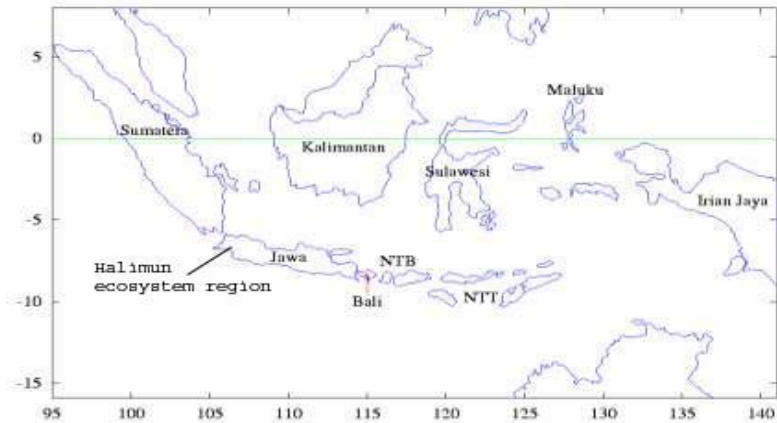


Land Tenure Conflicts in Halimun Area: What are the Alternative Resolutions for Land Tenure Conflicts?¹

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I. Introduction

The Halimun Area can be reached within four hours of journey from Jakarta, capital of Indonesia, toward the interior of Lebak District. Administratively, it is located in West Java and Banten Provinces within three districts (namely Bogor, Sukabumi and Lebak) consisting of 141 villages with a total area of $\pm 208,726.86$ hectares (Hanafi et al, 2003). The Halimun Area has been identified as one of the area in Java with high biodiversity, as well as important ecological and social functions. Within the area lies the largest remaining tropical rainforest ecosystem in Java, consisting of lowland rainforest, sub-mountain forest and mountain forest. Due to the forest ecosystems richness and hydrological function, the Government of Indonesia, in 2003, decides to designate part of this area as National Park

One of the fundamental problems in Halimun Area is the existence of land tenure conflict between the local communities who have manage the forest land for their crops and dwellings on the one hand, and the national park, supported by the national state law, to protect and sustain state forest area for conservation on the other. The problems took place when the government does not aware that Halimun Area still retains unresolved land tenure conflicts from the past.

Several common property systems have been introduced, either by the state government, NGOs and local communities, in order to resolve land tenure conflicts in Halimun Area. Although these systems have different fundamental designs, they show a good intention from the stakeholders to collaborate on resolving the land tenure conflicts.

¹ This study is based on collaborative work between World Agroforestry Centre (ICRAF) and RMI (The Indonesian Institute for Forest and Environment)

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Taking account of the complexity of the problems, the paper describes the historical and political developments, which may have resulted to the current land tenure conflicts in Halimun Area. A case study from one of the sub-villages in Halimun Area demonstrates the impact of these developments to the current land tenure conflict, as well as the condition of local communities. Then, the paper shifts its focus to describe the well-intended common property systems by several opposing stakeholders to solve or manage land tenure conflict.

II. Forest Policies and Law: From National to Halimun Area

In 1865, the first forestry law for Java was introduced, along with the *domeinverklaring* of 1870, which declared all unclaimed land, including forest, as the domain of the state. In keeping the forest area under the domain of the state, the Dutch Colonial Government labeled and began measuring the forest under specific types of cover and under different forms of management:

1. Teak forests under a regular system of conservancy
2. Teak forests not under a regular system of conservancy
3. Junglewood forests (Peluso, 1992: 50-53; Boomgaard, 1997: 18).

The new category of junglewood forest was designated as a domain of the state, particularly with the criteria for those above the elevations of 1570 m (West Java) and 1255 m (Central and East Java). At first, climatology and hydrology arguments were presented as a reason to designate forest at those elevations. Secondly, this policy referred to forest with valuable timber species in areas with no teak, which would be a potential profitable source of income over the long term (Zwart, 1924: 35-36). In the 1920s, the government had decided that at least one-fifth of the surface of the island had to remain under forest to preserve the general hydrological system (Heringa, 1939: 257; Palte, 1989: 48).

In 1927, the Dutch Colonial Government set a new forestry law in Java. This law expanded the state forest area to paddy fields and crop-estate land, as forest reserve. About 20,000 ha of private lands in West Java, including paddy fields, had been intended to be designated as forest reserves (Zwart, 1928: 271). The designated forest reserves were a response to the loss of forest cover ascribed to the activities generated by teak felling, crop-estate expansion and land clearance for native agriculture (Boomgaard, 1995: 49-50). By 1940, the Dutch Colonial Forestry Service had brought some 3,057,200 ha of Java's land under its control (Dienst van het Boschwezen, 1948).

In practice, these two sets of forest law have also affected the land use in Halimun Area. Six government decrees, starting from year 1905 to 1930, have been enacted to designate forest in Halimun Area as state forest land (See Table 1).

Table 1: The Designated Forest in Halimun Area by the Government Decrees

No	Forest Clusters	Government Decrees	Size (ha)
1	Jasinga I	Gouvernement Besluit ddo 19 October 1927 No. 14 sub. a.7	5.800
2	Jasinga II	Gouvernement Besluit ddo 19 October 1927 No. 14 sub. a.8	3.030
3	Nanggung	Director van Landbouw ddo 17 April 1930 No. 3613/B sub. e	-
4	Salak Utara	Gouvernement Besluit ddo 28 April 1925 No. 17 sub. c.9	-
5	Salak	Indisch Staatsblad 1911 No. 562	-
6	Halimun	Indisch Staatsblad 1905 No 42 sub. B lb No. 45 en 6	-
7	Sanggabuana Utara	Gouvernement Besluit ddo 7 October 1915 No. 6 sub. V.3	4.568
8	Sanggabuana Selatan	Gouvernement Besluit ddo 7 October 1915 No. 6 sub. V.3	30.023
9	Bongkok	Gouvernement Besluit ddo 7 October 1915 No. 6 sub II.4	6.646

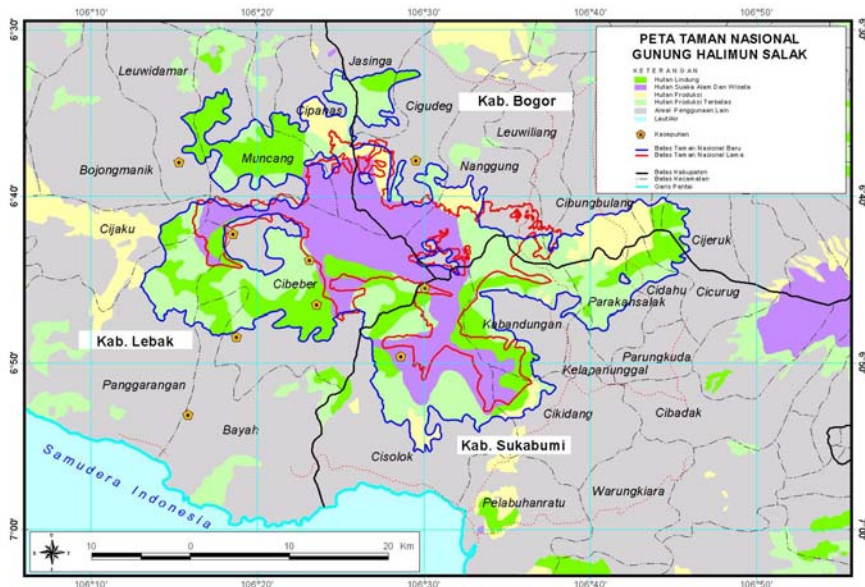
Source: Data Processing (Perum Perhutani Unit III Jawa Barat-Banten)

When the Japanese took control of Indonesia from 1942 onwards, they imposed a law to exploit Java's food and raw materials to serve the Japanese army. Forest areas were converted to agriculture (Peluso, 1992: 96). A total of 4,428 ha of forest area were reportedly allocated to 8,242 peasant cultivators in newly opened forest colonies. This practice of lending forest areas contributed to peoples' belief that it was all right to cut down the forest for food production (Departemen Kehutanan, 1986: 26). Refer to official report in Halimun Area, about 1,576 ha of state forest have been converted to dwellings and farming system by 2,546 households. This figure might well be underestimated as many converted state forest in Halimun Area had not all been reported.

After Soekarno and Hatta declared the Republic of Indonesia an independent nation in 1945, impoverished villagers continued to encroach into the forest for agriculture and to cut wood as they needed it (Peluso, 1992: 97-98). In 1949, at least 400,000 ha, or 14 percent, of Java's state forest areas were allegedly occupied by peasants or deforested by civilian and military wood thieves (Departemen Kehutanan, 1986: 42).

Considering that situation, this new republic felt it should take more firm control over forest areas management and issues. In late 1960s, all forest areas were claimed to be state forest under the Basic Forestry Law (BFL) No. 5/1967 and all forest areas in Java, under the Government Regulation No 15/1972 and Government Regulation No. 2/1978, are controlled and managed by State Forest Corporation (SFC) in order to produce revenues and profits. Bear in mind, the term of forest, as used by the BFL No. 5/1967 and the recent BFL No. 41/1999, is usually an administrative category, where forest meant area that was managed by the government, whatever the state of the area. Consequently, all state forest areas in Halimun were under the SFC control and management. Albeit the SFC has taken firm measures against encroachment, it has never able to resolve conflict of land tenure in Halimun Area.

In 1979, the government decided to transfer 40,000 ha of state forest areas in Halimun to Natural Resources Conservation Agency (NRCA) as conservation forest, while the rest of the state forest areas were still under the control and management of SFC. Then in 2003, the government decided that the NRCA controls all of state forest area in Halimun to cover a total of 113,357 ha and named it as Mount Halimun-Salak National Park (See Picture 1). In the future, this transfer will give severe problems to NRCA due to unresolved land tenure conflicts from the past.



Picture 1: The Situation Map of Mount Halimun-Salak National Park

III. Case Study of Nyungcung Sub-Village (Bogor District): A Story of Land Tenure Conflicts in Halimun Area

Nyungcung Sub-Village is located in northern part of Halimun Area and administratively, located in Malasari Village (Bogor District). The total land of this sub-village is 399.195 ha, with 234.121 ha of that land is under conflicts (See Table 2). In year 2005, the total number of households living in this area is 307, with 236 (76.9%) of them working as farmers or farm laborers, while the rest of them working as petty traders, company workers, government officials etc. Those percentages above show that the people of this sub-village are depend highly on agriculture products and high possible of land conflicts.

Table 2. Land Use in Nyungcung Sub-Village

No	Land Types	Size (ha)
1	Cultivated Land	46.194
2	Housing Complex	8.966
3	Communal Land	6.712
4	Mining Area	4.050
5	State Forest Land	74.440
6	Land under Conflict	234.121

Source: Participatory Mapping by Local Communities (2005)

The history of Nyungcung Sub-Village begins in 1932 when some local communities opened and converted the forest area to dwellings and cultivable land. Meanwhile, the Dutch Colonial Government had already designated the forest area in 1930 as Nanggung Forest Cluster. Subsequently, the government decided to delineate this designated state forest land and finished its delineation in 1934. The delineation process left out some areas of paddy field inside the state forest, under local

communities' ownership (See Picture 2). Before it was designated as state forest, the area was previously belonged to "The Nirmala Java Plantations and Lands Company", a private crop-estate plantation that planted tea, coffee, rubber etc.

During the Japanese occupation (1942-1945), the delineated state forest area had been opened and converted by the local communities for cultivable land. The Japanese Government, through law, supported this local community's action as it was considered to support the government program on rice-delivery obligation during war. For Bogor District, the local communities must delivered part of their rice production between 40%-75% depending on the cultivable land size. They also must sell all of their rice production to the government based on fix price. These obligations had burdened the local communities' livelihood in Nyungcung Sub-Village and forced them to convert more state forest area to cultivable land.

After declaration of independence in 1945, the delineated state forest area, since then, was managed and controlled under the local government. The local government officials allowed the local communities to continue cultivating the converted state forest area but must share part of their harvest production to the officials as a tribute. They named this shared-production mechanism as *kabubusukan*. After the SFC took over this forest area management in 1978, this mechanism still existed in practice and had been legalized through SFC decree (SFC Decree of West Java No.0552/1980 date 25 March 1980). It was stated that the local communities must delivered 10-25% of their harvest production to SFC and planted forest trees (such as *Altingia excelsa*) in converted state forest area.

In 1979, part of this forest area was handed to NRCA control and management. Then, the government decided to re-delineate this forest area in 1982-1983. Ironically, some of these converted state forest areas, during the Japanese occupation, was still considered to be state forest area under the management of NRCA and SFC, not owned by the local communities. In 2003, the NRCA took over the remaining of this state forest area from SFC. Sadly enough, when the government decided to expand the national park, they did not consider the delineation process during the Dutch Colonial and 1982-1983's re-delineation process (see Picture 1). The local communities in Nyungcung Sub-Village become worried about their dwellings and cultivable lands inside this new expanded national park. They fear that the government will evict them and reforest their dwellings and cultivable lands.

Table 3 illustrates the impact to the local communities' livelihood if the government decides to evict the local communities and reforest their cultivable land. During the process, the local communities of this sub-village, joined with other local communities from neighboring villages, developed an organization called *Communication Forum of Mount Halimun People-West Java and Banten* (FKMHJBB), and wrote a consent letter on resisting the extension of the national park.

Table 3. Condition of Rice Production in Local Communities' Cultivable Land in Nyungcung Sub-Village

Condition	Rice Production (Liter/Year)	Rice Production per Household (Liter/Year)
Not Evicted	224,110	730
Evicted	56,132	183

Source: Nyungcung Sub-Village Data (2005)

Note: Harvest period twice per year

IV. Several Common Property Systems to Solve Land Tenure Conflicts in Halimun Area

The above description shows that the area of land tenure conflicts in Halimun Area are due to the linkages to legal, political and historical aspects. Several stakeholders try to find solutions that maximize the gains for all stakeholders in the conflict. They introduce several models of common property system³ in order to give local communities' land security, use and access on one hand, and to protect and sustain the functions of state forest land and its biodiversity on the other hand.

The following common property systems by several stakeholders describe some general characteristics to solve the land tenure conflicts in Halimun Area.

1. Traditional Use Zone (*Zona Pemanfaatan Tradisional*)

Based on Conservation Law No. 5/1990, the local communities may use some part of forest land inside the national park for collecting firewood, fodders, bamboos, herbs etc. The Mount Halimun-Salak National Park authorities have allocated 3% or 3,400 ha of forest area for this purpose. The idea is resulted from the fact that some of local communities in Halimun Area use some of forest products for their daily use and livelihoods. For example, firewood is used for cooking, herbs for medicines, fodders for livestock etc.

2. Forest Area for Special Designation (*Kawasan Hutan dengan Tujuan Khusus*)

Refer to Basic Forestry Law No. 41/1999 and Government Regulation No. 34/2002, the Forest Area for Special Designation, initiated by the Forestry Research and Development Agency (FORDA) of Indonesian Government, can be applied to the state forest area for public use (namely research and development, education and religious/culture). This system aims to solve state forest management conflicts, which always cause forest degradation, between local communities and state authorities. For upcoming plan in 2006, FORDA, collaborating with local communities, will conserve and rehabilitate *Dipterocarpaceae* species in Haur Bentes, northern part of Halimun Area. As a return for local communities' collaboration, they allowed to cultivate food crops inside this state forest area with limited periods. Up to now, this model of system will only be adopted in FORDA's state forest area; however, the national park authorities can use this example to solve land tenure conflicts in their state forest area.

3. Conservation Sub-Villages Model (*Model Kampung Konservasi/MKK*)

Started from 2004, an international agency, known as Japan International Corporation Agency (JICA), has initiated a program called Mount Halimun Salak National Park-Management Plan (MHSNP-MP). The goal of this program is to promote biodiversity conservation and sustainable use in Mount Halimun-Salak National Park. The program itself has already identified several problems with the management of the national park (namely illegal logging, illegal gold mining, encroachment, poverty etc). Those identified problems, more likely, could endanger the program's goal. As a result, two sub-villages, Cicemeut and Cipeuteuy in Sukabumi Districts, are being trained, such as economic development, ecotourism etc, within this program,

³ Common property encompasses a complex, and often overlapping, bundle of rights that are understood and respected by a self-defined group of local people. There are six categories that encompass rights of: (1) use, (2) control, (3) indirect economic gain, and (4) transfer, as well as, (5) residual and (6) symbolic rights (Crocombe, 1971).

4. Sub-Villages with Conservation Designation (*Kampung dengan Tujuan Konservasi/ KDTK*)

From previous description, Nyungcung Sub-Village (Bogor District) is located within the national park's area since 2003. Feared from being evicted from their ancestral land, the local people, assisted by local NGO (RMI-The Indonesian Institute for Forest and Environment), offer a negotiable solution called Sub-Village with Conservation Designation (KDTK). Within the KDTK, the local people categorized three different management lands:

- a. Forbidden Forest (*Leuweung Larangan*): an area with high biodiversity and watershed protection purpose, covered by virgin forest, and protected by local communities from other land-use such as dwellings, paddy fields and shifting cultivations.
- b. Fruits and Trees Land (*Lahan Dudukuhan*): an area surrounding and bordering forbidden forest and can be used and planted by local communities for certain products such as timbers, fruits, rattan, bamboo, etc.
- c. and Utilized Land (*Lahan Lembur*): an open area that can be used by local communities for their daily livelihood such as dwellings, paddy fields and farming plantations.

The local people hope that these different management lands could offer a possibility to meet divergent objectives, to sustain and protect the state forest for conservation and biodiversity on one hand, and to provide the local people access, use and security over the state forest on the other. Further, it also gives the notion that local people can manage and control the forest.

V. Obstacles against the Initiated Common Property Systems in Halimun Area

The above descriptions have given the beliefs that the stakeholders try to approach the conflicts through collaboration by introducing their own version of common property systems. Bear in mind, the rationale that underpin these common property arrangements are due to the existing of land conflict in Halimun Area. Certain common property arrangements, such as Conservation Sub-Villages Model and Sub-Villages with Conservation Designation, could obtain harsh resistance from the government.

The Basic Forestry Law (BFL) No. 41/1999 and Conservation Law No. 5/1990 forbid any use of land inside the national park by the local communities. The local communities may only collect certain products and areas from the national park forest. Disbeliefs from the government over the capacity of local communities to manage forest, including forest conservation, haunt the local communities' and NGOs' minds. In national level, watershed and biodiversity protections have always been the legal arguments from the government to designate the forest as state forest area and therefore, evicting local communities from their dwellings and cultivable lands. This condition might happen also in Halimun Area.

VI. Another Alternatives Resolution for Consideration

Despite several common property systems have been introduced to solve land conflicts in Halimun Area and possible obstacles preventing these common property systems to be implemented, these initiations leave one missing question; does the government actually obtain the forest through legitimate and legal process, state forest delineation

and gazettement process? The answer to this question could provide the big picture of the situated land tenure conflict in Halimun Area, in view of the fact that all the common property systems neglect the idea on legal and legitimate matters from the state.

This answer also brings other ideas for stakeholders' consideration; if the government did not obtain the forest through state forest delineation and gazettement process, then it is necessary for the government to do so. The Basic Forestry Law 1999 stipulated that the government must conduct state forest delineation and gazettement before the state forest area can actually be endorsed.

If the government did obtain the forest through state forest delineation and gazettement, then where is the exact forest land under the control of state and local people? Could it be possible that the forest cover have changed to other use over the past few years due to political turbulence? The last question gives the idea to empower the local people through participatory mapping and force the government to re-delineate state forest area. Therefore, the data and information on state forest delineation and gazettement process is the first crucial element to succeed the ongoing model of common property systems in Halimun Area.

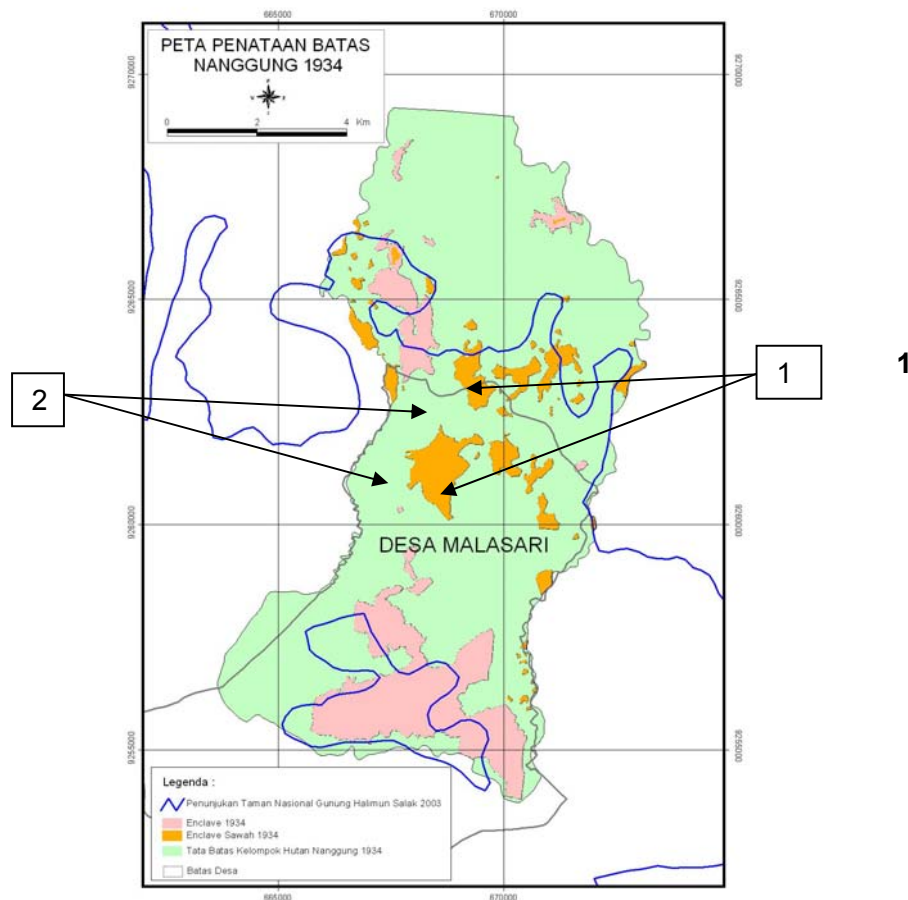
Picture 2 can help illustrate the alternative way to resolve land conflicts between the local communities and the government.

Number 1: the area belonged to local communities land.

The local communities have the right on land access, use and security over their lands, as the map shows that some cultivable lands in 1932 have been excluded from state forest area. The government does not have the rights to evict the local communities from these lands.

Number 2: the area belonged to the state as state forest

In this area, the negotiation process must be conducted and decided by both parties; which one of those common property systems could satisfy both parties' interest. The Ministry of Forestry (MoF) Law No. P. 19/2004 on Collaboration in Conservation Area can be used as a basic law to accommodate these common property systems. It stated that the National Park boundary as well as rights and obligations of interest parties can be discussed and implemented through collaboration schemes.



Picture 2: One of the Forest Delineation and Gazetement Map in Halimun Area, showing some lands belong to the local people, not to the state control (Compared it with Picture 1)

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