Chapter V

PEOPLES PARTICIPATION IN INDONESIAN FOREST MANAGEMENT

Since ages, Forests have been the lifeline of the people, with the coming of modernization and industrial economy, the peoples in the utilization of the forest resources have gradually been taken away by the ever encroaching industrial sector. This is a problem everywhere and Indonesia has seen a critical affect of this conflict. For with the increasing realization that the conservation of forests and the people's share in the forest resources cannot marginalised in favor of the growth of the industry, state has constantly reformulated its policies and laws in regards to the forest resources management. However, this policy formulation has not been successful in maintaining a harmonious balance between the industrial growth, the traditional rights of the people in the forest resources and the conservation of the forests. This chapter attempts to delineate various aspects of the conflict in order to understand the ways in which interests of different sections of the Indonesian society have clashed with each other.

As it is clear from the evaluation of the state policy in Indonesia regarding forest management up to 1998 and the problems, which arose because of the pattern this evaluation took that In this pattern, de jure status is one thing and a de facto control another. Since 1998, forest reforms have taken a predominant position in the policy formulation. These reforms mainly focus on two features i.e. peoples participation and eradication of corruption from forestry sector.

This policy was formulated in this manner because it was perceived to provide sustenance to all sections of the Indonesian society.

Reform of forestry and estate crops development is directed to increase the feeling of justice and an assurance of a better life in the future for the people, increase the efficiency and benefits of the management of forest and estate crop resources, increase the security and sustainability of forest functions; and increase the participation, the rights and the responsibilities of the people for forest and estate crops resources. In policy aspects, several reform efforts, were made to revise the products of laws to the reorganization of the MOFEC several perceptions developed to answer the problem of how the forests should be seen.

One of the most popular is the "forest for people" that are intended as the governmental effort to justify its taking the side of the public because in past 30 years Indonesian forest policies led to the creation of conglomerates in forest management and utilization and did not completely pay attention to the communities in and around the forests.
Existing laws and regulations do not often take the side of the people. For an example, in Government Regulation (PP) number 21, 1970 on HPH and HPH the traditional rights of the community were still recognized; However their implementation was to be improved so as to support forest management.¹

According to Indonesian Tropical Nature Institute (LATIN) in its book entitled "Reformasi Tanpa perubohan" (Reform without change), since law number 5, 1967 concerning forestry laws and Government Regulation number 21, 1970 have been operational; forest management has been entirely in the hands of private investors that own HPH concessions. The communities that have lived generation after generation in and around the forests have no more rights to the forest in HPH areas. Even for wood for their daily use they have to take the permission from the concession owners. It is not surprising if there are often conflicts between local communities and the HPH owners.²

The characteristics of Forest concession (HPH)

The forest management is capital intensive, because it is executed mechanically using heavy equipment that have to be imported from the United States of America, Japan, Germany etc. The development of HPH within 30 years with its processing industries, consciously or unconsciously has led to the creation of conglomerates and centralization of forest management among big entrepreneurs. There has even been grouping of the big entrepreneurs. The concessionaires system has not, or only very little touched the small and medium enterprises, and community enterprises such as cooperative. If we study the laws and regulations more intensively, the concessionaire system is a form of forest management that does not take side of the communities. Therefore, the benefits and the wealth are only felt by a group of big entrepreneurs.³ Therefore there is a need of policy reform to solve this problem.

History has recorded that more than 500 HPHs are dealing with production based forests management covering a total of 55 million hectares. Foreign exchange that is gained every year is around US$ 6 billion, second after textiles of non-oil foreign exchange group.

There is an interesting difference in between the native entrepreneurs (Pribumi) and the non native entrepreneurs (non pri) in HPH business. During the early stages, more than 80% of

² Ibid.
entrepreneurs that received HPH were natives, the remaining 20% were non-natives. At that time, the two groups would be in the same situation, they did not have capital and experiences in mechanized forest management.⁴

However, in their further development, the 20% could develop more rapidly than the 80%. Step by step the figure 20% became higher and bigger from time to time. The figure then changed to the reverse with 80% non-natives and 20% natives.⁵

There are many factors that have caused this to happen. May be the one reason is that the spirit and intuition of business and entrepreneurship of the natives is smaller compared with that of the non-natives. It was possibly influenced by the old culture that was already attached to the Javanese people, for instance the javanese regarded business world as second class after the government officials (Priyayi). But among the natives who had business spirit like the Minang, banjar, Bugis and Palembang people etc. Could not develop as expected in the forest management. In reality purchases of the native-HPH shares by non native HPH can take place at any time, although the government has attempted to overcome the problem by issuing a regulation that arranges that the selling of certificates among HPHs needs a permission from the Minister of Forestry and Estate Crops. Beside business institution there is always the X-factor that influences the process of getting HPH, for instance a short-cut process through practices of corruption, collusion and nepotism, so that in the end the HPH is centralized in a small group of big entrepreneurs.

According to the MOFEC's records, at present there are several big entrepreneurs that are grouped according to the very large areas of HPH they have as the follows:

<table>
<thead>
<tr>
<th>Companies Name</th>
<th>(mill. Ha)</th>
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<tbody>
<tr>
<td>1. Dayu Lapis Group</td>
<td>3,50</td>
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<tr>
<td>(almost as large as West java province)</td>
<td></td>
</tr>
<tr>
<td>2. Djayanti Djaya Groups</td>
<td>2,90</td>
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<tr>
<td>3. Barito Pacific Group</td>
<td>2,70</td>
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<tr>
<td>4. PT Kalimanis Group</td>
<td>1,30</td>
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<tr>
<td>5. Korindo Group</td>
<td>1,30</td>
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<tr>
<td>6. PT Alas Kurumah Group</td>
<td>1,20</td>
</tr>
<tr>
<td>7. Sumalindo Group</td>
<td>0,85</td>
</tr>
<tr>
<td>8. PT Daya Sakti Group</td>
<td>0,54</td>
</tr>
<tr>
<td>9. Raja Garuda Mas Group</td>
<td>0,38⁶</td>
</tr>
</tbody>
</table>

⁴ Ibid.
⁵ Ibid.
⁶ Ibid, p. 42
Timber concessions and plantation rights were routinely given out in areas where local communities have lived, managed and depended upon forest resources for generations. Conflicts brought about by the government's refusal to respect local property rights has increased significantly since Suharto's resignation in May 1998, as has the ability of local people to project their problems and demands. As a result, move to-words securing of local people's rights are being taken more seriously by the Department of Forestry and Estate Crops. Local people organizations and NGOs however, stress that these moves are insufficient in that they focus on granting management rights to areas claimed by local people rather than recognizing customary community based rights or hak ulayat. In the early 1980s, in what could be considered one of the largest land takeovers in history, the government implemented a forest zonation system that classified most of the outer Islands as forestland. Seventy-eight percent of Indonesia, or more than 140 million hectares, was placed under the responsibility of the Department of Forestry and Estate crops. This included over 90% of the outer islands. Estimates place as many as 65 million people living within these areas. According to the Department of Forestry, the creation of state forest zone nullified local Adat rights, making thousands of communities invisible to the forest management planning process and squatters on their ancestral lands. As a result, logging concessions, timber plantation protected areas, and government sponsored migration schemes have been directly overlaid millions of hectares of community lands, causing widespread conflict. Yet in fact for many local people traditional law or hukum Adat, still governs natural resources management practices.

Indonesian law governing the environment and natural resources is a combination of overlapping and conflicting regulations. While the constitution of 1945 recognizes the traditional land rights of local people, Article 33 clearly states that all natural resources including land, are controlled by the state. The 1960 Basic Agrarian law also recognizes hukum Adat and specifies what other rights that can be attached to land. The constitution, however has the final say, making it clear that even private rights of ownership (hak milik) are not private in the western sense. All rights are still controlled by the state. This allows various customary property rights

8 This paper send Jeff Cambell, Director of Ford Foundation, Jakarta, in 1999 for my Ph.D.
9 Owen Lynch, Securing Community Based Tenurial Rights in Tropical Forest of Asia, World Resources Institute, (Washington D. C., n.d.)
9 Chip Fay and Martua, no. 7
PLATE 24. Teak Logs Yarding

PLATE 32. Teak Logs Transportation by Local Train
regimes to continue to develop, but only as long as they do not interfere with the interest of state.\textsuperscript{10}

**Civil Societies Demand for Forestry Reform and the Recognition of Adat Rights.**

In may 1998, after Suharto's resignation the NGO movement began which was centered on legal changes in specific areas such as agrarian reform and forestry. There are three important coalitions that have merged to address forestry issues.

**Kudata**: The Coalition for the Democratization of Natural Resources (KUDETA) is a network of 82 Indonesian NGOs and student organization. KUDETA came together immediately after the Suharto resignation. The coalition demands that the transitional government assure the management of natural resources and benefits derived be returned to local communities. The student movement set the early tone of this coalition, organizing several demonstrations at the parliament and the Department of Forestry.

They had three main demands:

1. Redefining the boundaries of the state forest, the identification of adat communities and the full recognition of their rights;

2. Re-structuring of state institutions responsible for environmental and natural resources management.

3. Redirect all developmental and natural resources management.

4. Redirect all development efforts towards community based resource management.\textsuperscript{11}

**FKKM** The communication Forum on community Forestry, FKKM was established in Sep 23, 1997, eight months before Suharto's resignation. Founders included several Indonesian NGOs, university professors and students and reform minded forestry officials. Over the past year the FKKM has become an increasingly effective voice of local community located within the state forest areas and an important counterbalance to the traditional foresters within the Department of Forestry.\textsuperscript{12}

The forum has a more broad base that KUDETA and its work centers more on developing detailed critiques of forestry policy and advocating for a new paradigm for natural


\textsuperscript{11} Chip Fay and Martua, no. 7

\textsuperscript{12} Ibid.
resource management. Strategies focus more on the use of media, meetings with high level forestry officials, including the Minister and lobby in Parliament.\textsuperscript{13}

FKKM has taken the position that genuine reform can only happen after the government recognizes the failure of previous forest management practices. They call for a new paradigm which is politically, socially economically and environmentally sustainable. Proceedings from FKKM's first assembly was published as 'The Right starting paints towards the New Era of Indonesian Forestry.'\textsuperscript{13} The document presents a vision that is democratic, just and with forest management based on existing natural resources and ecosystem. It calls on government to abandon its focus on timber management and adopt a strategy that centers on forest ecosystem management. To accomplish this, they say there is a need to have a complete shift in approach to one that is: pro people, local specific, decentralize, and publicly accountable.\textsuperscript{14}

To accomplish this, FKKM continuous to carry out collaborative research organize Workshop and cross visits among participants. FKKM also regularly sends comments on emerging policies directly to the Forestry Ministry, often in the form of open letters to the minister.\textsuperscript{15}

\textbf{Emergence of an Indigenous People's Movement}

At a meeting in Tanah Toraja, Sulewesi in 1993, indigenous leaders and support NGOs established \textbf{JAPHAMA}, the Indigenous people's Right's Advocate Network. An important outcome of the meeting was a consensus among participants to use and promote the term "Masyarakat". The term refers a community that has maintained its traditional community based property rights, customs, and institutions. This was decided in direct response to government terms "Isolated communities", or communities not yet modern", that were viewed as pejorative. It is important to note that the equivalent word for indigenous in bahasa Indonesian is not used by Adat leaders since most Indonesians can right fully claim to be Indigenous. The primary distinction is that Adat communities have maintained a level of customary law and other practices, distinct from the homogenous political structure imposed by the central government.\textsuperscript{16}

JAPHAMA set out to bring attention to the many human rights abuses being suffered by Adat communities. Network members addressed national policies that worked against in interests of Adat Communities and helped link their efforts to gain recognition of Adat rights to the

\textsuperscript{13} Ibid
\textsuperscript{14} Ibid
\textsuperscript{15} Ibid
\textsuperscript{16} Ibid
international arena. International labor organization convention 169 on Indigenous peoples was translated into Indonesian and the Network continues to lobby the national government to ratify it. Overall, during its first few years JAPHAMA was successful in consolidating the network and raising public awareness, particularly in the Indonesian media, of the problems Adat communities face in Indonesia.

In early 1999, JAPHAMA and associated NGOs organized a nation wide consultation of Adat communities. The National Congress of Adat communities, held in Jakarta, in March 1999 followed numerous regional meetings.

The meeting was a high profile gathering of Adat leaders, men and women and Colorful show of political force. The theme of the meeting was "Improving the bargaining position of Adat communities" and in nearly all sessions land rights was the central issue, with the government transmigration and forestry policies receiving the most attention.

On the final day of the Congress, participants formed the Alliance of Adat Communities of the Archipelago. Forty Seven people were elected to form an Assembly of the Alliance. An executive committee and a five point, three-year program of work were created.17

Community Forestry and customary (ADAT) Rights in State Forest Areas

(a) The Government Community Forestry Program: On October 7, 1998 Minister of Forestry signed a ministerial decree 677. It sets out the framework for the second generation of the Hutan kemasayarkatan (HKM) or community forestry program. This program is the governments most advanced efforts to increase participation of communities living inside the state-defined forest zone in the management of forest resources. On balance, the new framework represents a significant improvement over the earlier previous.

There are four main areas of improvement

1. The process of developing the policy was, at least through most stages, open; transparent and participate.

2. The program allows the harvesting of both natural and planted timber, unlike the original framework that allowed only for the harvesting of non timber products;

3. The time limit of the contract awarded to participants was increased from 20 to 35 years and made renewable;

4. The program is defined by a set of internationally recognized community forestry principles. The two most important are that local communities are the primary actors and the forest management system for project areas can be based upon existing community-based forest management practices.

Regrettably, the further the process evolved the further the Department moved away from many of the basic principles. Clear contradiction appeared in the final SK. The most blatant was that all community organizations must take the form of cooperatives, ignoring a central principle stated earlier in the S.K. that the community must define their own organizations. Other contradictions have emerged in the drafting of the implementing and technical guidelines. The tendency has been that Department staffs, when tasked to draft such guidelines, revert back to familiar perspective approaches that run counter to the objectives stated in the community forestry policy framework.18

(b) Dialogue on the Recognition of Indigenous (ADAT) Rights: In November 1998, a group of reform-minded individuals from inside and outside the Department of Forestry, recognizing that the new community forestry regulation 677 does little to recognize Adat rights and traditional agroforestry system, approaches the minister of Forestry to consider developing and additional community forestry policy that focuses specifically on traditional agro-forestry systems and adat communities. Policy specialists from the International center for Research in Agroforestry (ICRAF) and the Center for International Research in Forestry (CIFOR) joined hands with Djamaludin Suryohadikusumo, a former minister of forestry, and over a period of several months, assisted Department of Forestry staff to develop a draft policy that would secure the rights of Adat communities inside the state defined forest zone.

The draft was based largely on experience gained in the krui agroforests when Mr. Djamaludin was minister. In January 1998 he signed a groundbreaking decree that placed 29,000 ha of state forest zone under the management of the Krui agroforestry farmers. He did this because he was convinced that procedures needed to be developed to protect and promote community-based agroforestry, (the Krui indigenous agroforestry systems were threatened by a palm oil company). He was also convinced by many years of research and his own visits to the

18 Chip Fay and Martua, no. 7
area that the kru flourishes are a sustainable form of forest management. The minister’s action came in response to several years of demands by the Kru people and local NGOs that the Kru flourishes be taken out of the state forest zone since they were created long before the state forest was gazetted. The new classification, which was termed by the minister as the "zone with Distinct Purpose" was a compromise. While the status of the forest area as state forest did not change, the minister, for the first time created a classification of forest manage.  

(c) Redefining the Boundaries of the state Forest: Based on the Government Act no.62/ 1998 on Devolving Specific Task to the local Government, responsibility for forest delineation is developed to local governments, the final gazettement, however remains in the hands of minister of forestry in Jakarta. This devolution requires a revision of the Ministerial Decree on Forest Delineation and the Enclave policy (SK Men 634/1996).

Community Enclaves within State Forest

The policy debate on creating enclaves centered on what types of prior rights would be recognized by the Department and just how far should an enclave extend. Conservative forestry legal staff have taken the position that only lands that have sertifikat, or the highest form of land title, should qualify and this should only be for immediate settlement areas and fixed agriculture in close proximity of settlements. Adat rights proponents on the working group argued that Hak ulayat and not just land sertifikat should be recognized as prior existing rights and that all Adat areas, including agroforestry areas and natural forestry areas and natural forest be included within an enclave.

Currently the definition of prior rights is more flexible but the "enclavable" areas do not yet include agro-forestry lands, arguably the most important component in most Adat land use management approaches.

Participatory state Forest boundary setting.

As of February 1999 government figures reveal that only 68% of the areas the Department of Forestry claims as being state forest zone were actually formally delineated and gazetted (INTAD, 1999 unpublished). As a result, 32% of the forest zone is not yet under the legal jurisdiction of the Department of Forestry. Information as to which areas have completed the formal process of gazettement is unavailable to local communities. In some areas, local

19 Ibid
20 Ibid
21 Ibid
communities claim that the process by which their areas were gazetted (Part of the 68%) was illegal. Forest boundary delineation and gazettement procedure require that all local communities be informed of the creation of state forest in their areas and community leaders must sign documents saying they were informed. Adat rights proponents estimate that Department delineation of much of the 68% of the area completed violated this requirement.22

Policy Initiative from the Bureau of lands

In May, 1999 Bureau of Lands (BPN) within ministry of Agrarian Affairs, with some assistance from Adat land specialists, developed ministerial decree No. 5/1999, or Guidelines to Resolve Adat Communal Rights Conflicts.

This decree sets into motion a process that, similar to the ministry of Forest policy initiative on Adat, will determine criteria for the recognition of Hak Ulayat. The main difference is that the BPN is accepting the registration of Adat lands and treating them as a communal and non-transferable right, unlike the forestry classification that would provide only a management right.23

In addition the policy allows Adat communities to lease their lands to government and the government can in turn transfer these rights to the private sector.

Progress is being made in Indonesia toward developing policies that will secure the rights of Adat communities. Yet enormous challenges lay ahead for people participation. Much effort is still needed.

The implementation of community based development is possible by placing cooperatives as a core of the people business economy.

To achieve the participation of cooperatives in forestry the government should revise the existing laws and regulations. One of the new regulations, referring to the principle of equity and even distribution, is the ministerial decree number 677/kpts-11/1998 concerning social forestry. In chapter three, article 5 of this decree, it is stated that local communities can submit a request for obtaining a concession around their villages through cooperatives to the minister, through the head of the regional forestry office.24

22 Ibid
23 Ibid
24 Unggul T. Ratomo, Cooperative, Nuances and Expectations of Forestry and Crops Reform: A 250 days Journey to-words Just and Sustainable Management of Natural Resources. Jakarta, Indonesia, MOFEC, 1999
In article 8 stipulated that social forestry is implemented by empowering local community institutions through cooperatives. Furthermore, cooperatives can have double functions as producers of forest products and at the same time, as suppliers of production facilities. However, the government does not release HPH social Forestry to the cooperatives. The government provides counterparts that are taken from NGOs, Universities, or extension workers, in an effort to empower cooperatives (article 11 of decree no. 11 of decree no.677/kpts-11/1998).25

The minister of Forestry issued two more important decisions in one day (November 10,1998). The first ministerial number 731/kpts-11/1998 concerns the procedure for forest concession auction. The second and most important one is ministerial decree number 732/Kpts- II/1998 concerning the requirement and procedures for the study of forest concession.26

In decree number 732/kpts-11/1998, it is clearly stated that a HPH that intends to extend its concession has to transfer part of its shares to a cooperative. Such a decision was not found in the former regulations. In article 4, such division 1, it is mentioned that one of the administrative requirements of the application for HPH renewal is a statement that the HPH is willing to transfer part of its shares to the cooperative, BUMN (state-owned enterprises).

Furthermore the share for cooperatives is 25% or more, with a minimum of 10% in the form of a grant that is realized when the cooperative is established. The remaining 10% will be given gradually over 5 years. In the meantime the share given to BUMN and BUMD are arranged separately. The cooperative receives a minimum of 1% optional rights per year, so the cooperatives share will continue to increase. If the HPH concession period is 35 years (20 years working period plus 15 year life cycle) the cooperatives can reach 40%-50% after half of a HPH life.

Cooperatives should have more shares in HPHs and have the same rights as the BUMN or private business. If, as some people say, that to manage 70,000 hectares of forest, in order to get a revenue of about 60,000 cubic meters per year, we need about Rp. 40 billion (before the economic crisis) then no cooperatives around the forest could afford it.

Investment (PMA), and law number 6, 1968 on Domestic Capital Investment (PMDN). The form of management is Forest utilization Right (HPH) with the main objective to get foreign

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25 Ibid
26 Ibid
exchange as much as possible and soon as possible for overcoming the bad economic condition at that time.\textsuperscript{27}

There are indeed many people who doubt the role of cooperatives in forest management they give several reasons. Among others is that the experience of cooperatives in managing forest is not sufficient. Managing on HPH is not easy because the areas are large, with many activities, from growing seedling planting them, felling timber and transporting it. It is also related to the availability of human resources, which is still limited. Besides that, forestry needs a lot of funds, at least billions rupiah, whereas the capital of cooperatives is minimal. There are many other examples of co-operations not being able to undertake business, or of cooperatives only giving profits to their managers.\textsuperscript{28}

In Indonesia, the move towards democracy is still fragile and there are significant timber stocks to fuel patronage systems.

While conclusions are perhaps premature skeptical observers have speculated that the new system of allocating property rights over forest area's does not represent a clean break with the past. For instance. While the new system of auctioning concessions was meant to be open and transparent, the parties allowed to take part in the auction of concessions are selected in advance\textsuperscript{29}. The new opportunities for co-operatives also seem open to abuse: one critic noted that an HPH could manipulate the co-operative scheme making an ad hoc co-operative\textsuperscript{30} that is actually just an extension of the logging company. Others doubt whether co-operatives can be separated from the existing systems of privilege or really represent a reallocating of property rights to local communities:

Cooperatives.... have become an extension of a vast corrupt bureaucracy which permeates every village.... As few indigenous forest communities have the formal education, business skills or finance to establish a cooperative it is likely that the initiative will be of greater benefit to entrepreneurs from urban areas and other outsiders who may have little or no interest in or experience of sustainable forest management.\textsuperscript{31}

Wary of the rise of a new class of pribumi cronies close to the new decision makers, some observers see the promotion of thousands of co-operatives and small business as a part of a

\textsuperscript{27} Ibid
\textsuperscript{28} Ibid
\textsuperscript{29} "Quarterly Newsletter of the International Campaign for Ecological Justice in Indonesia ". Down to Earth,(New Delhi,Feb,1999),no. 40.
\textsuperscript{30} "Pasukan Kayu Bulat Tahun 1999 Turun 25 Person ",Suara Pembaruan.(27-11-98)
\textsuperscript{31} Down to Earth, 1999,no.29
process of distributing 'business opportunities' to chosen beneficiaries to drum up political support for the 1999 elections. In this view the Habibie government is moving the flow of benefits derived from State forests away from Suharto's circle and towards a new group of clients. Meanwhile, the basic framework that allows commercial interests to gain access to 'state forests endures: at a time of economic crisis, the government needs to increase revenues from the forestry and plantation sector. While there is a ban on opening up new areas for logging, Dephutbun continues to reallocate leases over forest areas. Although the allocation process has changed, the aim remains the same: 'exploiting Indonesia's forests for maximum commercial gain'. As the booming agribusiness sector is seen as the silver lining on a dark economic horizon, the Ministry has continued to allocate large new areas for the development of oil palms.

The existence of overlapping property claims and competing authority systems in forest areas has been connected to a pattern of deforestation, resource conflict and forest fires. Yet there have been few clear resolutions to the problem aside from a series of legislative reforms. Here we will consider two of the new initiatives.

The Minister of Forestry and Estate Crops has created new legislative initiatives that in theory move a step closer to recognizing the overlap between state claims over areas and local notions of territoriality. A new regulation on Forest Utilization and the Harvesting of Forest Products from production Forest (PP No.6/1999) granted adat communities the right to take forest products for their daily needs within concession areas. Concession holders must also allow the widest possible participation of communities within their areas, informing them of planned activities and providing opportunities to take part in forest activities. Moreover, concessionaires were now obliged to develop the capacities of co-operatives and small enterprises within their concession areas. According to a new ministerial decision on 'Community Forestry' (Kepmen 677/Kpts-II/1998), communities could gain the right to manage areas of forest based on community practices and adat law.

(b) T. Mccawley,” A People’s Economy “,Asiaweek,p. 62-6
33 "quarterly Newsletter of the Internaqtional Campaign for Ecological Justice in Indonesia",Down to Earth,(feb,1999)no.40
34 “Habibi Seeks Review of Forestry Policies “,Jakarta Post,(18-12-98)
35 This seems to be a realization of earlier statements of reformist state sector managers. As early as 1993, the bio-diversity action plan recognized that an estimated 40 million people were living in or dependent upon resources in the ‘public forest estate’ and these people were the de facto forest managers(BAPPENAS,1993,Biodiversity Action Plan for Indonesia ,Jakarta, Ministry of National Development Planning ,National Development Planning Agency.
The Ministry would permit community groups to form co-operatives to obtain thirty-five year ‘community forestry leases’ (Hak Pengusahaan Hutan Kemasyarakatan) over production and protection forests as well as in specific conservation zones. The degree allows communities to utilize traditional forest management systems as long as they do not conflict with ‘forest sustainability’ (kelestarian hutan). Moving beyond an earlier community forestry decree, the new initiative also allows for community rights to harvest timber.36

By early 1999, in areas that have been sites of long-standing community based conservation programmes, two communities in South Aceh and West Kalimantan had processed authorizations to manage areas of forest in accordance with adat principles.37 The procedures for gaining these community forestry concession rights were somewhat onerous. Under the new decree, based on the recommendation of local and provincial authorities, community groups can apply for leases to the head of the regional forestry office. If their application is successful, the forestry authorities will then grant a lease according to a management plan drawn up with the guidance of NGOs, university experts and forestry staff. While the new initiatives facilitate co-management strategies advocated by NGOs, it is unlikely the forest communities will gain these rights on a wide scale.

While these initiatives represent several step forward from recent policies, there seems to be some difficulty breaking with the legislative regime for forest management developed under the New Order. Within this framework, Dephubun has no authority to legally recognize adat land rights over state forest land. However the Ministry can issue use rights in the form of licenses and leases to communities already inhabiting the land.

This type of agreement implies that the community is relinquishing its claims to fundamental land rights for limited usufruct rights. By doing so the community is unwittingly acknowledging the land’s status as state land and admitting that they only have specified rights of use, rather than traditional tenure.38

A more radical legislative programme would be required to substantially overcome a situation where elite’s rely on the law to substantiate their claims over resources. While local people seek to preserve their tenure system - which has such a weak basis under the national law.

36 (a) “Pembangunan HTJ Dibnahi Untuk Penyediaan Bahan Baku Suara Pemborhan,(3-11-98)
(b) “Hutan Lindung Bisa Divasahakan Sebagai Hutan Kemasyarakatan”, Sura Pemborhan, (14-1198)
Masyarakat Sanggau Meunggu SK HPH KM ″Suara Pemboruan,(26-12-98)
This means that the disjunction between de jure rights and de facto structure of property relations associated with earlier conflicts over resources is likely to continue.

A draft version of a new Basic Forestry Act- to replace the much maligned Basic Forest Act (No.5/1967)- which was circulating in late 1998 indicated that law makers within the state bureaucracy were reluctant to move away from the underlying assumptions of the state property regime as it existed under Suharto. While the draft Act recognize the existence of adat forest (hutan adat), it maintains the concept of the 'forest areas' (kawasan hutan) as falling under the dominion of the state (RUUPK, 1998). Under this draft, the Minister retains the managerial responsibility for these 'forest areas' - some 70 percent of the nation's land surface. According to Section 31, special state corporations will be set up to represent the government in allocating rights to private interests corporations, community groups and adat communities. Critics noted that the draft law retains the power of a centralized forestry bureaucracy, leaving forestry management in the hands of poorly performing state enterprises. In the words of one observer, the bill also provided a big opportunity for officials of the appointed state forestry companies to practice collusion with big timber companies. What is more, in retaining the power of the centralized forestry bureaucracy, the new draft Basic Forestry Act has not met the demands for more regional autonomy.

While reforms are debated at the center, the political and economic crisis has clearly affected the management of resources in the regions. With many areas of the formal economy in crisis, desperate people are forced to secure a meager subsistence harvesting forest resources for short-term benefit and cutting down forest areas to open plots to plant subsistence crops. The currency crisis has led to booming prices in some cash crops, at least in local currency terms, and this has also spurred many to open new areas of forest. In the best of times forestry officials often needed to use paramilitary means to apply unpopular regulations. Now, with accusations of corruption leveled against local officials in many places, and with local communities under such intense economic stress, local officials are hardly in a strong position to enforce state regulations governing forest resources. Moreover, there have been calls for a loosening of central control.

40 "Forestry Bill does not Support Small Firms ", Jakarta Post (10-12-98)
41 (a) Republika (10-12-98), RUU Kehutanan Dinilai Sentralistic
(b) "Penyerahan Pengelolaan Hutan Ke BUMN Berbahaya", Republika (10-12-98)
42 (a) W. D. Sunderlin, Between Danger and Opportunity; Indonesia’s Forest in an Era of Economic Crises and Political Change, Http://www.cgiar.org.cifor
over the provinces and a distribution of a greater share of profits generated from local natural resources back to the regions.

In this background now the success of forestry reform will depend on whether reformist state sector managers, NGOs and other critical elements of civil society will be able to prevail against commercial logging interests and their partners within the local provincial and central bureaucracy.43

PLATE 23. Shipping of Teak Wood Product

PLATE 24. The making of Teak Sliced Veneer