

# FACILITATING AGROFORESTRY DEVELOPMENT THROUGH LAND AND TREE TENURE REFORMS IN INDONESIA

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Transforming Lives and Landscapes

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## **FACILITATING AGROFORESTRY DEVELOPMENT THROUGH LAND AND TREE TENURE REFORMS IN INDONESIA**



### **Impact study and assessment of the role of ICRAF**

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While the study is based on information provided by a range of individuals, the opinion expressed in this paper are those of the authors alone.

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# 1. Executive Summary:

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This document assesses ICRAF's 12 years of work promoting land and tree tenure reform in Indonesia in order to secure and improve agroforestry farmers' livelihoods and environmental services. The multi-disciplinary team reviewed legal and policy gains, livelihood improvements, vegetation changes and carried out detailed stakeholder interviews to assess the impacts of this work. The findings are summarised below.

In Krui, West Lampung, ICRAF intervened to help secure a sophisticated agroforestry system, *repong damar*, at risk having been included in State Forests and allocated to logging and oil palm plantations. ICRAF led a 5 year collaborative programme, in alliance with NGOs and others, researching *repong damar*, mobilising farmers, and engaging in policy negotiation with government. A supportive Forestry Minister passed a decree securing 29,000 hectares as a special purpose area. However, owing to wider political changes, the law was never applied, yet had the effect of securing the area from logging and oil palm expansion. ICRAF's role in the decree is widely acknowledged. *Repong damar* continues to provide modest livelihood benefits to some 35,000 farmers and cushions the neighbouring National Park from extensive forest clearance. However, *repong damar* is under pressure from the decline of respect for custom, pressure from oil palm interests and rising populations. Farmers continue to demand more secure rights in forests than the decree offers.

In Sumberjaya, West Lampung, Javanese migrants have been clearing 'protection forests' for coffee since the 1950s, leading to escalating conflicts with the Forestry Department, poverty, incendiarism, and environmental decline. Since 1998, ICRAF has promoted community forestry, through a process of research-based negotiation support, involving local government, NGOs and farmers in sustained dialogue. So far, 6 farmers' groups have secured community forestry permits, allowing them to grow multi-strata coffee, 23 more are in the pipeline and new local government regulations have been passed to help secure longer term community forestry leases.

Community forestry leases result in impressive livelihood gains, increased equity, evident improvement in farmers' sense of responsibility for land care, fewer bribes and better relations with the Forestry Ministry. However, further reforms to simplify the system are necessary if it is to be extensively applied. Comparative studies of farmers in two areas of land conflict and without community forestry tenures show that they have far lower incomes and enjoy much less land security, discernible in lower land values. They may pay up to 30% of their incomes in bribes to forestry officials. The coffee frontier is the main cause of the 84% loss of forest cover in western Lampung in the past 30 years. Although greater tenure security encourages multi-strata coffee, which provides better environmental services than the simple shade coffee farms typical of farmers with insecure tenure, it is not yet clear if community forestry leases can stabilise the coffee frontier.

ICRAF's field activities and legal research have challenged the current forestry regime, whereby some 70% of Indonesia's land area is controlled by the Ministry of Forests to the exclusion of up to 90 million people who live in these areas. At the national level, ICRAF has emerged as a recognised centre of expertise about community livelihoods, forests and tenure. Through engagement in policy debates, often at the invitation of the Ministry and by working closely with civil society, other researchers and government officials, ICRAF has been able to influence improvements in community forestry regulations and secure recognition in the 1999 Forestry Law of 'customary forests' and 'special purpose management areas' as special management categories in State Forests. These have yet to be widely applied.

The Ministry has resisted reforms to give stronger rights to farmers and indigenous peoples but the legislature has recognised the need to so revise the Forestry Law and programmed this revision during the next five years. ICRAF data also show that only 12% of State Forests has yet been gazetted making it possible to redraw boundaries and provide farmers greater security either outside forests or in private forests, an option advocated by ICRAF and now favoured by the World Bank. The Ministry has set up a working group with ICRAF help to explore these tenure issues. ICRAF's legal insights have also helped to ensure that voluntary timber certification and legal verification processes take more account of community interests and rights.

ICRAF's collaborative efforts have demonstrably benefited the livelihoods of tens of thousands of farmers, but to date less than 0.2% of forests have been allocated to farmers under any kind of community forestry tenure. ICRAF has earned a reputation as an engaged centre of knowledge, able to convene multiple interest groups in well-informed policy negotiations at local and national levels. When Indonesia does come to reform its land and forests tenure laws, it will be able to draw on a fund of field data and legal insights to allow much better informed political choices.



## 2. Introduction:

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ICRAF has been promoting socially productive and environmentally beneficial agro-forestry systems globally, through applied research for 25 years, and in Southeast Asia for more than 12 years. Initially, the work sought to gain recognition of agroforestry as an efficient way to secure farmers' incomes, while ensuring sustainable use of environmental resources. ICRAF researched opportunities to improve smallholder agroforestry, building on ecological and biophysical research that examined environmental services such as water flows, soil quality and biological diversity. In effect, if not in its original design, the work prefigured the combined aims of both the Millennium Development Goals and the Millennium Ecosystems Assessment.<sup>v</sup>

However, 'gaining recognition' has proved more complex than initially envisaged. In substantial parts of the world, the rules for farmers to manage, develop and benefit from lands on the interface between agricultural land and natural forests are contested between local traditions and the nation states. Indonesia is no exception to this general pattern, and from the start of ICRAF's Indonesia program in 1993, land and tree tenures have been central concerns.

An early and deepening conclusion of this research and documentation in Indonesia has been a demonstration of: the subtlety and complexity of traditional agro-forestry systems; the extent to which these are not recognised by national forestry laws and policies; and the degree to which secure land tenures are vital to agro-forestry farmers if they are to have the incentive to invest in long term land use and natural resource management.<sup>vi</sup>

Now, after ten years, it is time to take stock. How effective has this work been? In the areas where the research findings and legal reforms have been applied, are farmers now better off than they were before ICRAF started its work? Would they be better off anyway as part of wider social and economic changes? Have environmental services been improved and biodiversity secured? Can ICRAF and its direct partners alone claim the credit for these results? What has been achieved in terms of wider national and regional reforms? What lessons can we learn from this experience?

To answer such questions, in 2005 ICRAF undertook an 'impact assessment' of its land and tree tenure reform programme in Indonesia with a focus on ICRAF's efforts to: secure the '*repong damar*' agroforestry system in Krui, West Lampung; promote Community Forest Management (HKm) in Sumberjaya, also in Lampung and; stimulate national level reforms of forestry laws and related policies in favour of community control of land and forests.

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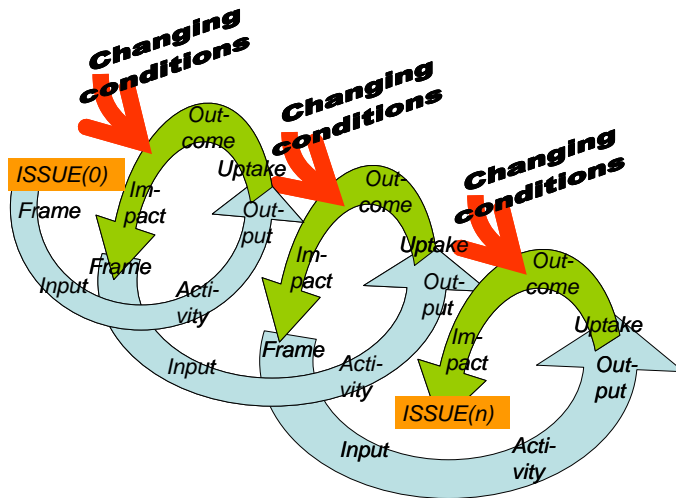
<sup>v</sup> See also Garrity et al 2001.

<sup>vi</sup> Sirait et al. 2001.

### Box 1. Why study impact?

The main reason for the existence of and support by international donors of the international centres of the CGIAR is that the activities will support sustainable forms of development and reduce poverty. Where new crop varieties are released as the product (*output*) of research, the subsequent steps of *uptake* (farmers adopting the varieties or the next generation varieties that were derived from the initial germplasm) and *outcome* (area planted) can be readily traced. *Impact* on production and income can be expressed in economic terms and compared to the investment in the research that went into it initially. Such studies tend to show relatively high rates of return, suggesting that *inputs* in the form of public investment in this type of agricultural research is worthwhile.

But how about research that is aimed at integrated natural resource management (iNRM) and policy reform? Can we trace uptake, outcome and impact in a way that allows for comparisons with direct production-related research efforts? The agenda of the World Agroforestry Centre (ICRAF) spans a broad spectrum of approaches from tree germplasm work, through plot and farm level technologies to negotiation support for community/landscape scale approaches to iNRM and reform of national policies. As part of ten current impact studies that cover this spectrum, ICRAF took up the challenge to reflect on how the ‘action research’ on the reform of land and tree tenure has evolved over the past decade, which ‘outcomes’ in terms of policy change are linked to our ‘outputs’, and to what degree the ‘outcomes’ have actually improved lives and landscapes from the perspective of our ultimate stakeholders. The output-to-outcome part of this study required ‘independent’ assessment of the attribution question – reason why the first author of this report was asked to take the lead as consultant without prior formal engagement with ICRAF and with a terms of reference that confirmed full independence for this part of the study.



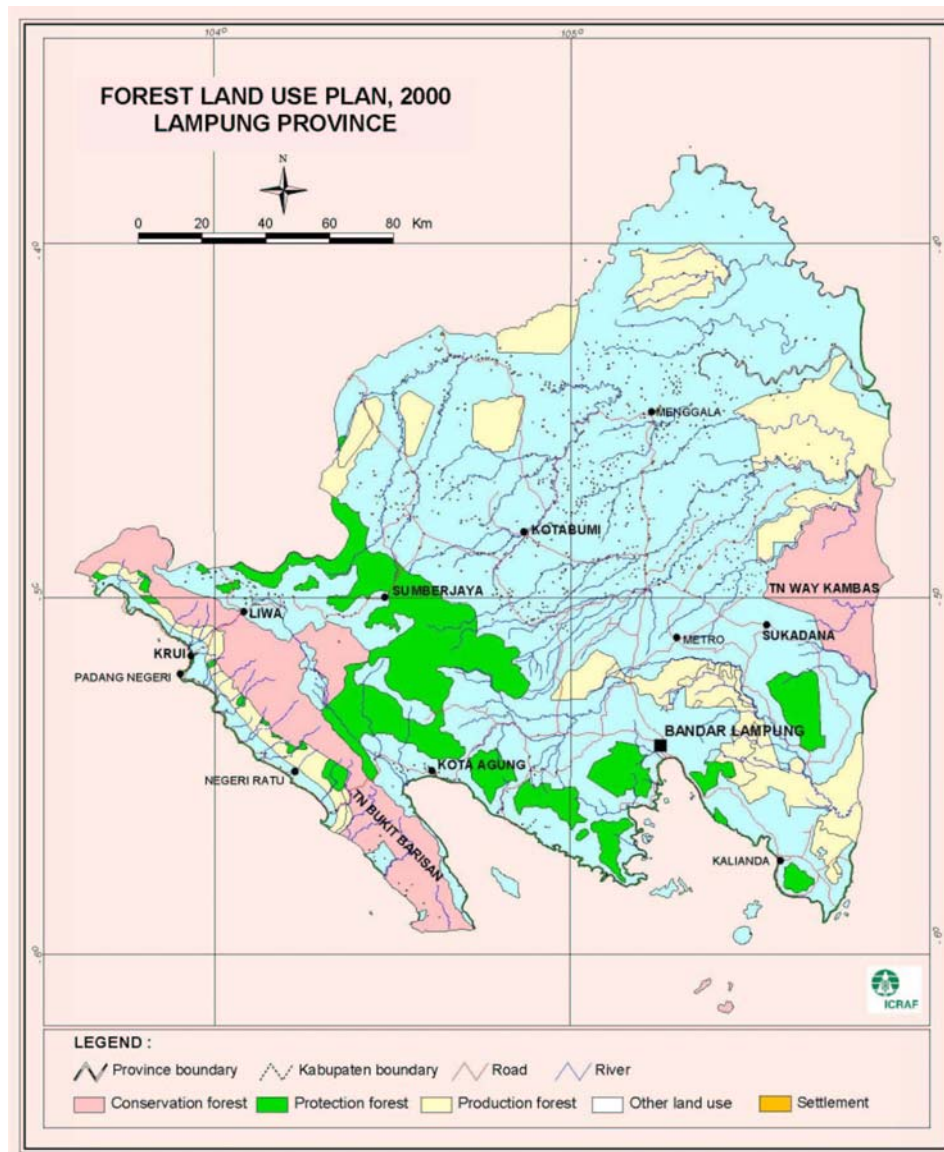
The material presented here involves at least three ‘learning cycles’, where we trace the way the issue was ‘framed’ and how outputs lead to outcomes and contributed to ‘impact’

The review comprised:

- Compiling a summary of all the programme’s outputs in terms of publications, reports, documents and major workshops.
- An independent assessment of stakeholder perceptions of the outcomes resulting from ICRAF efforts.
- A review of changes in community livelihoods in the Krui area over the past 10 years.
- A study of changes in vegetation in the Krui area over the past 20 years
- A study of the impact of oil palm expansion in the Krui area.
- A review of the institutional and regulatory changes promoted by ICRAF in Sumberjaya.

- A review of livelihood changes in Sumberjaya of communities in ICRAF-supported community management schemes.
- A study of vegetation changes in the area of the Bukit Barisan Selatan National Park.
- Three case studies of community livelihoods and experiences in comparable areas where ICRAF has not been present to assess alternative outcomes
- Summaries of ICRAF's role in emerging legislation on community forestry, the 1999 Forestry Law, and measures to protect customary rights in forests
- Summaries of ICRAF's roles in assessing the status of State forest boundary delineation and gazettement.
- A workshop to review, analyse and discuss all these findings.

A number of these studies will be published separately. This synthesis draws on drafts lightly revised in September 2005, after the final workshop.



Location of Krui and Sumberjaya sites in the map of Forest Land Use Plan of Lampung Province, 2000 ; The year when more than 100.000 hectares of Convertible Production Forest Zone (Kawasan Hutan Produksi dapat Dikonversi) was converted to non forest land uses.

## Box 2. A brief introduction to the legal basis of Indonesia's forest management

The historical roots of the way tree and land tenure are dealt with in Indonesia's legal system are found in the colonial period. Outside of Java there was a wide range of legal frameworks, depending on the way and time that the Dutch colonial rulers had obtained control over the various former kingdoms, sultanates and autonomous regions. But from reports of the Dutch forest service in the early 1930's we know that, much to the regret of these forestry officials, attempts to establish a forestry act that would have established administrative control over Indonesia's forests had failed, as the national parliament of the time wanted to keep the control and the revenue derived from it at the local community scale. While the Agrarian law of 1960 specified land ownership for all of Indonesia (without exception to 'forest' lands), the 1967 forest act specified rules for four main forest classes: *conservation forest* (and national parks), *protection forest* (aimed at watershed protection), *production forest* (with or without limitations to the use for logging concessions) and *conversion forest*. The implementation of this law led to mapping exercises in the 1970's/1980's that established a 'consensus' forest classification. However, many of the local stakeholders were not effectively included in the process and the results remained contested (despite the 'consensus' terminology). For these 'contests' to be effective, however, the political climate of the final stages of the 'Orde Baru' and the period after the 'Reformasi' were needed. As explained later, the relation between the 1960 Agrarian Law and the currently valid 1998 Forest Act has been a source of intensive debate – but has still not been fully resolved.



Boundary marker in the field of two classes of forest:  
HL = protection forest,  
HPT = limited production forest

### 3. Krui: securing a customary agroforestry system

#### Background:

As recounted by community members, the Krui coast was once a forested and thinly populated area, where, according to local belief, the first inhabitants were cave dwellers (*Tumi*) and forest people (*Matu*). The present inhabitants are mainly *Pesisir* (coastal folk), speaking the Saibatin language, the majority of whom used to inhabit South Sumatra, but, following a battle with the Dutch, which they lost, fled westwards and sought protection from the British South West Sumatra Protectorate based in Bengkulu.<sup>vii</sup> The British offered protection and the Saibatin gradually moved down the coast, mingling with prior residents. They established themselves as the ‘Pesisir’, with mixed economies based on fishing, coconut growing, wet rice cultivation along the coastal strip, hunting and non-timber forest products gathering inland.<sup>viii</sup>

#### Box 3. A brief history of human migration in the southern half of Sumatra

The history of Sumatra in the last thousand years is a complex story of movement of people, continuously shifting centres of power, alternation between phases of strong centralized power in kingdoms (linked to or competing with those on Java) and more decentralized forms of local autonomy and economic integration with the rest of the world. Sumatra was well connected by trade routes to India and the Middle East before the period of Chinese trade and influence that ended around 1430. While early centres of population had focussed on valleys with relatively fertile soils in the Bukit Barisan range (including the Pasemah highlands around Mount Dempo where many of the later migrants to Lampung originated), the participation in global trade favoured centres closer to the main rivers and harbours. Trade in pepper and various forest products, became augmented by trade in introduced cash crops with coffee, tobacco, rubber and oil palm attaining dominance at different times and locations.

Dutch colonial administration focussed on control of the trade routes and on the towns at the mouths of the rivers, mainly those flowing east. The shifting alliances of the Dutch army, intervening in and benefiting from the competition between and succession struggles within the various states, often played a role in local migration flows.

The coastal communities along the western coast, with the generic indication ‘Pesisir’ had in fact various ethnic backgrounds, as reflected in the different languages. More recent migrant groups came in and settled along the main rivers. While land was plentiful and labour to convert forests to agriculture the main constraint, no formal ownership of land was considered relevant, beyond the territorial claims of competing communities. Rules for newcomers, however, generally specified a ‘first come, first served’ rule that no one was allowed to disturb water flows used for irrigated rice-fields by opening forests upstream of existing communities.

Most of Lampung (except for the western coastal strip that was historically linked to Bengkulu), was part of the Banten kingdom, and had long term exchange relation with the western half of Java. In 1904 the government started a formal program, of ‘transmigration’ that resettled people from ‘overcrowded’ Java in ‘sparsely populated’ Lampung (followed by other parts of Sumatra and Indonesia).

<sup>vii</sup> Historically this may refer to the 1818-1826 period, with the Dutch conquest of Palembang (from Sultan Badarudin II<sup>nd</sup>) in 1821 and the handover of British ruled Bengkulu to the Dutch in 1825.

<sup>viii</sup> Michon, de Foresta, Kusworo and Levang (2000:167) suggest the Pesisir have inhabited the Krui coast for ‘more than five centuries’. The discrepancy in estimates probably results from local narrators focusing on the histories of different elements of the people who amalgamated to constitute the ‘Pesisir’ folk of today.

### Box 3. A brief history of human migration in the southern half of Sumatra (cont.)

Transmigrants were given formal land ownership. However, the large number of ‘spontaneous settlers’ made arrangements with local communities and/or local government authorities, without obtaining formal land ownership. The relation between the government and such migrants has changed repeatedly, with periods of ‘eviction’ from ‘state forest lands’ alternating with periods of attraction and stimulation of economic development. In 1986 the Lampung provincial government declared the area closed for transmigration and even transmigrated a number of Lampung residents to Jambi province. However, this did not stop the spontaneous inflow of migrants from Java to Lampung. Spontaneous migrants come usually as part of an extended family network and usually acquire land by some form of payment to local ‘owners’ of land – however this doesn’t normally lead to ‘legal’ ownership.

A society developed in which lands were collectively owned by the communities separated into *marga* (self-governing territories). Heritable individual or family rights in such land were allocated to *marga* members by the community and community leaders, while unused lands would revert to the collective for re-allocation. The Dutch, to whom the British ceded the area in 1825 in part exchange for Malacca, controlled the area through ‘indirect rule’. They recognised *marga* lands, accepted self-government by customary authorities (even strengthening or sharpening traditional hierarchies according to some accounts) and ensured the rule of customary law. Unlike in other parts of Lampung, the *Kultuurstelsel* system, of corvee labour and forced engagement in cash cropping on colonial estates, was not applied in the area. Other forms of forced labour were, however, imposed.

Towards the end of the 19<sup>th</sup> century and in the first decade of the 20<sup>th</sup> century, a remarkable transformation took place in Krui. While resin collection for export trade from a number of Dipterocarp trees in the natural forest had had a long history, easily accessible trees were becoming scarce. In Krui that scarcity apparently stimulated the domestication of *Shorea javanica*, the source of the most sought after type of resin (cat-eye resin or *damar mata kucing*), transforming a non-timber forest product into an agroforest product. As a production system, however, the *repong damar* depended on the attractiveness of upland food crops for the start and coffee for the early years of the system, as it takes 20 years before *Shorea* can be tapped for resin. The first reports on *Shorea* cultivation in Krui date from the 1930’s, a period when government sponsored research focussed on the use of ‘stimulants’ to enhance the wounding response of the trees to increase resin yield. Demand for damar from *Shorea javanica* declined when the chemical industry developed alternative organic compounds, but a niche market remained for special types of paints and varnishes. Along with *Shorea*, fruit trees like durian, duku and other tree species were gradually established in the agroforests, cleared in the forests that rise up behind the coastal strip into the Bukit Barisan Selatan mountain chain. To the uninformed visitor today, mature *repong damar* resemble primary forests<sup>ix</sup> and provide very good environmental services and secure a wealth of biodiversity, including providing habitat for threatened species such the Sumatran rhino, Sumatran goat, tigers, tapir, gibbons and siamang.<sup>x</sup>

In 1937, when the forestry regime that had been developed on Java was applied to the region, the boundary between *marga* lands and Forests Reserves managed by the State Forest Service (*Boschweezen*) was set about 12 kilometres inland from the shoreline. National Parks were also established including the Bukit Barisan Selatan National Park. The land rights of villages within the park’s boundaries were recognised as enclaves, however parts of the wider *marga* territories,

<sup>ix</sup> Ibid.:170.

<sup>x</sup> Fay and de Foresta 1998:8.

including some *repong damar* areas, were also subsumed into the Park. Since the 1970s, migrants from other areas, especially Java, have also settled along the coast, some brought in as part of government sponsored Transmigration schemes.

#### Box 4. Repong damar and its relation to multistrata coffee gardens

Torquebiau (1982) was the first to describe the damar agroforests of Krui in the international literature, and started a tradition of research involvement in the area by French ecologists/anthropologists of ORSTOM based in Biotrop (Bogor). There had been various reports in the Dutch forestry literature of the damar gardens of Krui – and there had been a research program for finding suitable chemical stimulants of resin flow, but most of this had been forgotten. Resins from a number of Dipterocarp tree species have a long history of use as ‘non-timber forest product’, but in many traditional harvest areas the trees were overexploited and disappeared. The SW Coastal zone of Sumatra (‘Krui’) was remarkable for the *domestication* of the economically most sought after damar producing tree, *Shorea javanica*, in the late 19<sup>th</sup> century. Little is documented of the way this transition took place. But we can still see how the cycle starts with a slash-and-burn land clearing for upland rice, followed by planting of coffee and other trees and a phase of ‘multistrata coffee garden’. One can see that the shade trees get out of hand when this develops into a repong damar – with some remnant unproductive coffee in the shrub layer...



In the 1990s, the boundaries between State forest areas (*Kawasan Hutan Negara* (KHN)) were redrawn to overlap much of the *repong damar* stands on *marga* land - an anomalous and, arguably, legally inappropriate act. In turn, the KHN was classified into protection and production forests and the boundaries of some of the protected areas were also expanded. The result was that land customarily owned by the communities, much of it intensively used and managed as agroforests, was either closed to community use (in theory) and/or was considered land that could be allocated to logging or other large-scale forestry activities.

In 1991, the Province of Lampung went through a re-organisation, leading to the creation of a new *kabupaten* (usually translated as either ‘district’ or ‘regency’), Lampung Barat. The newly appointed

*bupati* (district head), based in Liwa, gave priority to revenue generation and the promotion of inward investment. ICRAF affiliated researchers from the French research agency, ORSTOM, who had been documenting the *repong damar* system in great detail since the 1980s, were alarmed to note that the newly established district administration was encouraging the take over of *marga* lands by two oil palm companies. They also noted that Inhutani V, a parastatal logging company, had been granted a logging concession over most of the *repong damar* in areas classified as State Forest.

## ICRAF's response:

The threat triggered a variety of responses, notably, the establishment of a multidisciplinary research and advocacy team (*Tim Krui* – 1995-1998), funded by the Ford Foundation, made up of NGOs and researchers and led by ICRAF (where the ORSTOM team found a new base), with the goals of documenting and securing local rights over *repong damar*. The main activities of the team were:

- Legal research and analysis of damar agroforestry systems and community livelihoods
- Mobilisation of *repong damar* farmers and the establishment of two new organisations representing community interests (PMPRD and Yaspap)
- Alliances with a number of NGOs
- Participatory mapping projects of 8 out of 16 *marga*
- Advocacy for the recognition and protection of *marga* lands at local and then the national levels.<sup>xi</sup>

Earlier researchers and *Tim Krui* generated a formidable body of documentation, which persuasively argued the case for the protection of the *repong damar* system, as an environmentally sound and profitable community-managed agroforestry regime with demonstrable public benefits.<sup>xii</sup> The additional research showed that overall some 55,000 ha. of land in the area were under mature *repong damar*<sup>xiii</sup> and provided the main source of cash income for local households, but the system was also being sustained for social and cultural reasons.<sup>xiv</sup> *Krui* households had a mean income three times the average for Sumatra and were intensifying the earlier phases of the *repong damar* cycle, to gain greater income from pepper and coffee.<sup>xv</sup>

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<sup>xi</sup> De Foresta 1999.

<sup>xii</sup> For summaries of this extensive literature and full references see Wollenberg et al.1996 (2001) ; Fay et al. 1998; Michon et al. 2000; and Budidarsono et al. 2000.

<sup>xiii</sup> Fay et al. 1998.

<sup>xiv</sup> Wollenberg et al.1996 (2001).

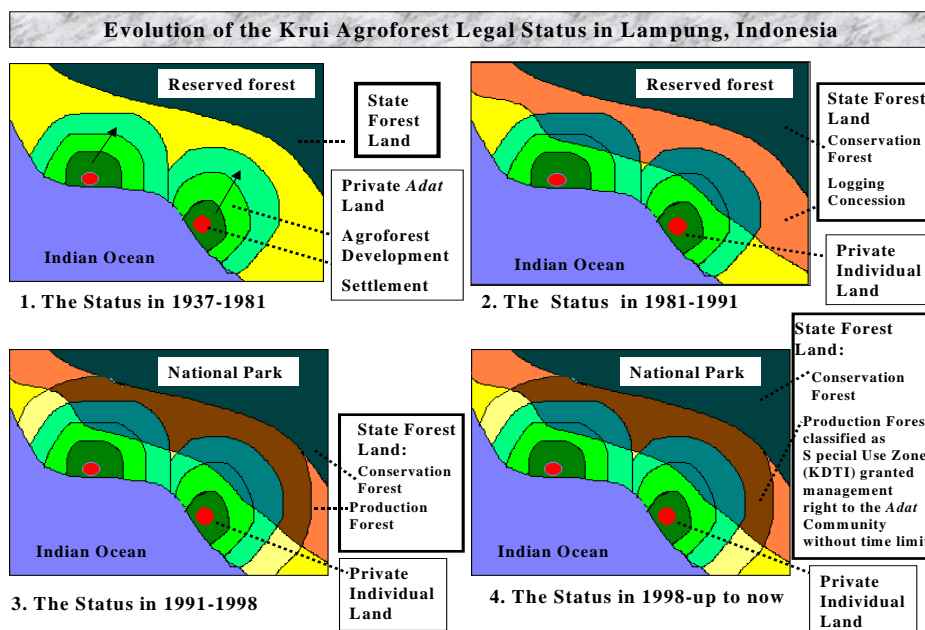
<sup>xv</sup> Budidarsono et al. 2000.



**Box 5. Time line of events in Krui, according to ASB lecture note 12**

Time	Event
1400s	<ul style="list-style-type: none"> <li>First arrival of Lampungese people from inland areas to the Krui coast: settling, practicing shifting cultivation, and opening irrigated rice fields.</li> </ul>
1700s	<ul style="list-style-type: none"> <li>Damar resin production from Krui: 200-300 ton, all collected from damar trees in <b>natural forest</b>.</li> </ul>
1880s	<ul style="list-style-type: none"> <li>First damar gardens planted by a group of farmers (70 ha).</li> </ul>
1930s	<ul style="list-style-type: none"> <li>Damar gardens planted by farmers.</li> </ul>
1935	<ul style="list-style-type: none"> <li>Damar production from Krui 200-300 ton; 80 % of this came from farmers' gardens.</li> </ul>
1980-1990s	<ul style="list-style-type: none"> <li>State Forest Zone boundary establishment; prohibiting the opening of forest inside the reserve area.</li> </ul>
1980-1990s	<ul style="list-style-type: none"> <li>Asphalt road construction</li> <li>Commercial utilization of timber and fruits.</li> </ul>
1990s	<ul style="list-style-type: none"> <li>Damar production from Krui was 8,000-10,000 ton, all from around 50,000 ha of gardens (based on satellite image analysis); new gardens still being established.</li> </ul>

Government Policy	Time	Consequences & Problems
<ul style="list-style-type: none"> <li>Southern part of Krui was designated a logging concession</li> </ul>	1970-1980	<ul style="list-style-type: none"> <li>Logging in Southern Krui.</li> </ul>
<ul style="list-style-type: none"> <li>Designated as 'State Forest Land' ('protection forest' and 'production forest' types).</li> <li>Conversion of damar garden to transmigration site in South Krui.</li> <li>Ministry of Forestry grants the management right to State Forest Company.</li> </ul>	1990-1991	<ul style="list-style-type: none"> <li>Loss of farmers' traditional ownership of land and gardens.</li> <li>Damar farmers become illegal squatters.</li> <li>Conflicts between transmigrants, local community, and government.</li> <li>Farmers in south Krui prohibited from continuing to manage their gardens.</li> </ul>
<ul style="list-style-type: none"> <li>State Forest Zone boundary demarcated by Forestry Department staff.</li> <li>Oil palm plantation establishment in south Krui.</li> </ul>	1993-1994	<ul style="list-style-type: none"> <li>Loss of land and garden ownership.</li> <li>Opening new gardens and harvesting timber was prohibited.</li> <li>Conversion of some thousands of hectares of damar gardens; conflicts: farmers vs. company/government.</li> </ul>



*Tim Krui* opened negotiations with the local government. Once it became clear that the local administration was both unwilling and legally unable to alter forest designations as these were decided in Jakarta, reform efforts shifted to Jakarta. The ICRAF land tenure unit entered into intensive dialogue and negotiation with the relevant directorates of the Ministry of Forestry.

The team were fortunate that the then Minister of Forests was sympathetic to the need to develop forestry systems that accommodate community livelihoods and accordingly he sought a legal means to do this within his own powers, that is without the need for Presidential approval. He instructed his own legal team to explore how he could allocate the Krui 'State forest zone' as a Special Purpose Area following the precedents established by the Dutch for the setting aside of areas of forests for communities in Java (LDTI). ICRAF was requested to provide advice to the Ministry to facilitate this. After an intensive tussle between different directorates within the Ministry, not all of which were inclined to accommodate ICRAF and the Minister's proposals, a draft text was agreed.

In 1998, the Minister for Forests issued a Ministerial Decree which designated an estimated 29,000 ha of *repong damar* as a Special Purpose Area (KDTI) within the State Forest Zone of Lampung Barat. Under the Decree, customary communities, represented by their customary authorities, could apply for permissions, that carry no time limits, to get utilization rights, which rights would be forfeited if other laws overruled it, if the *repong damar* was not well-managed or in the national interest (such as the construction of roads, hospitals, dams, harbours, markets, graveyards, canals, religious purposes, telecommunications, government buildings, military bases and 'other developments regulated by Presidential Decree'). The Decree also prohibited permanent coffee plantations, shifting cultivation, oil palm estates and timber estates and required farmers to reforest using species suggested by the Provincial Forestry Office.<sup>xvi</sup>

At the time, ICRAF considered the decree to be a 'breakthrough for Indonesian farmers', in that the decree recognised and devolved forest management to the communities and allowed local people to harvest timber, in perpetuity, from a watershed. Also for the first time, the process had allowed non-governmental organizations working with local people to be directly involved in the drafting of a forestry decree. ICRAF estimated that some 35,000 people would directly benefit from the decree and that the model could be widely applied to help alleviate the poverty of hundreds of thousands of farmers in different parts of Indonesia.<sup>xvii</sup>

The Decree was one of the last acts of the Forestry Administration before the fall of President Suharto and the beginning of a period of dramatic national political reform (*reformasi*), including the emergence of strong social movements demanding reforms of laws and policies which limited communities rights in lands and natural resources. The expectation grew that now, finally, the government would be obliged to recognise the ownership rights of communities whose lands had been included in the State Forest Zone without due process. The result was that within months the KDTI Decree looked out of date.

Shortly after the Decree was issued the Krui community-based organisations and supportive NGOs issued a statement summarising their demands which included:

- New forest regulations be formulated with broad community involvement including through the media
- Community control over the implementation of policy
- Redesignation of the Forest Zone

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<sup>xvi</sup> MoF 1998; ICRAF et al. 1998.

<sup>xvii</sup> Fay, de Foresta, Sirait and Tomich 1998.

- Recognition of village lands
- Recognition of *adat* ownership rights
- Revision of Spatial Plan and incorporation [of revisions] into the national spatial planning process
- Review of TGHK with community participation
- Forest lands to be owned by people but regulated by the State (especially in watershed areas)
- Management rights in conservation areas
- Reorganisation and retraining of forestry staff to halt oppressive relationships
- Integration of forest management with broader regional development planning
- Support and develop opportunities for communities to manage forests through community forestry
- Access for communities to manage production forests
- Halt the licensing of large scale companies which destroy the forest
- Halt the conversion of forest
- Measures to ensure concessionaires consider welfare of communities
- Development of community timber farms by providing marketing incentives.<sup>xviii</sup>

### Stakeholder perceptions:

The assessment sought the views of a wide range of persons by email, telephone and direct interviews about: the past problems in Krui; the extent to which ICRAF was seen as having a role in the passing of the KDTI decree; the extent to which the decree had solved identified problems and; what else needed to be done. Those interviewed included: community members, representatives of community based organisations, local NGOs, researchers including ICRAF staff, Ministry of Forestry Officials at local, district and national levels, the ex-Minister who signed the KDTI decree, district and provincial members of BAPEDA, private sector, National Parks officials, lawyers representing local community members, the head of the National Human Rights Commission, a member of parliament, officials in the Ministry of Environment, members of international conservation organisations and donor agencies.<sup>xix</sup>

A large proportion of those interviewed emphasised that a major problem faced by the Pesisir damar growers in 1990s stemmed from market limitations. Damar prices were characterised as low and unstable, with middle men getting undue profit from buying and selling the resin. Consequently, they believed, growers were gradually abandoning their *repong damar*. A widespread view was that the farmers had insecure rights to land, owing to the lack of government recognition of *marga*. Consequently much of the *repong damar* areas had been classified as falling within State forests areas and Protected Areas and community use was technically ‘illegal’. The lack of recognition of both the value of *repong damar* and of communities’ rights in *marga* land led to the government allocating the same areas to oil palm and logging companies. Conservation agencies also noted the problem that *repong damar* was expanding into natural forests, that the Bukit Barisan Selatan National Park was losing its buffer zone and that land claims and *repong damar* overlapped the Park.

Most interviewees agreed that given these problems intervention in the area was justified but one NGO dissenter noted that, even if *de jure* community rights were threatened, in practice few ‘*masyarakat adat* realised at the time that their land tenure was at risk’.<sup>xx</sup> One researcher concurred, suggesting that the area was picked as a good example for tenurial reform advocacy rather than because there was any problem in the area *de facto*.<sup>xxi</sup> Both these interviewees were, however, unaware of the plans in the 1990s to promote logging and oil palm plantations along the coast.

<sup>xviii</sup> Forum Pembaruan Kehutanan Lampung 1998.

<sup>xix</sup> For details of interviewees and their responses see Marcus Colchester (2005) Consultancy Report for ICRAF. Ms.

<sup>xx</sup> WALHI (Lampung).

<sup>xxi</sup> CIFOR researcher.

ICRAF's lead role in both the field programme of *Tim Krui* and in the national level advocacy that led to the KDTI was widely recognised, while the key role that Minister Djammaluddin played within the Ministry of Forestry was much saluted. The Minister himself noted that ICRAF's active presence in the region was fundamental to his decision to push the decree through. The supportive role of NGOs and the Ford Foundation was also widely acknowledged, with many interviewees emphasising the collaborative nature of the research and advocacy process. National level advocacy NGOs tended to emphasise the central role of the communities themselves in the process, a 'politically correct' view, but local actors, both from communities and NGOs, pointed rather to the key role of ICRAF, ORSTOM and other outsiders, including NGOs. A number of local interviewees pointed out that, at the beginning of the process, the communities were not organised and the two Community Based Organisations (CBOs), that came into being largely as a result of the efforts of *Tim Krui*, only became active during the final stages of the four year campaign.

Community members and CBO leaders who were interviewed – all people who did know about the KDTI process<sup>xxii</sup> - recognised the KDTI as only a qualified success. If, on the one hand, the KDTI represented a successful effort to persuade the government that *repong damar* was a valid system of forest management, on the other hand, it did not secure their land rights or free them from hassles with Ministry of Forestry officials. Other interviewees were by and large more positive, characterising the KDTI as a 'a breakthrough', a 'big success' and as achieving a 'paradigm shift'. Most qualified their praise: the 'best that could be achieved prior to *reformasi*'. In retrospect an ICRAF staff also noted that it was 'the right decree in the wrong place'.<sup>xxiii</sup> The decree did not resolve damar marketing problems but was successful in halting logging and oil palm companies taking over 'forest' areas, though pressure from oil palm on their lands outside the forest zone is still a major problem that community interviewees highlighted.



'We can say that the help was useful in some ways. It was a kind of success, insofar as the forestry department accepts that the *repong damar* is a kind of garden not a forest. It is a kind of recognition of our role in establishing the *repong damar*.'

<sup>xxii</sup> For the results of interviews with more randomly sampled villagers see p.xx below.

<sup>xxiii</sup> Chip Fay personal communication 13 September 2005.



'What we want is freedom to plant, freedom to harvest and freedom from the leviee and the hassles with the forestry department.'

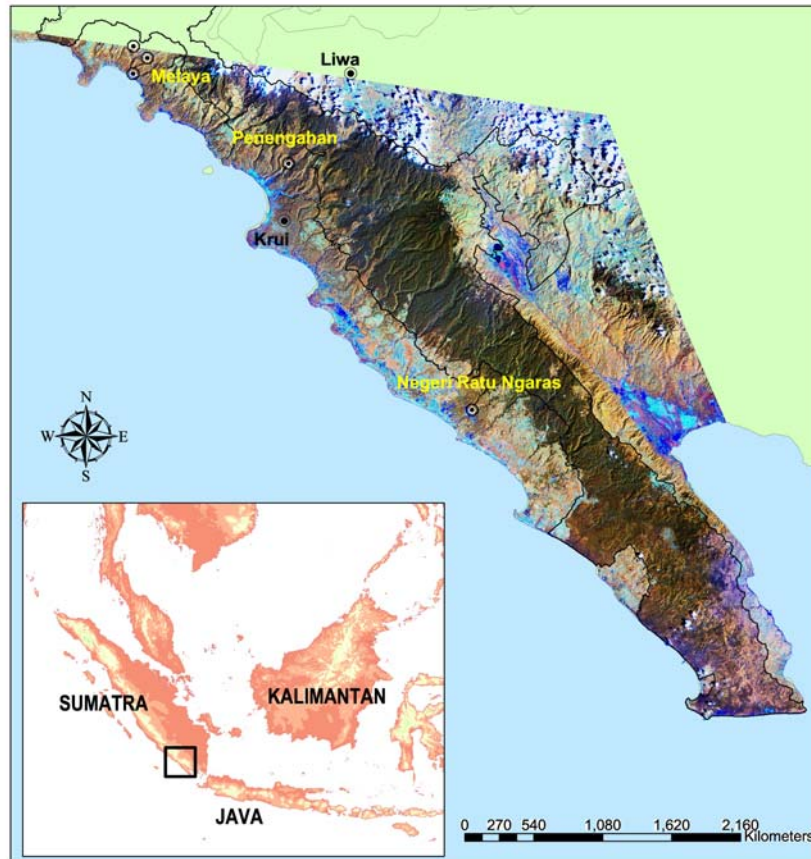
One line of criticism was more pointed. Tim Krui, noted some local actors, was too short lived. The NGOs and researchers should have stayed to accompany the communities in the next phases of their struggle to secure their livelihoods and rights to their lands, and help them fend off unwelcome developers. In fact, however, projects with the local NGOs and the newly formed Community-based organisations did continue for some time after *Tim Krui* disbanded as a formal entity. Supporting NGOs decided not to press the formal application of the KDTI given the ambivalent reaction to it from the farmers' organisations. For its part, ICRAF explains that it decided to redeploy its efforts elsewhere and await further requests for support.

### **Assessing Benefits:**

As a contribution to this assessment, CIFOR researchers Koen Kusters and Philip Manalu, presented the results of a longitudinal study, which compared the livelihood system of 223 households in 1996 with the situation of 296 households from three villages in 2005. The 2005 study, based on household income surveys, interviews and focus group discussions, used the same methodology as the earlier CIFOR study, which had been carried out as part of the activities of *Tim Krui*.<sup>xxiv</sup>

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<sup>xxiv</sup> Kusters and Manalu 2005; Wollenberg et al. 1996



The study found that, young people are moving out of the area to find work in West Java, but often return after several years. Also, there has been considerable in-migration to the area, mainly namely by Javanese people. Overall, population is increasing and land shortages are thus widely felt. As a result, fallow land and forest are being converted to coffee and pepper, while, overall, areas of land under wet-rice and damar appear to be about stable.

Especially in the north of the Pesisir area (sub district Lemong), where villagers and migrants are clearing new gardens in the National Park, farmers experience conflict with the forest police. It is normal for farmers to pay fees to village headmen who pay off forest police. Thanks to this system of bribes, villagers tend to be alerted to, and avoid, police actions aimed to clear them from the National Park. The study also showed that locals and migrant farmers were, both, establishing *repong damar*. Damar is still favoured as it offers a stable year long income, unlike the seasonal harvests of coffee and pepper. Damar is also favoured as damar gardens are heritable under local custom.<sup>xxv</sup>

However, the study also found that some conversion of mature *repong damar* to oranges and cacao is occurring in the south, where customary values are less strong. Damar timber is being sold to local sawmills for favourable prices, with the cash so gained being spent on vehicles, livestock and carts. People say they plan to regenerate *repong* in the area once the cleared gardens mature, yet there is also a local perception that rising cash needs are likely to persuade more people to cut mature damar trees.

<sup>xxv</sup> cf Michon et al. 2000.

A trend observable throughout the study area, is an increase in the theft of damar resin from trees, mainly by youth. This is the prime reason that resin harvesting by tree owners is now being carried out with markedly greater frequency. The researchers found a decrease in overall damar resin yields. Shortening harvesting intervals is likely to be one of the reasons of the observed lower yields, but the ageing of damar plantations and climatic factors may also play a role.<sup>xxvi</sup> Farmers attribute the increase of theft to increasing population and increasing cash needs. The trend may also be related to weakening of respect for customary authorities.

Despite these trends, damar remains the main source of cash income for most households throughout the study area except those households which have only recently begun to clear lands. Over the past ten years, prices for damar resin have remained stable.<sup>xxvii</sup> However, damar's contribution to the overall household economy appears to have declined, in real terms, over the past ten years.

The study also sought to assess the extent to which the KDTI has influenced farmers' decisions about land use and livelihood strategies. The study confirmed that only 3% of farmers claimed to have even heard of the KDTI and none have applied for permits to regularise their *repong damar* in accordance with the requirements of the decree. At the same time farmers deny that their lands are in the State Forest Zone, insisting that their *repong* are in *marga* lands. The study noted that local forestry officials, who came into office after 1998, are also largely ignorant of the decree and have never sought to apply it. Notwithstanding, most farmers feel secure in their lands, both inside and outside the State Forest Zone and many mentioned that planting damar in cleared lands increases security because damar planting is respected by the government and by NGOs.

An unpublished study by the Wildlife Conservation Society (WCS) classified forest and non-forest areas on satellite images encompassing some 389,138 hectares of West Lampung district and 206,714 ha of Tanggamus district. The study found that between 1997 and 2002, 15,681 hectares of forests were lost, of which more than half located within the boundaries of the National Park. Building on these results, a joint study by ICRAF, the Wildlife Conservation Society (WCS) and the Center for International Forestry Research (CIFOR) then assessed the non-forest landcover changes between 1997 and 2002.<sup>xxviii</sup> In particular this study sought to estimate the changes in the area of damar agroforest and the extent to which damar agroforests play a role in preventing encroachment in the Bukit Barisan Selatan National Park.

Confirming the findings of the livelihood research component, the satellite study suggests a degree of dynamism in the damar system, with damar being both cleared and planted. Most of the cleared damar areas have been replaced with either oil palm or coffee. Coffee gardens that replace mature damar agroforests may be early stages in the *repong damar* cycle. The study found that, overall, the area with damar agroforests remained relatively stable in the 1997-2005 period, both within as well as outside the KdTI zone.

Most of the forest areas that were lost between 1997 and 2002 were replaced by coffee gardens. The study found less expansion of young coffee gardens in the area between *repong damar* and the National Park than in other areas surrounding the National Park. The authors conclude that *repong damar* does, to a certain extent, act as a physical buffer, limiting the accessibility of the National Park, but indicate that other factors (such as the steepness of slopes) may play a role in limiting agricultural expansion as well.

<sup>xxvi</sup> de Foresta personal communication to Kusters 14 September 2005.

<sup>xxvii</sup> Except for a major spike during the financial crisis (1998-2000).

<sup>xxviii</sup> Ekadinata, Kusters, Widayati, Gaveau and Aslan 2005.

Since it was the threat from oil palm which had originally sparked the formation of *Tim Krui*, the assessment also studied the extent to which conversion to oil palm is likely to become a major driver of land use change along the Krui coast in the future. In the late 1990s, the mobilisation which had led to the KDTI decree prompted the Minister of Forestry to halt the oil palm expansion in State Forest Areas<sup>xxix</sup> and led the regional administration to ask PT Padma Panji Lestari and PT Karya Canggih Mandiri Utama (KCMU) to suspend their operations. The former withdrew from the district but the latter, while halting its efforts to acquire land within State Forest Areas continued to try to expand its operations in *marga* lands outside the 'forest'. One result was that not enough plantings were established to make it viable for PT KCMU to establish a mill on the coast. Fresh fruit bunches have to be trucked out to mills in eastern Lampung, lowering the price that mill owners can offer farmers.

Farmers interviewed by Kusters and Manalu for this assessment suggested that during the late 1990s, land acquisition by PT KCMU slowed but that it has speeded up again in the last few years. Today, farmers complain of a lack of transparency in negotiations with the company and its agents and ensuing land conflicts. Company data suggest that oil palm plantings are yielding a net income that is quite competitive with that of *repong damar*. How much of the money from oil palms actually gets to local farmers is disputed. Farmers who have agreed to have oil palms planted on their lands claim they are getting inadequate returns and are now selling their lands to speculators working for the company.

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<sup>xxix</sup> De Foresta 1998:11.



## Conclusions:

*Repong damar* still provides a viable contribution to the Krui coast livelihood system bringing stable if modest income benefits to rural communities, providing good environmental services and significant habitat for biodiversity. It is also locally valued for social and cultural reasons, being tied up with Pesisir identity. The *repong damar* system is resilient and responsive to change and is cushioning, though not totally curbing, intrusion into the Bukit Barisan Selatan National Park.

Increasing cash needs and involvement in the market economy, the lack of respect for customary rights and authorities by the government and local people and pressure on land from local people, migrants and oil palm companies, do, however, imply change in the long term to the Pesisir way of life. The gradual takeover of land by plantations on the coast may be prompting farmers to clear more land further inland.

The KDTI was probably the best legal result possible under the *Orde Baru*. However, it did not satisfy farmer demands for recognition of their ownership rights to their *marga* lands and, if applied, would have kept them dependent on the Ministry of Forests. Farmers have ignored the law. The Ministry has not enforced it.

However, the political process that led to the decree has helped secure the *repong damar* system. It led to the curtailment of a proposed logging operation. It stopped oil palm expansion in State Forest Areas and slowed it on other *marga* lands. It secured recognition of the benefits of the system from local government and gave farmers the sense that their livelihood system was valid and valued. It spawned two local farmers' organisations, both of which continue to be active in defence of community interests. It also contributed to national level reforms of forest policy and international awareness of the importance of community management (see section 5 below). The KDTI remains, perhaps, the most community-friendly tenure so far offered by the Ministry of Forestry.

## 4. Community Forest Management: the Sumberjaya experience

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### **Background:**

Before we turn to the ensuing research and policy dialogues at the national level, the second part of this review examines the ICRAF experience in Sumberjaya, a small upland area also in Lampung Barat on the edge of an extinct volcano. The area is characterised by steeply rolling terrain, originally covered with rainforest, with highly varied geology, soils and topography, lying between 700 and 1,700 metres above mean sea level.

The early history of the area is somewhat obscure. Prior to the colonial era, the area, which unlike other densely settled upland areas in Sumatra is not well suited to wet rice farming,<sup>xxx</sup> is thought to have been an isolated forested upland area, thinly populated by shifting cultivators, hunters and forest product gatherers, who would have been on the very margins of the coastal kingdom of Sriwijaya in the 7<sup>th</sup> to 13<sup>th</sup> centuries and linked only tenuously to the Islamic sultanate of Banten, across the Sunda straits, which asserted control over South Lampung from the early 16<sup>th</sup> century until it was eclipsed by the colonial powers.

Although the rapid growth of trade in pepper and later coffee brought Sumatra as a whole into the sphere of international trade from the 16<sup>th</sup> century onwards, the Dutch administration was not effectively introduced into the Sumberjaya area until the mid 19<sup>th</sup> century. Land hungry Semendo settlers moved into the area from South Sumatra in the latter part of the 19<sup>th</sup> century.<sup>xxxii</sup> Although there is evidence of settlements in the area from at least the end of the first millennium of the present area, it was these pioneering farmers who were, apparently, the first to clear extensive areas of forest for subsistence agriculture and pepper farms. They adopted coffee farming in their shifting cultivation areas at least from the 1920s,<sup>xxxiii</sup> exporting their coffee overland along steep trails to Liwa and then by road to Krui or Palembang.

Interviewees relate how local farmers established customary rights over their collective lands, mainly along the valley bottoms. Historical records substantiate local claims that the customary jurisdictions, *marga*, established by the Semendo were recognised and mapped by the Dutch. Since independence and with the passage of the 1960 Agrarian Law, the status of these *marga* lands has become less certain.<sup>xxxiii</sup>

Lampung Province as a whole has experienced a long history of transmigration, a government scheme whereby landless poor, mainly from Java and Madura, have been settled in less populous areas. In the 1950s, at the initiative of President Sukarno, to whom the people still feel a strong allegiance, the Government established a number of transmigrant settlements in the Sumberjaya area, giving land to the families of veterans who had fought in the wars of independence. Transmigrant families were allocated plots of land and many families also benefited from army pensions.

However, rapid population increase and further in-migration have caused land shortages, leading farmers to gradually extend farmed areas up the hillsides into what the Government considered to be

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<sup>xxx</sup> Read 2004:41-52.

<sup>xxxii</sup> Verbist and Pasya nd.

<sup>xxxiii</sup> Citing Benoit, Suyanto et al. (2005:3) and Verbist and Pasya (nd) date the arrival of Semendo farmers to 1876.

<sup>xxxiii</sup> Verbist and Pasya nd.

state forest. Interviewees recall conflicts in the early 1970s as the government sought to expel them from coffee farms established on the hillsides.

Rights to land were further restricted in 1990, when the boundaries of State Forest Areas were redefined.<sup>xxxiv</sup> In 2000, the State Forest Area was again expanded to include more land being used by local communities.<sup>xxxv</sup> Currently some 71% of land in West Lampung is in Protection Forests (*Hutan Lindung*).

The local government perceived coffee farms in protection forests to be a serious threat to the area's watershed functions, considered important as the area forms part of the catchment of the Way Besai river, which has been tapped for the province's main source of hydro-power. A series of police actions to evict 'encroachers' were thus undertaken in 1990-1, 1995 and 1996.



First they came to cut down the coffee bushes, then they pulled out the stumps with elephants and the soldiers came through with guns.... We knew it was protection forest, so our presence was illegal, so we could not protest or take the issue to the courts. People felt very stressed. Some became crazy and crime increased. You see, we have no other options here except farming. After the evictions, Inhutani came in to plant *Gmelina* for about 2 years. But Inhutani was afraid of the people and the people were afraid of Inhutani. The plantations failed, the land reverted to bush. There were fires again. Then, in 1998, there was *reformasi*. There were two groups of people who tried to get back onto the land. One group sought to re-establish their farms in the hills, while the second group wanted to get revenge [on the government] and they cut down all the timber for sale but didn't want land for farming.

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<sup>xxxiv</sup> Verbist et al. (nd) note that the boundaries of the State Forest Areas actually matched quite closely the areas set aside as Forest Reserves by the Dutch in 1939.

<sup>xxxv</sup> Verbist and Pasya nd.

## ICRAF's response:

The early years of the *reformasi* period saw a transformation in community expectations about land rights. All over Indonesia, communities hoped that the new authorities in Jakarta would turn their backs on the 'corruption, collusion and nepotism' of the past and recognise the rights of the common people. Land reoccupations were common and the rural poor felt empowered by their new found rights and freedoms to shrug off the impositions of government agencies and private companies.

In this context, and following somewhat disappointing results in pushing for reforms in the Forestry Act at the national level (see section 5 below), in 1999 the ICRAF Land and Tree Tenure Programme made a policy decision to shift its focus from national to local level reform. Sumberjaya was one of several sites chosen for these activities, where the aim would be to promote community forest management, in accordance with the newly revised forest tenure, *Hutan Kemasyarakatan* (HKm), by which farmers' groups could obtain short-term leaseholds in State Forests, subject to a complex set of management requirements. The government's decision, in 2000, to decentralize authority over natural resources to the districts gave further impetus to ICRAF's decision.

Building on the Krui experience and working closely with some of the same NGO partners, in Sumberjaya ICRAF deployed a combined approach of research and advocacy, which it termed a 'negotiation support system'. Activities included efforts to:

- Help communities and local government understand the legal framework and management implications of HKm
- Work with NGOs which would build up farmer organisations and capacity
- Provide technical assistance to farmers to develop management plans
- Mediate in negotiations between farmers and local government.
- Help develop new agroforestry techniques and promote women to develop seedling nurseries
- Carry out, and deploy the results of, complementary research on livelihoods, income, equity, tenure, watershed functions, biodiversity, landscape history and land use change.<sup>xxxvi</sup>

HKm was chosen, despite and in order to overcome its known shortcomings, as the only tenure option available which could give farmers a measure of control of their lands and farms in forest areas. ICRAF was able to persuade the local government to experiment with the HKm system, noting that one result of the previous policy of evictions was that, ironically, 'tree cover was higher on coffee farms on private lands than in the contested 'forest lands''.<sup>xxxvii</sup> Several years of negotiation support work resulted in the district head authorising the issuance of provisional (5 year) HKm permits to six farmers' groups, with a further 23 now in the pipeline.

Technically, the Ministerial Decree regulating HKm requires Ministerial approval of all long term (25 year) permits, raising concerns among farmers that they could lose their investments in coffee farms established under the provisional permits.<sup>xxxviii</sup> The Decree also failed to provide clarity about the management requirements acceptable to the Ministry. Accordingly, through the promotion of participatory dialogues between local government and community spokespersons, ICRAF was able to persuade the regional administration and legislature to issue two local laws: a *Perda* (local bye-law) setting out the parameters for natural resource management in the district and a decree from the district head, setting out technical guidelines for criteria and indicators of acceptable HKm management. ICRAF field staff are convinced that the HKm system, despite the onerous bureaucratic and management requirements, is benefiting farmers, in terms of income and equity, and the quality

<sup>xxxvi</sup> Verbist et al nd; Van Noordwijk, Tomich and Verbist 2001; Nurka, Pasya and Indriani 2005; Pasya 2005.

<sup>xxxvii</sup> Verbist et al. nd:2.

<sup>xxxviii</sup> The HKm decree does not actually permit HKm in Protection Forests, a stipulation the local administration has chosen to overlook in favour of restoring forests and watershed functions through community forestry.

of agro-forests, in terms of tree cover and watershed functions.<sup>xxxix</sup> ICRAF supported research, summarised below, corroborates these observations.

### **Stakeholder perceptions:**

Most of the varied stakeholders interviewed for this assessment hold similar views about the nature of the problems in Sumberjaya prior to ICRAF's engagement.<sup>xl</sup> Poor migrants, prompted by poverty and land shortage and encouraged by strong markets in coffee, were opening up land in watershed forests but found themselves in conflict with the Ministry of Forestry and subject to evictions. A regime of fear and mistrust prevailed making dialogue near impossible, and both the environment and people suffered. Poor natural resource management, a result of the conflict and lack of secure tenure, was accompanied by illegal logging, wildlife loss and intensified soil erosion.

Most interviewees also share a view about the role of ICRAF locally. The institution is recognised as having taken a leadership role, convening government, researchers and NGOs, and mediating effectively to promote change in an inclusive way with government officials from national, provincial, district and local levels.

The HKm experiment in Sumberjaya is perceived as a qualified success: providing greater security for farmers; reducing conflict and halting evictions; and improving relations between the Ministry of Forestry and the communities. Senior economic planning officials in the district capital note that coffee production is the main source of income in the district. The very success of coffee is however drawing in further migrants. Most interviewees also emphasised environmental benefits in terms of: reduced logging; improved soils; less run off; and, even, enhanced biodiversity. ICRAF's major investment of time and resources is, indeed, highly appreciated by both communities and government, and by local NGOs, who emphasise the important role ICRAF has played in building up farmers' institutions and awareness.

The situation is not unproblematic, however. The number of HKm permits secured after such a great effort is small. Farmers complain that the leases are too short and uncertain. The management planning requirements remain too complex. Most problematic of all, however, is that the government is largely ignoring the positive lessons of HKm and is investing most of its money in a contract reforestation scheme, GNHRL, which, flush with central government funds, is diverting farmer and forestry official attention away from HKm and long term land care, introducing a 'cash fixation' and creating new opportunities for corruption. Conservationists are also concerned that HKm may be stimulating further invasion of protected areas, and that far from acting as a buffer zone, brings agro-forests right up to natural forest boundaries, making it only a matter of time before further forest clearance occurs inside the parks.

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<sup>xxxix</sup> Nurka, Pasya and Indriani 2005.

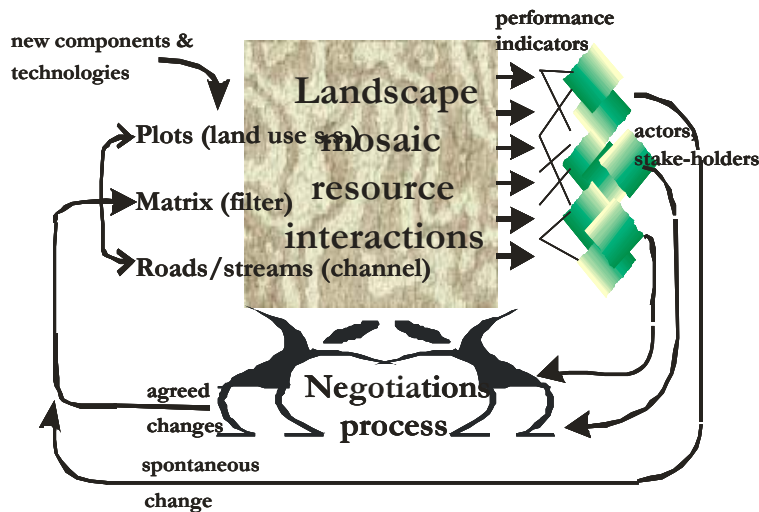
<sup>xl</sup> Marcus Colchester (2005) Consultancy report for ICRAF. Ms.

### Box 6. ICRAF's negotiation support system (NSS)

ICRAF's negotiation support has derived from the following starting points:

- existing rules on access to forest lands have led to a strong sense of conflict and lack of trust between forestry officials, local government and farmers,
- the 'legality' of the government regulation is often contested, especially where the publicly stated goals as regards 'forest functions' are not achieved,
- the restrictions imposed on land use are often not logically connected to the goals that are meant to be achieved: there is scope for 'win-win' solutions that help all stakeholders achieve more of their goals than they currently do,
- there are more creative options that stay within the existing legal framework and that can meet the expectations of stakeholders, once the initial levels of distrust and the sense of conflict are overcome.

The NSS thus consists of a 'process' of trust-building to negotiate mutually agreeable solutions, and a use of 'tools;' that help clarify which landscape-level functions can be expected from different landscape scenarios – exploring the full spectrum of land uses rather than a 'forest – non-forest' dichotomy.



Schematic representation of the main elements of 'Negotiation Support System' as developed by ICRAF Indonesia: there is a multistakeholder dialogue where all parties involved (e.g. farmers, local government, forestry officials) indicate what they expect from the landscape, depending on the way it is managed – and they then negotiate on the conditions under which access to and use of land can be 'regulated', in line with existing legislation to achieve the best results for all...

## Assessing benefits:

As part of its Negotiation Support System, for the past six years, ICRAF has also been carrying out research to ascertain the effectiveness of the HKm reform programme in securing environmental benefits and alleviating poverty. Suyanto et al. compiled the interim results of their project on 'Property Rights, Environmental Services and Poverty in Indonesia' as part of this assessment.<sup>xli</sup>

The researchers surveyed the 6 farmer groups that have already secured provisional HKm permits, the 2 farmers' groups that have formal applications in process and a further 21 groups that are developing their HKm applications. They also studied the wider situation of migrant farmers in the region. The survey showed that earlier migrants have taken over almost all lands outside State Forests and migrants who have settled in the area since 1998 only have access to land in State Forest Areas. Focus group discussions showed that all these groups expect to gain a higher income once they have HKm permits.

More detailed household income surveys show that early migrants have indeed established substantial incomes (in local terms) from their coffee farms, much on private land, and thanks to having built up wider networks, capital and local knowledge, also from non-farm income. More recent migrants, by contrast, have lower incomes, only have access to land in State Forest Areas, own no private land, have less secure rights and rely substantially on wage labouring on other farmers' lands to make ends meet. The study also shows that, among coffee farmers on private lands, land and wealth are more concentrated, while among farmers with coffee gardens in State Forest Areas there is markedly greater equity. The research team explains this as the result of access to forest land being open to all, while private lands are only available to those who can afford them.

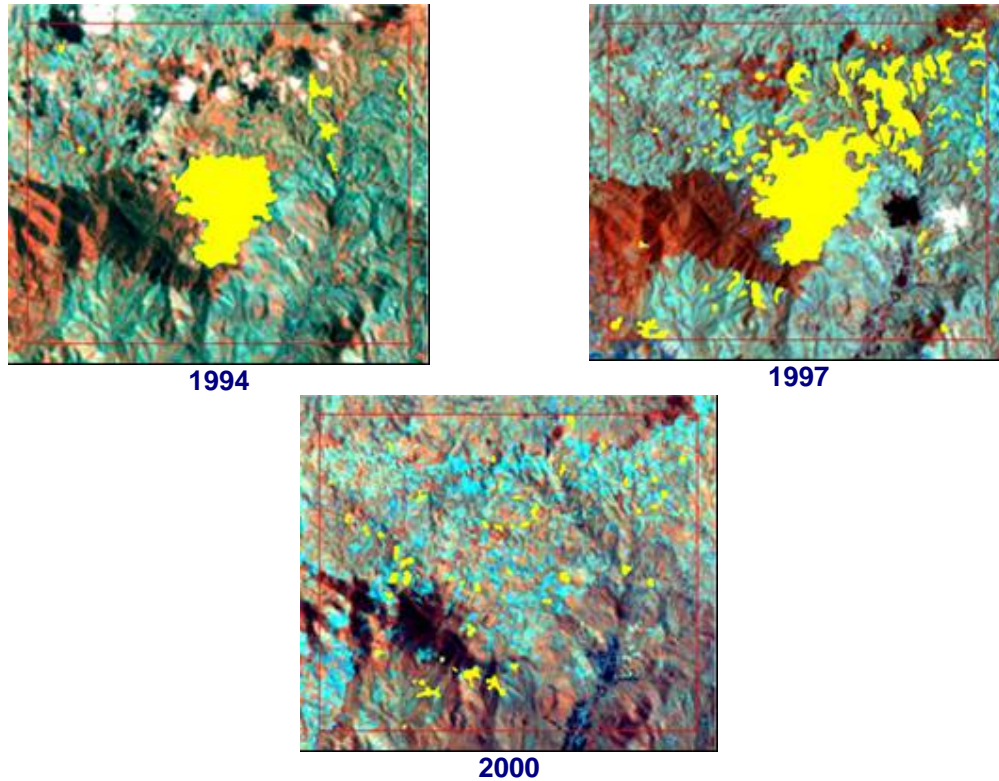
Focus group discussions with the farmers who have secured or are seeking HKm permits show clearly that they expect these to give them greater security in land, especially if and when their permits are extended as 25-year leases. Interestingly, farmers who have not yet secured permits have higher expectations of secure tenure than those who already have them, presumably because the latter group already have experience of some of the bureaucratic complications entailed. These findings appear to be backed up with data about the prices paid for coffee farms in informal land markets. Land values jumped markedly after *reformasi*, and significant premiums are offered for lands within HKm permits.

Farmers also report that their attitudes to land care have been transformed by securing permits. Farmers who have secured HKm permits are aware that they have to plant timber and fruit tree species within their gardens. Those with coffee farms in HKm areas on forest margins claim they actively protect forests from encroachment, take collective action to curb and extinguish forest fires and will even report illegal logging and encroachment to the authorities. These findings suggest that relations with local Ministry of Forestry officials have improved markedly since the era of evictions. However, the survey shows that forestry officials continue to exact bribes from farmers occupying State Forest Areas, and, although the incidence has lessened among those with HKm permits, the practice is still prevalent. A parallel ICRAF study by Budidarsono et al. showed that migrant coffee farmers in State Forest Areas in Sumberjaya, who lack HKm permits, pay about 5% of their income from their farms as bribes to forestry officials, but they are prepared to do so, and pay land taxes, as they see this as a way of legitimising their presence in protection forests.<sup>xlii</sup>

<sup>xli</sup> Suyanto and Khususiyah 2005; Suyanto et al 2005; Kerr et al. 2005.

<sup>xlii</sup> Budidarsono et al. 2005.

Suyanto et al. also compared the incidence of forest fires in Sumberjaya in 1994 and 1997, around the time when there had been mass evictions of farmers, with the situation there in 2000 (the latest year for which good satellite images were available). The images suggest that in 1994 and 1997, there were huge retaliatory forest fires, interpreted as a response to police actions, while forest fires were much less apparent in 2000, even though relatively few farmers had actually secured HKm permits.<sup>xliii</sup> As in Krui, it is perceived land security not actual title (or permit), which encourages farmer confidence and investment.



Suyanto et al. conclude:

The main incentive for local communities to manage land more sustainably is the expectation of secure land rights on state forest land through which livelihood and income could be realised.<sup>xliiv</sup>

As part of this assessment, and to get a better sense how unusual or not are the circumstances of the migrant coffee farmers who have secured HKm in Sumberjaya, Budidarsono et al. compared their situation with other communities without HKm in different areas.<sup>xliv</sup> They carried out detailed surveys of the economic and tenurial circumstances of a rural farming community in Kali Konto, East Java and indigenous farmers and Javanese migrants in Negeri Besar, in Lampung.

<sup>xliii</sup> Suyanto et al. 2005; Denny et al. 2005.

<sup>xliiv</sup> Suyanto et al. 2005:1.

<sup>xlv</sup> Budidarsono et al 2005.



### **Box 7. The costs of informal solutions to tree and land tenure**

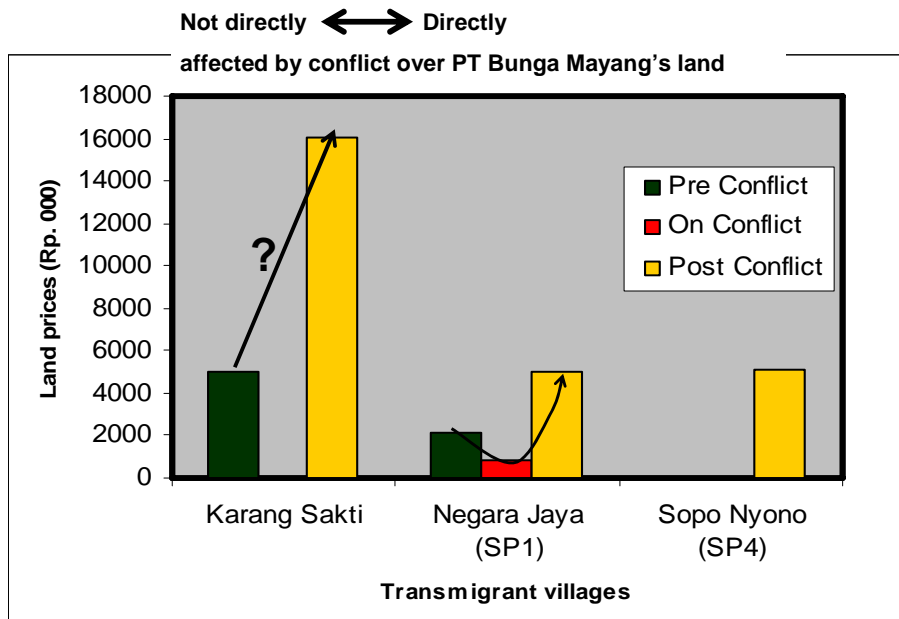
Share-cropping has a long history as a way of combining the production force 'labour' with 'land' and 'capital' and sharing the results. Compared to a situation where the land owner 'hires' labour, share cropping gives more responsibility and incentives to the persons working the land. It involves sharing risk as well as profits. Depending on the attractiveness of the land the sharing rule usually varies from  $1/3 - 2/3$  to  $1/2 - 1/2$  for the land owner and the persons working the land. Where the state is considered to be the 'owner' of forest lands, but where existing forest cover in fact does not yield a lot of benefits to the owner – or its caretaker in the form of the local forestry official – local arrangements have developed where farmers are allowed to use the land, as long as the benefits are shared. The forestry official provides 'protection' and obtains  $1/3$  to  $1/2$  of the products... To the outside observer this comes across as one of the many forms of 'corruption', as the proceeds do not enter the state books – but it builds on a long tradition. Obtaining quantitative data on the extent of the practice is, however, not easy.

On lands where these rules may apply, transfer of local use 'rights' among the 'illegal squatters' is common. Rather than a price for the land as such, they will pay compensation for investments made in clearing forest and/or planting valuable trees.

In Kali Konto the Javanese farmers live mainly from agriculture and livestock raising, their pressure on surrounding forests being discernible over the past ten years in the conversion of forests to scrub land used as a fodder source for dairy farms. They have established agroforests recognised as *hutan rakyat* (people's forests) on areas outside State Forests Areas. Recently the farmers have begun establishing fruit-tree and coffee farms inside State Forest Areas with the tacit permission of local officials of the para-statal agency, Perum Perhutani, which is charged with the management of all Java's forests. Until recently the officials have been exacting an informal levy on these farmers amounting to about one third of harvests. Notwithstanding the heavy cost of these bribes, the farmers have made major investments in labour and in establishing seedlings, to turn what were degraded lands into productive agroforests. In 2004, Perum Perhutani (PP) decided to regularise the farmers' tenure in these agroforests through application of a Joint Forest Management Scheme (PHBM), according to which farmers keep 25% of their harvests and the rest goes to PP. The case shows how precarious the livelihoods of farmers are, their vulnerability to rent-seeking behaviour by forestry officials and the extent to which insecure and inappropriate tenures represent a burden on the rural poor.

**Box 8. The costs of conflict and unresolved tenure issues**

Although the history of Indonesia and other parts of Southeast Asia is one of continuous movement of people, conflicts between ‘newcomers’ and groups with prior established local use rights are common. In parts of Kalimantan a number of these conflicts between ‘Dayak’ and ‘Madurese’ have become very violent. Little known, conflicts in Lampung between ‘Lampungese’ and ‘Javanese’ have come close to this level of escalation – with a few people keeping their heads cool and avoiding bloodshed. Underlying the issue was a conflict over the legality and procedure followed when the government obtained village lands as ‘conversion forest’ to establish a sugarcane plantation and for the establishment of ‘TransLok’ settlements for relocating forest squatters from elsewhere in Lampung’s mountains. These conflicts, that surfaced after the ‘reformasi’ period, lead to long-term road blockades and made it very difficult to bring farm products to the market. In villages affected, we documented the effects of these conflicts on local land prices – in villages directly affected and those not. During the conflict land prices more than halved (until a price was reached where a local well-connected family obtained much of the land). Conflicts can thus have significant economic effects on the asset base of smallholders – and induces them to open up new plots in the mountain when they can... continuing the cycle.



In Negeri Besar, the study examined three communities. The first was a customary Lampungese village some of whose *marga* lands had been taken over in 1986 by a sugar cane plantation which paid nominal compensation for lost crops and improvements but not for the land itself. The other two villages were of Javanese transmigrants who had been granted land neighbouring the plantation and had managed to establish viable livelihoods through a mix of marginal dry land farming, labouring in the sugar estate and off farm work. Following *reformasi*, the Lampungese villagers had demanded that the sugar company pay for the land it had ‘stolen’. In 1999, they established blockades on the road to the sugar estate, prevented company access and exacted a tithe on all other passing vehicles. The dispute dragged on for five years and is estimated to have cost the company some Rp. 40 billion<sup>xlviii</sup> in lost revenues, about half the sum that the communities demanded as payment for the 8,000 hectares of land they lost. Budidarsono et al. note that the neighbouring transmigrant community also lost out badly: paying the tithes on transport; suffering the consequent loss of access to markets and services when the road then collapsed through lack of maintenance by the company and; losing about 150,000 person days of wage labour on the sugar estate due to its closure. The declining economy in the village was reflected in the way land values declined by 60% compared to a nearby transmigrant community less affected by the blockades and loss of employment. As Budidarsono et al. note, the case illustrates clearly how State, the private sector, communities and their neighbours can all lose out when land tenures are unclear and conflicts left unresolved.<sup>xlix</sup>

As a further contribution to this assessment, a remote sensing study by Gaveau, Wandono, Setiabudi and Aslan<sup>1</sup> was carried out, to establish patterns of land use change and deforestation in Southwest Sumatra as a whole and ascertain what influence, if any, new forms of tenure have had on these trends. The study used LANDSAT data sets over three decades, combined with field inventories using ground transects of deforested areas, to determine trends in deforestation and ascertain the corresponding land use changes.

The study shows that Southwest Sumatra as a whole has experienced a startling rate of forest loss over the past three decades. Unprotected forests have been reduced by about 84% since 1972. Hydrological reserves and the Gunung Raya Wildlife Sanctuary have been losing forest almost as fast as unprotected forest and even the Bukit Barisan Selatan National Park, which is now a UNESCO world heritage site, lost some 18% of its forest cover over the period studied.

The study concluded that while large-scale logging, notably in the 1970s, may have contributed to the conversion of natural forests to scrub and grassland, the majority of forests have been cleared for farming, mostly for low shade coffee gardens, in which single species shade trees are inter-planted, often to also provide for pepper climbers. As previous studies have shown, coffee planting intensified rapidly from the 1970s onwards as communications improved and poor landless farmers, mainly from Java, migrated spontaneously into the uplands. Seasonal workers, brought in for the annual coffee harvest, often stayed to open their own gardens. Clearance has continued even when coffee prices were relatively low suggesting that farmers are driven primarily by land shortage and lack of livelihood options rather than by market trends.

All these settlers establishing farms in the protected areas are technically ‘illegal’ and treated as encroachers by forestry and parks officials. Gaveau et al. note that encroaching farmers opt for low shade coffee farms as these are quicker to provide cash returns on minimal labour investment, and correspond to farmers trying to meet immediate needs while facing the threat of eviction. Shade coffee, managed as part of mixed species agroforests would be preferable in terms of soil retention,

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<sup>xlviii</sup> Approximately US\$ 4 million.

<sup>xlix</sup> Budidarsono et al. 2005.

<sup>1</sup> Gaveau et al. 2005.

provision of environmental services and as habitat for wildlife, and would be more likely to be adopted if farmers were offered secure usufructory rights within the National Park. The team concluded:

Secure land tenure would help resolve conflicts between local communities and the government and would encourage farmers to be more responsible in managing forest resources. This could improve the current balance between agriculture, conservation and social justice in the BBSNP area to achieve a long term conservation strategy.<sup>li</sup>

## Conclusions:

Stakeholder perceptions and field research concur that the HKm experience has been positive for farmers and the environment in Sumberjaya. Income and livelihood gains seem impressive and equity improvements notable. ICRAF's role in securing these gains for farmers is favourably recognised, notably by an appreciative local government. For its part, ICRAF emphasises the key role of local counterparts, notably the NGO WATALA and the value of 'bringing science to the negotiating table'. The negotiation support system can be said to be successful but its very success prompts the question: can HKm be effectively applied **without** external support agencies, like researchers or NGOs, guiding farmers through the process? Most interviewees and workshop participants agree that the HKm requirements, as set out in Decrees and regulations, are too complicated for most farmers and local officials to run through without expert advice and assistance.

The prospects for scaling up HKm thus seem uncertain. On the one hand, it is the case that the Sumberjaya 'success story' has attracted visits from local government officials from other parts of Indonesia. National researchers also point to other parts of the archipelago where HKm has been applied well, but these are all also areas where supportive university staff or NGOs have provided back up. Most community forestry specialists seem to agree that HKm is unlikely to become generalised unless the Ministry of Forestry becomes more convinced of the value of genuine community-based forest management and further legal and procedural reforms are introduced to simplify compliance requirements and give greater tenurial security to farmers.

Doubts also remain about the overall environmental benefits. Shade coffee seems undeniably preferable to hit-and-run agriculture in terms of run off, wildlife habitat, and soil erosion. However, the coffee frontier is highly unstable and it remains unclear whether an extension of HKm would curb forest clearance in protected areas or only serve to draw in further migrants. As one local NGO activist in Lampung warns: 'scaling up is hard, as solutions are very location specific'.<sup>lii</sup>

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<sup>li</sup> Gaveau et al 2005: 14.

<sup>lii</sup> Selamat (WATALA) pers. comm. 8 May 2005.

## 5. Wider Implications: National Forestry Law and Tenure Reforms

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### Background:

The Lampung experiences taught the ICRAF Land and Tree Tenure Programme a number of important lessons. First, that the needs and demands of communities are very diverse and require a varied set of tenurial options to suit their different circumstances. Secondly, that community forestry leases (HKm), while the best tenure option available at least for migrant farmers who do not claim prior rights to forest lands, is hard to apply and offers relatively little long term security. Thirdly, that the legal provisions in the forestry laws for protecting customary rights are extremely weak and underlie many of the tensions between the Ministry of Forestry and customary communities.<sup>liii</sup> Fourthly, that the procedures set out in the forestry law by which the Ministry asserts its jurisdiction, have been very sloppily applied. Fifthly, that the way the agrarian law and forestry law relate is not well understood by the administration. *Reformasi* appeared to offer an opportunity for ICRAF to take all these issues up, through national level legal research and policy advocacy.

Indonesian forestry law draws on western systems of forest management, originally introduced by the Dutch, by which: forests are set aside as reserves for strategic purposes; are regulated by a dedicated forest service; local community rights are limited or denied; forests are conceived essentially as suppliers of timber and environmental services and; concessions in forests are allocated to the private sector. The system was long contested by the rural poor in Europe<sup>liv</sup> and remains contested in Indonesia, where rural communities continue to depend on access to natural resources in areas claimed as ‘forests’.

There are no sound statistics about the overall numbers of Indonesians whose livelihoods depend on access to forest lands and resources. Estimates published by ICRAF suggest that some 26 million people live in or depend on resources in areas classified as State Forest Areas in Java alone.<sup>lv</sup> Nationally, estimates suggest that somewhere between 30-95 million people depend on ‘forests’, though the figures are known to be unreliable.<sup>lvi</sup>

Based on the Forest Act of 1967, the Ministry of Forests asserted jurisdiction over 122 million hectares, over 70%, of the national territory. By administrative agreement, the National Agrarian Office (BPN) did not seek to regularise tenures in this area. The Ministry of Forests treated almost all forest areas as forest lands ‘owned’ by the State. At least up until *reformasi*, it did not recognise communities within these ‘forests’ as having strong rights, and even the weak usufruct rights of customary communities that it did acknowledge were subordinated to State interests, including logging and plantations.<sup>lvii</sup> Companies were however expected to carry out community development schemes in concessions, but studies have repeatedly shown these to provide few long term benefits.<sup>lviii</sup>

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<sup>liii</sup> ‘Customary communities’ is the most succinct translation of the term *masyarakat adat* but ‘communities governed by custom’ is a better, if more cumbersome, gloss.

<sup>liv</sup> Westoby 1987.

<sup>lv</sup> Bratamihardja, Sunito and Kartasubtrata 2005.

<sup>lvi</sup> See Colchester, Sirait and Wijardjo 2003:104-105 for a discussion.

<sup>lvii</sup> Barber and Churchill 1987.

<sup>lviii</sup> For much more detailed treatments see Fay and Sirait 1999; Fay, Sirait and Kusworo 2000; Colchester, Sirait and Wijardjo 2003; Fay and Michon 2004; Contreras-Hermosilla and Fay 2005.

## ICRAF's response:

Since 1998, when ICRAF first engaged intensively in discussions about tenure with the Ministry of Forestry, the Land and Tree Tenure Programme has pursued a number of leads to push for more secure rights for communities in areas classified as forests. These initiatives, while in fact diverse and overlapping, can be grouped into four, being to:

- introduce lessons learned into the process of redrafting the Forestry Law
- secure greater recognition of customary (*adat*) rights in forests
- improve community forestry laws and regulations
- rethink the process by which lands are classified and gazetted as forests

## Reform of the Forestry Law:

International development agencies began pushing for reform of the 1967 Forestry Act in 1989 but were unable to make headway against the strong vested interests in government and industry which controlled and benefited from the current order. The economic crisis which preceded *reformasi* however gave the development agencies greater leverage to insist on a participatory reform process as a condition of financial support. A coalition of NGOs, informed in part by ICRAF research and advice, pushed for the inclusion of stronger measures to recognise customary rights and provide greater security for community forestry. These efforts were only partially successful, for while the NGOs were in dialogue with the Ministry over one draft of the new Act, a shadow drafting team within the Ministry of Forests pushed ahead with their own version in a much less transparent way.<sup>lix</sup> The law, that was then hastily adopted by the DPR, was thus much weaker than either ICRAF or civil society groups had hoped. Much to the disappointment of the national network promoting community forestry (FKKM), in which ICRAF participated, the new law did not include provisions to advance community forestry.<sup>lx</sup>

Notwithstanding, two elements in the law can be seen to have been influenced by ICRAF's field efforts. The most obvious is that the law formally incorporates the category of 'Special Purpose Areas', as established by Decree in Krui, as a management area within State Forest Areas, which may be allocated to local communities. ICRAF is now working with communities in the Halimun watershed south of Bogor in Java to put this legal provision into effect and secure community rights within a protected area. The second achievement is that the law establishes 'customary forest' (*hutan adat*) as a recognised forest category. The gain came however with a serious qualification. The law defines *hutan adat* as falling within State Forest Areas, which are defined as forest areas where there are 'no rights attached'. Consistent with Article 18 of the revised constitution, *hutan adat* is conceived as areas of customary jurisdiction.<sup>lxi</sup> In effect, both 'Special Purpose Areas' and 'customary forests' are considered to be special management units, not areas where communities' proprietary interests in land are admitted.

## Adat rights:

Following the adoption of the law, ICRAF worked closely with the ex-Minister of Forests, Djammaluddin, to develop an advanced draft of a regulation, which would set out the procedure for the designation of forest areas as *hutan adat*. The national indigenous peoples' organisation, AMAN, and NGOs specializing in indigenous rights were sceptical of this approach, however, mainly because application of the decree implied acceptance of the Forestry Law and appeared to imply a

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<sup>lix</sup> See Silva et al. 2003 for a discussion.

<sup>lx</sup> Colchester 2002.

<sup>lxi</sup> UU 41/1999: Articles 8 and 34, and 5.3(2).

relinquishment of communities' claims to have stronger rights in forest lands. ICRAF thus let the initiative drop, given the lack of a mandate to pursue the idea from community organisations. Only very recently, following disputes about community logging operations in West Papua, has the Ministry revived its proposal to adopt regulations for the recognition of *hutan adat*.

During this period, ICRAF also carried out a participatory survey in Sulawesi and Kalimantan with the national indigenous peoples' organisation, AMAN, and the Forest Peoples Programme, to help communities think through just what kinds of rights recognition they were actually seeking from government.<sup>lxii</sup> Parallel to this scoping exercise, ICRAF set up KEDAI (Discussion Group on Indonesian Custom) to include *adat* leaders and supportive NGOs and researchers to review changes in *adat* and explore ways of securing *adat* rights. A series of publications were issued by the group to stimulate reflection. ICRAF has also carried out a detailed participatory survey of land issues and boundary definition with SHK-Kaltim and the communities of Kutai Barat, with the aim of developing an acceptable process for the identification of *adat* communities, a necessary step in government recognition of rights. A method for identification of *adat* communities has been developed with local government support and is now being discussed with indigenous peoples organisations more widely.

### **National Assembly:**

Civil society organisations became bitterly disappointed by the way, despite the rhetoric of *reformasi*, successive administrations did not act to restore rights in land to rural communities both inside and outside forests. During 2000-1, assisted by ICRAF advisers, they successfully asserted strong pressure on the National Assembly to pass a Legislative Act calling for overarching reforms in the management of the country's natural resources. Legislative Act No. 9 Concerning Agrarian Reform and Natural Resource Management passed by the National Assembly (MPR) in 2001 (TAP MPR IX/2001), instructs parliament (DPR) to completely overhaul the natural resource laws in order to strengthen the rights of communities and resolve conflicts over resources. The Act, which carries near Constitutional authority, was widely heralded as a major advance but its implementation has since been resisted by the Ministry of Forestry. However, in 2003, the MPR reiterated its insistence that the Forestry Law be revised (TAP MPR VI/2003) and reform of the law is slated during the DPR's legal reform programme (PROLEGNAS 2005-2009).

### **Community Forestry:**

Efforts to provide benefits to forest communities in Java began under the Dutch in the 1930s. After independence these programmes continued and experiments were made, encouraged by the Ford Foundation, to promote greater consideration of community views and needs.<sup>lxiii</sup> A critical review of these programmes carried out by ICRAF found that they were applied in a restricted number of areas, did not change the prevailing paternalistic style of management and brought only limited benefits to the few communities involved.<sup>lxiv</sup> It was only in 1995, that the Ministry of Forestry was persuaded to issue a Ministerial Decree (SK 622/1995) which offered farmers the possibility of securing permits to harvest non-timber forest products from State Forest Areas. The decree was mainly applied in the drier eastern parts of the archipelago.

In 1998, ICRAF joined with many others in founding the informal national community forestry forum (FKKM) to push the Ministry of Forestry, still under Minister Djammaluddin, to give greater scope for community forest management. The result was a significant advance. SK 677/1998 allowed the

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<sup>lxii</sup> ICRAF, AMAN, FPP 2001.

<sup>lxiii</sup> Colchester 2001.

<sup>lxiv</sup> Bratamihardja, Sunito and Kartasubtrata 2005

Ministry to grant local cooperatives a **35**-year utilization ‘**right**’ (*hak*) in production, protection and conservation areas. It was hoped that this provision would be incorporated and expanded on in the revised Forestry Law the following year, with appointment of the first *reformasi* Minister of Forests.

This was not to be. The omission of measures on community forestry in the 1999 Forestry Law (UU 41/1999), obliged the Ministry to issue a further Decree, SK 865/1999, later that year, whose main purpose was to bring HKm into line with the new law. However, although ICRAF officially became a member of the formal National HKm Working Group in 1998, the new Decree did not increase community control as had been hoped. Even the word ‘right’ in the previous decree was dropped in favour of ‘**permit**’ (*ijin*). Despite successes on the ground, as in Sumberjaya, ICRAF had not been able to persuade the Ministry to offer farmers better community forestry options. Disappointed, ICRAF decided to focus its efforts on local implementation and it dropped out of the National HKm Working Group. In 2001, the Ministry issued a further Decree, SK 31/2001, which reduced community forestry permits to **25** years and excluded the option of issuing HKm permits in nature reserves. The decree did however, for the first time, allow communities to harvest timber. Today, the actual area under HKm permits nationally comprises only 210,000 hectares, less than 0.2% of the forest estate.

### **Gazettement:**

The work of *Tim Krui* led ICRAF researchers to appreciate more fully the complex procedures that the Ministry of Forestry is meant to run through in asserting its jurisdiction over forests. Based on biophysical data the Ministry first of all ascertains the vegetation cover of areas and designates selected areas as ‘Forest Areas’, subsequently assigning them to categories as protection, production or conversion forests. In theory, the Ministry is then meant to demarcate forest boundaries with the principal aim of deciding which areas should be excluded from ‘Forest Areas’ because they are used for agriculture. The ground surveys should also ascertain which forests are encumbered with rights and so should be classified as ‘Rights Forests’ (*Hutan Hak*) and which are not encumbered with rights and so can be considered ‘State Forests Areas’ (*Kawasan Hutan Negara*). The boundary surveys are meant to include officials of National Agrarian Office (BPN), local government and communities. Only after they all sign off on the documents defining agreed boundaries, can the forests then be gazetted and marked as such on official maps. As ‘State Forest Areas’, the Ministry is then able to allocate these notionally unencumbered forests to concessionaires.

Detailed documentary research by *Tim Krui* revealed that, in fact, forests which are gazetted have often not been through the full process. Forms have been signed off by village heads on blank pages. In other cases community signatures have not been forthcoming. Forestry officials have overlooked these omissions and gazetted the forests anyway.<sup>lxv</sup> The implication of this research is that areas that are in fact encumbered with rights are being wrongly classified as State Forest Areas, thus obscuring or denying the rights of local communities. In 1999, ICRAF’s expertise in this area was recognised by the Ministry of Forestry and the team was invited to assist the Ministry to advise on gazettement issues and develop procedures to deal with ‘enclave’ communities, which found themselves inappropriately subsumed into State Forest Areas. ICRAF’s publication of its findings raised eyebrows and not only in the Ministry of Forestry. As Fay, Sirait and Kusworo noted in an oft-cited article:

In the early 1980s, in what could be considered one of the largest land grabs in history, the government implemented a forest zonation system that classified most of the Outer Islands as forestlands. Seventy-eight percent of Indonesia, or more than 140 million hectares were placed under the responsibility of the Department of

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<sup>lxv</sup> De Foresta 1998.



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 the 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 plantations, protected areas, and government-sponsored migration schemes have been directly overlaid on millions of hectares of community lands, causing widespread conflict. Yet, in fact for many local people, traditional law, or hukum Adat, still governs natural resource management practices.<sup>lxvi</sup>

One agency that was listening was the World Bank which, influenced by ICRAF's data, in 2002 initiated a project 'Towards a Rationalization of State Forest Areas in Indonesia' which recommended the excision of millions of hectares of the most heavily degraded and deforested areas from the forest estate and reassigning them to agriculture. The project was resisted by the Ministry, but the cumulative evidence, to which ICRAF made a significant contribution, that forest tenures urgently needed sorting out led the main donor organisations (CGI) to insist that tenure be one of the key issues dealt with in future forestry reforms. The Ministry responded by setting up the Ministerial 'Working Group on Tenure', to which ICRAF staffer, Martua Sirait, was appointed as Secretary. The multi-stakeholder Working Group, which involves the private sector, a number of Ministries, researchers and NGOs, receives a budget from the Ministry and convenes workshops to explore and explain tenure issues. It is in the process of developing links with the National Commission on Resolving Agrarian Conflicts (KNUPKA).

Influenced by ICRAF research,<sup>lxvii</sup> in January 2005 the World Bank recommended that the government:

Create a single national land administration system: It would be highly desirable to have only one agency responsible for the public administration of all land in the country, including government, forest, mining, and non-forest land. This could help reduce duplication and introduce economies of scale by merging administration of land registration and tax administration. It could also eliminate the rivalry between BPN and Ministry of forestry and make it easier to monitor and enforce compliance. This does not imply that the single national agency would manage land. The responsibility for management would remain with Forestry, Mines etc but it would be important to clearly separate land administration from land management.<sup>lxviii</sup>

ICRAF argues that redrawing the boundaries of 'forests' should be done not just to facilitate tenure recognition and improved livelihoods but also to ensure that landscapes are regulated to protect and secure 'public environmental services', thus ensuring that more lands are available to farmers while government agencies focus their capacity on regulating land use of those eco-systems where this is most needed.<sup>lxix</sup>

ICRAF has also begun field research, in Bengkuntat in West Lampung, to find out what happens to farmers' lands and agroforests when they are excised from State Forest Areas. Preliminary results suggest that because the local administration does not recognise communal tenures, the agrarian reform office is parcelled up customary lands for titling as 5 hectare plots. While indigenous farmers are reluctant to get their holdings titled this way, partly because they don't want to start paying tax,

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<sup>lxvi</sup> Fay, Sirait and Kusworo 2000.

<sup>lxvii</sup> Fay and Sirait 2004.

<sup>lxviii</sup> World Bank Statement to Consultative Group on Indonesia, January 2005

<sup>lxix</sup> Fay and Michon 2005.

absentee landholders and migrants are taking advantage of the opportunity to secure their rights in land.<sup>lxx</sup>

ICRAF's findings have also contributed to, and been amplified by, a number of market-driven reform processes aimed at regularising forest management and improving the livelihoods of forest communities. A study of the challenges facing the application of the key social protections in the Forest Stewardship Council's certification standards, to which ICRAF contributed, revealed that only 12% of areas claimed as State Forest Areas have in fact yet been gazetted.<sup>lxxi</sup> Moreover, subsequent ICRAF research shows that only some 8% of forest concessions within State Forests have been properly delineated. Most forest concessions, it transpires are technically illegal and, more serious, have been allocated without due consideration of community rights. ICRAF's legal insights into the social protections in forestry and other Indonesian laws were important in the development of a draft 'Legality Standard' elaborated by The Nature Conservancy and UK Department for International Development, designed to identify which timber exports from Indonesia are legal. The same findings have also been important in the new check lists of legality now being used by the WWF and in the elaboration of the draft standard of the Roundtable on Sustainable Palm Oil. These various standards are already beginning to be applied in concession areas, providing new opportunities for communities to negotiate with private sector operators and gain recognition of their rights.

### **Stakeholder perceptions:**

Interviews with stakeholders carried out as part of this assessment showed a widespread appreciation of ICRAF's roles in these various processes. ICRAF is acknowledged as a centre of expertise, with practical on-the-ground experience, whose insights and advice have been channelled through government, legislatures and NGOs to promote reforms. Its inclusive and participatory approach is praised.

The obstacles which the reform process faces were also emphasised by a number of respondents. By and large, it was noted, the Government continues to treat forests mainly as a source of revenue and foreign exchange, favours large scale logging and assumes that all forests are owned by the State. Interviewees repeatedly emphasised the lack of will to reform, the Ministry's reluctance to delegate forest management to local communities and the limited dialogue that takes place with civil society. This explains the lack of progress in forestry law reform, despite the concerted efforts.

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<sup>lxx</sup> ICRAF 2003; Fathullah et al. 2004.

<sup>lxxi</sup> Colchester, Sirait and Wijardjo 2003



Ex-Minister Djammaluddin, who recognised the *repong damar* of Krui as a Special Purpose Area, explains his vision for Indonesia's forests to Marcus Colchester.

Ex-Minister Djammaluddin revealed that the progressive decrees which he passed allocating management rights to communities in Krui and Sanggau were perceived by him to be exceptional cases where international scientific bodies (ICRAF and GTZ) could guarantee sustainable forest management, secure financing, guide local people and build up their management capacity and respect for Ministerial regulations. In future, he suggests, this role needs to be taken on by the private sector, as Perum Perhutani is doing in Java. While the Forestry Act does need revision, after careful assessment of strengths and weaknesses, it should be to encourage the private sector, which has enough financial security and capacity, to carry out extension to promote social forestry plantations. The Ex-Minister noted that, of course, land cannot be released to communities, though local people's needs must be accommodated.

Other interviewees, such as DPD representative, Ibu Komariah Kuncoro, and the Commissioner for Human Rights (KOMNASHAM), Abdul Hakim Garuda Nusantara, stress the need for reforms of the agrarian and forestry laws, to give stronger rights to communities. Chiding the Ministry for its lack of confidence in the legislature (DPD), Ibu Komariah notes: 'The Government needs to include the DPR, because actually the government doesn't have any natural resources, we do!' The Human Rights Commissioner predicts that unless reforms to give communities greater security in their forests are carried through, first at national and then at provincial and district levels, 'horizontal conflicts' will proliferate.

## Conclusions:

The Land and Tree Tenure Programme has made ICRAF a nationally, even internationally, recognised centre of expertise on Indonesian forestry laws and land tenure issues. It works directly with communities to apply new tenure options and refine its research findings. It brings the lessons learned to bear on national policy. It is consulted by communities, NGOs, Government officials and development agencies alike.

It has deployed these skills and knowledge to effect reforms in Indonesia's national forest policy and related laws. Progress has been slow. The Ministry of Forestry has resisted fundamental reforms. Even apparent concessions to insistence on the need for change, like the KDTI and Sanggau decrees, turn out to have been due to recognition of the expertise of foreign agencies not of the rights of Indonesian citizens.

### **Box 9. International public goods derived from the Indonesia level work**

ASB ('Alternatives to Slash and Burn') policy briefs and lecture notes have contributed to the international public goods IPG) that derived from the land and tree tenure policy reform discussed here. A pre-condition for IPG status is international scale sharing of results and signs of 'uptake'. Google and Scholar.Google analysis shows that the Krui work is represented on a wide variety of websites and that it has become a 'living legend' in the more popular discourse on forest policy. The number of research publications and their citations in the research literature, however, is low. The ongoing Sumber Jaya work tends to have the opposite profile: good representation in Scholar.Google (esp. for the ecological work), but not yet as much in the popular website discourse.

**Box 10. BASIS-CRSP: the next step in impact analysis of HKm**

At the time of writing this report, further analysis of the impacts of the HKm application in Sumberjaya is ongoing. Researchers from the BASIS-CRSP project (including University of Michigan, IFPRI, Lampung University and ICRAF) and the RUPES ('Rewarding Upland Poor for the Environmental Services they provide') program focus on three aspects in the Sumberjaya subdistrict:

what factors contribute to the more rapid initiation of these forms of conflict resolution and 'rewards for environmental services' (RES) in parts of the landscape compared to other locations, the within-village distribution of costs and benefits of RES mechanisms, particularly those related to enhanced property rights, and the most appropriate institutional arrangements to enhance the benefits of RES for the poor.

The central hypothesis of this research is that environmental service reward mechanisms may provide marginalized social groups with new opportunities for generating income, obtaining more secure rights to land and water, and inclusion in environmental governance processes.

The questions to be addressed in this study require a combination of qualitative and quantitative research methods, which will be integrated with ICRAF's biophysical modeling work and the action research under RUPES. In Sumberjaya, community- and household-level interviews are being undertaken to generate data for analysis. At the community level, investigations focus on the processes that determine how communities learn about the program, form into the groups that are required to apply for the program, go through the application process, obtain the license, and carry out their responsibilities. The emphasis in this portion of the research is on questions related to bridging and bonding social capital. Bridging social capital is the network of social relationships that brings access to economic opportunities and special programs. Household level econometric analysis will focus on HKm's effects on people's land use and wellbeing. Utilizing a random sample of people using different types of land, such as privately owned land and forest land with and without HKm agreements, the investigation will focus on differences in the extent to which they adopt environmentally beneficial agroforestry systems, and differences in benefits they obtain as indicated by crop income and land values.

Source: Kerr et al. 2005. Property Rights, Environmental Services and Poverty in Indonesia. Basis Brief no 29.



The KDTI and HKM experiences are a light to the communities [in Halimun], showing that there can be negotiation, opportunity and recognition. They give the community a better bargaining position. This has encouraged communities to negotiate with the Ministry of Forests, knowing that there are precedents. Still, we have not yet agreed with what has been offered so far – PHBM – a form of join forest management. We are seeking a better deal

The slow progress should come as no surprise however. Indeed, as early as 1998, following its difficult experience in pushing through the KDTI, ICRAF had already concluded:

Any kind of progressive policy decision that entails a reduction of the current authority of the Department of Forestry would be strongly and deliberately resisted by most officers in a corporatist attempt to keep their privileges, even though the decision comes from the highest level.<sup>lxxii</sup>

Reporting on its work during the past year (2003-2004), ICRAF again noted: ‘The policy environment at the national level over the period was not conducive to systematic discussions on land tenure as it relates to the Forest Area.’<sup>lxxiii</sup> The conclusion seems to be that forestry law reform is going to be a long, perhaps incremental, process.

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<sup>lxxii</sup> De Foresta 1998:19.

<sup>lxxiii</sup> ICRAF 2004:50. More candidly, the same report also noted that ‘the Department of Forestry at the national level recoiled and reacted like a cornered animal, stuck with nowhere to but forward but fearful to do so, seeing nothing but threats ahead...’ (Ibid:1).

## 6. Conclusions:

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Based on all the above, it is possible to give substantiated if not definitive answers to the questions posed at the outset. Farmers are now better off in areas where ICRAF has applied its research findings and where new tenures have been secured. Although, since *reformasi*, many farmers now feel more secure in their lands without their, usually ill-defined, tenures having changed significantly, the legal processes where ICRAF has intervened have served to give farmers significantly greater security or fended off unwelcome intrusions. Farmers themselves are explicit that these are successes, albeit qualified ones, as the tenures so far conceded by the Ministry of Forests do not provide farmers and indigenous peoples the secure rights that they seek.

There have also been significant gains in terms of environmental services and protection of biodiversity. The *repong damar* system has, so far, cushioned protected areas against encroachment, while the shade and multi-strata coffee systems that are being established in HKm seem to reduce run-off and erosion compared to simple shade coffee and provide better wildlife habitat. The HKm approach has not yet been widely enough applied to make it clear whether it can stabilise the coffee frontier on the borders of protected areas. Opinions on this remain divided and the available evidence is inconclusive. Different views about the desirability of the various trade-offs between biodiversity and livelihood gains colour this discussion.

At the national level, the gains are less obvious. ICRAF has emerged as a centre of considerable expertise on forest law, which could prove significant in the current climate of concern about 'Forest Law Enforcement and Trade'. Insights from ICRAF's research have been critical in ensuring that community interests are accommodated in emerging standards of certification, legal verification and plantation development.

Although national legal reforms have not advanced as hoped, ICRAF has nevertheless contributed to some significant legal advances – Special Purpose Areas, Customary Forests, Community Forestry tenures – and helped open up a diversity of national fora where tenure issues are being examined. However, overall, the Ministry of Forestry has resisted reforms and, given this lack of receptivity, ICRAF has hesitated to push for further legal changes fearing that laws could be made worse not better.

ICRAF's role in securing all these advances is widely recognised but ICRAF does not claim to have achieved these gains on its own. On the contrary, ICRAF's approach has been to work collaboratively with community organisations, NGOs, other researchers and government. Indeed its role of convening different parties and providing technical assistance is one of the traits of ICRAF's Land and Tree Tenure Programme that is so appreciated. Building up the intellectual and negotiating capacity of partner organisations has been a significant outcome of the programme.

How many people have so far benefited from these activities and what are the prospects for scaling up? Giving answers to these questions is problematic. So far only a few tens of thousands of people have directly benefited from tenures that ICRAF has helped introduce – itself a significant achievement. Potentially, if current guesstimates of numbers of forest-dependent people are used, as many as 95 million Indonesians could benefit if advocated reforms were accepted in law and applied. One of the most welcome benefits to farmers, in

'forests', would be to relieve them from having to pay bribes to Ministry of Forestry officials, which, case studies show, can deprive them of around one third of their incomes.

However, the revised forest tenures that have so far been adopted by the Ministry are not easily 'scaled up', certainly not without a change of heart in the Ministry itself about the desirability of devolving forest management and stronger rights to communities. In the medium term, further gains are likely to be incremental, at best. Given the extent of international donor investment to promote social benefits in forestry since the 1980s, the gains may seem paltry.

Interviewees, and ICRAF's own internal workshop which pooled all these findings, identify a number of remaining knowledge gaps and policy dilemmas. The main one relates to the relationship between the agrarian and forestry sectors, an area of work that has become a particular focus of ICRAF work in the past months. Many, perhaps most, communities currently in State Forest Areas, would like their lands to be excised to avoid the conflictual relationship they experience with the Ministry of Forests. But would livelihoods and environments really benefit? Are secure and appropriate tenures achievable in agricultural land? Would indigenous communities be made more vulnerable in land markets outside 'forests'? What would be the incentives for farmers to maintain agroforestry systems so that they provide environmental services from their lands?<sup>lxxiv</sup>

Successive administrations have shown little more interest in reforming land tenures than they have in reforming forest tenures. As one University lecturer interviewed for this study observed:

There is no genuine political will in the Government of Indonesia to solve land tenure problems in Indonesia.

There is still a long way to go before rural Indonesians regain their rights in lands and forests. ICRAF's Land and Tree Tenure programme has helped build up a formidable body of knowledge about the tenurial situation of agroforestry farmers in Indonesia. It has explored legal possibilities and procedural realities, revealing the practical implications of different tenures for improving livelihoods and securing environmental services. It has shared this information widely with government agencies, other researchers, development agencies, NGOs and, not least, with local farmers.

As a result, Indonesia is now much better positioned to apply new tenures and carry out further legal reforms, in informed ways. Official forums have been established to further explore these options, with the active involvement of academia and civil society groups, and piecemeal legal changes are happening. However, the political moment for wider tenure reforms has yet to come about. Indeed national reform processes in general, have been much slower than many citizens and policy makers had hoped at the beginning of the *reformasi* era.<sup>lxxv</sup> Organisations like ICRAF, through research and local efforts, can help point the way forward, but only wider social forces can achieve the political breakthroughs necessary to secure long-lasting change.

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<sup>lxxiv</sup> ICRAF research into these important questions is underway and should begin showing results in the coming year.

<sup>lxxv</sup> 'The legacy of the Soeharto regime was a dysfunctional, self-serving bureaucracy that resisted reform not because of ideological conviction but because of self-interest. Under Soeharto official wages were low, but so were workloads, and the opportunities for rent-seeking and profiteering were great. The result was a public sector in which efficiency and proficiency were at a very low level.' (Barton 2002:382)



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<sup>ii</sup> Forest Peoples Programme (FPP)

<sup>iii</sup> World Agroforestry Centre – South East Asia (ICRAF-SEA)

<sup>iv</sup> Centre for International Forestry Research (CIFOR)

<sup>v</sup> Wildlife Conservation Society (WCS)