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Rethinking Adat strategies: the politics of state recognition of customary land rights in Indonesia

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7

After the victory: The implementation of legal recognition and tenure security

7.1. Introduction

The final stage in the process for legal recognition of customary forest rights (as in the analytical framework applied in this research) is the post-legal recognition phase. This phase includes both the implementation and the impact of legal recognition. The post-legal recognition phase has not been clearly defined in state regulations. Only a very limited number of local communities in Indonesia have obtained legal recognition, so this phase has not been widely investigated. This chapter is intended to fill that gap. The central questions are: How is the legal recognition of customary forest being implemented, in practice? What is the impact of state recognition on local community members? Who benefits most from legal recognition, and why does the recognition of customary land rights provide tenure security for local land users? Lastly, does the formalisation of customary land rights lead to the formation of a land market?

Again, this chapter discusses the Kasepuhan Karang community case as a follow up to chapter 6, concentrating on the situation after recognition. I begin with an exploration of the assumptions and expectations regarding post-legal recognition in state regulations, scholarly literature, and the narratives of various actors involved in the implementation of legal recognition. Furthermore, I examine activities in the field by different actors, following legal recognition. The Kasepuhan Karang community case shows that legal recognition is important for rural development, because recognised communities can become the recipients of development projects. This chapter shows that, like obtaining legal recognition, the implementation phase is not a one-sided, top-down process from the government to adat community members. Various actors, with their own interests and strategies, shape the meaning of customary forest recognition.

Besides analysing the actors and processes involved in the implementation of legal recognition, this chapter also analyses the impact of customary forest recognition on tenure security and the development of a land market. The case findings suggest that legal recognition of customary forest as communal property does not

guarantee full land tenure security for individual land users. Some individual land users worry that customary forest status will reduce their access to land which they have cultivated for decades. In response to this situation, the village head in Kasepuhan Karang initiated the possibility of informal land registration for plots of land within the customary forest. The establishment of informal land registration, in this case, shows how individual and communal, as well as formal and informal, land management has become intertwined with the implementation of legal recognition, and how this has resulted in a hybrid model of land governance. With these findings, the chapter challenges Indonesian activists' and academics' main assumptions regarding the concept of customary land tenure. Furthermore, I will analyse whether the formalisation of a local community's land rights, through customary forest recognition followed by informal individual land registration, encourages the establishment of land markets within that community. A common assumption by the proponents of land tenure formalisation is that formalisation transforms the land into an asset that can be integrated into the market system, for examples transforming land into an asset for mortgaging and transaction. The lack of state recognition for customary land rights is considered to affect people's tenure security, which in turn impinges on people's social-economic security and development (Ubink 2009:7).

7.2. Assumptions and expectations regarding the implementation of customary forest recognition

Formal state recognition of customary forest rights might seem to imply a self-evident legal status, which provides the community involved with a new land regime, and clear rules on rights and obligations. However, in practice, that is not the case. Many stakeholders will try to realise the objectives that legal recognition entails from their own perspective. Implicitly, they either assume or expect that recognition will have specific effects. Here I distinguish between the assumptions that have been described in literature on customary land tenure recognition, the provisions in customary land right regulations, and the expectations from stakeholders directly involved in the legal recognition process.

From my academic literature review on the legal recognition of customary land rights, I found that the first assumption is that local communities will maintain their recognised customary forest in a way that protects the sustainability of the forest. This is in line with the assumption that local communities can manage the forest in more

sustainable ways, when that management is controlled by local and traditional institutions (Colchester 1994). The second assumption is that adat communities will maintain a permanent property relationship with their land. Therefore, customary land is inalienable, and any attempts by adat community leaders or individual land users to transfer customary land are prohibited. In other words, adat communities will strengthen their control over customary land rights, and avoid land markets, after obtaining legal recognition of their customary land rights.

The government perspective on implementation of legal recognition can be found in some of its regulations. For instance, the MoEF's ministerial regulation on customary forest (P.32/2015) stipulates that adat communities can obtain incentives from the government for customary forest community holders, including: empowerment programmes provided by the government, to increase customary forest management skills within the community; legitimised access, in order to collect non-timber forest products from the customary forest; and timber legality certificates. However, one year after customary forest recognition, the Kasepuhan Karang community members have not yet received any of these benefits from the MoEF. This indicates that what is stated in the ministerial regulation and the customary forest decree is not being immediately implemented by government agencies, in practice. Additionally, the Ministry of Environment and Forestry restricts adat communities from selling their customary forest to outsiders. This restriction is stated in the MoEF's regulation on the legal recognition of customary forests.

What is stated in the regulations is often not in line with the expectation of various stakeholders involved in implementation. During my fieldwork, I have explored the expectations of various actors involved – such as community leaders, NGOs, and government officials – regarding the implementation of legal recognition. In 2017, the local NGO, RMI, the Lebak District government, and the Jagaraksa village government initiated the first Customary Forest Festival. The festival was held in Jagaraksa village, to commemorate the first anniversary of customary forest recognition by the president. Representatives of the MoEF and the Presidential Staff Office attended the festival. During the opening of the Customary Forest Festival, the Head of Lebak District, Ivi Octavia, delivered a statement. She declared that: “The festival is a form of our strong commitment to the welfare of the Kasepuhan community, whose territory overlaps with the claims of other parties, namely

Gunung Halimun Salak National Park (TNGHS) and Perum Perhutani". For a long time, the Lebak district government had opposed TNGHS, because the local government could not run economic development programmes *and* support local communities' activities within the national park area. The Lebak District government has supported many initiatives challenging the domination of the national park agency in the district because, from the district government perspective, greater recognition of customary forest would lead to higher economic production in the district. The Bupati expected that other Kasepuhan communities in the district would replicate the Kasepuhan Karang initiative.

In a similar vein, RMI and a coalition of NGOs advocating for the recognition of customary forests hoped that the festival would inspire other Kasepuhan communities to submit their own requests for customary forest recognition to the MoEF, particularly the communities that have an area overlapping with the national park. These NGOs measure the success of their campaign for customary forest recognition in terms of the number of local communities that have obtained legal rights to their customary forests. Lebak District Regulation Number 8 of 2015 stipulated that there are 522 distinct Kasepuhan communities in Lebak District, and most of them claim an area that conflicts with the national park. As already mentioned in the previous chapter, the Ministry of Forestry unilaterally designated many Kasepuhan territories as national park areas, without first obtaining consent from local communities. This began in the Dutch colonial period, and was sustained by subsequent governments. The most recent government decree on expanding the national park territory was enacted in 2003. Since 2003, 42,925 ha out of the 304,472 ha Lebak District area (14%) was under the control of the national park (see Chapter 6). The Lebak District Government released data which showed that 11,015.50 ha of agricultural land and 1,118.50 ha of residential area overlapped with national park area. The overlap caused a situation in which 8% of the Lebak District population became vulnerable, because they could be accused of either illegal squatting or illegally accessing the forest, according to the Forestry Law. Therefore, NGOs expected that successful implementation of customary forest recognition in the

Kasepuhan Karang would attract the attention of other Kasepuhan communities following a similar path.⁵⁸

Jaro Wahid, the head of Jagaraksa village, had his own (more concrete) expectations for the implementation of customary forest recognition. He expected that local community members would receive government incentives, financial support, or activities to directly improve community-based forest management, especially from the Ministry of Environment and Forestry. Most land users who had been using land in the customary forest area for decades expected that customary forest recognition would release them from restrictions imposed on them by national park officials. They would be free to cultivate forest gardens, to generate a household income. By contrast, some of the land users from outside of the Kasepuhan Karang community who had cultivated land plots in the customary forest area for many decades also felt worried about the new status of the customary forest. They assumed that customary forest status could mean that further cultivating their plots would be prohibited by Kasepuhan customary leaders.

All these different assumptions and expectations led to a variety of strategies for implementing legal recognition. It opened up a new arena of land politics, concentrating on questions about who owns what, who does what, and who gets what after the community has obtained customary forest recognition, as well as what they do with it, and why (Bernstein 2010, 23). The following section will zoom in on the Kasepuhan Karang community case, to provide a foundation for answering these questions.

7.3. After the Kasepuhan Karang community victory

After obtaining legal recognition, there were four main developments in the Kasepuhan Karang customary forest case. First, the community had to inform and convince other stakeholders of the forest's new legal status. Second, community members had to secure the continuation and expansion of their economic activities in the customary forest, and use the opportunity to qualify for government-led economic development projects targeted at adat communities. Thirdly, they had to transform land-use rights in the customary forest into official documents, so that

⁵⁸ In 2019, the MoEF recognised other Kasepuhan community customary forest, including the Kasepuhan Citorek (1.647 ha), the Kasepuhan Pasir Eurih (580 ha), the Kasepuhan Cirompang (306 ha), and the Kasepuhan Cibarani (490 ha).

they could use their entitlement to part of the customary forest as collateral for loan from a local credit union. And finally, the village head created an informal land registration system for individual rights to customary forest land.

7.3.1. Exercising community control over customary forest areas

After the MoEF recognised the Kasepuhan Karang customary forest, community members tried to take effective control of the disputed areas. Beforehand, local community members were afraid to cut down trees in the disputed area with the national park; this changed, once they had obtained legal recognition from the minister. The first thing the community members did was to create a camping ground. Jaro Wahid encouraged young people in the village to build a tourist destination in the customary forest. A youth group established the Cepak Situ camping ground, by clearing some teak trees. Once the camping ground had been established, two forest rangers visited the location and asked the group why they had cut down the teak trees. Finding that they could not explain the meaning of the new status of recognised customary forest to the rangers, the boys called on the village head, Jaro Wahid. He spoke to the forest rangers and clarified that the teak forest in Cepak Situ was no longer part of the national park area, because the forestry minister had recognised the area as a Kasepuhan Karang customary forest area. To convince the forest rangers, Jaro Wahid showed them the MoEF's decree on customary forest recognition. The national park rangers had not been informed about the customary forest recognition, because the national park was not involved in its preparation.

In an interview during my fieldwork (in 2018), I met with national park managers in their office. One of the staff confirmed that the national park was not involved in the legal recognition process to establish the Kasepuhan Karang customary forest, despite the fact that the national park agency was part of the MoEF. The national park rangers did not know that the minister had designated some parts of the national park area as Kasepuhan Karang community customary forest. Moreover, the ranger mentioned that although the government had recognised the Kasepuhan Karang community customary forest, the national park area map still included forest area within the Kasepuhan Karang territory. This confusion around the forest area's legal status indicated a lack of communication between various institutions under the MoEF, and highlighted the existence of various interpretations of customary forest recognition within the state forestry agencies. It became clear that the MoEF was not a monolithic institution wherein the minister's policy

would automatically be followed by subordinate agencies, such as the national park.

National park officials became quite worried about the number of proposals from Kasepuhan communities for legal recognition of their customary forest. Officials were aware that the successful Kasepuhan Karang customary forest case would encourage other Kasepuhan communities to apply for customary forest recognition. Consequently, national park area would be reduced. Park officials wanted to prevent this, since they assumed that the national park had done a good job in protecting forest area and substantiating the significant value of ecosystems for endangered species within the national park area. They believed that the national park should continue to maintain the natural condition of the forest, to ensure biodiversity in the Halimun Salak mountains. On the other hand, they also realised that the capacity of national park officials to protect the area was very limited, and that local communities were important actors in protecting the forest area.



Figure 11. The grand launch of the Cepak Situ Camping Ground by the Lebak District Head. (© aman.or.id, Kasepuhan Karang, December 16-17, 2017)

Although the national park rangers were initially reluctant to accept the camping ground, they could not stop it being established. For local community members, establishing the camping ground was an action designed to take effective control of the conflict site. Their success in creating the camping ground increased community members' confidence in expanding their control into a wider area of the previously disputed land. The Cepak Situ camping ground became a pivotal site for

implementing customary forest recognition in Kasepuhan Karang. The camping ground was launched in 2017, one year after the Kasepuhan Karang community obtained customary forest recognition, during the first customary forest festival. Young community members manage the camping ground, as a source of local income for Jagaraksa village. They collect parking fees and rent equipment, such as tents, mattresses, and a meeting room for visitors. Their income fluctuates, but on average they earn about Rp. 400,000, per person, per month. Youth leaders occasionally organise fun activities and celebrations of national holidays (such as National Hero Day, Independence Day, and New Year's Eve) at the campsite, to attract visitors. The village government also involves young people in expanding the agroforestry activities in the customary forest area. The camping ground has become a vital site for involving young community members in the promotion of adat in the village.

7.3.2. Securing income from customary forest

Most Kasepuhan community members are farmers. They cultivate rice for subsistence, using local rice seeds, and sharing their labour when planting and harvesting rice. After the harvest, most Kasepuhan communities organise traditional rituals to lift the rice into traditional rice barns (*leuit*). Most of the paddy fields are located outside the national park area.

Apart from rice production, fruit gardens provide cash income for local community members. Most of the fruit gardens in the Kasepuhan Karang community are located in the newly recognised customary forest area. All year round, farmers cultivate bananas, petai, and sugar palms, which all provide a weekly income. They also obtain seasonal income from fruits such as durian, mangos, and langsung (*duku*). This is supported by the condition that they can access goods markets to sell fruits in big cities, such as Bogor and Jakarta, which are only three hours away, by car, for local brokers. Local community members also grow various tree species that they can log and sell as a source of income over an extended period.

I conducted fieldwork in the Kasepuhan Karang community (in 2019) during the durian harvest season. Almost all the farmers in the village have durian trees in their community forest gardens, which provide them with a profitable side income. There were 18 durian traders in the village, and some of them calculated that the annual sale of durian from the village is about Rp. 9 billion, received during the two-month durian season. A study by AMAN and CLUA indicated that the

economic value of agricultural products (durian, paddy, mangosteen, and duku) from Jagaraksa village is Rp. 29.17 billion, annually. These data show the economic importance of fruit production in the customary forest.

Before the government expanded the national park area into local farmers' land, in 2003, local community members had been planting fruit trees in the area for a long time. Overlapping land claims, between the owners of the farmland and the national park, restricted local community members to planting more fruit trees to increase their income. Under the authority of the national park, local community members were restricted to planting fruit trees and vegetables which provided them with more direct income. After customary forest recognition, local community members would be able to freely determine the type of crops that they cultivated in the customary forest area. Therefore, they expected that the implementation of legal recognition would sustain their fruit production.

Jaro Wahid has been seeking information about government programmes concerning rural development following customary forest recognition. He realised that customary forest recognition could open up opportunities to improve rural livelihoods, especially from non-timber forest products. He submitted a proposal for a project sponsored by the Provincial Agriculture Office of Banten, together with the Asian Development Bank (ADB) as a back donor organisation. In 2018, Jagaraksa village was the recipient of this programme, worth Rp. 2 billion, to be implemented in three stages. The first stage was the creation of a cowshed and the procurement of ten buffaloes. Jaro Wahid directly managed the project, and built the cowshed on his land. In Indonesia this practice is ubiquitous - the project manager receives personal benefit from the project in which he or she is involved (Li 2016). In the second and third years, the buffaloes should be producing enough manure to supply the village with organic fertiliser. The final stage of the project consists of fruit seed support, distributed to and planted by the village community. Jaro Wahid is very optimistic that this project can increase villagers' incomes, because fruit production is already the primary source of cash income.

In the same year, Jaro Wahid convinced the Provincial Agriculture Office to develop coffee cultivation in the customary forest area. Some NGOs also encouraged villagers to grow coffee trees, as the coffee business is currently a trend for community economic development in

Indonesia (Agustin 2018). The Provincial Agriculture Office provided aid in the form of machines for coffee grinding and roasting, to be maintained by the village government. Young people, involved as implementation actors for this programme, distributed coffee seedlings free of charge to land users, who then planted them between the other crops and trees in their forest gardens. Young villagers also set up a coffee business in the village, and created the new brand, South Banten Coffee (*Kopi Banten Kidul*), which is produced in the customary forest.

The latest project implemented in the village is the construction of a community market building. For many years, villagers in Jagaraksa had to go to the nearest city centre to buy their daily supplies and sell their agroforestry products. Jaro Wahid managed to get funding from the Lebak District Government to build the local market. In the market, farmers can sell their products more quickly within the village, to direct consumers and to middlemen who buy fruit and vegetables to sell on in the city. These developments indicate how customary forest recognition can become the entrance ticket to many new economic opportunities. Inclusion as members of a customary community is a requirement for benefitting from government projects of this special category.

7.3.3. Capitalising on customary forest rights

Farmers' access to capital is an important aspect of improving their farm productivity. Many banks provide microcredit to farmers, to help them increase their investment in agricultural activities. If available, villagers can use land certificates as collateral for their loans. Knowing that the Kasepuhan Karang community has legal access to land in the customary forest area, one of the commercial banks from the district capital city approached the village head, to offer its loan programme to villagers. However, Jaro Wahid rejected the bank's proposal, because he was worried that such a scheme would increase the danger that customary forest land would be transferred to outsiders. The MoEF decree on customary forest recognition prohibits the alienation of any land plots in customary forest area. If land plots within the customary forest were to be used as collateral for loans to a commercial bank, and if the borrower could not pay off the debt, it would be possible for the bank to sell their customary forest land to outsiders.

Offering the villagers an alternative to the commercial bank's proposal, the NGO, RMI, initiated a credit union in Jagaraksa village. Once a credit union had been created in the village, the alienation problem was solved. RMI staff trained six women villagers to manage

the credit union. RMI believed that the credit union programme would support local agricultural activities and increase women's participation in the community, because women would fully manage the credit union. As in most Kasepuhan communities, the role of Jagaraksa women in decision making was very limited. Therefore, RMI hoped that having women manage the credit union would empower them to get involved in other decision making processes in Jagaraksa.

RMI has given a two-hundred-million-rupiah revolving fund to the credit union's management, so that it can run its business. Local community members can borrow money from the credit union, and repay their debt with paddy after the annual harvest. During my fieldwork in 2018, only a few villagers borrowed money from the credit union, because most land users did not yet know about this opportunity. The credit union funds were also very limited, and borrowers' repayments were slow, because they had to wait until the rice harvest season to repay their debts. I interviewed six local community members who had borrowed money from the credit union. None of them had used their loan to invest in agricultural activities, but instead, two had used it for house renovations, whilst the others had spent it on attending a family wedding in the city. For the time being, the credit union's loans have not led to any increased investment in local agriculture.

7.3.4. Building an informal land registration system

Local community members in Jagaraksa village had a mixed response to the recognition of their customary forest. In the beginning, they felt safe from extortion by national park officers and secure in the knowledge that they could continue commercial fruit cultivation on their farmland. However, some land users who came from outside the Kasepuhan Karang community feared the effects of the customary forest's new status. If it meant that the customary forest would be turned into communal land that belonged exclusively to Kasepuhan Karang community members, they would lose their access to the forest. They worried that the legal recognition of customary forest, specifically for the Kasepuhan Karang community, would transform their land into plots under the exclusive control of Kasepuhan Karang community leaders. In fact, many land users in customary forest areas do not belong to the Kasepuhan Karang community. The Kasepuhan Karang community itself is only one amongst three Kasepuhan communities in Jagaraksa

village, and many customary forest area land users come from outside Jagaraksa village.

Confronted with this problem, Jaro Wahid devised an informal land registration system, to provide land tenure security for individual land users. He had previously (in 2013) engaged with several NGOs to create a map of the Kasepuhan Karang customary forest as a requirement for getting legal recognition from the MoEF. Jaro Wahid had sufficient knowledge to manage the land mapping, so this time he decided not to involve NGOs in developing his informal land registration plan. Instead, he informally hired district government officials who were experts in land mapping, to help him establish the informal land registration system. Efficiently organising the work, he created mapping teams and determined their job descriptions. One team had the task of using GPS (global positioning system) to measure and delineate all the land plots. The team involved every land user in the land delineation, in order to avoid creating land disputes regarding the borders between land plots. The second team worked on transforming the GPS data into spatial data, as the basis for creating a map of the individual land plots. The third team was responsible for designing, printing, and distributing land-use certificates to land users. The final output of the informal land registration was land-use certification for all the cultivated areas of the Kasepuhan Karang customary forest (see Figure 12, below). Land users had to pay a fee of Rp 2 million, per hectare, to obtain a land-use certificate, and the village head used the money to pay the mapping team members their fees.

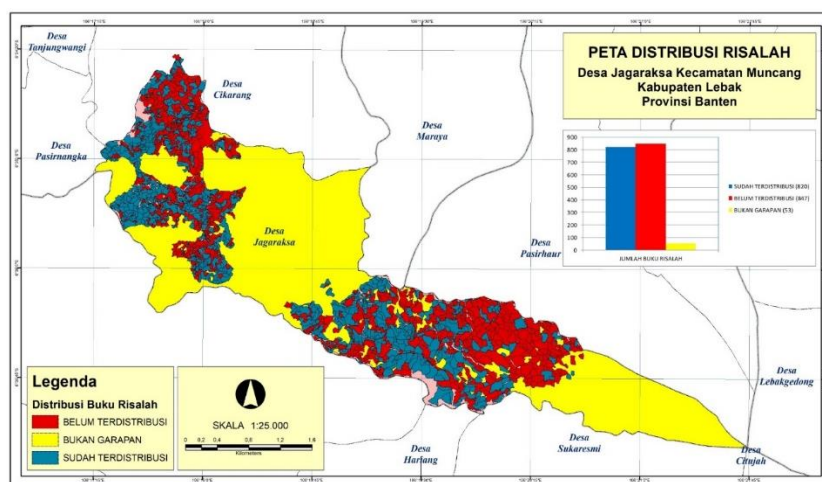


Figure 12. Distribution of land-use certificates in the Kasepuhan Karang customary forest © Jaro Wahid, Kasepuhan Karang, 2018.

The map for this informal land registration showed that 1,630 land plots were being cultivated by land users within the customary forest. Also, none of the land users have land plots that exceed 4 hectares, showing that the land is equally distributed amongst them. Interestingly, around 40% of the land plots in the customary forest are owned by land users from outside Jagaraksa village, suggesting that many non-members of the Kasepuhan Karang community are land users in the customary forest. They do not belong to the Kasepuhan Karang community, and they live in villages around Jagaraksa. They have land plots in the customary forest area, and they have cultivated the land for several generations. In spite of this, they also need a legal document from Jaraksa village and the Kasepuhan Karang community to ensure that their access is secured, despite the fact that the government has recognised the Kasepuhan Karang customary forest.

In my fieldwork, I found that, up until December 2018, the Head of Jagaraksa village had issued 820 land-use certificates to land users in the customary forest. The rest of the 810 certificates had not yet been issued, because some land users found that obtaining land-use certificates was too expensive for them. Moreover, they did not see the benefit of such a land-use certificate. Although the village government staff told land users that they could use the land-use certificates as collateral to borrow money from the credit union, many land users were not very interested in this opportunity.

The village government created the informal land registration system, in order to record the existing land use situation. Accordingly, the informal land registration process did not lead to land redistribution. The village government used aspects of the formal land registration system procedure by the National Land Agency (NLA), such as using GPS and the NLA's delineation process, involving the land users and creating land-use certificates. The land-use certificate issued by the village government also used the format and type of paper used for formal land certificates issued by the NLA. The village government imitated the NLA land certificates, with the intention of making local community land rights 'legible' to government officials. Representatives of the Kasepuhan Karang customary leadership and the village head of Jagaraksa signed every land-use certificate. The result was two signatures from Wahid, who represented both the official village government and the Kasepuhan customary leaders. Jaro Wahid told me that he had received a mandate from customary leaders to set up the land registration system. Therefore, he could put two signatures on the certificates. Moreover, he explained that these double signatures were intended to prevent the alienation of land-use certificates to other parties. In this way, he tried to maintain control over how individual land users viewed their land-use certificates.

I visited the NLA office in the district capital city, to ask their opinion about informal land registration created by the Jagaraksa village government. In Indonesia, the land is administered by two major institutions, in which forest areas fall under the authority of the MoEF and non-forest areas under that of the NLA (Safitri 2010b). The NLA's practical work is to record land rights and administer land ownership certificates. When I showed a land-use certificate created by the Jagaraksa village government to the head of the NLA district office, he was impressed by how smartly the village government had imitated the formal land registration procedures. He commented that such informal land registration by the village government could be essential to providing legal certainty for land users, and he showed appreciation for Jagaraksa's informal land registration system.

7.4. Land market development and tenure security

The case in this chapter shows that formal land legalisation by the MoEF, through recognition of a customary forest, can be followed by an informal land registration system. The Kasepuhan Karang case suggests a hybrid model of land governance, which recognises collective and

individual land rights through both formal and informal land registration. This hybrid model of land governance supports land tenure security for land users within the forest area. Nevertheless, the effectiveness of this hybrid model relies on the character of the village head, who controls the implementation of legal recognition. Therefore, the main challenge of such hybrid models concerns their sustainability over an extended period. Some villagers worry that, if Jaro Wahid were no longer the head of village, informal land registration might not be sustained.

From the literature on land governance, we know that individual land titling often leads to the formation of a land market, transforming land value from mere use-value into market value, such as land for mortgage or purchase (Wallace and Williamson 2006). Hernando de Soto (2000), the prominent proponent of land formalisation, argued that land formalisation is a way for the rural and urban poor to escape poverty. Land formalisation provides a precondition for the emergence of land markets, thereby transforming parcels of land into flexible commodities within capitalist market economies. However, in the Kasepuhan Karang case, registration of individual land possession has not immediately lead to a land market, in the sense that land users can buy and sell plots of land. However, individual land users can use their land-use certificate as collateral to obtain a loan from the credit union.

Although a land market has not developed fully, there is a market for fruit trees growing on the certified plots. In the Kasepuhan Karang community, a fruit tree growing on the land is more valuable than the land itself. Selling and purchasing trees growing on farmland has been common practice for many decades. As a consequence, it is often the case that fruit trees (such as durian, mangosteen, or rambutan) growing on a plot of land belong to someone other than the landowner.

The practice of informal land registration in Kasepuhan Karang is also central to the question of the relationship between customary forest recognition and tenure security. To some extent, the villagers felt safe from extortion by national park rangers', and they could freely use the farmland for fruit production. Feeling safe was crucial for villagers' basic security, and as a precondition for making a livelihood within the customary forest area (Safitri 2010b). Customary forest recognition strengthened the position of land users in relation to national park rangers. However, a new type of tension emerged in the Kasepuhan Karang community after they obtained customary forest recognition.

The tension was now between community members and those who were excluded from membership of the community. Jagaraksa's informal land registration system was intended to ensure that the land rights of individual land-users – both community members and those from outside the community - remained protected. An extended investigation into the further impact of legal recognition on tenure security and the development of a land market is still needed.

7.5. Conclusion

This chapter shows that granting legal recognition of customary forest, and having this secure legal status, does not automatically resolve land conflicts between adat communities and national park officials. State agencies like the Ministry of Forestry are plural institutions, so the implementation of legal recognition is also shaped by the perception of ministry sub-agencies, regarding their control over forest land and resources. Similarly to the process for obtaining legal recognition discussed in Chapter 6, the implementation of legal recognition is also strongly influenced by power relations between various actors, such as adat communities, NGOs, local government representatives, and MoEF officials. In terms of using their own farmland, which is located in the customary forest area, legal recognition positively affects community members' confidence. Recognition also supports either community representatives or the village government in acquiring government-funded development projects; for example, those related to increasing the income from non-timber forest products from the customary forest. In the implementation of legal recognition, adat communities demonstrated a symbolic performance of their rights, in order to underpin their control over disputed land within the national park. During the implementation stage, village head Jaro Wahid played a dominant role in this matter. Subsequently, the legal recognition of customary forest has strengthened his control over land use in the village.

This chapter shows that customary land recognition does not, in itself, always provide tenure security for land users. Moreover, the outcome of the legal recognition process does not always correspond with the objectives of those seeking recognition. For community members, the difference between communal and individual land rights is not very important. What matters for them is to what extent their land rights, either communal or individual, will protect their private interests. The Kasepuhan Karang case illustrated the gradual nature of the land

legalisation process. The first stage was customary forest recognition by the Ministry of Forestry, where land users obtained partial tenurial security when released from the repression of national park officials. The second stage followed informal land registration and was established by the village government; it complemented the missing part of full tenure security for land users.

The central assumption in land registration, whether by formal or informal procedures, is that it leads to the formation of land markets. The chapter shows that that does not always happen, and that in this particular case, such a land market is restricted. The MoEF's decree on customary forest recognition prohibited customary forest being alienated. The informal land registration established by the village government has the same purpose to strengthen village government control over the land as customary leaders. Nevertheless, the consistency and durability of such restrictions can be questioned. Frequently, the prohibition of formal land transactions does not stop the informal land market process. Only the future will tell whether informal land registration has affected the village economy, and whether an illicit land trade will emerge.

