decree of the Forestry Minister on national park authorities was issued in 2007.<sup>23</sup> This decree introduced a new classification of large and small national parks.<sup>24</sup> In addition, it listed a number of new activities for national park authorities, including (a) determining the zonation, drafting a plan of activities, monitoring and evaluating the management of the national park, (d) controlling forest fires, (f) developing nature loving and conservation information programmes, (g)

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21 Ex art. 7.

22 Usually only the costs for personnel are covered by the routine budget.

23 Peraturan Menteri Kehutanan P.03/Menhut-II/2007 tentang organisasi dan tata kerja unit pelaksana teknis taman nasional.

24 Ex art. 4.

co-operating in the development of conservation and developing partnerships for conservation, (h) empowering the people living close to national parks, and (i) developing and exploiting environmental services and eco-tourism.<sup>25</sup> For large national parks article 12 (c) adds that mapping, a geographical information system and a website belong to the tasks of a national park authority as well. For small national parks, art. 20 (b) adds to the earlier mentioned broad activities that the management section should fight illegal logging and transporting of timber, plants and wild animals. Although this decree does provide some more detail than previous ones and even includes the new concept of 'empowerment', it is still not specific about how the listed activities should be implemented. Nor does it provide details about the rationale behind these activities.

Keeping this legal framework for the implementation and the BCA in mind I will now turn to the discourse analysis of the national park implementation. Certainly, deciding on the legal framework for national parks was an important act that reflected the dominant discourse of its time. However, as the case studies will show, the issuance of regulations did not mean an end to the debate on their major concepts. On the contrary, during implementation the political struggle surfaced and became less controllable for the Forestry Department.

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25 Ex art. 3.



The first park, which I analysed in terms of discourses, was Pulau Seribu Marine National Park. The political struggle witnessed at the beginning of the 21<sup>st</sup> century was above all characterised by a lack of debate.

### 25.1 GEOGRAPHICAL DATA

The park comprises an area as big as 108.000 ha out of the 600.000 ha of the entire Pulau Seribu archipelago.<sup>1</sup> According to a Governor's Decree of 1989, this includes 106 islands.<sup>2</sup> 78 of these are located in the park area. The distance from Jakarta Bay to the southern border of the park is 45 km. It takes about two and a half hours by normal boat and about one hour by speedboat to the southern border. The distance between the southern and the northern border of the park is about 39 km. Despite the similar distance it takes more careful navigation and therefore much more time to reach the northern border from the southern one. The distance between the eastern and western borders is approximately 28 km.

### 25.2 COLONIAL HISTORY: NATURE CONSERVATION AND POVERTY-DISOURSE

Due to its vicinity to the capital, the Dutch elite already considered the Pulau Seribu archipelago as a cool place for relaxation and a welcome escape from the hot and bustling Batavia. They, however, chose especially the islands close to the northern coast of Java for these purposes. For instance, Governor-General Camphuijs in 1685 built a two-story house with a hunting reserve on Pulau Damar (by the Dutch called 'Edam'),<sup>3</sup> which is situated approximately 20 km north of Tanjung Priok. This island was known as 'one of the most pleasant

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1 Its precise geographical borders are at 05°24' South Latitude in the north, 106°40' East Longitude in the east, 106°25' East Longitude in the west and 05°40' in the south (Abdullah 1999, p. 24).

2 Surat Keputusan Gubernur KDKI 1227/1989. However, in recent years at least seven islands have drowned due to erosion (Sumber Daya Alam Kita 2000) and maybe to a rise of the sea level.

3 A. Shahab, *Republika* 7 June 2000, 'Nostalgia: Sewa Pulau'.

resorts in the world'.<sup>4</sup> Another island, Bokor, was reserved in 1921 for science and recreation as a 'nature monument' (see chapter 2). Other islands still, also situated close to the coast, served various other purposes. For example, Onrust (En. *restlessness*), also known as Pulau Kapal (En. *ships' island*), from 1615 until 1886 was home to the most important shipyard in the area. Only with the opening of Tanjung Priok did it lose its importance. In various periods, including the 20<sup>th</sup> century, this island also served as a prison and a place for quarantine for pilgrims to Mecca.<sup>5</sup>

The colonial government's perception of the islands further to the north was a totally different one. Before 1905 they were an unknown territory to most members of the Dutch ruling elite.<sup>6</sup> From that year onward, they began to be considered a problem for at least two reasons. First, in the course of the Ethical Policy, the Dutch had found out that the about 900 people living on Panggang and Kelapa were poor.<sup>7</sup> One of the major causes identified was that the islands were leased to a Chinese man who controlled all trade in the area.<sup>8</sup> He bought all of the island products at low cost and made the people dependent on him by payments in advance, and by providing the inhabitants of the islands with rice, clothes and whatever they asked for.<sup>9</sup> This situation began to change when the government withdrew the leasing contract in 1905.<sup>10</sup> Trade became more diverse with people from Tanara, Mauk and Pasilian visiting the islands and inhabitants of the islands visiting Batavia.<sup>11</sup> In addition, the government stimulated the establishment of a co-operative<sup>12</sup> that, according to Selleger, worked quite well.<sup>13</sup>

The second reason the colonial government started to perceive the islands as a problem was that their inhabitants were plagued by various diseases. Therefore, the government from 1905 on tried to fight smallpox,<sup>14</sup> fevers, tuberculosis and dysentery.<sup>15</sup> Furthermore, from now on a number of civil servants were appointed on the islands and regular visits were paid to the

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4 Heuken 2000, p. 301.

5 Heuken 2000, p. 293-299.

6 Selleger 1906, p. 414.

7 The same is true for the about 400 people living on Tidung, Untung Jawa and Kelor (Selleger 1906, p. 415). However, these islands are situated outside the present park area so they do not form the focus of this study.

8 Selleger 1906, p. 425-426, 430.

9 The environment of the islands is not suited for the production of many products, such as rice, pepper and sugar (Selleger 1906). Another product which –still – needs to be imported is, of course, petroleum. The demand has only increased since at present all fishermen use motorboats instead of *prauws*.

10 This happened on 1 April 1905 by Stb. 44 (19-01-1905).

11 Selleger 1906, p. 426.

12 On Pulau Panggang.

13 Selleger 1906, p. 426.

14 36 people died in 1905 due to the lack of any vaccination (Selleger 1906).

15 Selleger 1906, p. 427-428.

region in order to converse with the people about their 'troubles and wishes'.<sup>16</sup> Interestingly, one of the wishes uttered by the island population already at that time was to grant exclusionary fishing rights to the local fishermen.<sup>17</sup> Although Selleger concludes his description with the government's intention to meet the population's wishes as much as possible, it is not clear how long the newly awakened colonial interest in the region lasted and in what improvements for the population it resulted. In any case, with regards to fishing rights no action was taken.

In sum, while the Dutch rulers saw the islands as a place of natural beauty, they simultaneously perceived them as an area with major problems, such as poverty and disease. Consequently, they constructed an understanding of the islands' inhabitants as victims in need of governmental help.

### 25.3 OLD AND EARLY NEW ORDER: PEMBANGUNAN-DISOURSE

After independence, the islands kept their split image. The new elite still liked to go there for recreation. Among them was President Soekarno who sometimes brought guests. Furthermore, prior to 1968, the Indonesian Armed Forces expressed their interest in the islands as a strategic site.<sup>18</sup> At the same time, the islands were still seen as a problem, all the more when the first islands close to Batavia began to show serious signs of erosion.<sup>19</sup> As a policy answer, already in 1962 the government of Jakarta issued a regulation on the extraction of coral, sand, stones and pebble from the islands, reefs and sea.<sup>20</sup> This was followed by several decrees issued by the Governor of Jakarta between 1969 and 1972. One of them prohibited professional fisheries in the coral gardens of Pulau Seribu.<sup>21</sup> It also forbade the extraction of sand and coral stones from the area.<sup>22</sup> The following decree confirmed this prohibition but also named

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16 The new civil servants comprised one native representative of the colonial government (Du. *inlandsch posthouder*), one caretaker seconding the neighbourhood head (Du. *mandur oppasser*), one police watcher (Du. *politie oppasser*), five native neighbourhood heads (Du. *inlandsche wijkmeesters*), and five navy seamen (Du. *matrozen*) (Selleger 1906).

17 Selleger 1906, p. 430.

18 Yates 1994, p. 239.

19 These islands were Ubi Besar, Nyamuk Besar, Air Sedang, Air Kecil and Dapur, all situated in the bay of Jakarta (Ongkosongo 1995, p. 6). In the same article Ongkosongo reported that Bidadari, Cipir, Onrust, Kelor, Air Besar (Ayer), Nyamuk Kecil and Damar Kecil were already experiencing serious erosion so their loss would have to be expected for the beginning of the 21<sup>st</sup> century.

20 Peraturan Daerah Kotapraja Jakarta Raya No. 7 Tahun 1962 (30-03-62) (Balai Taman Nasional Kepulauan Seribu 1999). Other sources mention the date 22-11-1960, for instance Putu 2000, p. 18-19.

21 Keputusan Gubernur/Kepala Daerah Khusus Ibukota Jakarta No. 19 Tahun 1970 (6-11-70) tentang Penutupan Perairan di Sekeliling Taman-taman Karang di Gugusan Kepulauan Seribu untuk Penangkapan Ikan oleh Nelayan-nelayan sebagai Mata Pencaharian.

22 Nasution 1990, p. 44.

two locations from where sand and coral stones could be taken.<sup>23</sup> Another decree finally prohibited the use of lift nets (In. *alat bagan*) in the area.<sup>24</sup>

These regulations have to be seen in light of a new trend. In the late 1960s the provincial government, triggered by the *pembangunan* discourse of the New Order government, started to perceive the islands as a potential target for development activities. As a result, some of the islands were leased to private persons and to tourism operators. A Governor's Decree ordered the Jakarta provincial government to form a team for the development of the islands.<sup>25</sup> This development, it was ordered should focus on science, society and tourism.<sup>26</sup> Consequently, in 1970, 15 islands were allocated for tourism development, including Pulau Panjang for the development of an air-strip and Pulau Genteng Besar for a golf course.<sup>27</sup> Thus, protecting the islands against erosion was mainly a strategy to protect a new development site.

This new perception of the islands as a potential source of tax income for the regional government, together with the problem of erosion, also had implications for the positioning of the people living in the area. The inhabitants of the islands were no longer solely seen as victims but also as potential threats to the development of tourism in the area. For instance, those of them working as professional fishermen were increasingly perceived as conducting destructive behaviour. This was probably due to the fact that from the 1960s onward cyanide has increasingly been used for fishing purposes in Indonesia. Also, with regards to sand and stone extraction, local people were blamed. But apparently the regional government showed some understanding that they depended on these resources for building their houses. Exceptions to the regulation on this matter made the regulations more acceptable to the local people than a general prohibition.

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23 SK Gubernur DKI Jakarta Bd.15/2.43.1970 (22-12-1970) mentions Kel. Kalibaru en Kec. Koja as exceptions to the general rule (Putu 2000).

24 Keputusan Gubernur/Kepala Daerah Khusus Ibukota Jakarta No. Ea.6/1/36 Tahun 1970 (31-12-70) tentang Larangan Penangkapan Ikan dengan Mempergunakan Alat Bagan di Lautan/Perairan Dalam Wilayah Daerah Ibukota Jakarta. This decree is still in force and widely disrespected, especially in the area close to Jakarta.

25 Governor's Decree (In. *Surat Keputusan Gubernur*) No. Ib.3/3/10/24/1969 (17-03-1969). The governor of this period, Ali Sadikin, was reported to have had the vision that the area should be reserved for tourism development only (personal communication, diving instructor, 1 October 2000).

26 Putu 2000.

27 Putu 2000. Governor's Decree cb.11/20.70 (23-05-1970). The first tourism operator was a naval commander who established Pulau Seribu Paradise. This company opened the first resort on Putri Timur, leased 12 former coconut plantations and built an airstrip on Pulau Panjang in 1974 (Yates 1994, p. 239). In the end, a golf course was built on Bira. 'To qualify for this, all mangroves had to be cut. This has resulted in erosion which will continue until the island will have disappeared.' (Junaedhie 2000).



## 25.4 NATIONAL PARK DEVELOPMENT

A totally new perception began to gain importance for the region in 1974 when international organisations began to pay attention to the archipelago's potential for nature conservation. It started with a FAO/UNDP project (see part II), which investigated the possibility of establishing a marine national park.<sup>28</sup> This project formed the starting point of the Indonesian marine conservation program.<sup>29</sup> The results were considered promising. Therefore, between 1979 and 1982, WWF together with PHPA undertook a number of preliminary surveys the results of which formed the basis for their co-authored management plan, published in January 1982.<sup>30</sup> The small archipelago thus suddenly turned into a spot of natural and scientific value, which could possibly attract many visitors and necessary protection. It became a spot where the conservation aspects of the sustainable development discourse as described in part I had to be institutionalised.

In line with this, the Indonesian national government announced its intention to establish a national park in the region in October 1982 at the 3rd World Parks Congress held in Bali. Only three months earlier, the Minister of Agriculture had paved the way for this by establishing a marine strict nature reserve (In. *cagar alam laut*) in the precise area of the intended national park.<sup>31</sup> It is important to note that by doing so the central government for the first time officially claimed the jurisdiction over the area as all protected areas resided under the Forestry Department. The legal basis for this was seen in the Forestry Act of 1967, which provided the national government the authority to restrict the access to terrestrial strict reserves to scientists.<sup>32</sup> From a legal point of view this situation remained unchanged until 1995, five years after the enactment of the Biodiversity Conservation Act, in the form of a Forestry Minister's decree that formally declared the area a national park.<sup>33</sup>

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28 Nasution 1990, p. 6. FAO had become interested in conservation in the 1960s which was mirrored in its new section for wildlife and forest recreation. It subsequently 'promot[ed] protected area systems in South and Central America as well as in Uganda, Ethiopia, Nepal, India and Indonesia' (Holdgate 1999, p. 69).

29 Personal communication with former park director, M. Halim, 1 September 2003.

30 Nasution 1990, p. 6, 44.

31 Surat Keputusan Menteri Pertanian No. 527/Kpts/Um/7/1982 (21-7-82).

32 The act speaks of *hutan suaka alam* which thus covers all areas classified as forest - but not necessarily covered by forest (cf. Peluso & Vandergeest 2001). The Forestry Act thus did in fact not cover marine nature reserves but only terrestrial ones. Only in 1990 did the Biodiversity Conservation Act lay the legal basis for marine protected areas as well. However, awaiting this, the Forestry Act served as a guideline.

33 Keputusan Menteri Kehutanan No. 162/Kpts-II/1995 (21-3-95) tentang Perubahan Fungsi Cagar Alam Laut Kepulauan Seribu yang terletak di Kotamadya daerah Tingkat II Jakarta Utara, Daerah Khusus Ibukota Jakarta, seluas 108.000 ha menjadi Taman Nasional Laut Kepulauan Seribu.

As the announcement of the intent to establish a national park and the rapid *de facto* start of implementation in 1984<sup>34</sup> clearly shows, the national government did not intend to reserve the archipelago in a strict sense. As discussed more generally in the previous sections, in Pulau Seribu conservation of the coral reefs and biodiversity was certainly not the only objective. Rather, the government made it clear that the area also had to accommodate interests of tourism development.<sup>35</sup> The concept of a national park with zones for different purposes provided for this. Furthermore, the park was primarily seen as a role model for other 'more valuable' areas in East Indonesia to be developed as national parks.<sup>36</sup> Because of its vicinity to the capital it could also easily be shown to foreign visitors.

#### 25.4.1 National Park Authority: searching for coalitions with science, other government agencies and the local population

Even after 1995 the Forestry Department held authority only over the sea and a small number of the 'thousand islands' (In. *Pulau Seribu*). Therefore, in order to achieve the conservation objectives, the Forestry Department and its project leaders (and from 1998 onward the National Park Authority (henceforth BTN)), had to persuade or convince other actors to act in accordance with the national park regime regulated by the BCA since 1990. To do so, it employed various strategies of coalition building. These strategies depended very much on the individual park directors and other park officials.

##### 25.4.1.1 *Strategies for building coalitions with regional agencies*

One important strategy of the BTN was to build coalitions with regional government agencies. This also formed the main justification for situating the office in Jakarta and not on the islands where these agencies held office. After all, the officials argued, the BTN could not possibly co-operate with other governmental institutions if they were to hold office on the islands. In bustling Jakarta, the argument ran, everything happened – not on the islands, which were perceived of as being quite the opposite: remote, far away and quiet (In. *sepi*). In practice, in 2000 and 2001, the office now and then initiated meetings with other agencies, most importantly about the zoning system, and occasionally sent reports to inform other agencies about non-compliance with the rules that fell under their jurisdiction.<sup>37</sup>

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34 Personal communication, M. Halim, first director of Pulau Seribu, 4 July 2001.

35 Nasution 1990, p. 1.

36 Halim & Djohani p. 8.

37 Personal communication with M, 18 October 2000.

A basis for a coalition with regional agencies had been created with the zoning system that had been determined in 1986 on the basis of a number of surveys.<sup>38</sup> It differentiated, first, three core zones which were reserved for scientific and educational activities, second, a protection zone which additionally allowed for limited recreation and sport activities,<sup>39</sup> third, an intensive use zone for recreation and tourism, fourth, a traditional use zone for the local community's 'social, economic and cultural development',<sup>40</sup> and finally a buffer zone outside the park area. In theory, this zoning system thus met the interests of the national and the regional governments, of entrepreneurs and the local population. However, even after some changes in 1992,<sup>41</sup> differences in perception continued to affect the park implementation in a negative way. From the perspective of the regional governments, the national park totally disregarded the fact that the central government in fact had no authority over the islands, since these were either inhabited, had been leased to individuals or companies or were reserved for such purposes. In 2001, 26 islands were leased to individuals.<sup>42</sup> According to the tourism agency of North Jakarta, in 2001 there were officially 12 tourism resorts, three of which had gone bankrupt, however.<sup>43</sup> In the plans, 45 islands were reserved for tourism, so there were still many possibilities for new resorts.<sup>44</sup> To solve this problem of authority, in 1985 the Forestry Minister and the provincial government agreed in principle to 'release' islands (In. *membebaskan tanah*) for forestry (read: conservation) purposes. However, the actual results of this agreement have

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38 The zoning system is regulated by Decree Director for national parks and recreational forests, Surat Keputusan Direktur Taman Nasional dan Hutan Wisata 02/VI/TN-2/SK/1986 (19-04-1986). The surveys were undertaken between 1979 and 1982 in collaboration of the conservation section of the Agricultural Ministry and WWF (Nasution 1990, p. 44 and personal communication, former project leader Halim, 4 July 2001).

39 These are camping, beach recreation, and sailing (Halim 1989, p. 27).

40 Abdullah 1999, p. 21.

41 Alder et al. 1994, p. 182.

42 Personal communication with official at the Pulau Seribu district's government's office in North-Jakarta, 18 May 2001.

43 Former President Soeharto was among the "owners" of such an island, called Bulat. He used to invite his friends and visiting heads of state for fishing. When I visited the park "his" island was abandoned. No longer did military guards keep fishermen and park rangers at a distance. Next to Soeharto himself, members of his family, friends and close business relations of the big conglomerates are among the leasers. The islands leased to individuals or exploited as resorts are Bira Besar, Bira Kecil, Bulat, Bundar, Cina, Genteng Besar, Genteng Kecil, Pantara (Hantu) Timur, Pantara (Hantu) Barat, Kaliage Besar, Lipan, Macan, Melinjo, Melintang Besar, Melintang Kecil, Opak Besar, Pemagaran, Perak, Putri Besar, Putri Kecil, Satu, Sebaru Kecil, Semut Besar, Semut Kecil, Sepa Besar, Tangkeng, Nyamplung, Tondan Barat, Tondan Tidur, Ayer, Opak Kecil, Kotok Besar, and Kotok Kecil.

44 When inquiring again about how many islands were leased to individuals, the official claimed not to know. However, "if you are interested in leasing one, just come to my office and we can discuss the matter. At the moment, there are several available and they are not expensive. You can lease for five, ten or more years." (Personal communication, tourism agency North-Jakarta, 16 May 2001).

been minimal with only two transferrals.<sup>45</sup> In sum, the BTN argued that it had found a compromise that was easy to accept, but the regional government rejected this as unrealistic. Negotiations had a minimal result.

#### 25.4.1.2 Counterstrategies

The various regional governmental actors have been unwilling to accept the new agency and its claim for authority over the region from its very beginning. One important strategy to remain independent from the BTN has been to ignore its information and requests for co-operation.<sup>46</sup> For instance, according to the first park director, in the park's early days the head of the sub-district (In. *camat*), to which the islands report, chose to ignore the national park:

‘He did not wish to discuss nature conservation [...]. He rather offered the islands to the rich elite in Jakarta in exchange for some extra income. So, he supported us only where it was in his own interest and objected whenever he feared for these additional earnings.’<sup>47</sup>

In the eyes of the former director, it was personal interests that kept the *camat* from co-operating. As a strategy he chose to avoid discussions with the BTN.

The governor of Jakarta province also ignored the park. He continued to issue regulations concerning the licensing of development activities in the region and, as Yates observed, ‘repeatedly affirmed [his] “full authority” [...] to legislate within the region’.<sup>48</sup>

Another strategy of the regional government was to use the conservation discourse itself, and thus to enter into a discourse coalition. Maybe inspired by texts produced by the FAO project in the area, the 1981 development plan of the urban planning office (In. Dinas Tata Kota) already mentioned conservation issues. As this was prior to the announcement of the park in 1982 and the start of its de facto implementation in 1984, these ideas were thus integrated into the reaction to the national policies. The plan presented a concept of planning which aimed at, among other things, ‘nature conservation’ and an ‘ecological balance’<sup>49</sup> and translated these aims into a number of concrete limits to development, including the height of buildings, the general rule that

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45 Two islands, both situated in the park's core zones, have been transferred, i.e. Penjalaran Barat and Kayu Angin Bira. However, in 2000, rangers told me that the latter island was in private hands again since the new owner did not feel obliged to respect the oral release of the island for conservation purposes of his predecessor (personal communication, Jakarta, 29 November 2000). By the way, Putu mentions three more islands (Nyamplung, Hantu Barat and Hantu Timur) (Putu 2000). However, the former is leased to an individual and the latter are until present exploited as resorts, see also footnote above.

46 Personal communication with BTN officials, 16 and 18 October 2000.

47 Personal communication, 4 July 2001 and 13 July 2001.

48 Yates 1994, p. 244; for example, Governor's Decree 1814 of 1989.

49 Tisnawinata 1981, p. 24,27.

no foreign plants should be introduced to the islands and that the contacts of human beings with nature should be limited to a minimum.<sup>50</sup> The latter was to be achieved by concentrating the population on a small number of islands and, surprisingly, by limiting the allocation of islands to tourism. The text clearly reproduces the anti-human conservation-discourse of its time:

'Humans and technology are often said to be the enemies of nature. Therefore, the less humans interact with nature the smaller the chance to destruct nature and thus the bigger the chance to conserve nature.'<sup>51</sup>

However, according to the BTN officials, this discourse was not reflected in the regional government agencies' practices, which seemed to focus more on the economic development of the area than on the environment.<sup>52</sup> This perception is supported by the local government's clear intention to develop the region in terms of tourism, horticulture and even oil mining. In practice, the regional agencies have, for instance, been frustrating the park authority's work by issuing licenses for activities prohibited by the park authority. In one case, the communications office (In. Dinas Perhubungan) issued a license for the construction of a pier. This license ignored the prohibition of removing coral stones without the BTN's approval. The communications service even failed to inform the BTN, which led to a conflict between the latter and the holder of the license.<sup>53</sup> In other cases, BTN officials complained that public works used sand and stones from the archipelago for their own construction projects in the area, which the agency justified by referring to the public interest. In cases that public works formally complied with the rules by ordering its contractor to bring the material from Java, BTN accused it of not controlling its contractors.<sup>54</sup> In addition, the regional government kept leasing islands to individuals and entrepreneurs. Likewise, in the context of urban planning, the statements did not mean that the urban planning agency started to cooperate with the national park by using the same criteria for the spatial planning of the area. Different agencies had different allocations of the islands in mind.

In conclusion, the regional government agencies have tried to avoid discussions, to ignore the BTN and to reproduce the conservation discourse without adopting its practices.

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50 Tisnawinata 1981, p. 24-25, 27.

51 Tisnawinata 1981, p. 27.

52 Personal communication with BTN official, 24 October 2000.

53 Personal communication with resort manager, 12 October 2000.

54 Personal communication with rangers, 22 November 2000.

### 25.4.1.3 Explanations

From the discourse perspective, the refusal of the regional government agencies to enter into a coalition with the BTN was logical. They have been resistant to accepting the position that the new conservation-discourse envisioned for them, i.e. as morally subordinate to the BTN in the sense of being exploiters of nature and of having to give up autonomy and authority and to listen to a new actor instead.

Another explanation is related to the *pembangunan* discourse and its financing practices. Because agencies had to compete for money from the national development budget, co-operating and even sharing information was seen to weaken one's potential to raise money. As one official working for the park authority told me, his own organisation was no exception:

'In the beginning our boss was very opposed to the idea of sharing information with other governmental agencies since he was afraid that they would then create their own projects in our field'.<sup>55</sup>

The director of the BTN apparently interpreted the fact that regional agencies adopted the conservation aspects of the sustainable development discourse in their policies as a strategy to attract money from the development budget rather than as a reflection of a new thinking. Since it seemed hard for individual government institutions to obtain well-funded projects, agencies in general were very keen to defend their projects against other institutions.

Next to competition for money from the budget, another practice was to save the allocated money for the agency. As another informant from the Jakarta Regional Environmental Impact Management Agency (Bapedalda) reported:

'The first question is always which organisation is going to pay for an activity. If we only invite people for a meeting on monitoring we have to pay for their travel expenses and their lunch; although other organisations have a budget for monitoring of their own. But if we want something to happen in this field, we have to pay for it'.<sup>56</sup>

Thus, trying to have other agencies co-operate cost money.

Apparently that was not only due to the fact that the national development budget was limited. An additional reason was that the project money raised by agencies apparently served various purposes other than financing the actual development activities. Officials at various institutions told me that 30-70% of the funds 'disappear' before reaching their actual destination. Many officials

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55 Personal communication with BTN official, 1 November 2000.

56 Personal communication with Bapedalda official, 1 November 2000.

apparently interpreted development not only as applicable to the country but at the same time as applicable to their very own micro context.

The preoccupation with money also explains the only exception to the rule of non-co-operation. It occurred in the course of 2000 and 2001 when the BTN, together with several local government institutions under the leadership of the regional planning agency (In. Badan Perencanaan Pembangunan Daerah, abbr. Bappeda), entered discussions about a new zoning system for the area. One of the issues to be discussed was which of the islands in the park should be allocated to the housing of the local inhabitants. The BTN proposed an island that would be suitable in terms of size and water supply<sup>57</sup> but at the same time repudiated this choice with the argument that turtles used to come to that particular island to lay their eggs. The reaction of the other discussants was predictable: They wondered how the BTN representative could possibly place the turtles' interests above those of the local population, particularly in times of economic crisis and hardship. The reply of the opposed government official deserves a full quote:

'Sure, in the short term, you are right. However, in the long term you are not, all the more in these times of crisis, because Indonesia is very much dependent on foreign countries and because many people living abroad care enormously about the environment. So, suppose we start housing people on that island and a tourist comes and coincidentally observes that this is at the expense of the turtles, and suppose that this tourist coincidentally is a member of Greenpeace and reports this information to his organisation. This could have very bad consequences for foreign loans for Indonesia. Thus, as long as Indonesia is as dependent on foreign money as at present – different from, for instance, Malaysia – we need to consider these issues carefully.'

According to the speaker, the other participants of the meeting reacted in a positive way to his argument.<sup>58</sup> The local government agencies were obviously ready to accept the positioning of the conservation-discourse when reference was made to the financial context of *pembangunan*, and more particularly to the international environmental lobby and its influence on the Indonesian budget.

In sum, the regional government agencies only listened to the arguments of the BTN in favour of conservation practices when these were directly linked to *pembangunan*, the discourse that dominated their thoughts and actions. Constrained by the *pembangunan* frame they judged everything in terms of projects and money and the autonomy to spend that money. Thus, just as in the previous section, not discussing and solving problems was at the heart of the thinking of most government agencies. This time it was money. This

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57 Pulau Sebaru.

58 Personal communication with BTN official, 24 October 2000.

also explains why the regional agencies used the conservation-discourse in some of their plans: it was a strategy to raise money. An additional advantage was that they could silence those in favour of conservation by granting them formal discourse hegemony without having to fear being forced to effectively change their behaviour. Here, we see a nice parallel with the most prominent reasons for enacting the BCA in 1990, including silencing foreign criticism, not endangering the development relations with other countries and new economic opportunities.

The behaviour of the regional government agencies vis-à-vis the BTN is another example of keeping up appearances (see also chapter 21). It is characterised by, among other things, using a substantive discourse, such as the conservation elements of the sustainable development discourse, as a façade behind which an actor is working to achieve objectives different from those of the discourse he uses. This behaviour will form a red thread through this chapter.

#### *25.4.1.4 Strategies for building coalitions with the island population*

In the beginning, the strategy to build a coalition with the local population apparently worked: some informants were positive about the first years of the park. They described the first park director as dedicated to solving problems in an acceptable way. According to respondents, he was often present in the area and worked hard to achieve the conservation goals. More importantly, he tried to make these acceptable for the local population. For instance, in the case of his own scientific specialisation of hawksbill turtle conservation he strove to buy their eggs at market price. This created an alternative for the local collectors of the eggs. Likewise, the park director agreed with the population orally on a spot where they could extract sand and stones from the sea for their personal construction needs.<sup>59</sup>

Reading this through the analyst's glasses, those people speaking in favour of this park director appreciated how he treated them: not as damaging actors who needed to be stopped from destroying nature. Instead, he approached them as actors entitled to have needs and to a respectful treatment. In addition, he earned their respect through his hard and professional working attitude. This mutual respect made him and his discourse acceptable to them.

In 2000 and 2001, the BTN's discourse still showed a high dedication to establishing a coalition with the local population. Examples include the earlier mentioned quest for applicable research, but also the claim that attracting tourists to the region was to the advantage of the local population:

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59 Personal communication with fishermen, Pulau Pramuka and Pulau Panggang, 26 November 2000.



'In the short term, the benefit of more tourists for the park may not be visible. But in the long term, the park will profit since the local population will profit and will join us in safeguarding the park.'<sup>60</sup>

This quote reflects the discourse of the Forestry Department in 1990. Tourists – and thus 'development' – are presented as a possibility for the local population to create income. Once the local people have benefited they will automatically support the park in return. In fact, all the words BTN officials used to describe their strategies of coalition building with the population reflected the 1990 discourse, including 'development of the people' (In. *pengembangan masyarakat*), 'help' (In. *membantu*), and 'raise awareness' (In. *menyadarkan*). All of them defined the relation between the BTN and the population in a hierarchical way. The concept of 'participation', finally, described as the key to the success of the park,<sup>61</sup> was interpreted as having the village heads have a say before making a decision. Thus again – just as in 1990 and in 1999 at the Rakornas – participation was limited to granting some select people the possibility to provide input without including them in the actual decision-making.

In line with the dominant concept of raising awareness, the BTN translated its search for a coalition with the local people into education measures. One of the most dedicated people at the office believed education to be a key to all the problems in the park.

'I once read that there are three ways to reach your goals, first, with the gun, second, persuasion with a gun behind your back, and third, persuasion combined with education. I agree with the author that only the third method can change a situation.'<sup>62</sup>

Most people at the office interpreted education quite narrowly. Each year the BTN organised a few project-based activities,<sup>63</sup> limited to raising awareness about the need of conservation and information about creating alternative sources of income. They took various forms, ranging from the production and distribution of information material to the organisation of meetings with certain target groups or informal talks with individuals. The target groups for education measures included local fishermen, youth, entrepreneurs, tourists and the population of the islands as a whole. In addition to these project-based education activities, the BTN had a very outdated slide-show about the marine natural resources in the park and an information centre with a badly maintained permanent exhibition at its disposal.

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60 Personal communication with BTN official, 18 October 2000.

61 Personal communication with BTN official, 24 October 2000.

62 Personal communication with BTN official, 24 October 2000.

63 According to the year reports from 1989 to 2000, the number of these activities varied from two in 1998/1999 to thirteen in 1988/1989.

Apparently, the approach chosen was not effective. In 2000, many officials at the BTN office expressed frustration about the people living on the islands accusing them of 'not being willing to internalise what they had been taught'. They complained that most fishermen, especially in the case of awareness activities, *only acted as if* they listened to their stories and agreed with them, when the next thing they did was to continue with illegal fishing practices. The park director put it like this:

'There are four groups of people on the islands, first, those that listen and act accordingly to what they have learned, second, those who listen and do nothing with their new knowledge, third, those who pretend to listen, and fourth, those who don't listen at all.'<sup>64</sup>

There seemed to be a consensus at the BTN office that the first group was the smallest one. By describing the behaviour of people in the park in terms of keeping up appearances, the director positioned them as the ones responsible for the park's failure to achieve its objectives. This simultaneously exculpated him and his colleagues. Describing the island population as unwilling and oppositional enabled actors at the BTN office to complain about them without obliging them to change their own behaviour or strategies.

This attitude of blaming others and avoiding responsibility was quite a prominent 'escape hatch' (see chapter 1) at the BTN office. Another BTN official, for example, admitted to being happy when one or two percent of the brochures they produced and distributed were actually read: 'The rest ends up as something to sit on, we know that, but, after all, we can't force people to read them.'<sup>65</sup> This quote reflects not only an honest admission of the ineffectiveness of one of the BTN's activities but also a certain acceptance of it. The same official admitted that he had no clue what was done with the posters showing protected marine natural resources they sent to various agencies (among them the Police), organisations and schools. 'That is *their* responsibility,' he added.<sup>66</sup> Evidently, these kinds of projects stopped abruptly after sending off the material. No attention was paid to how the posters and brochures were received, as this was not seen as part of the job.

In practice, the BTN in 2000 thus approached coalition building with the population through educational activities without providing for the possibility to exchange opinions and discuss problems and solutions. Park residents longed for another approach, as the following section will show.

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64 Personal communication, 8 December 2000.

65 Personal communication with BTN official, 18 October 2000.

66 Personal communication with BTN official, 18 October 2000; original emphasis.

### 25.4.1.5 Counterarguments

The park population produced three main arguments in its struggle against the BTN and the government as a whole: first, that the park needed to provide for realistic alternatives; second, that the government policies should aim for equality; and third, that the government needed to perform in a more professional way.

The first two arguments were built on stories about lacking space and opportunities for local people. Those who admitted to have heard of the park only associated it with restrictions and prohibitions. They experienced the park not so much as a *conservation* area but more as a *restricted* area. Likewise, they described the meaning of the term 'conservation' not as protection, preservation and sustainable use (In. *perlindungan, pelestarian, pemanfaatan secara lestari*) or as a chance to earn their living in the tourism sector, as the BCA and other official policy documents did, but as 'the prohibition to extract certain marine natural resources' (In. *larangan pengambilan beberapa jenis biota maupun sumberdaya perairan lain*), 'the prohibition to enter the national park area' (In. *larangan memasuki kawasan Taman Nasional*), or 'the prohibition to use cyanide' (In. *larangan pemakaian potasium*).<sup>67</sup>

People also rejected the park because it criminalised important aspects of their lives. At the start of the *de facto* implementation about 3000 people<sup>68</sup> lived on islands within the park area. Many of them who worked in 2000, i.e. 32 %, earned their living as fishermen.<sup>69</sup> But this , as in many other cases in Indonesia, conflicted with the general idea of a national park as an uninhabited area. They had been living in Pulau Seribu for a long time already. The first inhabitants moved there from Tangerang and Banten, probably during the reign of the Banten sultanate.<sup>70</sup> After them, people from South Sulawesi (Bugis and Mandar), Kalimantan, Riau, Palembang, Lampung, Sumbawa and all parts of Java and Madura followed.<sup>71</sup> Selleger notes that in 1905 two islands within the present park boundaries were permanently inhabited: Panggang and Kelapa. In addition, fishermen 'now and then' stayed temporar-

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67 Gugus Analisis 1990.

68 Personal communication with the park's first director M. Halim, 1 September 2003.

69 24% worked as civil servants, military personnel, traders, labourers or were self-employed. 43% of the population were not working due to age or unemployment (Fauzi & Buchary 2002, p. 172).

70 This sultanate was founded in the early 16th century when the Majapahit Empire had collapsed. The sultans claimed to descend from the Prophet Muhammad. It became a powerful sea-trade based state which even brought parts of Sumatra and Borneo under its control. In 1682 the Dutch East India Company brought it under its suzerainty, and in 1832 it was annexed to the Netherlands East Indies.

71 Selleger 1906, p. 416. The Bugis people that I spoke to estimated that their ancestors had been living there for at least 100, but probably 150 –200 years.

ily on about fifteen other islands.<sup>72</sup> But the zoning system with its biological foundations did not take these facts into consideration and departed just like the BCA from the idea that the park area was or should be uninhabited.

Next to this criminalisation, the park limited possibilities to freely settle on neighbouring islands when the population pressure became too strong. This was not only due to the zoning system of the park, as the provincial government played a role here as well. For instance, in 1987 it moved people living on Kotok, Bira and Genteng to Panggang, Pramuka and Harapan (Kelapa 2). The former islands had been leased to individuals who also paid compensation to the people concerned.<sup>73</sup> At present the estimated 10.000 people living in the park are concentrated on six islands.<sup>74</sup> This has led to 'very inhumane' (In. *sangat kurang manusiawi*) conditions on, among others, Panggang and Kelapa islands.<sup>75</sup>

Many of the islanders complained that the BTN did not offer realistic alternatives for restrictions. They contested the BTN's narrow definition of education, arguing in favour of specialised education and coaching instead.<sup>76</sup> Most people described seaweed cultivation, which was introduced and promoted as a sustainable alternative to blast and cyanide fishing, as an additional income more than as a real alternative. One respondent explained this as follows:

'We sell 1 kg of seaweed for IDR 425 [about US \$ 0,05]. On a 12 meter field the yield is about 30 kg in three months. So everybody that plants seaweed does so for an additional income, since you can't live off it.'<sup>77</sup>

To make seaweed cultivation a real alternative they thought the BTN should either fix the price for seaweed, so that the cultivators did not need to negotiate with the traders, or at least supervise the local population in selling the new products.<sup>78</sup> Thus, more than for simple education the local people dreamed

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72 These were according to him Kotok Besar, Genteng Besar, Genteng Kecil, Macan, Putri Besar, Putri Kecil, Malintang Besar, Malintang Kecil, Cina 2, Semut, Balinjo, Sepak Besar, Sepak Kecil, Patandan and Rakit Tiyang (Selleger 1906, p. 415-416).

73 Personal communication with M. Halim, 1 September 2003.

74 These are Panggang, Pramuka, Kelapa, Harapan, Kelapa II and Sebira.

75 Ongkosongo 1995, p. 6. Pulau Panggang in particular is very much overpopulated. The provincial government recently entered into a discussion with, among others, the park authority about which islands would be suitable for resettlement (Personal communication with BTN official, 24 October 2000).

76 Some islanders were not only concerned about economic alternatives but also about the low self-esteem of most islanders and saw a role for the government to coach swimmers and rowers in the area.

77 Personal communication with island resident, 2 November 2000.

78 A similar argument about the ineffectiveness of such projects was made by a consultant working for the regional development planning agency (Bappeda): 'There are so many different projects intending to, for instance, stimulate the local economy! Everything is tried out but nothing is ever really finished. There is no continuity whatsoever. Projects of this

of a mediating agency between them and the traders, who were able to dictate unacceptably low prices because they held monopolies and as a result had made the fishermen dependent on them because of the lack of any credit facilities.

In addition, they wondered why there was only a general high school (In. *Sekolah Menengah Umum*, abbr. SMU) on one of the islands instead of one where students could learn essential knowledge for life in a marine environment, including ecologically sound fishing technologies. That the BTN did not think about these solutions was understandable from the dominant *pembangunan* frame of the whole bureaucracy. After all, doing so would have meant rowing in the water of the Fisheries or Education Service. The only thing the BTN could have done was to initiate a joint project.

Apart from the introduction of seaweed the BTN also claimed to have created an alternative for the local population in tourism, as more tourists would lead to more employment for the islanders. However, the BTN officials did in fact what the members of Parliament had done in 1990: they formulated an objective and a hope rather than developing a strategy to actually achieve this objective. Consequently, according to the islanders, the possibility of working at the resorts was almost non-existent. Although most of the island high school students dreamt of working there in the future, only a small percentage of them succeeded. Resort managers generally claimed that they needed employees with a specialised hotel education, which was only available at mainland Java and thus expensive. Therefore, some islanders longed for a hotel school on one of the islands. However, the BTN did not put any effort into promoting such a school nor did it try to mediate between possible employees and resort managers.

In addition, the local respondents complained that although many fishermen would have preferred alternative, less dangerous jobs in the region, a more regular income and a higher status,<sup>79</sup> there was no opportunity for them to offer their services to tourists. The resort personnel chased them off and even constrained them in their normal work whenever they fished close to the resorts, arguing that they disturbed the guests. Likewise, a respondent stated that there was no room for souvenir sale-activities such as on Bali, for resort owners tried to prevent any contacts between the islanders and tourists. Since the BTN did not mediate between the fishermen and the resort managers various respondents concluded that *pembangunan* was highly discriminatory

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kind never last long enough to ensure the necessary continuity. The maximum length of a government project is about three months. After such a short time a baby cannot walk on its own! The result is that nothing ever gets the chance to root. So, most of the projects are just a waste of money' (Personal communication, 22 November 2000).

79 Cf. Fauzi & Buchary 2002, p. 176. Fishing was dangerous due to the rough climate. Strong winds regularly prevented boats from mooring at or leaving the islands. Furthermore, the fishermen's income was very much dependent on the price traders were willing to pay. In general, this lay very much below the price at which the fish was sold in Jakarta.

and that the lack of any real alternatives forced the fishermen to continue with prohibited activities even though they knew about their destructiveness.

In addition to arguing in favour of real alternatives, the local people also argued for more equality in the context of law and development in a similar way to people during the public consultation process described in part III. A number of respondents accused the BTN of representing the whole government and applying the park rules in a discriminatory way. According to them, the BTN visibly treated entrepreneurs and visitors differently from fishermen. They claimed, for example, that visitors were not withheld from diving in the core zones.<sup>80</sup> Likewise, resort owners were never given sanctions when violating the park rules and not stopped from restricting them in their search for income. A resort owner confirmed that to her knowledge

‘no resort had ever been sanctioned, although on many islands there is no nature left. [...] If you act against the rules or without licenses they could close your resort and force you to bring everything back the original state .... Or, [laughing] until you paid some money.’<sup>81</sup>

Local respondents also argued for a more equal distribution of the benefits of *pembangunan*. Many islanders perceived the islands as a very desolate place (In. *sepi sekali*), cut off from its political and administrative centre in Jakarta and left behind by progress and economic development (In. *tertinggal*). Striking were the lack of a safe, regular and cheap transportation between the islands and the mainland and the fact that electricity was only available between 6 p.m. and 9 or 10 p.m. Even then it often broke down. In 2000 there were no newspapers, very few telephones, and only one computer, which nobody knew how to use and which had broken down. In addition, people often had to travel to Jakarta for governmental services as, apparently, officials refused to spend much time at their agencies’ branch office on the islands. An additional financial burden was that ‘we have to pay for services that are subsidised and thus free of charge in the rest of north Jakarta, such as street lights.’<sup>82</sup> This the islanders perceived as all the more unfair considering that the region generated a lot of income through tourism, oil and fisheries. On the whole they suspected that government officials regarded the region as desolate and backward and its inhabitants as not important enough to offer a better service and to develop it. Their feeling of dependence on this government lacking interest in them increased due to the fact that they had no representative in the provincial, let alone the national, parliament.<sup>83</sup>

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80 Indeed, when I stated my wish to go diving in one of them none of the tourism operators ever even mentioned the existence of the park. All of them were more than ready to take me there and thus – theoretically – to risk being caught by rangers.

81 Personal communication, 12 October 2000.

82 Personal communication with island resident, 26 November 2000.

83 Personal communication with island resident, 26 November 2000.

However, equality was not only interpreted as sharing in the material benefits of development but also as genuine participation. Many island residents seemed to have given up on the government because they were frustrated about the lack of opportunities to actively participate in thinking and deciding about policy. They had adopted an attitude of 'apathy':

'People don't think anymore. They are of the opinion that the fact that the government dumps complete concepts on the islands deprives them of the chance to think for themselves. So, they perceive any government activity as "none of their business", since people elsewhere have created them in their thoughts. Everybody adopts an attitude of indifference (In. *masa bodoh*).'<sup>84</sup>

The same argument in favour of more public participation was also at the heart of one of the few discussions that went further than an exchange comments. When Rias Rasyid, in 2000 Minister for Regional Autonomy, presented the idea to transform the sub-district of Pulau Seribu into a district, soon discussions started about who should be working for the future district government. Local residents demanded that a minimum of 50 % of the approximately 90 future officials should originate from the islands. When the provincial national governments rejected this on the basis of a lack of the appropriate education the islanders responded

'ok, if we are all so stupid, who is responsible for that in the first place? – After that they became tongue-tied and, in the end, apologised. However, it is a fact that they try to parachute officials of the social and information ministries here.'<sup>85</sup>

The islanders in this case thus openly refused to accept the government's education argument and countered by laying the responsibility for this lacking ability to fulfil job requirements on the shoulders of the government. The islanders agreed that things could only change for the better if the government started in time to educate them for these jobs. If this did not happen they feared another group of 'traveller officials' (In. *pejabat turis*), referring to all the officials who used to stay on the islands for a few hours only.<sup>86</sup> Their counter-discourse was about opportunities for islanders to genuinely participate. To strengthen their argument they went on disqualifying non-islanders by arguing that these had proven not to be island-fit; islanders, on the other hand, needed to participate in the administration of the islands since they had no motivation to flee and a proven interest in acting on behalf of the islands and their population.

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84 Personal communication with island resident, 28 November 2000.

85 Personal communication with island resident, 28 November 2000.

86 The remark of the head of the sub-district cited by an island resident demonstrated this well: 'The *camat* once told me that the first question of every official visiting the islands was "when will we head back?"'

The third argument the islanders made concerned the implementation of the national park policy. Islanders refused the park as a whole for its ineffectiveness which they explained in terms of a lacking professionalism of the bureaucracy caused by either an inability to achieve the declared objectives or a lacking intention to do so, or both.

The local residents tended to interpret the fact that most of the time all the boats were in the harbour as the laziness of the rangers. In general, they described the park authority's employees as 'seeking money without working' (In. *cari gaji buta*), 'filling time until it is pay-day' (In. *mengisi/menghabisi waktu*) and 'lazy' (In. *malas*). Others described them as 'corrupt, just as officials of other institutions' (In. *korup seperti pejabat yang lain*).<sup>87</sup> Some of the rangers but also Jakarta-based marine officers, in 2001, demanded a monthly payment of IDR 25.000 from cyanide users for not reporting them.<sup>88</sup> As a consequence, local people argued in favour of making only one organisation responsible for patrols: 'The most expensive situation occurs when they conduct a joint patrol. Then people have to pay three institutions.'<sup>89</sup>

In addition, some respondents doubted that the rangers cared for the region and wondered whether they had 'the will and the incentive to protect the region effectively'. After all, otherwise the protection of the coral would have had to profit from the increase in rangers from 5 (in the 1980s) to 61 (in 2000). They also openly doubted their 'capacity to protect the region effectively' and were ready to 'advise' (In. *memberi masukan*) the park authority'.<sup>90</sup> One piece of advice was to introduce targets and performance based evaluation. Furthermore, more control by an agency's director might help improve the situation.<sup>91</sup>

With regards to the awareness programmes respondents said that the BTN had still not succeeded in explaining the rationale for the restrictions it laid upon the population: 'Most people know *which* activities are prohibited in the park, but they don't know *why*'.<sup>92</sup> In the opinion of this informant, government officials spoke a language that was not understood by the island population: they 'talk law' (In. *pakai bahasa hukum*).<sup>93</sup> In fact, this was a similar complaint some of the BTN officials had expressed about natural scientists.

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87 Personal communication with island residents, 28 November 2000.

88 Personal communication, NGO Bogor Palung, 9 July 2001.

89 Personal communication with NGO Bogor Palung citing island residents, 9 July 2001. The joint patrol is conducted by the park authority in co-operation with the Marine (In. *Angkatan Laut*) and the Jakarta Police (In. *Polda Metro Jaya*).

90 Rapid assessment Pulau Panggang by Bogor Palung, 25 June 2001.

91 Personal communication with island resident, 27 November 2000.

92 Similarly, interviews in Wakatobi Marine National Park (by Julian Clifton) revealed that most of the people there were aware of which species were protected, but that they often could not see why.

93 Similarly, interviews in Wakatobi Marine National Park (by Julian Clifton) revealed that most of the people there were aware of which species were protected, but that they often could not see why.



Even more exemplary were complaints that the BTN officials even failed to communicate well with the 'conservation cadre' (In. *kader konservasi*), a group of young local people interested in conservation. Participants complained that the officials seemed to see their meetings as purely an exercise in fulfilling formal requirements:

'Every time there is such an activity people attend but mainly because they are paid for their attendance. After the meeting nothing changes. There is no stimulus to put anything that we have learned into practice. For example, we don't get any homework for the next time. Every time they tell us the same things and every time we get a new certificate. There is no progress, although many participants had already attended a couple of these meetings. So the participants come, sit down, listen, collect the money and leave.'

By reproducing the formula of '5D'<sup>94</sup> the respondent drew a parallel between the relationship of the national parliament and the New Order government. This demonstrated on the one hand the perceived powerlessness of the attendees and on the other hand the uselessness of the whole exercise, which, in the opinion of this respondent, were not intended to achieve conservation objectives but served to corrupt money: 'after all, it is a *project*...!'<sup>95</sup> Consequently, the desired effect of the activity on the participants did not determine the design of the activity but rather the desire to keep the work load at a minimum. As a result, respondents described the park either as 'a waste of money' or 'a pure attempt to keep up appearances without the intention to really achieve something.' All activities were said to 'aim only at making money, as governmental development projects in general'.

Another type of unprofessionalism related to the argument of inequality was observed at the resorts:

'In the beginning they recruited their staff from there, indeed. But after two years it began to be contaminated. In the kitchen, there were suddenly only Sundanese, in other segments there were only Balinese to be found. The hotel-educated people took care of getting their younger brothers, sisters etc. into the company.'

This speaker thus suggested that the high educational requirements for working at the resorts, an outstanding practice designed to achieve professionalism, after a while had started to become a façade for nepotism.

In sum, islanders rejected the park policy for its discriminatory approach and its ineffectiveness and accused the government officials of keeping up appearances to achieve objectives other than those declared.

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94 *Datang, duduk, dengarkan, diam, duit*, compare for chapter 18.

95 Personal communication with island resident, 26 November 2000; original emphasis.

#### 25.4.1.6 Counterstrategies

The three most frequently adopted strategies by the islanders belonged to what Scott has labelled 'weapons of the weak'.<sup>96</sup> Island residents chose to play the uninformed, to passively attend meetings and to shift the responsibility to others. They opted to avoid conflicts and to keep up appearances.

The first strategy was exemplified in a study in 1990 by the NGO Gugus Analisis among Pulau Seribu residents and fishermen in two Jakarta harbours in which the majority of the respondents claimed to never have received any information about the park.<sup>97</sup>

The second strategy was to attend activities organised by the BTN for money without really listening or entering into a debate with the park officials about the chosen approach. The attendees acted as if they were open to the BTN's arguments but subsequently did not change their behaviour in any way.

The third strategy was to accept part of the BTN's story about destructive behaviour that needed to be stopped but to then deny responsibility for it: 'Here, all fishermen know that we need the coral. Those who use bombs are fishermen from Sumatra and Indramayu [Java].'<sup>98</sup>

The remaining two strategies were more confrontational but rarely used. Local people openly showed to not believe the BTN officials when they demonstrated, for instance, alternative techniques.<sup>99</sup> Similarly, a few fishermen denied that cyanide had destructive effects on fish and the marine environment. These residents thus attempted to discredit the BTN by telling a story of a BTN lying to the people.

The last strategy was to enter into a real debate with the BTN or other government agencies. In fact, this happened only once during the field research, i.e. when the Minister for Regional Autonomy proposed to fill vacancies in the district administration with officials from two national departments in Jakarta.

Interestingly, the majority of the islanders thus accused the BTN of keeping up appearances while they adopted similar behaviour. Positioning the BTN, or the bureaucracy as a whole, as unwilling served to exculpate them just like when BTN officials positioned park residents as unwilling. However, by remaining silent the islanders helped to reproduce those practices of the *pembangunan* discourse they had condemned and that had enabled the officials to position

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96 Scott 1985.

97 The two harbours were Muara Angke and Muara Baru. Interestingly, within Pulau Seribu more women (62,5 %) than men (13,7%) said they received information. In the Jakarta harbours 21,3 % of the male respondents had heard of it and no women at all (Gugus Analisis 1990). The research used quantitative as well as qualitative methods. The report does not mention how many people were interviewed and whether they had to respond to multiple choice or open questions.

98 Personal communication with island resident, 27 November 2000.

99 Personal communication with BTN official, 16 October 2000.

them as disrespectful, unwilling to learn and not co-operative – not exactly the people they wanted to help – and to proceed as usual.

What made the chosen attitude understandable but at the same time problematic was that the people generally expected the government to help them to master their life and, even more, that they were entitled to this help. This together with the fact that they did not differentiate between the various government agencies active in the region but perceived the government as a whole to be responsible for their own marginalization resulted in a paradox: people in the Pulau Seribu region, on the one hand, thought that the government should solve all their problems and, on the other hand, had no faith in its capability to do so.

#### 25.4.1.7 Organising support

Next to the strategies to establish coalitions in favour of conservation described above, the BTN also attempted to organise scientific and bureaucratic support.

National policymakers often hired natural scientists to assist them in designing zoning systems and writing management plans. As a result, the policies for Indonesia's protected areas have been focusing mainly on biodiversity conservation. This focus continued to dominate Indonesia's conservation policies even after the announcement of the first national parks, which were officially intended to accommodate various development objectives.<sup>100</sup> A 1999 information brochure<sup>101</sup> on Pulau Seribu demonstrates how: natural science is used to legitimise the park, just as the national policymakers at the Forestry Department used it more generally to legitimise protected areas.

However, in 2000 at least one critical official at the BTN thought that many natural scientists had been neglecting the social reality of humans living in protected areas, as they were often 'too specialised':

'At a seminar biologists can tell us precisely how fast a piece of coral grows per minute. But they cannot tell us how much profit it can yield for the people and that is what I am interested in.'<sup>102</sup>

The discourse natural scientists used, one could say, was, in his eyes, too disciplinary. The discursive structures they accepted in their debates were

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100 Nasution 1990, p. 1.

101 Abdullah 1999, p. 20.

102 Personal communication with BTN official, 24 October 2000. Of course, there have been estimations of the economic value of coral reefs for states as a whole. A WRI report titled "Reefs at Risk: Southeast Asia" of 2002 estimated, for example, that the reefs in Indonesia had an economic value of US \$ 1,6 billion (UNEP Coral Reef Unit 2002). For another attempt to determine the economic value of the Indonesian reefs see Cesar 1996. However, such reports do not provide any information for individual people who depend economically on coral reefs.

profoundly different from what he would have liked them to take into account. He felt the gap between the various frames underlying the story of sustainable development and looked for a bridge between the natural scientist conservation-discourse and the livelihood-discourse that would have enabled him to find partners among the population. For more relevant support from scientists, he informed all kinds of researchers about the park and discussed his critical evaluations. In research on the coral reefs in the park, conducted together with the Bandung based ITB and other universities, he kept pleading for the adoption of a more interdisciplinary approach.

The BTN also attempted to raise financial, administrative and political support from the Forestry Department. However, in 2000, officials working at the BTN suggested that this was very hard. The Nature Conservation Directorate regularly organised technical meetings with the park directors and some other staff from the implementation units. These meetings officially served as an opportunity to report and discuss problems occurring in the field, but were organised in a top-down way. Only the breaks in the agenda created an opportunity to discuss specific problems or to 'lobby' the director general.<sup>103</sup>

In sum, it seems fair to say that the BTN's attempts to build coalitions with regional agencies and the population and organise support from natural scientists and the Forestry Department were not successful. With the exception of the first director, the BTN officials in many cases did not try to initiate a debate with other actors to communicate their own arguments and listen to those of others. Other actors were also reluctant to enter into a debate as this could have forced them to find a compromise and give up some of their practices.

#### 25.4.2 Rangers: struggling at various fronts

In 2000, there were 61 rangers working in the park. They formed a very heterogeneous group in terms of their educational background. The increasing presence of university graduates made the less educated rangers nervous. Another determining factor for behaviour and strategies was their origin: only a few rangers (about ten percent) were islanders; most came from other parts of Indonesia.

A small number of rangers appeared dedicated to convincing park users of the need for conservation. Within the BTN they fought for a more professional implementation.

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103 Personal communication with BTN official, 18 October 2000.

### 25.4.2.1 *Convincing target groups of the need for conservation: strategies and counter-strategies*

In 2000, all rangers were based on Pramuka Island. To enforce park rules they focused on local residents and outsiders working in Pulau Seribu.

Most rangers coming from elsewhere had little contact with the island population. Local residents ignored them and their requests to refrain from prohibited activities, usually with reference to poverty. By contrast, the rangers saw the problem differently, describing the locals as 'poor managers' who wasted their money instead of saving it for bad times.<sup>104</sup> Nonetheless, they agreed to look for acceptable alternatives to the profitable illegal fishing practices, although realising that locals were only willing to try new technologies after they had seen others applying them successfully.

Occasionally, depending on the availability of funds for petrol, the rangers would go on a tour around the park. They happily accepted my offer to fund an extra-budgetary patrol, which gave me the chance to witness how they addressed those who violated the BCA rules. Of course, my presence in some of these cases influenced these conversations, but they convincingly demonstrated the rangers' relative lack of power.

In one case, the rangers addressed the leader of a large construction project on one of the islands. From a distance, we had already seen large coral walls in the sea to protect the island from erosion. Next to the pier there was a sea-aquarium with one huge turtle (In. *penyu sisik*) and about ten (still small) giant shells (In. *kima raksasa*). Supplies of sand were piled up for the construction of bungalows. Asked by the rangers for a licence, the project leader claimed his boss was in charge of licenses, followed by this conversation:

Ranger: Did you use sea sand for the construction?

Project leader: No, this is sand from the island. You can still see the hole in the ground.

R: What are you going to fill up this hole with, if not with sand from the sea? Don't you try to fool us. – Besides, what is the dredging machine for?

PL: That is only here to be repaired. They are just checking whether it works again.

R: And what about the coral walls in front of the island?

PL: Yes, those we built to protect the island against erosion.

R: The walls will hinder the turtles in coming to the island to lay their eggs. Besides, with the west wind there is now erosion but when the wind turns the sand will return to the island. – We will read to you some articles from the BCA now. [They read the articles on sanctions for dredging, removing coral from the sea and keeping animals from the sea in capture.]

PL: Could you give me the text of the law so I can further study it?

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104 This resembled the colonial perception as described in Sellegger 1906.

R: No, we have read it to you so you know the text.<sup>105</sup> Who captured the turtle and shells?

PL: I don't know. [One of the rangers started filling in some forms to report the offences.]

R: By the way, does ranger X often come here? And do you happen to know whether payments have been made to the Forestry Department?

PL: I don't know.'

Then the rangers loaded the turtle and shells into their boat, told the project leader that the coral was placed under the authority of the Forestry Department and that he better not dare build another coral wall. It was clear to all actors in this scene that these threats were not backed by anything and that the project leader would continue his work as soon as the rangers left.

This conversation illustrates the above-mentioned strategies of playing the uninformed and shifting the responsibility to others. The project leader claimed to know nothing about the BCA, referring the rangers to his boss in Jakarta. Often people in the field would also claim to have no direct access to their boss but to middlemen only. These, they said, were either residing in Jakarta or on another island. Consequently, the rangers had no way to address the person responsible for the illegal activities. In addition, they did not have the equipment to contact their office in Jakarta to take over such cases for an immediate follow-up:

'we can't contact our office or the police to report cases or to ask for assistance and nobody can reach us to inform us about illegal activities. Furthermore, when something happens to us, we don't have the equipment to call for help.'<sup>106</sup>

This lack of back-up by the office obviously weakened the rangers in the field.

The conversation also shows another strategy used often, i.e. to make up stories – in this case to explain the presence of machines that were clearly intended to dredge sand from the sea.

The rangers, at first, solely used conservation arguments to convince the project leader to stop his activities. This could also have been followed by signals that they were willing to negotiate about payments. In this case, they did not but instead inquired about the unprofessional behaviour of some of their colleagues.

In front of another island, we caught a man dredging sand from the bottom of the sea to enlarge the island. The rangers asked the man to stop his activities since they were against the park rules, which he refused. To reinforce their argument they suddenly pointed at me and said:

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105 They refused since they only had one booklet containing the BCA themselves.

106 Personal communication, 21 November 2000.

'This woman came here from Europe to examine the performance of the national park. There are many people in foreign countries who care much about nature conservation.'

Apart from feeling somewhat embarrassed, I realised this again was a strategy to convince others to accept the conservation rules: considering that people in Indonesia in general do not care much about conservation, perhaps the argument that people in other, developed countries did would work. However, instead of feeling intimidated or respectful and stopping his activities the man just turned away from them and subsequently only addressed me in his defence. He even invited me to have a look at what he was doing and used arguments of the environmental discourse: that the older wall around the island was built from coral stones; that this wall needed to be replaced; that they did so with a much more environmentally friendly concrete wall, drilling perpendicularly into the ground. The rangers quickly interrupted him, stating that I held no authority but acted as an observer. So, the man turned to them again with a new argument that stopping all activities until his boss had contacted the park's office and the park authority had made a final decision about a permit for these dredging activities would make it difficult for him to 'fill his stomach'. The rangers appeared susceptible to this argument of livelihood that they also used in certain contexts for themselves. They left the island expressing their understanding for the man who thus had won this argument.

These cases showed a number of interesting things. The rangers had two main objectives – conservation and professionalism. However, they were either not able or not willing to pursue these at all costs. In the first case they were rather powerless due to a lack of back-up. In the second case, they lost the debate because their opponent was good at switching from one discourse to another depending on whom he was addressing. He showed an awareness of environmental considerations and pointed out the uncertainty and conflicting interests inherent in the environmental discourse and the lack of clear criteria for weighing these. However, he was also aware of the fact that a license was compulsory for sand dredging. To still win the argument, he resorted to the story of livelihood, which appealed to the rangers.

The main counter-strategies thus differed from case to case, from denial to entering into a debate about the national park policy.

#### 25.4.2.2 *Convincing rangers and other officials of the need for professional implementation*

Some of the rangers stayed on the islands regularly and were dedicated to their work, despite very unsatisfactory working conditions.<sup>107</sup> They were

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107 See for detailed descriptions Arnscheidt 2001 and Arnscheidt 2005.

convinced that they had to use the opportunities created by *Reformasi* to change old practices. To this end they chose a confrontational strategy, which earned them the name 'provocative team' (In. *tim provokator*).

They identified a lack of professionalism among island rangers and the majority of the BTN personnel as the main implementation problem. In their eyes, they were preoccupied with personal interests and keeping up appearances rather than striving for effectively implementing the park policy.

When island rangers were not within hearing distance the group of critical – outside – rangers argued that family ties should not outweigh conservation needs. The island-rangers, including non-islanders married to island women, knew everything about living in a marine environment, perceived the islands as their home and were evidently integrated into the local society. This often resulted in dilemmas for them when relational considerations conflicted with their tasks as rangers. In practice, family pressure always prevailed. For instance, arresting an uncle for blast fishing was just not done. Likewise, reporting the illegal behaviour of someone else could result in long-term conflicts between two families.

That family concerns overruled professional duties created a serious problem for the national park authorities. They knew that including islanders within their ranks would increase their legitimacy among the population. Therefore, the critical rangers acknowledged that the park authorities should employ more islanders, to about 50%, but should also try to prevent collusion by appointing non-islanders to control the local population. But the critical rangers did not see any way to change the present situation and did not enter into a debate about priorities and professionalism with island rangers. Instead, in the vicinity of island rangers they adopted the discourse of overriding family duties.

The critical rangers also accused rangers originating from other places of setting wrong priorities and lacking professionalism.

Those rangers often preferred staying in Jakarta, and paid – if any – only short visits to the islands. They justified their behaviour in two ways. First, some of them claimed not to feel at ease on the islands, since they were not used to the marine environment and therefore felt dependent on the help of the islanders in case of an emergency. They claimed that they would perform their tasks properly if they were placed in a terrestrial environment. Second, they stated that it was no use staying longer on the islands because, due to the fact that four of the five boats needed to be repaired and that there was almost no money for petrol, they could not do anything there. Here, they used the technical implementation aspect of the *pembangunan* discourse, claiming that they would perform their tasks properly if only they were enabled to do so.

The critical rangers accused them of hidden objectives. In their opinion, those rangers preferred Jakarta, first, since life on the islands was more difficult and less luxurious than in Jakarta; and second, because Jakarta offered many



more opportunities than the islands to search for additional jobs to increase one's income. It could be profitable to spend a lot of time at the Jakarta office since it was there that the office staff decided who should participate in a project and thus receive additional income.

They also sharply criticised the park director and directly confronted him at the office, accusing him of inertia, setting the wrong priorities and keeping up appearances. He took no action against the frequent absence of most rangers from the islands, they said, and he refused to follow up reports on illegal activities in the park. In addition, they argued, he himself should come to the field more often and 'manage' them:

'Our boss comes to the field only once or twice a year. And when he comes here he never advises us about how to deal with the problems here although he is regularly sent to management courses, about things such as securing national parks.'

They contrasted his governance-at-a-distance approach to the first park director. He had also had an office in Jakarta but spent most of his time on the islands, together with the rangers and in close contact with the local population. The result of the more distant approach, they argued, was a lack of respect for the park and its rules: 'What the local people see is that we do nothing, just sit here and do nothing, so how can we expect them to respect us?'<sup>108</sup> Directing all energy to the Forestry Department and regional agencies to their office in Jakarta rather than to the field was, in their opinion, wrong.

The director's lack of professionalism was, according to the critical rangers, also reflected in most of the park's projects, which did not appear to be intended to serve effective conservation:

'There is no money for performing our major tasks, i.e. patrolling the area, for example for petrol; instead, most of the money is allocated [by the director] to activities aiming at the maintenance of boats, houses etc. and the inventory of the marine resources.'

One case made them extremely angry: a project worth seven million Rupiah (1,000 US\$) to paint four poles the director had placed to indicate the borders of the park. This was a 'waste of money' since the poles were of no practical use. Moreover, they said, anyone could have predicted the lamps on the poles would be stolen which happened only two months after the installation. According to the rangers, this project involved five people who each received a salary of about two million Rupiahs. More money was needed for material, petrol and the like, while the project had generated at least three million Rupiahs for those in control of the budget. The mechanism that allowed the corrupt use of money was a form that did not require the rangers to report

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108 Personal communication with rangers, 21 November 2000.

their project salary. This enabled the project leader, probably in co-operation with some other high-ranking official at the office, to fill in a higher amount than actually paid. As the project was implemented before the rangers came to be known as provocateurs, one of them had been appointed to participate. However, he declined, saying that the director should appoint 'someone more experienced' instead. Although this refusal was framed in a non-confrontational way, the director took it as a sign of disobedience: in a letter he downgraded the ranger from his leading position to that of an ordinary ranger, without providing reasons.

Other evidence for the unprofessional attitude of their boss, according to the rangers, was his usual response that there was no money to perform their tasks. Indeed, the budget only provided money for the follow-up on six cases of non-compliance.<sup>109</sup> But the rangers claimed that the six 'planned' and reported cases had been faked. As a result, they no longer trusted him. Moreover, they had learned from the Forestry Department's budgetary section that in fact some additional money for extra-budgetary enforcement activities was available. In addition, the rangers argued that the director should allocate the money differently. According to them it was, for instance, a pure waste of money to have 61 rangers: 'Give me ten good and well-equipped rangers and we will live up to what one can expect from professional rangers.'<sup>110</sup>

The rangers had also proposed concrete actions to effectively implement the park policy, including finding out how the poison fishing worked. One ranger claimed that the poison was deposited on the boats before the fishermen left the harbour. He told the director that he only needed to find out where the poison originated from, but the latter refused to authorise this investigation.<sup>111</sup>

This behaviour by director and other colleagues was seen by the rangers to be part of a broader phenomenon:

'In Indonesia, there are institutions ('lembaga, badan dan balai') created for everything. But those in charge never think in advance about what it takes to have them work properly. As a result many of them are just another formality. For instance, we also have a P.O. Box for complaints about work, superiors etc. But we only have it because "you ought to have something like that!" not really in order to deal with the complaints.'<sup>112</sup>

However, they saw that *Reformasi* created some opportunities for change. Whereas it used to be an unwritten rule to discuss complaints always and solely with the direct superior, presently, higher officials appeared willing to receive them – even if they were still surprised when someone actually

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109 Obviously based on administrative considerations rather than the real situation.

110 Personal communication with ranger, 23 November 2000.

111 Personal communication with ranger, 23 November 2000.

112 Personal communication with ranger, 22 November 2000.

knocked on their door. Nonetheless, the rangers observed, having higher officials receive one was much easier with good contacts than without. The rangers were in a favourable position in this respect, because some of them had worked at the Ministry in the past.

The confrontational and critical strategy of this group did not change the director's behaviour, however. On the contrary, it resulted in unofficial sanctions for disloyalty: they were no longer involved in projects and excluded from training programmes.<sup>113</sup> The rangers also reported that the director tried to intimidate them, for example, by withholding their yearly assessment reports. When they complained about his lack of action in the event of corrupt colleagues, his simple answer was 'I am the boss.' A ranger pushing for better working conditions he called 'too idealistic'. Clearly, two different discourses clashed here. The park director stressed the importance of hierarchy within his organisation, afraid to lose authority by listening too much to his rangers' criticism. The rangers argued that 'a boss should be happy with smart subordinates, since they can save him a lot of work and time.'

In addition to openly criticising their director and searching for support at the Forestry Department, the 'provocative team' tried to actively convince new rangers to join forces with them. One of them, in reaction to being accused by the park director of being 'too idealistic', said:

'I was so happy about his remark and thanked him for it. I said that it meant that I was not yet contaminated (In. *terkontaminasi*). But I am also wondering how long I can stay this way. Now I am still young... Whenever a new ranger starts working with us I try to pass on my principles to him. So, when later on I get the same as the others I hope that some of the young rangers can take over my present role.'

However, only a few of the non-island rangers were attracted to the arguments made by these oppositional rangers. The majority continued framing the world in *pembangunan* terms and producing formalist behaviour. Neither did island rangers, in general, join the 'professionalism group'. Only one of them chose to stay neutral.

The metaphor of a disease and people being either 'well' or 'sick' kept returning during various conversations with the critical rangers and the local residents on the islands. However, the rangers never attempted to build a coalition with the local population, not realising that there was much agreement between them. Instead, they directed all their energy towards the bureaucracy. This was also reflected in their open demonstration of disrespect on Archipelago Day (In. *Hari Nusantara*) in 2000, when high-level representatives

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113 The latter they were critical of, too. They argued that people attended training only to raise their status and not to do anything with what they had learned. The actual practice of promoting people who had had training to a position where they were no longer in the position to use their new knowledge supported their argument.

of the new Marine Department made a short visit to Pramuka Island. Considering this 'another waste of money', the rangers refused to 'line up in front of our office in our neatly ironed uniforms as we would have done in former times.'<sup>114</sup> Instead, they stood openly washing their clothes in front of the visitors.

In short, in 2000 the park suffered much resistance, both from outside and inside. The regional government, entrepreneurs and the local population mainly ignored the park. They contested the park's interpretation of *pembangunan*-conservation, which they perceived as a restriction of their freedom without realistic alternatives. Some critical rangers and the local population fought for a more professional implementation which they experienced as dominated by *pembangunan* practices and keeping up appearances behaviour to achieve personal rather than public objectives. This did not lead to any clear coalition, however. In addition to the dominance of *pembangunan*, patrimonialism remained a dominant discourse. Even for the critical rangers, *Reformasi* and professionalism did not mean fully replacing patrimonialism. But in the context of island rangers and the local population they criticised the importance of personal relations as 'unprofessional'. When seeking the support of higher echelon officials at the Forestry Department they uncritically reproduced and thus strengthened patrimonialism arguments and practices.<sup>115</sup>

## 25.5 CHANGES INTRODUCED BY NEW DIRECTORS IN 2001 AND 2003

In line with the regular circulation policy of state officials the director of Pulau Seribu Marine National Park was replaced in 2001, followed by another new director in 2003. Both introduced new strategies and approaches in the park's implementation, as explained to me during my stays on the islands and in Jakarta in 2001 and 2005. While in 2001 the dominant discourse was still one of *pembangunan* conservation as defined in the BCA, in 2005 the project-culture had given way to more co-operation and a new discourse of nature production, transforming the park into a model for others. However, despite less criminalising strategies towards the population, the majority of the local residents continued to reject the park.

When I visited the office in May 2001, a fresh wind was blowing and the officials appeared much less frustrated. The communication equipment that connected them with the islands and boats had been repaired and the office had been reorganised. Furthermore, the rangers had already patrolled the area twice in co-operation with the police. Apart from these enforcement activities, there had been a joint discussion with the local fisheries agency about 'environmentally sound fishing methods'.

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114 Personal communication with ranger, 23 November 2000.

115 Cf. Znoj 2004.

Apparently, professionalism had gained some ground. The new director told me that his approach was one of introspection. His starting point had been to discuss with his colleagues what and how the national park and the BTN should be. To make conservation work, they all needed to be 'obsessed' by conservation as their common goal. And, as 'conservation people', they themselves needed first to understand conservation. This required more 'professionalism' within their organisation. To become more effective they also had to increase their financial budget. 'Until now, our planning has been too oriented toward the budgeting process,' he said, 'instead of the other way around. So, we should look for non-governmental financing as well.'

With regard to regional agencies the director claimed that 'only two' were still causing problems: the mining agency, which refused to be more restrictive in issuing licenses for sand mining within the park, and public works. The latter institution supported the park, the director said, 'but its employees are too focused on their private gain, so they ignore us.' As ignorance and a preoccupation with personal objectives had also been the complaints about these agencies in the past, little seemed to have changed in this regard.

Likewise, the relationship between the BTN and the island population had not improved significantly. When the new director had taken office in 2001, the representatives of the island population tried to use a new strategy of co-operation. According to the director,

'the vice village head told me that most people know about the national park and that they approve of it since otherwise nothing would be left of the coral. Then he came with a list of what kind of [financial] help they wanted from us.'<sup>116</sup>

In other words, they defined partnership in terms of reciprocity, offering their support in exchange for money.<sup>117</sup>

To this the director reacted with shock: 'This is certainly impossible. Apparently, they don't understand how the government works and that every agency has its own tasks and responsibilities.'

Indeed, many islanders did not differentiate between the various governmental agencies, instead conceptualising them as a single entity. The director's reaction reflected the *pembangunan* discourse, not only conceptualising the government as fragmented into agencies with their own projects but also positioning the government officials as smart and others as in need of education. In the end, his encounter with the population did not lead to more public support for the park.

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116 Personal communication, 11 May 2001.

117 In fact, we see here a similarity with the 'spiritualist' discourse discussed in chapter 7. There, people had a 'contract' with the spirits and ancestors living in a certain area about respecting taboos in exchange for well-being.

Paradoxically, when it concerned responsibility, the new director did emphasise partnership and co-operation. In line with the BCA, it was not the park authority alone that was responsible for the national park and its natural resources, but all governmental institutions in the area together with the people. The park authority was only to be understood as the 'leading agency' or as a 'facilitator', responsible for bringing the park to the others' attention.

He conceptualised the partnership with and participation of the locals in the same way government officials had at the 1999 Rakornas:

'It is very important that they participate. Then we won't need more rangers. I can get a certain amount of money from the Forestry Department for each participant to provide them with information.'<sup>118</sup>

Local people were to be educated and directed by the BTN to assist the rangers and to be involved in the new zoning process for the islands: 'All governmental agencies of north Jakarta, NGOs, students, universities and the park authority are participating in this process.'<sup>119</sup> However, further inquiries revealed that no NGO was participating yet, and that the people were only represented by the head of the sub-district and the village heads. Apparently the director realised himself that this list of participants sounded a bit disappointing so he rushed to add:

'It is only logical that the whole population cannot participate, isn't it?! [...] It costs far too much to always invite many people; just think about the costs for travel and lunch!'<sup>120</sup>

He thus justified the fact that participation was still practiced as it used to be under the New Order by referring to the *pembangunan* discourse, intending it as convincing evidence that there was no other possibility – although the same director had in another context mentioned his experience in Kerinci National Park of raising money from NGOs for organising certain activities.

In sum, the new director took some measures to make the BTN a more professional organisation. But he continued his predecessor's approach toward the park residents.

Four years later, it had become more professional. The park director that had been appointed in 2003 had turned the park from a failure into a bustling business and a model for other parks by radically changing the policy objectives from nature conservation to nature production. He appeared much more self-confident in relation to the Forestry Department than his predecessors. On the one hand he expressed his understanding for national policymakers'

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118 Personal communication, 11 May 2001.

119 Personal communication, 11 May 2001.

120 Personal communication, 11 May 2001.

difficulties in changing the national policies, but on the other hand, he had decided that it was better to solve the park's problems on his own than to depend on the Ministry. Self-confidently, he explained that 'nowadays, we can do whatever we like (In. *kita mau apa, terserah*) and we try to stand autonomously (In. *mengusahakan mandiri*).'<sup>121</sup> He explained that the BTN had become 'obstinate' (Ja. *bandel*), turning around the definition of conservation of the BCA:

'now we no longer put protection and preservation first but use (In. *pemanfaatan*). We strive for use that can result in protection and preservation.'<sup>122</sup>

The BTN had initiated a project in which 20 investors paid 20 groups of fishermen to cultivate corals that after a minimum of one year could be exported for the aquarium market. The difference with similar projects in, for instance, Bali was that the coral to be exported was not taken from nature but was produced.<sup>123</sup> In this sense, the park had become a model for others and was even supported by the Forestry Department, which, not surprisingly, had been opposed to the idea of exploitation in the beginning. The director was hopeful that the fishermen could produce the coral autonomously once the cultivated coral had reached export size. The role of the BTN would then be reduced to taking samples; presently it would also mediate problems between fishermen and investors and look for new investors if needed.

Attracted by this new approach natural scientists frequently visited the park to experiment with coral cultivation. Likewise, the Marine and Fisheries Department and other institutions frequently approached the park with questions. To satisfy this demand, the BTN had started to organise trainings. As a result, its lodging was fully booked, with many guests also asking for diving courses and excursions. In fact, this had changed the rangers into diving guides and provided tourism entrepreneurs with a flourishing business.

Apparently, due to the departure from the strict conservation discourse, the regional government and the BTN seemed to have moved closer to a real partnership: in 2005, the district government for the first time doubled the BTN's budget of IDR 1,1 billion (about US\$ 111.000) and the park director judged many of its activities in accordance with the park's objectives.

The new wind blowing through the park also seemed to have replaced the formerly dominant *pembangunan* practice of planning isolated projects:

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121 Personal communication, 7 July 2005.

122 Personal communication, 7 July 2005.

123 Stage F0 was taken from nature. This coral was to produce a new generation, the F1 stage. This was to produce another generation, the F2 stage, which was to be exported. In July 2005, the process had not come further than the F1 stage but the park director was hopeful that F2 would be reached by end of the year. Some rangers did not share his optimism but remained rather sceptical about the promises made. They claimed to have seen that the coral did not grow as fast as promised.

'Nowadays nobody asks any longer for projects first, we immediately start to co-operate: universities, the district government, NGOs... we work first and then agree on an MOU.'<sup>124</sup>

The director had also introduced some changes within the park authority. Contrary to his predecessors who had stressed personal loyalty and an obsession with conservation respectively, he introduced a new approach that focused on discipline and military skills to bring his rangers into 'a good physical and moral shape' (In. *fisik dan moralitas tinggi*). The routine meetings every two weeks were changed accordingly. Before receiving their money on 'pay day' in Jakarta, the rangers had to run twice around the national monument in the heat of early afternoon. Since the director ran with them he rejected their frequent complaints about asking too much of them. The second meeting on Pramuka Island was partly filled with sports, military exercises and discipline. The other part was reserved for discussing problems, questions and strategies – the supervision the critical rangers had asked for in 2000. In addition, the director used sanctions and rewards (e.g. diving courses) to increase the rangers' motivation and discipline. In his view the rangers' discipline was still insufficient, which he thought resulted from their bad financial situation. Therefore he was already thinking of expanding the coral cultivation programme to include them.

Except for their financial situation and their monthly obligation to 'run for their money', most rangers seemed happier than in 2000. Many of their complaints had been listened to: they had received more and better equipment – although there was still only one boat which could be used – they had much to do and their boss spent more time in the field and was truly interested in making the park work.

Logically, the 'provocative team' seemed to have fallen apart. Only one ranger claimed to have kept striving actively for his ideals. In his view most had stayed the same in the park. He suspected the director disliked him because of his critical attitude, as he had been placed at the most distant post and was never rotated to others. He had repaired an old boat and saved some money for fuel by trading vegetables on Java so that he could travel more freely. The others seemed to have become too busy with their new tasks in the park and seemed satisfied to some extent with the changes initiated by the new directors.

Despite the new focus on nature production, the BTN was also more serious about enforcement. Rangers were placed in resorts to help safeguard the sea in their vicinity. Six times a month a BTN boat patrolled the park to replace the rangers in the field with those who had been at home for two weeks.

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124 Personal communication, 7 July 2005. I could verify this claim for the co-operation between the BTN and one NGO. Holding also true for the co-operation with other government agencies would mean a revolution.



In addition to enforcement and nature production the director hoped to protect the park with a non-confrontational strategy towards the local residents which he explained as follows:

‘What we taught people in the past were only prohibitions. However, conservation is and always will be opposed to interests of exploitation, and the number of us conservationists is relatively small. Therefore we need to operate strategically, softly and elegantly (In. *halus dan cantik*). We cannot just like that accuse people of acting wrongfully (In. *menyalahkan orang*).’<sup>125</sup>

Where the BTN in the past had tried to set up a conservation cadre, one of the ‘elegant’ strategies the new director referred to was a public health movement called ‘*Mahatma*’<sup>126</sup> on Panggang Island. Members of his staff were teaching local people. Through this activity, without any direct link with conservation, the director hoped to win the hearts of the local people and to create a channel to influence them later to act in their daily lives in accordance with the BTN’s objectives.

However, although obviously hoping for a positive spin off as soon as the coral cultivation proved successful, the director was far from sure that his new approach would be effective. He noted that, except for the local population, much had changed and kept repeating that ‘it is not easy to turn a king [a fisherman] into a servant [cultivator].’

Indeed, respondents did not see the park any more positively than before. In their perception, park development still meant building new empty government offices and residences for officials. Likewise, they still described the rangers as corrupt and lazy ‘although their salaries had been raised to IDR 1,5 million [about US\$ 150] a month’, not knowing that this was only true for those officials working for the new district’s government and that the rangers only earned about half of this.

The suspicions about high salaries and lacking professionalism continued to be fed by the fact that most rangers rarely left their post to interact with the island population. The island population had accepted only the last ‘provocative’ ranger as one of them, asking him, whenever he passed, whether they could offer him some free food.

Apparently some islanders had hoped for more economic benefit from the park and vented their dissatisfaction by demolishing a BTN boat. According to the last ‘provocative’ ranger they were angry because the director had bought a new boat in Banten instead of in Pulau Seribu, where it would have been cheaper, of better quality, and good for the island economy. The director contested this story by saying that the boat from Banten had been cheaper and better than boats from the islands, that it had been destroyed in an

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125 Personal communication, 7 July 2005.

126 Gymnastic based on yoga and focusing on breathing techniques.

accident and that maybe afterwards some people had additionally attacked it in the harbour.

In sum, in 2005 the BTN translated conservation into nature production. This resulted in a coalition between the BTN, regional government, natural scientists, entrepreneurs and a small part of the population. The new model function of the park also resulted in improvements for the rangers. Those not benefiting from these reforms still rejected the park.

## 25.6 CONCLUSIONS

In line with the BCA's discourse of *pembangunan* conservation, in 2000 the BTN in Pulau Seribu Marine National Park chose education as the main strategy to convince local people of the need of conservation. Most officials interpreted education in a hierarchical way as one-way communication, defining their own responsibility for the result narrowly. The main strategy for convincing regional agencies of the need for the park was to inform them of the park rules and remind them of their responsibility to respect and even enforce those rules. Again, one-way communication and a narrow definition of its own responsibility characterised the BTN's approach.

In reaction, both the park policy and its implementation were contested. Regional government agencies argued that the national park policy was unrealistic and ignored existing claims on and uses of the area. In addition, they were afraid of a new competitor for government funds, in particular because before the establishment of the park they themselves had adopted the *pembangunan* conservation discourse for their own policies and plans. Local residents mainly experienced conservation as restricting them in their lives and criminalising their daily activities, without providing for realistic alternatives. In addition, they complained about the discriminatory and unprofessional implementation of the policy. They argued in favour of better schools with a specialised curriculum, more participation in policy- and decision-making, and realistic opportunities to directly benefit from conservation, thus in terms of a 'development for all' and equality discourse. Some of the rangers also criticised the park authorities for keeping up appearances in order to achieve personal rather than public conservation objectives. Their argument for other priorities and better management could be summarised as a plea for more professionalism.

Most opponents of the park adopted a strategy of ignoring and playing the uninformed. For both the regional government agencies and local residents this meant not paying attention to the BTN's rules and presence. When invited by the BTN they attended meetings but in most cases only paid lip-service to its conservation arguments. The regional government agencies only accepted these arguments when they were linked to the financial aspects of *pembangu-*

*nan*, while local residents would only go along when they were treated respectfully and when they had faith in the alternatives promoted by the BTN.

In their struggle against what they perceived to be a discriminatory and incapable government preoccupied with personal interests, many of the local people remained passive, using the same methods of keeping up appearances. Not surprisingly, this strategy failed to achieve any change, since it reproduced what they disliked. On the other hand, it provided them with some space and legitimacy to behave as they wanted. Only a small section of the local people and some of the rangers and BTN employees adopted more active strategies, such as searching for a powerful counter-discourse, positioning the BTN and the whole government as incapable and unfair, and starting a debate about problems and solutions.

In 2001 when the first new director took office, he addressed many of the internal criticisms and management issues but hardly changed the subject positioning of the local people. Moreover he rejected attempts of the local population to negotiate a contract.

Two years later the next director chose a radical change, re-interpreting conservation as nature-production. By choosing a more gentle approach that no longer laid an emphasis on raising awareness but primarily aimed at using nature for the economic benefit of the park residents, possibly resulting in conservation, he moved closer to the discourse of most islanders and rangers. Still, the islanders kept distrusting the park and the government as a whole.



Kutai, the second park analysed in this study, was situated a great distance from Jakarta. The struggle unfolding there was characterised by provocation. While in Pulau Seribu the national park in the end seemed to have been successful in forming a coalition with the regional government and a small part of the population, attempts to build a similar coalition in the resource rich area of Kutai National Park failed. Quite on the contrary, in this case, the regional government together with old and new residents built a firm coalition around 'development' and 'regional autonomy' that was far more powerful than coalitions between the park authorities, NGOs, and neighbouring enterprises in support of 'nature conservation'. In addition, the success of contesting Kutai National Park was not only more fierce but also more visible than in Pulau Seribu, as logged forest is more eye-catching than destroyed coral reef. Consequently, soon after the beginning of *Reformasi*, Kutai came to be seen as a 'lost case'.

## 26.1 GEOGRAPHIC DATA AND HISTORY

Kutai is a terrestrial national park. It is situated in the Indonesian province East Kalimantan, to the north of the provincial capital Samarinda. The park stretches from the city of Bontang and the logging concession area in the south<sup>1</sup> to the new East Kutai district capital Sangatta in the north, and from the coast of the Makassar Street in the east to three logging concessions<sup>2</sup> in the west. In the north the Sangatta River forms its natural border. In the east, the coast does the same. The south and west borders are artificial. On the map they appear as straight lines drawn with a ruler. In the forest no border stones can be found.

The official information leaflet concerning the park reflects the same *pembangunan* conservation discourse as in the case of Pulau Seribu, mentioning the park's biodiversity as a reservoir for genetic material, its possibilities for research and education and its potential for eco-tourism.<sup>3</sup> Although in the past, especially in 1982 and 1997, much of the area has fallen victim to large

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1 PT Surya Hutani Jaya.

2 PT Porodisa, PT Roda Mas, and PT Kiani Lestari.

3 Soehartono 2001.

fires,<sup>4</sup> it is still protected because it is the only lowland forest of its kind. The flora can be subdivided into coastal mangroves, swamps, lowland forests, ulin, meranti and kapur forest, and mixed dipterocarpaceae forest. The fauna consists of a variety of primates such as orang utan, wild carnivores, reptiles, game and hundreds of species of birds.

The park was gazetted parallel to Pulau Seribu. Its history as a reserved area started in 1934 when the colonial government determined an area of 2.000.000 ha as a 'natuurmonument'.<sup>5</sup> This decision was reinforced in 1936 when the government of the king of Kutai issued a decree of its own about the same area.<sup>6</sup>

In 1957 a long row of reductions of the park area began, reducing the park to 306.000 ha, probably for the increasingly important timber production. The Minister of Agriculture of that time changed its status to 'wildlife reserve', which made logging inside the park boundaries possible until its status was changed to 'national park' in 1982. From 1968 onwards, the area began to be exploited by the logging industry. According to Purwanto, inhabitants remember this time as the 'logging flood' (In. *banjir kap*). From 1970 until 1973 a Logging Concession within the park area was exploited by PT Kayu Mas Timber.<sup>7</sup>

In 1971, when the New Order regime had firmly established *pembangunan* as its major ideology, and while sustainable development had already begun to gain some ground in Indonesia, the mining industry entered the scene as well. Pertamina, the Indonesian state oil company, acquired a license to explore the park area and to build a number of facilities, including an airport, houses for its employees and a golf course. The Minister of Agriculture issued the license after requesting advice from its local agency. As a result Pertamina would help guard the reserve and rehabilitate areas no longer needed.<sup>8</sup> Pertamina was thus positioned as a trustworthy actor, supporting nature conservation. Mining explorations were presented as more important and less destructive than swidden cultivation. Moreover, the same minister reduced the park's surface again, this time to 200.000 ha.

The 1970s saw a gigantic industrial boom in the area, which has changed it enormously. In addition to the logging companies, the park became surrounded by big companies interested in oil exploration and production, and gas exploitation.<sup>9</sup> The municipality of Bontang has grown from a fishing

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4 These destroyed 89.000 ha of the park area, which in 2000 were still in the process of recovery (*Kompas* 13 October 2000, 'Tragedi Kehancuran Hutan Kaltim').

5 Besluit No. 3843/AZ, 7 May 1934.

6 SK Pemerintahan Raja Kutai (ZB) No. 80/ZZ-ZB.1936, 10 July 1936.

7 Purwanto 2005, p. 9.

8 Personal communication with A, 20 February 2001.

9 The coalmining companies have been PT KPC and PT Indominco Mandiri. Pertamina has exploited oil and PT Badak NGL Co gas.

village with 7000 inhabitants into a large industrial town of 80.000 people.<sup>10</sup> To make that growth possible, Kutai National Park has been reduced two more times, in 1991 and 1997,<sup>11</sup> to 198.604 ha.

The industrial boom also had its effects on the already existing settlements within the park boundaries. Where at first shifted cultivators of the Basap, Dayak Punan and Kutai tribes<sup>12</sup> had lived, from the 1920s onward Bugis settlers who fled their home increasingly arrived in the park area searching economic welfare and security.<sup>13</sup> A map from 1991 shows six settlements, all situated at the eastern coast and mostly populated with Bugis people.<sup>14</sup>

To change the park's reality to the ideal of an uninhabited natural area, the national, provincial and regional governments in 1995 relocated the people living within the park boundaries to other areas. This was favoured to an enclave and the expected problems of controlling the size of its population.<sup>15</sup>

However, the governor of East Kalimantan in fact did not support this solution and by 1996 had already issued a decree giving an official status to four of the settlements in the park.<sup>16</sup> Indeed, in 2001 most forced migrants had already returned to their old homes.<sup>17</sup>

Neither did the Department of Home Affairs feel obliged to respect the park as an uninhabited area. The administrative borders of the four official villages that it helped to determine stretch much further into the park than the actual settlements. In the words of the head of the East Kutai Planning Agency,

'if these were to be taken as the basis for an enclave the park would be finished. The whole of Indonesia is divided into provinces, districts, sub-districts and villages. Nothing is left. The Department of Home Affairs did this, although strictly speak-

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10 Vayda & Sahur 1996, p. 1.

11 SK Menhut 4435/Kpts-XX/1991 and SK Menhut 1997.

12 Vayda & Sahur 1996, p. 36; Purwanto 2005, p. 9.

13 There were four waves of migration from Sulawesi, in the 1920s, the 1950s, 1960s and mid-1970s respectively. Many of those migrating in the 1950s and 1960s fled the military and economic uproar in South Sulawesi in this period, and those arriving in the mid-1970s tried to benefit from the area's economic development (Vayda & Sahur 1996, p. 8-9, 27, 36). See for a more detailed description of the migration process (Purwanto 2005).

14 Teluk Pandan, Kandolo, Selimpus, Teluk Kaba, Sangkimah and Kampung Baru (Vayda & Sahur 1996, p. 2). Other sources mention seven: Sangatta Lama, Sangkimah, Teluk Pandan, Singageweh, Kanimbungan, Sidrap and Kandolo (*Kompas* 1 November 2000, "'Enclave" 16.086 Warga di Kawasan TN Kutai').

15 Vayda & Sahur 1996, p. 1.

16 SK Gubernur 140/SK.406.A/1996. Initially the decree legalised only three villages. More recently, however, one of them was split into two so that there are now four official villages in the park: Sangatta Lama, Sangkimah, Teluk Pandan and Singageweh.

17 However, as Vayda and Sahur argue, the success of the relocation differed from village to village.

ing, it should not have legalised these villages since their territory is under the jurisdiction of the Forestry Department'.<sup>18</sup>

From the Forestry Department's perspective this was an obvious provocation but, apparently, it lacked the power to act against it. The fact that Pertamina was still active in the park further diminished the credibility of the government's intention to conserve the area.<sup>19</sup>

On top of this, since 1991, to accommodate the further industrial development of East Kalimantan, a road has cut through the park from Bontang to Sangatta. Having been asphalted in 1998, it has spawned many settlements, which expand every day.

Thus, before the struggle (the main topic of this chapter) started, the area's conservation had already been severely contended by area reductions, licenses for economic activities within the park, road construction and the legalisation of – officially – illegal settlements.

After the enactment of the Regional Autonomy Act in 1999, a new actor entered the arena: the regional government of the newly established East Kutai District. In 2001, its capital, Sangatta, looked like a settlement during the gold rush periods in the USA. It consisted of one big road whose quality was so bad that each of the frequently passing busses filled with mineworkers caused a gigantic, breath-taking cloud of dust to whirl around. As a shopkeeper put it:

'When Sangatta still formed part of the Kutai District, the government never came here. It was a free, un-ruled area. Those with money took a piece of land and did whatever they liked. Only now is there a government in this area.'<sup>20</sup>

To assure itself of popular support this very government attempted to position itself as serious about developing a prosperous new district and listening to the people's demands. The national park area played an important role in this, as the following section will show.

### 26.3 NEW COALITION AGAINST THE PARK

After the fall of the Soeharto regime in 1998, and especially after the enactment of the Regional Autonomy Act in 1999 (a catalyst for the past frustrations of the provincial and regional government as well as the people in the area), the national park became highly contested. A new coalition between the new district's government and old and new settlers emerged. The regional govern-

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18 Personal communication with B, 23 February 2001.

19 Personal communication with former park director, 26 February 2001.

20 Personal communication, 21 February 2001.



ment struggled to gain authority over the park area and the settlers for benefits from *pembangunan* in the park area. The evolving struggle between this coalition and the park authority concerned two issues: how to interpret *Reformasi* and how to make sense of the park.

A rapid escalation occurred when the district government invited migrants from other regions as part of its grant plans for establishing a 500.000 ha coconut palm oil plantation in Salingkurang, to the north of the national park. However, while waiting for the plantation project to start, the migrants who followed the invitation had to look for other sources of work. Encouraged by the interim district head and investors, who were reported to offer IDR 500.000 (about US\$ 50) to everyone who planted 2 ha with bananas in the park, in 2000 more than 13.000 people, mainly from East Kutai District and South Sulawesi, moved into the park. Some of them engaged in illegal logging, while others developed banana plantations, vegetable gardens, corn fields and fish ponds.

To the right and to the left of the 65 km long Bontang-Sangatta road all trees, especially the precious ulin, were cut, turning it into a 'road with a view'. The mangroves at the coastline were logged as well and replaced by fishponds. According to the former head of the park authority, in the beginning of the year 2000 13.862 ha had been logged, in June 16.000 ha and in September 26.000 ha. For this purpose, 118 small paths (In. *jalan tikus*) had been established that cut 15 to 35 kms into the park's core zone.<sup>21</sup> A 2005 estimate was that only 50.000-60.000 ha of the forest remained.<sup>22</sup>

Everywhere along the road, in the mangrove forest area and even in front of the BTN posts, wooden sticks in the ground indicated the new self-made borders for the chosen plots.<sup>23</sup> Some were even advertised for sale. Likewise, new houses were built along the road, including one in front of a rangers' post.

To justify these activities, people started to tell stories about new rules:

'Fruit and vegetables used to be very expensive here since most people work for the big companies and thus not as farmers. Also it was prohibited to plant bananas in the national park. Now this has changed, that is all I know.'<sup>24</sup>

Such stories were also used in confrontations with the park authority, which was furious about this invasion and tried to convince the settlers that they

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21 The logging was mainly financed by so-called 'cukongs', rich entrepreneurs operating in the background. They finance the chain saws and pay the truck drivers who bring the logs out of the park. Likewise, some of the neighbouring HPHs or their contractors were suspected to be involved in the core-zone logging.

22 Obidzinski & Andrianto 2005, p. 80.

23 According to the then vice district head, it was not surprising that people were settling there. 'It is very easy to build a garden there. This in contrast to other areas where there is no road to transport your yield' (personal communication, 22 February 2001).

24 Personal communication with local resident, Sangatta, 21 February 2001.

ought to respect the park rules. But they did this without any success since the new residents just talked back. According to the acting park director, the people

'interpret *Reformasi* completely wrong! They think that it means that there are no more prohibitions. So, when rangers tell them that they are not allowed to build gardens in the park, they say that that is not true.'<sup>25</sup>

However, the opposition against the park stretched further than public disobedience and positioning the BTN as a liar. People started to attack the park authority. Various ranger posts and park signs were demolished while other of their properties, including radio communication devices and solar cells, were stolen.<sup>26</sup> According to a ranger,

'nobody takes us serious anymore. When people see our uniform they certainly no longer run away as they would have in former times. When they see a police uniform they still do. We no longer enjoy any authority.'<sup>27</sup>

Settlers even waved at rangers when conducting illegal activities in the park. The roles had changed: 'Before the *Reformasi* people were afraid of the rangers, now it is the other way around'.<sup>28</sup> This quote nicely summarises the park's history and the recent developments. The researchers who in 1995 studied the possibility of resettling the people living in the park reported that there was much 'distrust of outsiders (generally regarded as "agents" of the park)'.<sup>29</sup> This was the result of arrests of park residents for illegal tree cutting.<sup>30</sup> Residents felt that rangers 'bullied them around'<sup>31</sup> and operated in a very 'wild' (In. *ganas*) and 'frightening' (In. *mengerikan*) way.<sup>32</sup>

They concluded that the national Forestry Department primarily cared for animals and plants because it did not want people to live inside the park (even though they had been there before the park had even been established).<sup>33</sup> Moreover, they associated the park with foreign researchers who seemed to

25 Personal communication, 20 February, 2001.

26 Personal communication with D, 23 February 2001 and C, 26 February 2001. This is what McMullan and Perrier coined 'social or a type of borderline crime' which was among commoners 'regarded as normative or at least as justifiable on quasi-legal grounds' (McMullan & Perrier 2002, p. 704).

27 Personal communication, 23 February 2001.

28 Personal communication, 20 February, 2001.

29 Vayda & Sahur 1996, p. 3.

30 Vayda & Sahur 1996, p. 4.

31 Personal communication, 21 February 2001.

32 Purwanto 2005, p. 10.

33 Purwanto 2005, p. 11. Purwanto also mentions that some people living inside the park saw the park as a place to protect threatened animals. He does not quantify these statements but it may be guessed, considering what was happening from the late 1990s onward, that this did not influence the practices of many people who were living in the park.

own the place and with big business that was favoured by a discriminatory national government.

This last complaint they voiced at a public consultation meeting organised about the proposed NRM Act (see also chapter 22). Participants said problems in the area had started because the Forestry Department did not give people the space to 'yield the results of the area or to participate in its management' while at the same time, entrepreneurs were allowed to become active in the area, against the interests of the local population:

'All of them managed the natural resources that surrounded us, but what did the decades of their presence bring the people? Very little compared to the amounts of natural riches they drained.'<sup>34</sup>

As a remedy, they argued for participation, which they interpreted as sharing in the profit of a region.

Among the rangers, the hostile attitude among the population in and around the park created a general feeling of unease. Many of them asked to be transferred to other offices. However, only few of these requests were honoured.<sup>35</sup>

The most radical conclusion about the situation was drawn by the Kutai National Park Director, Tonny Soehartono. He resigned on 20 January 2001 after 18 years with the Forest Service, of which only 16 months were spent in Kutai. He was probably the first Indonesian in his position to voluntarily quit his job. The feeling that he had failed and had lost any pleasure in his work contributed as much to his decision as the feeling that people around him increasingly 'pitied' him. He had begun full of enthusiasm and confidence, building on his long working experience.

Soehartono organised three different support groups for the park, which were to advise and support him, but the promulgation of the Regional Autonomy Act followed by the establishment of the new district East Kutai proved a serious setback.<sup>36</sup> Moreover, 'the spirit of *Reformasi* got out of control with all the people demanding unlimited freedom.' These two changes increased the pressure on the park. Soehartono could not convince other state actors to defend the park with a strict law enforcement campaign. The governor and the police refused to send the forces he had asked for. Likewise, the NGOs that had formerly supported him were now more concerned about human rights than about nature:

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34 Participant public consultation in Teluk Pandan (Suwarno, et al. [n.y.], p. 102).

35 Personal communication with ranger, 23 February 2001.

36 This new district with the capital Sangatta was established through Act 47 of 1999. Its surface is 35.747,5 km<sup>2</sup> and has 151.823 residents who live in 11 sub-districts and 102 villages.

'They were afraid I was willing to sacrifice human rights to protect the park. But I did not propose anything like that. I was just trying to enforce the law and thus to protect the park.'<sup>37</sup>

Even the regional government used the human rights argument, positioning the park director as representative of the New Order approach of using force.

The park director's frustration about this lack of support increased when none of the national or international NGOs responded to his plea to exert pressure on the provincial or district government: 'There is no such thing as genuine support for conservation in other countries. All these organisations have their own interests.'

In fact, the European Wildlife Preservation Coalition (EWPC) had confined itself to urging the park authorities to take action and to threaten with lobbying for sanctions if 'the government' failed to end the destruction taking place.<sup>38</sup> Apparently, they were not ready to take a more nuanced stand or organise a campaign for Kutai National Park. In the park director's eyes, it was clear that the international conservationist NGOs considered Kutai to be a 'lost cause' that could not be used to their own (fund- and image-raising) advantage. The fact that the area was populated with migrants instead of indigenous communities also contributed to this reluctance.

As a result, the park authority felt increasingly isolated. The local government of East Kutai had engaged in a coalition with the people living in and entering the park, while the NGOs and the provincial government were not willing to support a strict enforcement campaign. International NGOs failed to respond to pleas to adopt the park as an area of international concern. The last option the park director could think of was to ask the surrounding companies for support, but this strategy failed as well. British Petroleum, for instance, a major shareholder of KPC was 'not too sure' whether the threat to withdraw investments would convince the local government to change their approach towards the park. They certainly were not going to take any chances.

Even the increasing attention for the park's situation in the media did not help, according to Soehartono:

'Apparently, everybody was just too busy with other things. The Minister was busy with the President in Jakarta and the district's head was busy with his re-election.'<sup>39</sup>

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37 In support of this, one of the park rangers reported that his director was absolutely civilian (In. *sipil murni*) and opposed to any ideas of letting them carry weapons. He therefore hoped that the following director would be someone with an army or police background so that they could defend themselves and the park better although he was aware that carrying weapons would evoke aggression (personal communication, 23 February 2001). His comments made clear that he really feared for the rangers' personal security.

38 [Http://dte.gn.apc.org/45Kut.htm](http://dte.gn.apc.org/45Kut.htm).

39 Personal communication, 26 February 2001.

A particular problem was the Forestry Department's reluctance to exert any pressure for fear of being associated with the New Order. The official response from the Ministry was that conservation now needed 'to come from the people themselves'.<sup>40</sup> There was also a 'new insight' that conservation was not only about nature but also about people and rights:

'A problem of PKA [the nature conservation directorate] is that it mainly employs people with a forestry background. These are very much oriented towards production. We would need more sociologists, anthropologists, officials that are specialised more in dealing with people. Or lawyers.'<sup>41</sup>

The Ministry thus claimed to lack the knowledge of how to deal with such a problem. The director for conservation came to Kutai twice, but reportedly only flew around the park in a helicopter to get an impression of the situation.<sup>42</sup>

The lack of support for the BTN made it easy for the district government (led by its new head Awang Farouk) to start attacking the park director, by positioning itself as fighting for the welfare of the people. Farouk directly challenged the park director, claiming that he could not possibly enforce the law in his district. Subsequently, he organised a large meeting to inform the people living in East Kutai about this action and to ask them about their wishes. He further challenged the park director by demanding land for agriculture and settlements in the eastern part of the park: 'Tell your Minister!' Soehartono quoted him.

Two rangers added their observation of the district head sullyng their name (In. *menjelekkkan*) in public:

'He did not know that we were there since we were not wearing uniforms. He said that we did not do anything to save the park and that we just let everything happen in front of our eyes. – That is just not done! That someone of the public service talks like this about other public servants!'<sup>43</sup>

The administration in this case no longer stood together, but competed with negative reference to the other's performance. In the eyes of the rangers, Awang Farouk, despite his environmentalist reputation (In. *memiliki reputasi sebagai orang lingkungan*),<sup>44</sup> was certainly not fighting for the sake of the park:

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40 Personal communication with former director conservation areas, Lukito Daryadi, Jakarta, 9 May 2001.

41 Personal communication, Lukito Daryadi, Jakarta, 9 May 2001.

42 Personal communication with B, 23 February 2001.

43 Personal communication, 23 February 2001.

44 He was the former head of the East Kalimantan *Bapedalda*.

'He declared that he is now fighting for "his people". [...] He is looking for a solution that will please all sides. Look alone at his plans for the airport in the park [...]. And he even proposed to wait for the corn yield in the park before taking any action whatsoever'.<sup>45</sup>

Farouk thus presented the BTN as 'pro-environment', but himself as 'pro-people'. These statements were certainly intended to support his candidacy in the upcoming district head elections of 2001, in which the park became an item of importance. The following paragraphs will elaborate this issue.

#### 26.4 NEGOTIATIONS ABOUT THE PARK'S FUTURE

The actors negotiating about the park proceeded from opposing points. The head of the BTN was in search of a consensus, whereas the district head aimed for a polarisation. In a closed meeting with Awang Farouk Tonny Soehartono presented two alternative solutions to the problem that thousands of hectares of the park area had already been logged. The first one, which he preferred, was to try to live in harmony with the people who already lived in the park. They could discuss their needs, for example, how much wood they required for their houses. Sales of wood, on the other hand, would be excluded from such discussions. The second solution would be to cut a piece of land out of the park, which would create strict borders instead of harmony. 'Then people will guard the border all the time, watching what is happening at the other side and whether anyone will cross the border.' In the end, the plan of an enclave was frustrated several times by leaks from different actors. When the possibility of an enclave was discussed at a meeting with the BTN, NGOs, community representatives (In. *tokoh masyarakat*) and regional government agencies, a community representative concluded that the residents could log and cultivate the envisaged area and informed them of this. According to the park director, one community representative was even caught bringing 100 people into the park for logging purposes, justifying this action with his knowledge of the future spatial planning. Subsequently, the parties agreed on a plan to attribute 4.700 ha to the community. According to the park director, the Forestry Department had already confidentially promised to agree. 'When this leaked out people in the park started to demand more and more, finally about 10.700 ha!' As a result, in the end the deal was cancelled.

Leaks of information also caused the park director's next proposal to fail. This was to cut the eastern part out of the park with a 1 km green belt to the Bontang-Sangatta road, but only if the district head would make plans for the implementation, before announcing the matter to the public. Awang Farouk agreed, but almost immediately publicly announced that 15.000 ha were to

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45 Personal communication, 23 February, 2001.

be cut out of the park. As a result even more people invaded the park. When the park director accused him of breaking his promise, Faroul responded that he needed to 'communicate with his people', again positioning himself as the people's representative. In fact, the head of the regional planning agency (Bappeda) of East Kutai told another story, i.e. that Tonny Soehartono had agreed with the district government's 15.000 ha plan, but that the Forestry Department had blocked it and therefore the population now 'hated' the park.<sup>46</sup> Both parties thus accused the other of unfair play.

The Ministry indeed disapproved of the 15.000 ha proposal, since it feared a snowball-effect:

'They are in charge of all the Indonesian national parks and everywhere there are the same problems as here. Just have a look at Tanjung Putih. So, if they had agreed to release a part of the park, other claims in other parks would have followed. Therefore, they proposed to enclave the villages in Kutai National Park and the regional government accepted it.'<sup>47</sup>

In the end, the parties thus agreed on enclaves, in spite of a consensus on their limits as a solution to the problem. People in the regional government, the park authority and the Forestry Department acknowledged that it was the 'best solution out of the worst' (In. *yang terbaik dari yang terburuk*) only meant for the short-term. The population would likely keep growing, which would inevitably lead to future demands for land, more infrastructure and the opportunity to further develop the villages economically. Finally, an enclave would make the region more attractive to new migrants rather than solving any of the problems of encroachment or illegal logging. However, the only 'real' alternative to save the park according to the acting director,<sup>48</sup> i.e. to remove all people from the park and transmigrate them to other places, had already proven in the past to be ineffective.

This consensus on its disadvantages partly explains why the implementation of the enclave plan took such a long time. Actors regularly accused their opponents to deliberately frustrate this process. The district government blamed the Forestry Department for not sending enough money. In fact, the Ministry sent IDR 100 million November 2000, claiming that when the first results had become visible the Ministry would send some IDR 243 million more for the implementation. The employees of the national park authority accused the regional government of being concerned only with the re-election of the district head and with developing the area – for instance, through providing

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46 Personal communication, 23 February 2001.

47 Personal communication with the acting park director, 20 February 2001.

48 Personal communication, 20 February 2001.

money for cacao plantations in the park. They also suspected regional officials to be profiting personally from the illegal logging activities (In. *ikut main*).<sup>49</sup>

District government officials themselves suggested that an additional motive for their inaction was the conviction that the park management should be transferred to the district level anyway. In an interview the vice district head, he said that it was actually very simple to control the 10 000 people in the park. In his view further developments would prove that the central government was incapable of managing the park. This was primarily a political strategy to scapegoat the central government as the regional government had no real intention to take over the park management. If that had been the case it would have taken Soehartono's proposal to officially request the Forestry Department to place the park under the former's more seriously. In Soehartono's opinion, this could have taken the form of a pilot project until the necessary adaptations to the official regulations would have been made.<sup>50</sup> This was an interesting move which could be interpreted in two ways: first, that the director invited the district head to play with open cards and enter into an open debate with the Jakarta authorities; second, that he signalled his readiness to enter into a partnership with the regional government. However, this strategy failed since the district head did not go along.

The district government's predominant development frame also showed in its resistance to consider alternative proposals aimed at reducing outside pressure on the park – such as moving the capital of the East Kutai district to Sangkulirang or Ma Wahau.<sup>51</sup> Its plans for the region focused on the park's potential for future development, including the small Pertamina airstrip in the park that was to be developed into an airport of regional importance. This could serve a future tourism centre at the coast in the eastern part of the park. As the then vice district head put it:

'The beach there is beautiful. We need to build hotels there. Then people can make ecotourism trips into the forest. We need to make clear to the people that we can earn money with the forest since there are many people in other countries who like to spend their vacation there.'<sup>52</sup>

In these plans, Sangatta was seen as the district's capital *because* of its direct vicinity to the park and its development potential.

Instead of discussing what could save the park in its present state, the regional government tried to silence its critics by claiming to be paralysed by two opposing kinds of arguments: strictly enforcing the park rules would make people call for more attention for human rights and doing nothing would

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49 Personal communication with A, 20 February 2001, and with G, 23 February 2001.

50 *Kompas* 13 October 2000, 'Tragedi Kehancuran Hutan Kaltim'.

51 Among others the Forum of Concerned Forestry Scholars at the Mulawarman University in Samarinda promoted this plan.

52 Personal communication, 22 February 2001.



make critics demand more environmental protection.<sup>53</sup> The experience of Tonny Soehartono discussed above indeed suggests that there was some truth in this claim.

The result of this delay and the uncertainties involved was that public perceptions of the plan for an enclave developed their own dynamics. People in the field began to assume that they could get an official certificate for land under their control.<sup>54</sup> This accelerated the process of parcellation. It also raised public doubts about how committed certain political actors were to preserve the park.

Another problem that occurred during the preparatory process was that the people's representatives tended to perceive all ideas that were discussed as decisions.<sup>55</sup> Apparently, the preliminary character of the content of these meetings was either not clearly communicated or was misunderstood on purpose. They wanted decisions out of fear of being left behind, as indicated by a quote of a prominent resident of Teluk Pandan, one of the four legalised villages in the park:

'If there comes no clarity about the boundaries in 2001, Teluk Pandan will be left behind [In. *tertinggal*] since we then will not be able to realise the development budget of IDR 1 billion. This will mean that the regional autonomy will not have had any meaning for Teluk Pandan'.<sup>56</sup>

However, this did not accelerate the process of implementation.

In the analysis so far I have not dealt with the municipality of Bontang, which borders the park in the south. Although there were similar problems as in the north, they were less serious and the regional government seemed to be less determined to provoke the park authority. Its appreciation of the forest's importance for the region seemed also to markedly differ from the East Kutai government's. As an official of Bontang municipality put it:

'We are aware of the fact that the forest is important for us, for example, as protection against floods and for our drinking water. That is not because of international pressure but we are aware of this ourselves. We would also like to replant [in the park] but preferably with plants which are useful for the population.'<sup>57</sup>

The discourse in this quote clearly differs from the one in East Kutai. East Kutai's vice district head advocated a development, or at the most a *pembangunan* conservation approach, using the international community's interest

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53 Personal communication with the vice district head, 22 February 2001 and the head of Bappeda, 23 February 2001.

54 *Kompas* 13 October 2000, 'Tragedi Kehancuran Hutan Kaltim'.

55 *Kompas* 13 October 2000, 'Tragedi Kehancuran Hutan Kaltim'.

56 Recorded by NGO Bikal, cited in newsgroup Karib Kutai, message 381, 31 January 2001.

57 Personal communication with I, 21 February 2001.

in preserving forests for recreational purposes and the opportunities this could create for the regional economy.<sup>58</sup> Developmental rather than ecological considerations ruled his mind. The official in Bontang, on the other hand, referred to the direct ecological importance of the forest for the regional population, but challenged the international conservationist discourse. Instead of pleading for preserving 'pristine' nature he argued for prevention of erosion and securing drinking water supplies with an agriculturally relevant soil cover. In fact, this shows the continuity of the old debate between foresters on the one hand and agricultural experts on the other (see chapter 10).

## 26.5 CONCLUSIONS

As we have seen in this chapter, the BTN of Kutai National Park had formed a coalition with entrepreneurs and NGOs. In the end, this coalition did not prove stable enough to counter the attacks of the emerging coalition between the government of the new district of East Kutai and settlers in the park. The pro-park coalition did not agree about the appropriate instruments to save the park from further destruction. The partners in the coalition against the park, on the other hand, shared a strong desire for more autonomy.

While they referred to the discourses of *Reformasi* and regional autonomy, they attacked the park and its representatives in words and action as symbols of the central government's authority. Important stories were that old rules no longer applied, people were free to do what they liked, new development projects emerged, the resource-rich park had turned into an open and thus useful area for all people interested, and the regional government was quite the opposite of the BTN: caring about people instead of animals and plants.

In the debate that developed various actors produced competing arguments. BTN produced the well-known arguments of preserving biodiversity to keep open the possibilities of a genetic reservoir in combination with research, education and eco-tourism. The municipality of Bontang acknowledged the need for preserving nature as a protection against erosion, but contested that keeping nature in its original form was the appropriate solution. Instead, it favoured a more agricultural use that would directly benefit the population. Representatives of the regional government pleaded for a far-reaching form of *pembangunan* conservation: developing the park into a tourism project with a part of the forest maintained as attraction. Finally, settlers, entrepreneurs, investors and parts of the regional government, argued in favour of developing the entire park with unlimited logging, planting, and constructing. Settlers within the park combined this argument with 'participation', which they

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58 His later proposal to relocate the national park, made as district head in 2003, confirms this (*Republika Online* 21 August 2003, 'Pemindahan Taman Nasional Kutai Makin Mengancam Kelestariannya').

interpreted as the possibility to directly benefit from development. Regional government officials combined it with 'regional autonomy', an argument for authority either combined with the desire to also benefit from development, to make conservation more effective, or both.

Within the context of implementation, the regional government argued in the well-known *pembangunan* manner that it needed money from the Forestry Department. It moreover claimed to be paralysed by the two competing discourses of human rights and environmental protection. The Forestry Department countered that the regional government first needed to start with and account for the money it had already received, while the BTN argued that it needed to commit itself to the plan and respect the law.

The BTN's strategies to achieve its goal of saving the park were coalition forming, planning, strict law enforcement and building a consensus. These strategies were countered by alternative coalition forming and conscious attempts to hinder the realisation of these goals and discredit the BTN and the Forestry Department, and further polarise the situation. Both settlers and regional government officials denied the need for conservation. Another way to position the BTN as lying and untrustworthy was to refer to and demonstrate its incapability. This coalition successfully positioned the BTN as anti-social. A final and likewise effective strategy was to create a new situation that was difficult to reverse, such as leaking information and inviting new settlers.

Both the BTN and the Forestry Department tried to prevent further escalation by staying calm and trying to build a consensus. In addition, the Forestry Department tried to limit its loss of jurisdiction – also in other national parks – by agreeing to the establishment of an enclave in Kutai. What it did not do, understandable, was enter the debate and defend the conservation discourse against the regional autonomy. Considering the lack of support from other actors that would have been a battle with a predictable outcome.



Conventional parks, such as Pulau Seribu and Kutai, do not receive much attention in the literature. Most scholars are interested in the experiments taking place in donor parks. Donor money increases both the attention to trends in the international conservationist discourse and their acceptability for certain groups of actors.

In their quest for more effective national parks, international donor agencies have been experimenting with alternative conservation arrangements. These include entering into a coalition with indigenous or other local peoples through funding, conservation agreements, and co-management schemes with regional governments and entrepreneurs.

The literature makes clear that these alternatives do not guarantee an effective national park policy. The thematic analysis in this section shows that various actors enter into a discourse coalition with conservationists, but that such coalitions often turn out to be fragile. The main reason is that actors do not change their objectives for the sake of such a coalition. After a coalition partner has achieved a strategic goal or if another partner tries to impose a specific interpretation of a certain concept on him he decides to withdraw, as happened in Siberut National Park,<sup>1</sup> Lore Lindu National Park,<sup>2</sup> Komodo National Park<sup>3</sup> and Bunaken Marine National Park.<sup>4</sup>

### 27.1 COALITIONS WITH INDIGENOUS COMMUNITIES

In the early 1990s international conservationists entered into a coalition with the indigenous rights' advocates, which has opened up new possibilities for indigenous communities. They have increasingly promoted themselves as 'living in harmony with their environment' and as holders of traditional knowledge serving biodiversity conservation. Research on Siberut has shown that this strategy enabled local elites to financially profit from their partnership

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1 See, for instance, Eindhoven 2007, Persoon 2001, Persoon 2002, Persoon 2003.

2 See, for instance, the work of Acciaioli 2002, Li 1996, Li 2000. See also Wittmer & Birner 2005, Sangaji 2001, and *Radar Sulteng* 3 June 2002, 'Pengamanan Taman Nasional Sebaiknya Gunakan Pendekatan Adat'.

3 See, for example, Afiff & Lowe 2005, Borchers 2002, Borchers 2005.

4 See, for example, Erdman, et al. 2004, Lowe 2003.

with international agencies sponsoring conservation.<sup>5</sup> Local NGOs such as *Yasumi* (*Yayasan Suku Mentawai*) and *Yayasan Citra Mandiri* have become prominent partners of donors such as the ADB, UNESCO, the German Embassy and the Rainforest Foundation Norway.<sup>6</sup> Some of these NGOs have been founded solely for the purpose of becoming a partner for these donors,<sup>7</sup> claiming to represent indigenous communities and their interests. However, the increasing involvement of NGO activists in local politics combined with accusations of and gossip about misallocation of donor-funds for personal political campaigns have reduced their credibility.<sup>8</sup>

This discourse coalition has had both positive and negative effects on the local population of the Mentawai islands. It has enabled certain groups to raise money by appropriating the discourse through labelling existing practices and knowledge in its terms.<sup>9</sup> However, the money is granted on the basis of certain conditions such as that it is used for preserving biodiversity.<sup>10</sup> This limits the future options for any community using this discourse and depending on the associated funds. Another positive effect is that it has been an incentive for indigenous communities to organise themselves.<sup>11</sup> As such organisation most likely takes place along the lines defined by the discourse and not necessarily those of a local community as a whole, a negative effect is that it will potentially lead to new tensions at the local level.<sup>12</sup> This has even been the case on Siberut, a rather ethnically homogeneous island<sup>13</sup> where the local government is no longer run by Minangkabau but by a local elite. However, this elite increasingly adopts the old New Order discourse on isolated communities arguing that tribal people can only be involved in politics if they abandon their forest-based lifestyle.<sup>14</sup> This suggests, first, that the new power-holders are aware that once in power discourses other than the one that elevated them to their current position are more useful to them. Second, it proves that it is always dangerous to think, speak and write about 'the local people'. On Siberut, some have changed their lifestyle while others have not; some value the forest for its logging potential, while others value it in terms of subsistence and spiritual support; and finally some have influence and some do not.

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5 Eindhoven 2007, p. 75.

6 Eindhoven 2007, p. 75-76, Persoon 1998, p. 296.

7 Persoon 2002, p. 33.

8 Eindhoven 2007, p. 77.

9 Persoon 2002, p. 36. Li also makes the point that communities often 'form themselves or strengthen their formation as communities as they engage with state-institutions, procedures and personnel' (Li 2002, p. 11).

10 Persoon 1998, p. 285.

11 Persoon 2002, p. 36.

12 Persoon 2002, p. 36-37.

13 The population consists mainly of about 25000 Mentawaians. In addition, there are small minorities of Javanese, Batak and Minangkabau people (Persoon 2003, p. 254).

14 Eindhoven 2007, p. 88.

Next to this heterogeneity of the local or indigenous people who advocate themselves or are advocated as 'the' alternative for conventional conservation efforts the question is whether their customs are indeed sustainable. As McCarthy has shown for the Sama Dua region in Aceh, the 'village regimes were first and foremost neither concerned with nor organised to ensure environmental outcomes'.<sup>15</sup> Likewise, communities who promote themselves as custodians of nature may turn out to be exploiting nature as soon as they are in power, as in the case of Siberut. This seems to be the price conservationists have to pay for using indigenous communities to their own ends without paying much attention to what they want themselves.

Siberut is very similar to other national parks in its having a strong local opposition against the national park,<sup>16</sup> which argues that responsibility for and access to the natural resources should be handed over to local actors since the national authorities have proven incapable of performing that task effectively.<sup>17</sup> Local actors use the regional autonomy discourse (sometimes combined with the *Reformasi* discourse) to strengthen their case. At present this seems to have become more persuasive than the indigenous people discourse combined with nature conservation.<sup>18</sup>

## 27.2 FORMALISING PARTNERSHIPS: CONSERVATION AGREEMENTS

In some national parks a trend towards formalising the partnership between conservationists and local, often indigenous communities exists. The underlying theory is that not pure enforcement but negotiation is the way toward more effective conservation. However, recommendations based on this theory differ widely, ranging from co-management (see the following section) to an open dialogue.<sup>19</sup> All of them, however, plead for formally negotiated agreements.

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15 McCarthy 2005.

16 Persoon 2002, p. 34.

17 See, for instance, *Radar Sulteng* 3 June 2002, 'Pengamanan Taman Nasional Sebaiknya Gunakan Pendekantan Adat'.

18 Comparable to these coalitions with indigenous communities on the basis of their assumed traditional cultural guardianship for nature, are pro-conservation coalitions with local - and thus not necessarily indigenous - communities in exchange for rural development through so-called integrated conservation and development projects (ICDPs). As there is no literature specifically dealing with the argumentation of non-indigenous local communities against or in favour of these projects, they are not discussed here in detail. It suffices to say that, according to the literature, this approach has not been very successful either, satisfying neither the conservation nor the development objective (Wells 1999, MacKinnon & Wardjo 2001). Major flaws have been a lacking attention for issues of equity and sustainability and a poor threat identification (Hughes & Flintan 2001, p. 8-11).

19 The most outspoken in this latter sense are Brechin et al.. They promote a social justice agenda which includes self-determination, self-representation and equal participation (Brechin et al. 2002, p. 58 citing Taylor).

One park where the so-called conservation agreements have become very popular is Lore Lindu National Park,<sup>20</sup> with almost one hundred concluded. Their popularity among the communities living in or close to the park can be explained by how the agreements position them. Once they have negotiated and signed such an agreement they are 'custodian' of the environment rather than 'destroyer', 'encroacher' or the like. This helps to stop accusations of the park management and recognises that these communities and the BTN have similar interests.<sup>21</sup> In addition, they reportedly increase livelihood security and improve the relation between communities and the park management.<sup>22</sup>

In Lore Lindu, most of the early agreements of this kind have been established between NGOs and customary institutions, for instance customary councils (In. *Lembaga Adat*).<sup>23</sup> Alternatively, the international organisation CARE, which works for poverty reduction through development programmes, has focused on agreements with formal village governments. Its conservation agreements have been an 'accompanying measure to its development program.'<sup>24</sup> In the meantime, CARE has transferred its involvement in conservation agreements to a local NGO called Yambata that, however, aims for authority without conservation obligations.<sup>25</sup> Likewise, in 2004 the ADB started to fund conservation agreements in the Central Sulawesi Integrated Area Development and Conservation Project (CSIADCP),<sup>26</sup> mainly with *adat* communities. Another international NGO, The Nature Conservancy, has opted for a third strategy. It has established special conservation institutions (In. *Lembaga Konservasi Desa*, abbr. LKD) with participants from *adat* and formal village structures, and thus has been the only actor to not assume the community involved is a homogeneous entity.<sup>27</sup> Acciaioli has described the 2005 'conservation agreement

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20 Purnomo mentions Manupeu-Tanadaru on Sumba and Sangihe Island in North Sulawesi as other examples (Purnomo 2005, p. 7-8). The USAID financed Natural Resources Management Program (NRM) has co-operated with the Forestry Service to develop this instrument in the framework of Integrated Conservation and Development Programs (ICDPs). According to a discussion paper such agreements were necessary because 'communities do not or do not yet fully understand the aim of conservation areas in their area, suspect that they will experience a financial loss because of this conservation area, and because the managers [of the conservation areas] are not or not yet familiar with the situation and aspiration of the communities.' (Manullang 1998, p. 4).

21 Mappatoba & Birner 2004, p. 23.

22 Purnomo 2005, p. 7.

23 Acciaioli 2005, p. 18. One example is the agreement between the Katu people and the Lore Lindu National Park Authority of 1999, which for the first time recognizes the *adat* rights of the Katu people within the park area and simultaneously obliges them to sustainably exploit their land (*Kompas* 23 August 1999, 'Masyarakat Robo Behoa Jadi Bagian TNLL', Sangaji 2000, p. 19). This exploitation needs to be done in consultation with the park management (Mappatoba & Birner 2004, p. 23).

24 Mappatoba & Birner 2004, p. 26-27.

25 Acciaioli 2005, p. 18.

26 Acciaioli 2005, p. 18-20.

27 Acciaioli 2005, p. 21.



with the society of the Lindu plain' as the most sophisticated one so far: more than the earlier agreements it tries to balance the 'respect for the rights of the societies in the vicinity of the park with the control and management of natural resources'.<sup>28</sup> This is underlined by the inclusion of non-conservation issues such as human rights and agrarian-related laws and regulations. However, the most important difference with the earlier agreements is that the 2005 agreement specifies institutions for its implementation.<sup>29</sup>

Potential constraints include the persistence of a community agenda that may be more focused on gaining resources and rights than on conservation. Another problem is enforcement. In Lore Lindu, for instance, *adat* communities have followed their own objective of securing hegemony over migrants in the area<sup>30</sup> with the help of the LKD and the fact that dispute settlement and the adjudication and sanctioning of violations have been handed to the *adat* council. Although they emphasize that all people in the region are now considered as Lindu and that they all need to work together to secure a constant water supply, they simultaneously refer to their *adat*, 'the wisdom of the indigenous customary council and its members' noble ancestors' and the need for the *adat* councils to keep an eye on all settlers.<sup>31</sup> At first sight this may not appear problematic, in particular because it seems that the migrants are the ones who log the area unsustainably, but it may easily lead to social tensions between these different groups.<sup>32</sup> Furthermore, Acciaioli notes that the same members of the LKD in front of a purely indigenous audience openly questioned the role and even the existence of the national park and claimed that it would be better if the indigenous community reclaimed its territory. As in other regions, such groups claim that they would be better custodians of the environment.<sup>33</sup> In other words, this formalisation of a partnership may easily fall apart as soon as the local partner feels strong enough to more openly strive for its own hegemony, using an environmental argument.

That the conservation agreements are not enforceable is a serious problem as well. According to a TNC staff,

'they have no clout, no power. Everybody is happy about them but in practice they do not reduce the logging. You just cannot enforce them. If a road is built through

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28 Acciaioli 2005, p. 20-27.

29 Many tasks were to be performed by the LKD, including the communication between the park management and society, the socialisation of the agreement, participatory planning with the Park Management, and the supervision and evaluation of the implementation (Acciaioli 2005, p. 21-22).

30 Cf. Mappatoba & Birner 2004, p. 23

31 Acciaioli 2005, p. 25-26.

32 These future conflicts are not dependent on these agreements of course, but the agreements help to strengthen the power base of one of the groups.

33 Acciaioli 2005, p. 27.

a conservation area, the loggers will follow, so these agreements do not work either. They are also too small, too local.<sup>34</sup>

Since the agreements have no clear legal status they are not linked to the enforcement agencies of the state. So, in practice, they may increase the compliance among the signatories, but they cannot prevent outsiders from violation. Of course, the *adat* council may try to adjudicate offenders as Mappatoba has described for one village.<sup>35</sup> Yet, it is more than doubtful whether *adat* councils would also succeed in arresting professional loggers backed by the state enforcement agencies or politicians.

In sum, discourse coalitions with indigenous groups so far have been fragile and enabling only for some local groups with the potential of leading to new local conflicts. Attempts to institutionalise such coalitions in formal agreements have not been effective due to their exclusive character, their lack of a legal status, and the persistence of other objectives. Whereas the indigenous peoples have also been striving for autonomy from the central government, their struggle has been different than the one for regional autonomy and democratisation, which will be discussed in the following section.

### 27.3 THE STRUGGLE BETWEEN CONSERVATIONISTS AND REGIONAL AUTONOMISTS ABOUT THE MEANING OF CO-MANAGEMENT

This second coalition conservationists have entered into has been one with regional governments and entrepreneurs, reflected in several co-management schemes, which in 2004 became possible through a Ministerial Regulation.<sup>36</sup> Komodo National Park (abbr. KNP) and Bunaken Marine National Park (abbr. BMNP) are the two most often cited Indonesian examples. In Komodo, a US based NGO, The Nature Conservancy (TNC), has become an actor of importance. In Bunaken, the USAID financed NRM programme is the main foreign actor.

The project description of the co-management initiative in KNP and the Ministerial Regulation of Co-Management of 2004, which began development in 2001 by the Forestry Department, NRM, and TNC,<sup>37</sup> clearly represent the conservation discourse. Both state the improvement of the effectiveness of the conservation areas as the overall objective. According to the Komodo project description, the development objective of the project is to

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34 Personal communication, 2 June 2005.

35 Mappatoba & Birner 2004, p. 23.

36 Peraturan Menteri Kehutanan No.P.19/Menhut-II/2004 'Pengelolaan Kolaboratif', enacted 19 October 2004.

37 At later stages, other NGOs including the Wildlife Conservation Society, WWF Indonesia, Birdlife Indonesia and various governmental agencies also participated more or less actively in the process.

'ensure effective long-term management of Komodo National Park (KNP) by: (a) improving the effectiveness of park management through the adoption of a collaborative management approach, involving all stakeholder groups, including the Park authority (PHKA), local government, a joint venture between an international NGO (The Nature Conservancy) and a local tourism company, PT Jaytasha Putrindo Utama (JPU), and with *additional input* from local communities, government agencies and private sector organizations; [...].'<sup>38</sup>

In this project, co-management has been intended as an instrument to achieve effective park management. Although acknowledging that a shared understanding of 'effective management' and 'conservation' is something to hope for rather than to be assumed,<sup>39</sup> the ministerial regulation indeed states that conservation is the point of departure. There is thus a fundamental difference between co-management<sup>40</sup> and community-based natural resources management (abbr. CBNRM). Co-management is a 'compromise' between governmental and community control over natural resources.<sup>41</sup>

This is important for the question of who is allowed to participate in the co-management scheme. Art. 1.4 states that 'the parties' to this regulation are

'all parties that have an interest in and care for the conservation effort [...] among others agencies of the central and regional governments, NGOs, central and regional state enterprises, Indonesian enterprises, international individuals or foreign societies, scientific institutions'.

This may include local community groups, individuals from Indonesia and other countries, local, national and international conservation NGOs.<sup>42</sup> Art. 4 (5) adds as criteria that those who want to participate need to be

'(a) representatives of parties with an interest [In. *berkepentingan*] or that care [In. *peduli*] for the conservation of the reserve or conservation area' and need '(b) to have the attention [In. *perhatian*], the wish [In. *keinginan*] and the capacity [In. *kemampuan*] to support the management of the reserve or conservation area.'

This is problematic because the regulation does not state who is to decide about who fulfils these criteria, nor does it provide for a dispute resolution mechan-

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38 Singleton et al. 2002, p. 3, emphasis added.

39 For instance, art. 3 states that 'The aim of these guidelines for co-management of nature reserves and conservation areas is to achieve a shared vision, mission and strategic steps in supporting, strengthening and improving the management of reserves and conservation areas in accordance with their physical, social and cultural condition and the local aspirations.'

40 Also referred to as participatory, collaborative, joint, mixed, multi-party or round-table management (Borrini-Feyerabend, et al. 2000b, p. 1).

41 NRM/EPIQ 2002, p. 10.

42 Ex art. 4 (3).

ism. It is likely that the Forestry Department decides these matters, which results in a scheme which is very top-down and not necessarily democratic, despite the regular mentioning of the need for consensus (art. 1.6, 5, 6 (1)), mutual respect and trust (art. 4(1)), and collaboration (for instance art. 6 (4)). As it is applied in Komodo and Bunaken<sup>43</sup> the regulation limits participation to granting participants the space to reach conclusions and objectives that have been defined by the Department and donors in advance.

Conservationists never intended co-management to be a fully democratic process, involving all stakeholders in the decision-making process. On the contrary, for them co-management has been an instrument for conservation only. Co-management did not change their objectives, just as conservation did not change the indigenous peoples' agenda (see above). TNC and comparable actors in other parks are convinced that their science-based belief in the merits of conservation is correct but they do not dare enter an open debate, justifying this either by referring to the political and economic structures or, as government officials in Indonesia, by referring to the low education level of the local people and their 'irrational' way of thinking.

As a result, in Komodo PHKA, the local government, TNC and JPU thus defined themselves as the main stakeholders. The role of local communities, government agencies and private sector organizations has been limited to giving 'additional input'. From the perspective of PHKA and TNC this was both understandable and desirable. PHKA remained the most powerful actor. TNC and the other 'stakeholders' entered into an official, legal agreement with PHKA about their respective rights and duties. The other actors, however, were only allowed to play a supporting part.

Not surprisingly, this met resistance. The local population's discourse was much more about autonomy and democracy than PHKA's and TNC's. Although TNC has taken much pride in its co-management scheme, other actors have criticised it as top-down and 'denying local communities full participation in the scheme in practice'.<sup>44</sup> Participation would be limited to consultation instead of a 'dialogue to elaborate on different values and perceptions'.<sup>45</sup> That many people have not been satisfied with the co-management scheme and the overall presence of TNC in Komodo can be seen in the popular resistance against the park.<sup>46</sup>

As a TNC staff member involved in the project from the beginning observed, there had indeed been no consensus on the official version of co-management:

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43 Cf. Lowe 2003.

44 Borchers 2005, p. 2.

45 Borchers 2005, p. 8-10.

46 Afiff & Lowe 2005, Borchers 2005, Working Group Conservation for People 2008. Interesting is the shift NGO Walhi has made from an environmental discourse to one exclusively focusing on human rights issues.

'The local population thinks that co-management means that they can participate in all decision-making. Their expectations, fed by the local leaders and the local government, are just too high! The central government thinks that co-management means that others can give input but that the government remains in charge of everything and that they need not delegate anything. And NGOs finally interpret co-management as a kind of outsourcing, in which parties sign a contract and everybody complies with the contract.'<sup>47</sup>

This quote suggests that the ideas of different actors were dominated by different discourses: *Reformasi*, *pembangunan* and 'Free Market'. Thus, PHKA representatives, such as former director for the protected areas of Ramono, justified the decision to collaborate with TNC with the central government's lack of funds for effective park management.<sup>48</sup> TNC, by contrast, takes the following view: 'The best improvement so far is that the government finally admitted *that they can't do it* [manage the parks effectively] *by themselves*.'<sup>49</sup> This sentence echoes the free market-discourse: firms need to focus on their core-business and whatever is outside should be outsourced to firms specialised in this part of business. That the Forestry Department decided to let TNC play an important role in Komodo<sup>50</sup> was thus, from this viewpoint, only rational.

Local communities, or at least those NGOs and authors presenting themselves as speaking on their behalf, did not accept this dominant interpretation of co-management, demanding a stronger voice in the scheme, real alternatives for their daily fishing activities, and a more equal treatment with other actors. After all, as argued by Borchers, the ecological impact of the increase of tourism in the area which is needed to finance the park, suggests 'double standards': the fishing of shellfish and marine invertebrates is condemned as destructive and thus prohibited while tourism is conceptualised as non-destructive and thus sustainable.<sup>51</sup>

According to another critic, at the root of the problem is that

'the government and TNC ignore the rights of the local population as owners of the natural resources. Neither the government nor TNC ever sat together with the local population to discuss how they could manage the park together.'<sup>52</sup>

This author contests the claim of the national government to own the area and thus the power to decide what is to be done with its natural resources and how. In the same newspaper article, the author, who identified himself

47 Personal communication, 2 June 2005.

48 *Bali Post* 6 June 2002, 'Taman Nasional Komodo. Sebuah Warisan Dunia'.

49 Personal communication, 2 June 2005.

50 Including in implementation. This was the difference which would make this collaboration more effective than the one in the Leuser National Park, according to TNC staff Jos Pet (Minutes of meeting 2002).

51 Borchers 2002.

52 Stirman, Y.A., *Sinar Harapan* 2003, 'Desentralisasi Pengelolaan Taman Nasional Komodo'.

as originating from the region (In. *putra daerah*) and as a postgraduate student of environmental sciences at the University of Indonesia, rejected the concept of co-management for failing to accommodate the interests of local communities and for not being in accordance with the 'regional autonomy spirit'.

In Bunaken, like in Komodo, the interventions of the NRM programme have had some community elements, including 'active involvement in resource management', but they have primarily aimed at 'strengthening the legal and administrative basis for the park'.<sup>53</sup> The official evaluation of the first phase of the programme found that the community involvement was a failure.<sup>54</sup> Although many local actors are in favour of halting illegal fishing practices, they reject the enforcement approach in its present form<sup>55</sup> because of the position attributed to them by the discourse underlying this approach. Another reason is that they are – as in Komodo – not necessarily the ones to benefit from the privatisation of nature.<sup>56</sup> The project leaders blamed the community for trying to give the 'right' answers, and their own narrow definition of stakeholders.<sup>57</sup> That the project design itself had not created the framework for a more satisfactory participation was not considered.<sup>58</sup> Lowe convincingly describes how the fishermen were positioned as the major threat to the park and its potential income from tourism. Those who dared to contest the conservation objectives were moreover openly positioned as striving for their 'self interest', as 'irrational' and as 'in need of pre-socialization'.<sup>59</sup>

In sum, in both Komodo and Bunaken all actors tended to interpret 'co-management' in a very specific way. The co-management schemes did not provide for debating the need for or form of conservation, nor for mechanisms to resolve conflicts or disputes.<sup>60</sup> Above all they enabled donor agencies, the Forestry Department, regional governments and tourism operators to achieve their objectives while other local stakeholders felt disadvantaged.

## 27.4 CONCLUSION

The examples of donor-funded national parks dealt with in this chapter show that donor agencies have found stories that enabled them to form discourse coalitions with indigenous groups, NGOs, regional governments and tourism operators. However, in principle these stories – 'indigenous people are custodians of nature' and 'co-management' – are unspecific. Therefore the struggle

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53 Lowe 2003.

54 Lowe 2003.

55 Lowe 2003.

56 For a more positive view see Leisher et al. 2007, p. 16-20.

57 Lowe 2003.

58 Lowe 2003.

59 Lowe 2003.

60 Cf. Christie 2004, p. 19-20.

for their precise meaning (and thus the dominant discourse) continues. Indigenous communities try to specify the first story in a way excluding other local sub-groups and donor agencies try to specify the second story in a way excluding park residents. Social scientists have generally paid little if any attention to conservation successes of these arrangements but argued that they disregard the needs of local sub-groups and residents and bear the potential of new social conflicts. So far, there have no mechanisms been created to decide the struggle in a more inclusive way acceptable to all stakeholders.





As actors involved in conservation policy- and lawmaking have failed to focus on resolving problems, and thus to create good conditions for substantive effectiveness, the struggle about definitions of problems and solutions has continued in the national parks. This has seriously obstructed the implementation of the national park policy. Many problems dominating the implementation had been mentioned before the enactment of the BCA in 1990 but they had not been thoroughly discussed, let alone satisfactorily resolved. The act therefore inevitably had to fall short in effectively regulating nature conservation. In all cases, the national park authorities in the 'conventional parks' Pulau Seribu and Kutai, but also in the 'donor parks' Komodo, Bunaken, Lore Lindu and Siberut, had problems getting support from, above all, residents and other users of the parks, regional offices of other sectoral departments and regional government agencies for the national park policy. Resistance has been omnipresent as even in the form of '*pembangunan*-conservation' the conservation approach meant closing areas for most actors and because those struggling for conservation were in the minority. Apart from that, the act apparently also failed to ensure the support for conservation from the implementing government agencies themselves as the Pulau Seribu case illustrates.

#### 28.1 STORIES, ARGUMENTS AND STRATEGIES USED TO ACHIEVE COMPLIANCE, CONSENSUS AND COALITIONS

The most remarkable observation in Pulau Seribu was that during the field research in 2000 and 2001 a struggle was taking place over the meaning of 'good implementation'. Only a small group of critical rangers and one official at the office actively tried to create support for conservation. Part of their efforts was directed towards their own organisation and colleagues. They attempted to transform the park authority from the inside into a more professional and effective organisation. The official at the office tried to form coalitions with scientists and officials from other state agencies in order to break the taboo on self-chosen isolation to protect an agency's autonomy and funding possibilities. The critical rangers tried to form a consensus within the park authority on the need for more professionalism, which included better equipment and a more dedicated working ethos. They defined the lack of professionalism within the BTN and other government agencies as a major

problem for the park's effectiveness and actively fought against formalist practices of keeping up appearances. To some extent this progressive minority was successful. Some scientists and officials from other agencies were willing to co-operate. And after a change in leadership the rangers realised some of their goals. In 2000 and 2001, however, colleagues either ignored them or actively tried to discourage them as a way to criticise the implementation, positioning them as disobedient and guilty of poor performance.

More generally, in the contacts of national park authorities with their target groups, in 2000 and 2001, physical pressure or 'the gun' had lost its importance as a strategy to convince actors of the need to comply with conservation rules, since the post-Soeharto governments had embraced democracy and human rights, and put this into practice to a certain extent. Thus, strategies to build a consensus and live together in harmony, such as education and the forming of partnerships and coalitions, and even institutionalising these in agreements and co-management schemes, were now seen as the way to successful implementation.

In all cases studied in this research, some officials at the national park authority – and in the donor-funded parks also donor agencies – attempted to find a common story about conservation that was in everybody's interest in order to raise support from other actors. In some cases they specified this interest as economic welfare or protection against natural disasters. In Pulau Seribu, Bunaken and Komodo, those promoting the national park used arguments of a constant fish supply and developing ecotourism (and thus employment) to convince the local residents. In Bunaken and Komodo, donor agencies also used the story of 'co-management' to persuade regional governments and entrepreneurs to support the park. In Pulau Seribu the BTN tried to convince the regional government agencies in Pulau Seribu by referring to international conservationists and their influence on the national budget. An interesting transformation of the story of conservation being in the public interest was introduced by the director that took office in Pulau Seribu in 2003 in the form of 'nature production' for the sake of economic welfare. In terrestrial parks the main arguments in favour of conservation were related to the future potential of biodiversity, a constant water supply and protection against erosion. In Siberut and Lore Lindu the story on which a coalition was built was one of 'indigenous communities being the appropriate custodians of nature'. Only a few actors mentioned the importance of prioritizing organised environmental crime and monitoring government agencies and tourism enterprises. Those who did failed to gain the necessary support from other more powerful actors.

Reference to the law, the BCA, was also attempted as a strategy to make actors refrain from nature destruction. However, this met with little success as there was no backup or follow-up whatsoever, and other actors could easily counter with strategies of playing the uninformed or denying stories about negative environmental consequences of, for instance, fishing with poison.

In other cases, donors in particular tried to use legal agreements to make actors feel responsible for conservation, at the same time realising their limitations.

Occasionally actors also embarked on strategies to build trust. The first director of Pulau Seribu did so by creating personal relations and working in a dedicated way, thus showing the 'seriousness of government'. The director that took office in 2003 tried to win the hearts of the island residents through sports and a new approach much closer to the residents' discourse of development. Likewise, the critical rangers tried to press their own director and colleagues to work in a more professional way to earn the respect of the local residents. One could also regard strategies of donor agencies in conjunction with the Forestry Department to share authority, responsibilities and benefits in co-management schemes and Integrated Conservation and Development Programmes (ICDPs) as attempts to build trust. However, these mainly targeted certain exclusive groups, usually the regional government, some entrepreneurs and certain indigenous communities. This led to jealousy and distrust among other actors.

## 28.2 STORIES AND ARGUMENTS USED TO OPPOSE THE NATIONAL PARK POLICY AND IMPLEMENTATION

In all parks many actors have contested the national park policy and its implementation. Actors opposing the park policy focused their criticism on the concept of conservation, on issues of equality – who should benefit from natural resources – and power – who should decide about policy. Those criticising the implementation of the national park policy argued, above all, for a more professional state.

Especially in Kutai (chapter 26), the concept of conservation was contested. All arguments opposed the park in its present form and argued for more benefit for the local population. But they were based on different discourses. One neighbouring municipality acknowledge the need for conservation for protection against erosion rather than for biodiversity conservation. As did the many planters and farmers in the colonial period (chapter 10), it preferred agricultural use of the area to achieve this objective since this would directly benefit the population. Another argument in favour of a far-reaching form of *pembangunan* conservation was used by elements of the government of the new district East Kutai. It pleaded for developing the park into a tourism project with a part of the forest maintained as attraction. But the most radical argument was produced by settlers, entrepreneurs, investors and other parts of the regional government. They argued in favour of developing the entire park with unlimited logging, planting, and constructing.

Also, actors arguing in favour of more equality did not contest the un-specific idea of 'sustainable development' but more the Forestry Department's specific and exclusionary interpretation of '*pembangunan*-conservation'. In many

cases, residents perceived national parks as exclusively granting economic benefits from resources to selected groups: in Pulau Seribu, Komodo and Bunaken to tourism entrepreneurs, in Kutai to the state oil company Pertamina. This perception was not limited to the national park policy, but was part of a wider resentment against discriminatory state policies which denied poor people benefits from the state's and selected privileged groups' economic development and which people more and more equated with *pembangunan*. Remembering the 1990 parliamentary debates (chapter 18), we need not be surprised about opposition of this kind. MPs had asked questions about the economic situation of people living in or close to designated conservation areas, and wondered how to proceed with existing concessions in these areas – even if not framing their fear of ineffectiveness in terms of equity. The Minister had answered these questions either with 'we should bring development to them' or with silence.

In Pulau Seribu (chapter 25) residents used several arguments against the national park policy. One questioned the focus on conservation and favoured more development in the region, which was perceived as backwards (In. *tertinggal*). Another one was not opposed to conservation but questioned the sense of realism of the policy. Actors using this argument aimed for realistic alternatives to the restrictions the national park policy meant for them, which in their opinion ought to take the form of a different educational system and support from the BTN against traders and tourism operators. Regional government agencies, on the other hand, argued that sustainable development needed to pay attention to people rather than to turtles. Only when a park official argued that this created money for the country's development were they willing to accept conservation.

The struggle against conservation and for equality reflects a vehement struggle for power. Actors who had been in an area before it was designated as a national park feared a loss of freedom and for competition, and tried to defend their power. Others who entered the area in 1999 openly attacked the park authority to claim power.

In Pulau Seribu, both local residents and regional government agencies rejected the parks as symbols of the extended authority of the central state. Regional offices from other sectoral departments also saw the park authorities as claiming power for the Forestry Department and as competitors for money from the development budget. Local residents perceived the national park policy as above all restricting them in their freedom. Therefore, some of them, especially in Pulau Seribu, argued for more participation in decision-making as the central government's attitude to 'dump ready concepts' deprived them of the 'chance to think for themselves'.

In Kutai, a new district was formed in 1999. Its government's regional autonomy and development frame was directly opposed to the frame behind the centrally led conservation areas. The district government therefore argued in favour of delegating the power over the park area to itself. In the donor

parks, groups of actors falling outside the co-management schemes in particular remained critical of what was in their eyes an exclusive and discriminatory distribution of authority. Others openly demanded regional authority over the park.

The arguments for another distribution of power remind us of the 1990 parliamentary debate concerning the concept of 'participation' that in the end was defined as being directed by the central government (chapter 18). However, in this discussion nobody anticipated that regional offices of other sectoral departments or regional government agencies would oppose conservation areas, as this did not form part of the frame of a harmonious government dedicated to nation building and the national economic development. Moreover, in 1990 nobody could have predicted the decentralisation that occurred in 1999 and the accompanying strong discourse for regional autonomy.

In addition to contesting the national park policy, just like the critical rangers (see above) local residents in Pulau Seribu also criticised its implementation. This criticism was not only aimed at the park authority, but also at the government as a whole. Apparently, many residents doubted the government's sincerity regarding conservation, as evidenced by the 'laziness' of many officials and their preoccupation with personal interest. In 1990, the 'seriousness' of the government had been discussed in Parliament, but at that time the major concern had been to convince other countries of it. Thoughts about convincing the Indonesian population had been on the mind of a few MPs but these had been wiped away by the Minister who demanded a focus on what was going well in the policy implementation instead (chapter 18).

In addition, just as respondents in the public consultation about the NRM bill did (chapter 22), local residents complained about the discriminatory implementation of the national park policy, which spared those who had already benefited most from the park: tourism entrepreneurs and visitors. The same story made local residents in Kutai (chapter 26) argue in favour of more participation – which they interpreted as sharing in the profits of economic exploitation of the park area.

### 28.3 STRATEGIES TO COUNTER THE NATIONAL PARK POLICY AND IMPLEMENTATION

Those whom the national park authorities tried to convince of the need for conservation either started to use stories belonging to the conservation discourse and thus entered into a discourse coalition with the BTNs or fought the national parks with various strategies.

In some cases, such as in Siberut and Lore Lindu, local actors effectively used 'conservation' to attract money and increase their influence. They received donor funding, status and exclusive access to resources in exchange for entering into conservation agreements. Likewise, entrepreneurs and regional govern-

ments in co-management schemes used a coalition with the BTN to gain power. In others cases it was also a strategy to silence criticism and reject power claims, as in the case of regional government agencies in Pulau Seribu. Entering into a discourse coalition with the BTN in no case automatically meant abandoning the original and often opposite objectives. In the end, most of these actors did not enter into a discourse coalition to support the cause of conservation but to maintain or gain power.

Many other actors chose to ignore the parks and their rules, play the uninformed and keep up the appearance of being open to the BTN's arguments by attending its activities without ever entering into a debate about the agency's conservation story.

A more active strategy was to deny or counter stories and arguments put forward by park authorities. In Pulau Seribu, fishermen denied that poison fishing was harmful or that they used harmful fishing methods. In an attempt to counter conservation arguments actors in several parks used the notions of *Reformasi* and malperformance of the government, the incompatibility of conservation and human rights, regional autonomy and decentralisation, participation and development. In Kutai, for instance, migrants responded to rangers' demands to respect the park boundaries by arguing that due to *Reformasi* and decentralisation the old rules no longer applied. Every attempt or request that the BTN enforce the park rules was countered with reference to human rights. In Komodo and Kutai, actors referred to regional autonomy to argue for passing on the authority over the national park to local actors. In Pulau Seribu and Kutai, various actors referred to development and participation in order to draw more benefit from the resources in the area and their role in decision-making. Especially in Pulau Seribu, the more active strategies also included alternative proposals to improve the park's effectiveness.

The East Kutai government tried to discredit the BTN to increase its own power by referring to the BTN's incompetence and positioning it as taking the side of the nature and not the people. Likewise, residents in Pulau Seribu described rangers and other park officials as 'lazy' and primarily concerned with their personal interest.

Finally, the most physical strategies, including demolishing BTN property, were used in Kutai,

#### 28.4 A SENSE OF POWERLESSNESS

Just as the quote from Ramono at the beginning of this implementation section (chapter 24) illustrates, most officials working for the Forestry Department and the parks appeared powerless in the face of the strategies used by their opponents. Except for a few rangers and BTN officials who actively searched for alternatives, they refused to take responsibility for the ineffectiveness of their agency's strategies. Most of them reacted in a somewhat indignant

manner, accusing people of a lack of discipline, respect and the will to listen and believe the BTN. Significantly, they had begun to realise and openly acknowledge that conservation was contested. Still, they were reluctant to enter into a real debate about the merits and desirability of conservation with other actors, positioning them mostly as lacking the right knowledge. Donor agencies behaved much the same. Apparently, they were not used to and afraid of having to counter the powerful discourses used by their opponents.

On the whole, the actors opposing the national parks appeared to be more influential than those promoting them, primarily because conservation was not attractive to most actors. This limited the space for development, the idea that had been dominating the minds of most people for decades and that provided much more space for them and that was therefore more acceptable than conservation. Only where 'conservation' enabled actors to achieve other objectives, where it was linked to foreign aid and budgetary security, or where it was transformed into something very similar to development, were they willing to – albeit in some cases only temporarily – reproduce it.

In addition, after the fall of the authoritarian New Order and the beginning of *Reformasi*, the Forestry Department and its national park authorities did not succeed in turning the national park policy into something new. On the contrary, it remained a symbol for more general characteristics of the New Order state – with characteristics such as top-down, centralised decision-making, pressure and violence, discrimination and exclusion, and a lack of professionalism.

Actual attempts to reform policy and implementation were often frustrated, which discouraged those involved to continue their struggle. In many parks, opponents used the discourses of regional autonomy and *Reformasi* to position all officials as not acting in the interest of the local people but rather in the interest of plants and animals and that of the central government and selected beneficiaries.

In sum, the national park policy and its implementation was heavily contested in Indonesia at the beginning of this millennium. There was little support for it – a fact which *Reformasi* and the new space it created for ideological conflict made clear.





Part V

Conclusion



Indonesia likes to portray itself as one of the three countries in the world with the richest biodiversity, which it is determined to protect. However, travelling through Indonesian national parks at the beginning of this millennium, reading through academic literature and following the news on them produced a – by no means new – picture of many reserved areas that do not deserve the name ‘protected’.

The present study of the Indonesian nature conservation policy, law, and practice has shown that at the beginning of *Reformasi* support for nature conservation was marginal in Indonesia. It has helped to make sense of national parks as a political struggle demonstrating on the one hand an internally divided state holding sway over resources and park residents, and on the other hand an increasing readiness and dedication to struggle for a new balance of power among both state and societal actors. This book has aimed to create a framework for critically following and evaluating the ongoing debate.

The fact that *Reformasi* has created space for the struggle to surface creates hope. People now actually dare to voice their different interests, and struggle for improvement of their situation. However, in the end, this struggle can only contribute to an increased autonomy of Indonesian society to find, problematise and possibly change its own way of treating nature if that same Indonesian society succeeds in defining new structures for political decision-making.

The present analysis was guided by the following questions:

- 1 Which dominant discourses can be reconstructed from policies and laws in pre-colonial, colonial and post-colonial Indonesia on the human treatment of nature?
- 2 How, i.e. with which stories, arguments and strategies, do relevant actors involved in the making and implementation of nature conservation policy and law in Indonesia struggle for discourse hegemony?
- 3 Which discursive structures constrain or enable actors in their struggle for discourse hegemony?
- 4 How does the struggle for discourse hegemony affect policy and law, policy- and lawmaking and implementation?

The following paragraphs will answer these questions.



Present-day statements that Indonesian communities have practiced conservation for a long time are misleading. Actors making such statements apply a new word to past practices with a different background. While the basic instruments for regulating man-nature relations – prohibitions of access and reservation – have remained the same throughout time, the ideas underlying the policies, rules and practices in the field of nature conservation have changed. Most importantly, the idea that extinction of species and other changes of the natural environment can be problematic and therefore should be prevented has emerged only after the arrival of the VOC.

Man-nature relations in pre-colonial Indonesia were dominated by two discourses. The first one was the spiritualist discourse (chapter 7), which was based on a general trust in the benevolence of spirits inhabiting the natural world. These spirits would take care of human needs as long as humans treated them and the rules they had agreed on together with respect. The second discourse dominating the period of the early Hindu influenced states was the subjugate-and-rule discourse (chapter 8). This discourse was even less about conserving nature than its predecessor. Its main idea was that the Hindu gods would take good care of humans if they subjugated and restyled nature into something new and based on a divine bright and ordered model. Still, also under the dominance of this discourse nature was ‘reserved’. But it belonged to the king who in return had to take care of his followers.

In the VOC and colonial period three new – this time scientific – discourses on man-nature relations gained dominance in the Indonesian archipelago. ‘Rational forestry’ (chapter 9), was the first discourse based on the idea of a potential man-made crisis that needed to be prevented: the end of timber supply. The discourse rationalised nature, reducing it to those parts of direct economic use, and aimed at improving its productivity. The second scientific discourse, ‘protection against disaster’ (chapter 10), did not become as dominant. It was the first discourse prohibiting any economic exploitation of certain reserved areas. It was concerned with another potential man-made crisis, i.e. droughts and floods caused by logging the so-called ‘jungle woods’. ‘Nature-protection’ (chapter 11), finally, was the third scientific discourse concerning man-nature relations in this period. It, too, remained contested. Its main idea was to reserve nature against any exploitation for the sake of scientific research and moral improvement and relaxation.

After Independence the Indonesian state soon continued the colonial policies based on the three scientific discourses, although there existed a strong 'social justice' counter-discourse in favour of opening the existing reserves for the common people (chapter 12). The first new discourse dominating man-nature relations was introduced by the New Order government: development or, in Indonesian, *pembangunan* (chapter 13). In this discourse nature was, as in the rational forestry discourse, conceptualised as a supplier of resources. It was reduced to a means to finance development. Interestingly, just like the subjugate-and-rule discourse, *pembangunan* attributed no value to nature in its present form but rather aimed for a new, man-made, better-ordered and more productive nature. Contrary to the rational forestry discourse *pembangunan* was not concerned with sustainability. This changed from the 1970s onward when 'sustainable development' (chapters 14 and 15) came to dominate all Indonesian policies and laws. However, being very unspecific, sustainable development has provided a shelter for development, ecological conservation and human rights arguments. Until its fall the New Order government has interpreted it as sustaining *pembangunan*, placing development at the top of the other two elements. With the beginning of *Reformasi* (chapter 15) the contestation of this definition became visible.

To conclude, despite some similarities the various discourses used to regulate access to and to reserve and protect certain parts of nature differed substantially, above all in their conceptualisation of nature. This ranged from a spiritual world with its own rules, as a pure resource supplier that humans need to take care of or even improve, to a place for scientific research, recreation and moral improvement. When trying to understand the struggles taking place from 1990 until 2005 for and against nature conservation it is important to realise that it shows that those struggling for nature conservation were divided already among themselves. However, differences in conceptualisation were not problematised in this period. On the contrary, nature conservation or the various Indonesian terms often used as equivalents (*konservasi, pengawetan, pelestarian alam, pengelolaan lingkungan hidup, pengelolaan sumber daya alam etc.*) served as a common story to hide such differences and to create support.

Just like the historical analysis of the discourses dominating policy and law, the three cases of law- and policymaking, two cases of implementation analysed in conventional national parks and four cases of implementation in donor-funded parks analysed in this book illustrate how divided those struggling for nature conservation were. Apart from that they show that ‘conservationists’ were strongly opposed by those struggling for the hegemony of other – more powerful – discourses.

The first case dealt with lawmaking under the New Order (chapter 18). When the Forestry Department in 1990 proposed a Biodiversity Conservation Bill (later enacted as Law No. 5 of 1990) to Parliament, a struggle took place between the Forestry Department and a small number of critical legislators, most notably from the PDI. Embedding its bill in the framework of the sustainable development discourse the bill reflected a clear attempt to keep *pembangunan* the dominant discourse. This did not only mean an emphasis on the superiority of the objective of economic development above conservation and human rights but also on the central leadership in the development process. Few legislators wanted or dared to question this definition of sustainable development. They struggled for more attention to conservation and human rights in the Indonesian development process, but without much success.

Important strategies of the Forestry Department in their struggle for discourse hegemony were creating the impression of a consensus and downplaying differences, using a powerful counter-discourse, and ignoring and discouraging criticism. Throughout the parliamentary debates the Minister tried to create the impression of an overall consensus, using keywords as ‘harmony’, ‘family atmosphere’ and *Pancasila*. In many other cases, the Minister just did not answer questions or misinterpreted them to avoid debate. Frequently, the Minister also discouraged criticism and praised the more docile attitude of, for example, Golkar legislators. When PDI tried to argue in favour of conservation in the whole of Indonesia, and thus against conservation limited to specific areas, the Forestry Department defended its draft with a strong counter argument in favour of ‘conservation not for the sake of conservation but in the interest of the people’. This successfully closed the debate on the scope of conservation. After all it signalled that the Department disapproved of the international conservation discourse, which it perceived as too concerned about plants and animals and not concerned enough about

people. In addition it made clear that arguing in a different way would mean not acting in the interest of the people. Likewise, when PPP and PDI pleaded for participation in the sense of an active role for the people in conservation, the Forestry Department opposed this with a definition of participation in terms of responsibility and obligations and as not more than mobilisation.

The second case (chapter 21) concerned a policymaking meeting at the beginning of *Reformasi*. In 1999 the Ministry for the Environment organised the so-called co-ordination meeting (*Rakornas*) of about 250 participants from NGOs, universities, regional environmental impact management agencies, the Ministry and the national environmental impact management agency and sectoral departments. At the meeting itself only a few critical NGO representatives fought for a new type of development with less economic growth and for meaningful policymaking (not defined any further). Apart from that, the meeting was characterised by a strong consensus. Nearly all participants agreed on the need for more attention to be paid to the environment, especially from the sectoral departments and the regional governments who with the enactment of Law No. 22 of 1999 on Regional Autonomy had received more authority in the field of environmental management. Their struggle was directed against regional autonomy and 'ego-sectoralism', the allegation that sectoral departments only thought of their own interests rather than those of the 'public'. They believed the solution to these problems was more power for the Ministry for the Environment to force others to pay more attention to the environment. Importantly, existing differences in opinion about the 'real' scapegoat and in the interpretation of concepts were not explored or debated.

The third case (chapter 22) dealt with the attempt of a coalition of environmental NGOs, academics, the Ministry for the Environment, and the National Planning Board (*Bappenas*) to prepare a radically new Natural Resources Management Act. The main story behind this bill was again 'ego-sectoralism'. With this bill, the coalition struggled for more attention to the environment within sustainable development and to delegate natural resources management to *adat* communities and other stakeholders. They did so with the stories about environmental destruction caused by sectoral departments and regional government we know from the *Rakornas*. What was new was an equal story that ego-sectoralism and regional autonomy were also responsible for human rights violations against *adat* communities. One of the main strategies of the coalition was to create the impression of a consensus on these actually contested issues. This strategy failed.

Their main opponents were the sectoral department of Forestry and of Mining and Energy who successfully struggled to keep *pembangunan* dominant. Using this very discourse, together with legal arguments, was their main strategy. The Department for Mining and Energy, for instance, argued that the act would negatively influence investments and that the stories told about problems of *adat* communities were exaggerated. Furthermore, they questioned



the legal mandate and the need for a new act and argued that each sector should – as usual – revise the existing regulations instead.

The first implementation case (chapter 25) analysed the situation in Pulau Seribu Marine National Park at the beginning of *Reformasi*. There, different types of struggles were going on between different actors. In general, the park authority tried to build support for conservation among regional government agencies and park residents. They did so with arguments for biodiversity conservation and stories about alternative sources of income and tourism development. However, their educational and enforcement strategies failed. Those regional agencies and residents who began to reproduce the new discourse did so mainly to attract money for conservation projects, to silence criticism with keeping up appearances and proceeding as usual. Many others chose to play the uninformed and ignore the park. Some responded to the call for conservation with powerful counter-discourses, including livelihood, and 'development for all'. Some were not so much opposed to conservation but struggled for a more participatory, realistic and facilitating policy that would, for instance, help them to successfully find alternative employment. Considering their concrete proposals for policy improvement they proved that letting local residents participate in policymaking could contribute to substantive effectiveness indeed.

During the field research a few rangers in the park and one official at the Jakarta office identified as the main problem the more general attitude of keeping up appearances of a well-functioning organisation while lacking commitment to the public interest and the willingness to co-operate with other government agencies. While the park director in 2000 rejected arguments for a more professional organisation as not appropriate, the director who took office in 2003 partly agreed with them and reformed the park authority. He also embarked on an interesting new strategy to gain support for conservation among park residents. He transformed conservation into 'nature production', which changed the park into something more attractive for residents: a production site of coral for aquariums. By doing so, he, one could say, improved the productivity of nature – a familiar idea of the rational forestry and also *pembangunan* discourse (see above). In addition, he listened to the arguments of rangers and residents and tried to accommodate them.

The second implementation case dealt with Kutai National Park (chapter 26). The situation there was less obscure than in Pulau Seribu as there were two main actors trying to build coalitions: the park director, who actively tried to find support for the park among entrepreneurs, residents, other government agencies and NGOs, and the head of the in 1999 established East Kutai district who actively encouraged migration into and economic exploitation of the park to support his struggle for regional autonomy and development. This case illustrates that a decade after the parliamentary debates on the BCA the debate about sustainable development continued in national parks and that those opposing conservation were not ready to fight by democratic means. Officials

of the district government, settlers and park residents argued for more development and less conservation. One neighbouring municipality produced a slightly different argument, i.e. in favour of less biodiversity conservation but more protection against erosion by opening the national park to agriculture (cf. similar arguments in the colonial time described in chapter 10). Then, comparable to Pulau Seribu, park residents also pleaded against discrimination and for more people to benefit from development, i.e. for distributing the benefits of development more equally. The strategies of physical attacks, public discrediting and non-compliance with agreements chosen by opponents of the park reflected a lack of appreciation for democracy and debate.

The analysis of the struggles in the donor-funded parks Siberut, Lore Lindu, Komodo and Bunaken differs from the previous ones in that it is mainly based on secondary sources. Chapter 27 describes three main strategies of donors, i.e. discourse coalitions around common stories, conservation agreements with *adat* communities, and co-management. All three appeared problematic. The discourse coalition around stories about *adat* communities as the appropriate custodians of nature, after some time, turned out to be fragile. The discourse of the NGOs increasingly transformed into one trying for regional autonomy. Legal agreements on the other hand were perceived as too weak and socially exclusive. Co-management schemes finally were the most contested in the parks, mostly with arguments for a more inclusive definition of participation and for more regional autonomy. The chapter also shows that the socio-scientific literature criticises donor agencies for their narrow conceptualisation of participation, their disregard of local needs and their potential to create new social conflicts.

In sum, the cases illustrate that not many actors struggled for nature conservation. Some of them did so only for strategic reasons. On the other hand, opposing nature conservation was definitely not a matter of a lack of knowledge but rather a conscious choice to pursue different values. The most important struggles concerned whether and what kind of development, conservation or human rights protection should dominate sustainable development, whether the central or the regional government or *adat* communities should be the dominant actor in natural resources management, and what was required for 'good implementation'. In policy- and lawmaking conservation was successfully countered with *pembangunan* and in national parks with regional autonomy, development or equal development or human rights discourses.

From 1990 until 2005 the strong structures of the *pembangunan* discourse have dominated Indonesian policy- and lawmaking and implementation in the field of nature conservation. Even where the structures had become weaker, the behaviour of many actors still reflected a persistent, unconscious acceptance of some of the old structures.

In the 1990 case, *pembangunan* structures helped the Minister to close debates and ignore criticism. The structures included the following: first, that legislators should not question the leading role of the central government in policy- and lawmaking and implementation. This implied a prohibition to criticise government practices. Second, that development (economic growth) and stability were the two most important policy objectives. Third, that specified concepts, such as development and public interest, were not to be debated. Fourth, that one should not insist on answers, or make demands or compromises. Such structures allowed the Minister to avoid answering questions, to fob legislators off with promises where guarantees had been demanded, to get away with misinterpreting questions, to postpone decisions and press for a fast enactment at the expense of the quality of the lawmaking process. Obviously, these structures were above all disadvantageous for those legislators who disagreed with the Forestry Minister.

A general change with the beginning of *Reformasi* was that the structures that prohibited blaming the government or discussing an issue had become much weaker. *Reformasi* thus created a new space for criticism of policy, law and practice. This enabled all participants of the Rakornas to talk more openly about their grievances, which they readily did. It also enabled all participants to blame government actors, something *pembangunan* had prohibited. In fact, blaming sectoral department and regional governments had become a new structure, it seemed. Government officials that would have normally blamed 'the people' would lose their credibility at these meeting, as would those who did not argue in favour of more attention to the environment. In addition, new words had become popular, such as *Reformasi*, regional autonomy and ego-sectoralism.

What stayed the same were mainly *pembangunan* practices. Most importantly, the format of debates had remained the same. The guiding concept for this format was 'giving input' (In. *masukan*) without any obligation for the Ministry to define criteria for accepting or rejecting such input. Actors accepted this without complaints and exchanged comments rather than engaging in in-depth

debates about concepts or other critical issues. Likewise, just like legislators in 1990, participants in 1999 did not insist on answers, as for instance when arguing for more details on the implementation in the proposed action plans. They did not use the space *Reformasi* had created to introduce new practices.

A few years later, in the case of the Natural Resources Management Bill, which showed many similarities with the *Rakornas*, another shift occurred. The sectoral departments made clear that they were no longer willing to accept being scapegoated and thus openly countered the structure of the discourse dominating the bill (of defining delegation of power to *adat* communities) as an important way to improve environmental protection. Eventually, countering this with *pembangunan* arguments was an important step. It forced the coalition to reformulate the bill and paved the way for introducing a new but familiar concept in the bill – ‘co-ordination’ -, which NGOs perceived as a mere instrument to keep up the appearance of a well-functioning state but without any substantive meaning.

In 2000 and 2001, also in Pulau Seribu and Kutai, *pembangunan* structures played a role, although the situation in the two parks differed. In Pulau Seribu similar structures as those described for policy- and lawmaking still dominated the situation. These included that park officials were the ones to listen to (during education activities) and to obey (when enforcing the law). Neither they nor rangers and other officials working for the park authority were allowed to criticise policy, law or implementation. For the park personnel that meant above all not criticising their superiors. Many residents accepted the passive role the BCA and the *pembangunan* structures had attributed to them. Others kept up the appearance of accepting them while ignoring the park. Others again openly contested the *pembangunan* rules and increasingly produced counter-discourses. The rangers were also divided. Some accepted the structures, others acted as if not attending work and searching additional income instead. Few others openly produced critical counter-discourses in favour of more professionalism. While avoiding direct contact with residents the park director in any case did not accept counter-discourses from his staff. He, for instance, sanctioned one critical ranger with demotion. His successors partly accepted the rangers’ and residents’ criticism and started to reform the agency and its approach.

In Kutai, the park authority had no choice but to listen to its main competitor, the head of East Kutai district. He profited from *Reformasi*’s structures allowing criticism of the central government, and from the structures of the human rights and the *pembangunan* discourses which did not allow denying people access to nature, arguing that this would mean valuing nature above people. Eventually the struggle led to negotiations between the park director and the district head about an enclave in the park. Determinant in these negotiations was that the district head kept up the appearance to go along the path of democratic debate, compromise and honouring agreements while in practice leaking information to his supporters and tolerating their physical

attacks of the park infrastructure. The park director, on the other hand, had no means to force his opponent to stick to the rules of the game.

In general, most debates that took place in the various cases can be qualified as debates free of obligations. Although some structures of *pembangunan* weakened with the beginning of *Reformasi*, many actors in favour of substantive reforms did not know how to effectively use the new freedom. In general, *pembangunan* structures and the persistence of related practices were advantageous for actors not willing to pay more attention to counter-discourses.



At least three characteristics of the struggles for discourse hegemony described in this book affected nature conservation policy and law and the implementation in a fundamental way.

First, the debates were not structured by a discourse on problem solving but by the *pembangunan* discourse. The format of debates in policy- and lawmaking was to make comments without the possibility of insisting on relevant answers or the criteria for allowing influence in decision-making or not. Even when the *pembangunan* structures became weaker many actors did not develop an alternative – *Reformasi* – model that went beyond the demand for more, unspecified, participation. As a result, many actors insufficiently debated contested concepts and issues and inadequately challenged draft policies and bills. In the case of the Natural Resources Management Bill they insufficiently countered arguments. It is, for instance, surprising that the coalition did not try to counter legal arguments against their bill with a debate on the rule of law. However, although the coalition claimed to strive for a radical change and more than in the other cases put elements of the rule of law on the agenda – including the attempt to curb unjust state power and create an instrument to guarantee human rights of the second and third generation through, among other things, the formulation of legal and moral principles – the concept itself played no role at all and the coalition accepted that their opponents interpreted the rule of law in terms of sticking to the existing laws and procedures. In the end, the BCA and the draft environmental paragraph for the GBHN 1999 reflected their drafters' discourse with an emphasis on political rather than substantive effectiveness (see also chapter 4 and 20), and the Natural Resources Management Bill was watered down and put on hold.

Another effect of the lack of debate on the mechanism for problem solving was that the outcomes of the policy- and lawmaking processes were *also* free of obligations. To start with, they lacked details for the implementation, which granted discretion to government or the leading agency and thus a lot of space to proceed as usual with discrimination and inertia in the implementation. Then, they lacked obligations to translate *all* discourses reproduced in a policy or law into practice, which enabled the government to use policies and laws to silence criticism and proceed as usual. Finally, they lacked control mechanisms for the implementation. Bureaucrats had, for example, only to account for how much of their budgets they had spent and not what they had achieved

with the money. As a result, policies and laws lacked substantive effectiveness. Consequently some critics regarded them as unimportant and without any force. Others suspected, notably, that law was mainly used as a political resource, for instance to silence criticism or to gain control over an area's resources. In reaction, they tried to get ahold of other legal resources to justify their own access to the same area, as in the case of Kutai. This use as a political resource made law useful to actors and simultaneously undermined its authority because it created distrust in and disrespect for the rule of law.

The second characteristic of the struggle for discourse hegemony in policy- and lawmaking and implementation was the attitude of keeping up the appearance of a well-functioning state. In Pulau Seribu, for instance, many officials from the park authority appeared insufficiently interested in making conservation work. They planned and organised activities without interest in their effects and produced ritualised reports and evaluations without relevant information. Behind this façade, critics suspected, they were preoccupied with raising budgetary money for 'projects' and for themselves or their allies. Likewise, for many actors policy- and lawmaking seemed to be about planning and producing policies and laws as a 'development project' (In. *proyek*). However, not only state actors but also certain NGOs (e.g. in Siberut) and local residents (in Pulau Seribu) adopted an attitude of keeping up appearances of being good conservationists or good citizens, giving what donors or the government requested from them. The persistent attitude of keeping up appearances among various actors and of not calling them to account for it made it possible for many actors to escape responsibility. Above all, this created mutual distrust and disrespect among citizens, NGOs, and state officials, which even persisted when policies and practices were improved, as Pulau Seribu has shown.

In sum, a discourse on problem solving and on calling each other to account could possibly help to improve policy- and lawmaking and implementation in the field of nature conservation in Indonesia. However, even with better structures for the political struggle and calling actors to account in policy- and lawmaking and implementation it will take time for actors find trust in each other.



So far, NGOs and donors have sought alternatives for persuasion and strict enforcement in nature conservation strategies in a redistribution of power. Co-management schemes and the plea for delegating natural resources management to local or *adat* communities are examples for this strategy. Due to their exclusiveness these are problematic, however, as the cases in chapter 27 have demonstrated. Creating new power structures outside the existing state structures without creating new structures for the political struggle will not solve but only displace problems.

Thus, the political struggle about nature conservation could benefit from a discourse providing specific new structures for this struggle. Earlier in this conclusion I defined some possible principles to improve debates, including that actors should be obliged to produce well-considered arguments, listen and react in a satisfactory way to the arguments of opponents, and aim for convincing others or reaching a compromise. Such principles could help to keep the debate going.

We could derive another principle from the problem-solving methodology developed by Seidman and Seidman (chapter 4) who have argued that actors involved in lawmaking should justify in a report why they chose a certain approach and solution. Departing from there we could formulate a principle of justification needed as a structure to account with well-considered arguments for political choices.

In addition, an obligation to apply objective criteria for weighing interests in policy- and lawmaking and implementation could be another helpful structure. After all, the building blocks of sustainable development – development, conservation and human rights – represent different legitimate values in their own right. Acknowledging conflicts of interest and values as natural and finding ways to weigh them could help to keep the debate open. For national parks this could mean creating deliberate bodies representing all stakeholders and possessing the authority to solve conflicts of interests.<sup>1</sup> Legal

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1 See the literature on multi-stakeholder approaches (Hemmati 2002, Borrini-Feyerabend, et al. 2000a, Hämäläinen, et al. 2001); see also for a more general theory Habermas 1981 and the literature on deliberative democracy, for instance, Gutmann & Thompson 2004 and Gundersen 2000.

theory about the criteria used in judicial weighing of interests could serve here as a source for inspiration.<sup>2</sup>

Apart from finding and agreeing on such structures it would be necessary to train teachers and students in these structures and in debating techniques. One such technique would be how to create compelling, evidence-based arguments that aim for problem-solving à la Seidman and Seidman: through formulating hypotheses based on questions about the empirical reality, systematically examining these hypotheses, and proposing solutions based on evidence. Another technique would have to focus on ways to force opponents to do the same. This is related to the second agenda: calling others to account.

To make processes more transparent and controllable for the public it would be wise to make as much information about political decision-making as possible accessible to the public. Research reports for new legislation and the parliamentary minutes could be published on the internet and meetings of deliberative bodies for national parks should be open. Training teachers and students in discourse analysis would help interested people to monitor the political debate and to expose behaviour of those not interested in problem-solving and to call them to account.

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2 See, for instance, Stoter 2000.

## Epilogue

After the debates in 1990 two important developments regarding nature conservation policy and law have taken place. One is related to the process of lawmaking: in 2004 a new act on lawmaking was enacted.<sup>1</sup> This act, among others, provides a more extended role for regional parliaments and society as a whole. Art. 53, for instance, stipulates that 'the people have the right to give oral or written input during the preparation and parliamentary debates of a bill or proposed regional regulation' without, however, guaranteeing that the government will take this input into consideration. This is unfortunate as it still leaves the government a wide discretion instead of specifying criteria for assessing and accepting such input.

The second development is related to the BCA itself. The Forestry Department has started thinking about revising the act. According to a December 2006 draft of the academic background paper for this revision there are several reasons for this. First, the BCA does not regulate the protection of unprotected species enough. This implies a possible broadening of the concept of conservation. However, it still does not go as far as PDI demanded in 1990, i.e. to broaden the concept to the whole area of Indonesia instead of limiting it to specified reserves. Second, the paper acknowledges the need for regulating the distribution of the benefits of genetic material, which is a reaction to recent developments of so-called biopiracy where multinational and foreign enterprises try to get ahold of patents for genetic material discovered in developing countries. Next regarding this new interpretation of conservation, the paper pleads for redefining public participation to include a more active role of the broader public and to even let the public benefit from natural resources. A third issue addressed is the ineffectiveness of law enforcement. The appropriate way suggested is to increase sanctions rather than to analyse the causes of this ineffectiveness. Finally, there is renewed attention to financial issues as the draft paper states that the act should increase the state income from natural resources exploitation and regulate the reinvestment of this income in conservation activities.<sup>2</sup>

It is good to see that the Forestry Department takes an interest in revising the BCA. However, it remains to be seen what will be changed. In addition,

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1 Act No. 10 of 2004.

2 Academic draft on revising Act No. 5 of 1990.

future analysis will have to make clear to what extent the new lawmaking practices will provide for realising any far-reaching redefinitions of contested concepts. In this context, it will be very interesting to analyse which stories, arguments and strategies the Minister will use and how much space he will give to the MPs to influence the final result.<sup>3</sup> Most importantly, it remains to be seen whether the lawmaking discourse will have changed in such a way that the MPs will be interested in and feel powerful enough to put the weighing of interests on the agenda, insist on answers and strive for mechanisms to ensure an act aiming for more substantive effectiveness of nature conservation in Indonesia.

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3 Cf. observations by the Centre for Indonesian Law and Policy Studies (Pusat Studi Hukum dan Kebijakan Indonesia, abbr. PSHK) that there is a general increase in public debates but that the government still dominates the lawmaking process (PSHK 2007).

## Samenvatting (Summary in Dutch)

'Discussiëren' over natuurbehoud: beleid, recht en praktijk in Indonesië - een discours analyse van verleden en heden

Dit proefschrift gaat over de politieke strijd die in Indonesië gevoerd wordt over natuurbehoudbeleid en -recht, over hoe dit beleid en recht tot stand komen en uitgevoerd worden. Door middel van een analyse van welke discourses de verschillende processen van beleidsvorming, wetgeving en implementatie en hun resultaten domineren onderzoekt deze studie hoe deze politieke strijd het falen van het nationale parkenbeleid kan verklaren. Verklaringen worden gesignaleerd in zowel processen van beleidsvorming en wetgeving als in het proces van implementatie.

In deel I constateer ik dat de nationale parken in Indonesië er aan het begin van dit millennium slecht in slaagden de biodiversiteit te beschermen. De steeds terugkerende verklaringen van verschillende soorten actoren hiervoor hebben mij aangezet tot een discours analyse. Daarin begrijp en analyseer ik nationale parken, beleidsvormingsvergaderingen en het parlement als arena's voor een politieke strijd, waarin actoren hun definitie van het probleem en de oplossingsrichting proberen dominant te maken. Met een viertal vragen heb ik getracht inzicht te verkrijgen in deze strijd: Welk discours heeft door de tijd heen het beleid en de regels voor de menselijke omgang met natuur gedomineerd? Hoe proberen actoren hun discours dominant te maken? Welke discursieve structuren ondersteunen of belemmeren hen daarbij? En welk effect heeft de strijd op beleidsvorming, wetgeving, uitvoering en de resultaten van deze processen? Naast deze inleiding positioneer ik dit boek tussen andere academische studies en bespreek ik het theoretische kader dat ik in dit boek gebruik heb. Hierbij is het vooral van belang dat ik discours opvat als iets dat door denkkaders, verhalen, argumenten en praktijken gemarkeerd wordt en dus niet alleen in woorden maar ook in daden weerspiegeld wordt.

Na de inleiding en bespreking van het theoretische kader betoog ik in deel II aan de hand van een historische analyse dat regels voor de omgang van mensen met natuur in de Indonesische archipel door de tijd heen weliswaar vaak op elkaar lijken maar toch zeven verschillende discourses reflecteren. Alleen de koloniale discourses en een bepaalde vorm van het duurzame ontwikkelingsdiscours zijn gebaseerd op de idee dat natuur in een crisis verkeert. De idee dat natuur behouden dient te worden in haar 'oorspronkelijke' (in de praktijk vaak de huidige) staat is alleen terug te vinden in het

romantische natuurbeschermingsdiscours dat wetenschappers vanaf het begin van de 19<sup>e</sup> eeuw begonnen te propageren. De andere discoursen zijn of gebaseerd op de idee dat er altijd weer iets in de plaats zal komen voor een soort dat uitsterft, zoals het spirituele discours, of dat het juist aan de mens is om de natuur te 'verbeteren', zoals het onderwerp-en-heers-, het rationele bosbouw-, en het Indonesische ontwikkelingsdiscours *pembangunan*.

De discoursen zijn, zo betoog ik verder, met betrekking tot toegang tot natuur in het belang geweest van verschillende actoren. Het prekoloniale spirituele discours heeft voor lokale gemeenschappen de mogelijkheid gecreëerd om natuur te claimen en de toegang voor niet-leden te reguleren. Het onderwerp-en-heers-discours heeft er voornamelijk toe gediend om de macht van de heersers van de eerste Hindoestaten ten opzichte van de bestaande lokale gemeenschappen te legitimeren. Het rationele bosbouw-, bescherming tegen natuurlijke catastrofes-, en natuurbeschermingsdiscours heeft de koloniale Dienst voor het Boschwezen en wetenschappers de mogelijkheid gegeven natuur te claimen en voor andere actoren af te sluiten. Dezelfde mogelijkheid hebben de discoursen van ontwikkeling en duurzame ontwikkeling later voor het Indonesische Bosbouwministerie gecreëerd. De politieke strijd over natuurbehoudbeleid is met andere woorden ook altijd een geweest over wie natuur mocht claimen en de toegang tot natuur mocht reguleren. Pogingen om de macht over natuur te grijpen zijn vaak hand in hand gegaan met de introductie van een nieuw discours.

In deel III staat een analyse van drie casussen van beleidsvorming en wetgeving centraal. Hier onderzoek ik niet alleen welke discoursen deze processen gedomineerd hebben maar ook hoe actoren getracht hebben ervoor te zorgen dat hun discours ging winnen van dat van hun opponenten, welke discursieve structuren hen daarbij wel of niet hebben geholpen en hoe de politieke strijd de resultaten van deze processen beïnvloed heeft.

De eerste gevalstudie betreft de parlementaire discussies over de Indonesische Natuurbeschermingswet in 1990. De verhalen en argumenten die door de Minister en de verschillende fracties in vragen en antwoorden naar voren werden gebracht laten vooral het structurerende effect van het Indonesische ontwikkelingsdiscours zien. Verhalen en argumenten gerelateerd aan *pembangunan* dienden daarbij vooral om debatten over onderwerpen en concepten die voor meerdere interpretaties vatbaar waren te voorkomen of te sluiten. Daarnaast waren er ongeschreven regels behorend bij dit discours die ervoor zorgden dat parlamentsleden niet insisterden op antwoorden van de Minister. Aangezien ook de kritische parlamentsleden van de democratische en islamitische fracties het *pembangunan* discours gebruikten om hun doelen te bereiken kon de Minister hen gemakkelijk buiten gevecht zetten. De wet waarin dit proces heeft geresulteerd legt dan ook de basis voor een centralistisch en autoritair natuurbehoudregime met een hoog symbolisch karakter dat geen garanties biedt voor materiële effectiviteit doch met de introductie van natio-

nale parken de mogelijkheid creëert voor (beperkte) economische ontwikkeling in natuurgebieden.

Aan de hand van de tweede gevalstudie, een grote driedaagse coördinatie-bijeenkomst georganiseerd door het Milieuministerie, betoog ik dat *pembangunan* ook in 1999, kort na de val van het Soeharto regime, nog steeds het debat over natuurbehoud heeft gestructureerd. Weliswaar heeft het nieuwe *Reformasi* discours ervoor gezorgd dat er meer ruimte voor het naar voren brengen van verschillende ideologieën kwam en was er een consensus dat er meer aandacht voor het milieu diende te komen. Echter de manier waarop gedebatteerd is, met veel ruimte voor inbreng van andere departementen en weinig ruimte voor diepgang, en de weinig transparante manier waarop het Milieuministerie inbreng van de deelnemers wel of niet heeft gehonoreerd in het einddocument, weerspiegelden nog steeds *pembangunan* praktijken. Het Milieuministerie toonde zich geen voorstander van vergaande hervormingen. Actoren die wel voor bijvoorbeeld meer burgerparticipatie in het beleidsproces of voor minder economische groei pleitten, hebben niet geïnsisterd op hun afwijkende verhalen en argumenten en geen diepgaand debat afgedwongen. De bijeenkomst resulteerde dan ook in een document zonder verrassingen.

Zelfs de coalitie van NGO's, Milieuministerie, en het Nationale Ontwikkelingsplanbureau is met haar post-2000 voorstel van een wet betreffende het beheer van natuurlijke hulpbronnen uiteindelijk tegen de voortdurende dominantie van het *pembangunan* discours aangelopen, zo betoog ik verder. Het wetsvoorstel beoogde voornamelijk een herverdeling van macht van de sectorale departementen naar lokale gemeenschappen met als doel betere milieu-bescherming. In de interdepartementale besprekingen zijn echter de Ministeries voor Bosbouw en voor Mijnbouw en Energie er in geslaagd om het proces te stoppen met verwijzing naar de negatieve gevolgen voor investeringen die deze wet zou hebben en juridische argumenten tegen de invoering van een kaderwet die sectoren tot hervormingen zou verplichten. Ook in dit geval is er niet gedebatteerd maar zijn er voornamelijk commentaren uitgewisseld. Slechts een enkele keer probeerde een lid van de coalitie een gezamenlijk verhaal te lanceren met als doel de oppositie voor het wetsvoorstel te winnen. Deze pogingen leverden echter niet het gewenste resultaat op.

In deel IV onderzoek ik de uitvoering van het nationale parkenbeleid. Ook hier buig ik mij weer over de vragen welke discoursen deze processen gedomineerd hebben, hoe actoren voor de dominantie van hun discours hebben gestreden, welke discursieve structuren hen daarbij wel of niet geholpen hebben en hoe de politieke strijd de resultaten van deze processen beïnvloed heeft. Ik betoog hier dat ook in de nationale parken geen open debat over beleid en uitvoering gevoerd werd.

De eerste gevalstudie - Pulau Seribu - laat bij zowel veel overheidsdienaren als doelgroepen van het beleid vooral praktijken van 'de schone schijn hooghouden' van een consensus over het te voeren beleid zien. Slechts weinig actoren hebben ervoor gekozen om openlijk voor verandering te strijden. Het

parkbeheer positioneerde zich in 2000 vooral als een instantie die in een eenrichtingscommunicatie bewoners, gebruikers en andere overheidsinstanties op hun verantwoordelijkheid voor het behoud van het koraal moest wijzen, zonder echter zelf verantwoordelijkheid te willen dragen voor het resultaat van deze aanpak. Regionale overheden gingen weliswaar een discourscoalitie aan met het parkbeheer maar hun praktijken lieten zien dat zij dit voornamelijk deden om hun autonomie te behouden. Ook veel bewoners hielden de schijn hoog dat zij volgzame burgers waren terwijl zij eigenlijk het beleid en zijn uitvoering afkeurden en de parkregels ignoreerden. Slechts een kleine groep bewoners en kritische boswachters uitten openlijk kritiek. Zij richtten zich in het bijzonder tegen praktijken van het parkbeheer (en andere instanties) van 'de schone schijn ophouden' van een professionele en met het publieke belang begane overheid. Bewoners richtten zich verder tegen het centralistische, onrealistische en discriminerende karakter van het beleid. Opmerkelijk was dat deze kritiek in sommige opzichten effect heeft gehad. De directeuren die in 2003 en in 2005 in het park aantraden hebben zowel getracht het parkbeheer te professionaliseren als een realistischer natuurbehoudbeleid te creëren.

In Kutai, zo betoog ik verder, was er wel sprake van een open strijd. Het parkbeheer probeerde een coalitie te smeden met omringende bedrijven, NGO's en bewoners, maar werd verrast door de in 1999 doorgevoerde decentralisatie. Op dat moment begon een nieuw geschapen district grenzend aan het nationale park onder het mom van 'ontwikkeling', 'regionale autonomie' en 'mensenrechtenbescherming' het park te claimen. Het parkbeheer verloor de strijd doordat zijn tegenstanders het park als symbool van een centralistisch autoritair regime wisten te positioneren. Daarnaast voerden zij geen democratisch debat maar creëerden telkens een nieuwe werkelijkheid door onder meer migranten uit te nodigen zich in het park te vestigen..

Ook in de donorgefinancierde parken Siberut, Lore Lindu, Komodo en Bunaken, werd geen open debat gevoerd over het nationale parkenbeleid. Donoren, inheemse groepen, NGO's, regionale overheden en ondernemers vormden daar discours coalities rond twee verhalen: 'inheemse groepen zijn goede natuurbewakers' en 'co-management'. Onder de mantel van deze twee verhalen die actoren ogenschijnlijk in staat stelden om tegenovergestelde belangen te verzoenen, streden zij echter verder om de precieze invulling ervan. Door hun exclusieve interpretatie hebben zij andere actoren weten af te sluiten van hun toegang tot natuur en hulpbronnen wat tot nieuwe sociale conflicten kan leiden.

In deel V trek ik tenslotte algemene conclusies uit het onderzoek. Centraal staat hierbij dat het debat over natuurbehoud voor een groot deel nog steeds gestructureerd wordt door de autoritaire nadruk op consensus en dat *Reformasi* tijdens de onderzoeksperiode nog geen bevredigend alternatief hiervoor had opgeleverd. Ik betoog daarom dat de politieke ontwikkeling in Indonesië gebaat zou zijn bij het openlijk erkennen van het bestaan van verschillende belangen en bij het ontwikkelen en implementeren van nieuwe regels voor



de politieke strijd. Deze zouden erop gericht moeten zijn dat debatten hun vrijblijvendheid verliezen en gericht worden op het wegen van belangen, oplossen van problemen en elkaar tot verantwoording roepen, en dat actoren met verschillende belangen met elkaar in gesprek blijven.



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## Appendix

### Discourse analysis as approach: retrospection and self-reflection

In socio-legal studies, discourse analysis in the form chosen in this study is a new approach. It has been adopted to gain a better understanding of the forces in favour of and against nature conservation in policy and law, policy- and lawmaking and implementation in past and present Indonesia and to link the findings about forces in these contexts to each other.

Another strength of discourse analysis has proven to be its potential to help make debates more transparent. Discourse analysis could help to force participants in a debate to take responsibility by exposing actors trying to escape responsibility and not practicing what they preach.

The chosen approach had implications. It has been necessary to neglect the advice to limit discourse analyses to situations and texts with a limited, well-demarcated body of data. It is true, there is a clear tension between trying to cover as many actors as possible and their arguments and strategies in a political struggle throughout history and keeping the data-load workable. However, without doing so, many of the valuable results would have been missed. The results of this study go beyond participating in the debate about what part of sustainable development to focus on and link the policy debate to the one on governance and rule of law. In a country where powerful discourses have structured policy- and lawmaking and implementation to the sole advantage of an elite, exclusively focusing on policy discourses means ignoring a huge part of reality hidden behind the façade of techno-legal structures, and insufficiently challenging the game designed and defended by those in power. By addressing the policy discourse *and* the discourses structuring policy- and lawmaking and implementation, the present study wants to contribute not only to the field of nature conservation but also to the field of Indonesian law, administration and politics in general.

One question that remains is how to justify my selection of discourses.<sup>1</sup> Recalling what has been said about frames, the problem becomes more apparent. How am I to construct or reconstruct frames in a neutral way? After all, no one person is free of frames.<sup>2</sup> My main frame has been the one of a discourse analyst which made me interpret, conceptualise and categorise what

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1 Cf. Jaworski & Coupland 1999, p. 36.

2 Schön & Rein 1994, p. 36; Burman 2003, p. 3.

I see in a particular way, and which made me present it in this book in the form of a particular story with accompanying arguments.<sup>3</sup>

Looking at the conclusions I draw from this study a clear bias becomes apparent: a bias for democracy and accountability, as I tend to define authoritarian structures and the attitude of keeping up appearances as major problems. Another initial bias has been one for conservation. Later, I opened my mind to other frames. During this process I discovered that what I value more than conservationism is the fact that I am *free*: free to choose for a conservationist way of life or not, and free of fear and distrust.

A final bias I discovered was one for a scientific kind of rationality. How many times did I have to remind myself that policy, policymaking and implementation did not necessarily need to be about content? Deep down in my head I kept assuming that all the actors I studied shared some of my own frames of policy and law, policy- and lawmaking and implementation and that they just like me looked at policy and law as defining the best way to solve a problem. How long did it take me to realise that defining the problem and solution were highly contested and that many actors therefore could well be driven by some other rationality?

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3 Compare for Stone who noted that '[a]nalysis is itself a creature of politics; it is strategically crafted argument, designed to create ambiguities and paradoxes and to resolve them in a particular direction' Stone 2002 (1988), p. 8.

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## Curriculum vitae

Julia Arnscheidt was born in Siegen, Germany, on November 16, 1970. At the age of 16 she lived for one year in Indonesia as an exchange student. Having completed her secondary education (at the Arndtgymnasium in Krefeld) in 1990, she moved to the Netherlands to learn Dutch and enroll in Indonesian Studies at Leiden University, where she specialised in Indonesian politics and law. In 1996, after semesters at Cologne University and Monash University (Melbourne), as well as several longer visits to Indonesia, she obtained her masters degree. Three years later, after having worked for a Dutch trade union, she started her PhD research as a member of the Indonesia Netherlands Study on Environmental Law and Administration (INSELA) programme at the Van Vollenhoven Institute at Leiden University. In addition to her research activities Julia Arnscheidt has co-edited a volume on lawmaking for development and was involved in a research project studying land tenure legalisation in nine countries in Asia, Africa and Latin America. Until 2004 she taught acculturation and language courses to, among others, consultants leaving for Indonesia. In 2007 Julia Arnscheidt completed a course on co-active coaching at the Coaches Training Institute. At present she is building a coaching practice on the Dutch island of Schiermonnikoog. Julia Arnscheidt is married and has three children.

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