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NEGOTIATING FOR COMMUNITY FORESTRY POLICY

The recognition of damar agroforests in Indonesia

Tuti Herawati, Hubert de Foresta, Dede Rohadi, Mani Ram Banjade and Chip Fay *

Introduction

This chapter recounts the development of a forestry policy innovation designed specifically to protect the customary rights of local people after their agroforests were subsumed into an area of state forest. In the 1990s such actions were a common problem in Indonesia, where local people had developed various kinds of agroforests covering large areas. Rubber agroforests alone covered more than 2.5 million hectares in the late 1980s (de Foresta, 1992). Regrettably, community-created agroforests were ignored in the designation of state-forest boundaries outside Java in the late 1980s, and in the adoption of provincial Forest Land-Use Master Plans by Consensus (*Tata Guna Hutan Kesepakatan*, or TGHK). The Krui region, in West Lampung district, on the southwestern tip of Sumatra, was seriously affected. More than half of the area covered by damar agroforests that had been planted and managed by local people for generations was designated as state forest in 1991 and officially gazetted as such in 1996 (Michon et al., 2000, 2007).

The damar agroforests are a successional agroforestry system developed and managed by local farmers without any external support. When mature, they form an impressive forest-like cover dominated by tall cultivated resin-producing *Shorea javanica* trees, locally called 'damar' (de Foresta and Boer, 2000), and fruit trees such as durian (*Durio zibethinus*) and *duku* (*Lansium domesticum*). Damar collection,

* DR TUTI HERAWATI, Seconded Scientist, Forests and Governance, Center for International Forestry Research (CIFOR), Bogor, Indonesia; DR HUBERT DE FORESTA, Editor, *Forests, Trees and Livelihoods*, Senior Scientist, Institut de Recherche pour le Développement (IRD) UMR AMAP, Montpellier, France; DR DEDE ROHADI, Seconded Scientist, Forests and Livelihoods, CIFOR, Bogor, Indonesia; DR MANI RAM BANJADE, Post-Doctoral Research Fellow, Forests and Governance, CIFOR, Bogor, Indonesia; and CHIP FAY, Advisor, the Climate and Land Use Alliance, Indonesia.

in which the *S. javanica* trees are usually tapped for resin once or twice a month, forms the backbone of all agricultural activities in the agroforests. In 1993, resin produced by damar farmers was estimated to be worth US\$3.25 million. The first damar agroforests were planted in the mid-19th century by pioneer farmers. They were soon joined by others, so that by 1994, the agroforests had spread over more than 50,000ha in the Krui region between what is now known as the Bukit Barisan Selatan National Park and the Indian ocean (Michon et al. 2000, 2007) (Figure 52-1).

The damar agroforests, their history, the processes of their establishment and their ecological, economic and social functioning, as well as the various conflicts in which damar farmers have found themselves embroiled, have been described and analysed in detail by Michon et al. (2000, 2007). This chapter is a follow-up to those articles and the authors assume that the elements described and analysed in them are known to readers, who may refer to them if and when needed.

In the conclusion of their 2007 article, Michon et al. wrote on page 560: "...the agroforest situation does not fit any of the existing legal forest categories, and a new

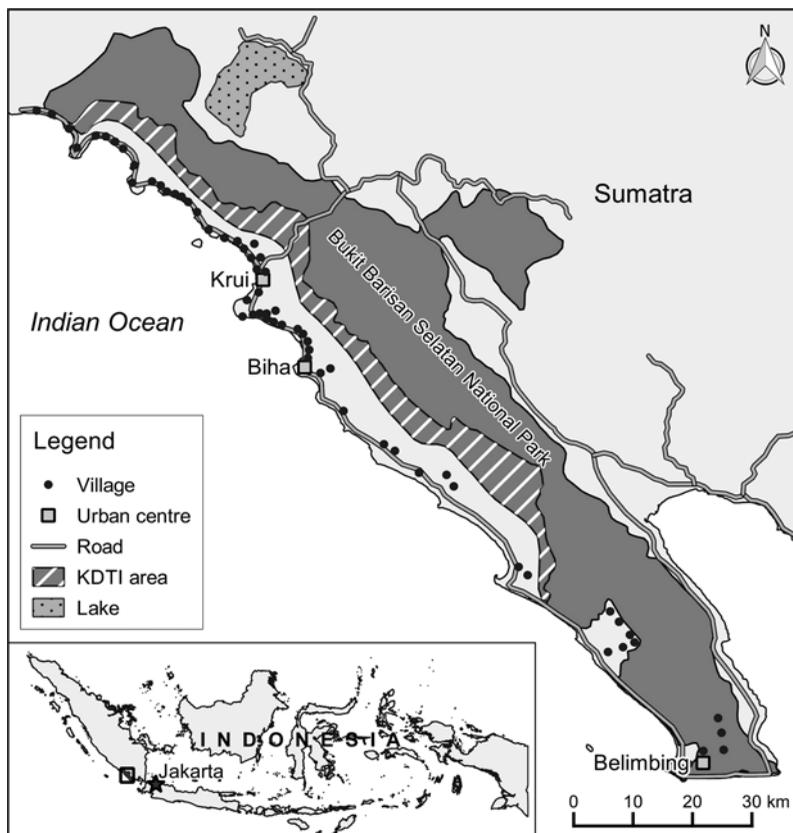


FIGURE 52-1: The area around Krui in Sumatra, showing the KDTI area and the Bukit Barisan Selatan National Park.

legal status needs to be devised to suit the needs of damar farmers and to ensure a future for damar agroforests.”

This is precisely what the Minister of Forestry, Djamiludin Suryohadikusumo, did in January 1998, when he issued a decree (Minister of Forestry Decree Number 47/Kpts-II/1998) establishing a new legal status for the state-forest area already occupied by damar agroforests. The new category for the Krui agroforests was called *Kawasan Dengan Tujuan Istimewa* (KDTI) – a Forest Zone with a Special Purpose. The Krui case had been chosen by the Minister to test a new forestry policy, and the outcome was a significant policy innovation. For the first time in Indonesia, the decree gave legal recognition to the rights of local people to control, maintain, develop and pass on to the next generation their (agro)forest management systems, all within the state-forest zone (Fay and de Foresta, 2001).

This chapter focuses specifically on the negotiation process and the institutional context that surrounded the issuance of the KDTI decree. Based on both written and oral sources, it benefits from the experience of co-authors de Foresta and Fay, both of whom played an active role in the negotiations leading up to the KDTI decree. Our main sources were documents related to research projects carried out since the early 1990s by IRD¹ (ex-ORSTOM) and the World Agroforestry Center (ICRAF)² with their research and NGO partners (CIFOR,³ WATALA,⁴ FORDA,⁵ LATIN⁶ and P3AE-UI⁷). These documents include reports, correspondences, research publications and minutes of meetings. Oral information came from interviews with several key informants in local communities and local government. We first describe the context and the process that led to the KDTI decree. Then we present the main reactions to the decree, and conclude this chapter by drawing some policy lessons.

The background of the KDTI decree

A unique research context

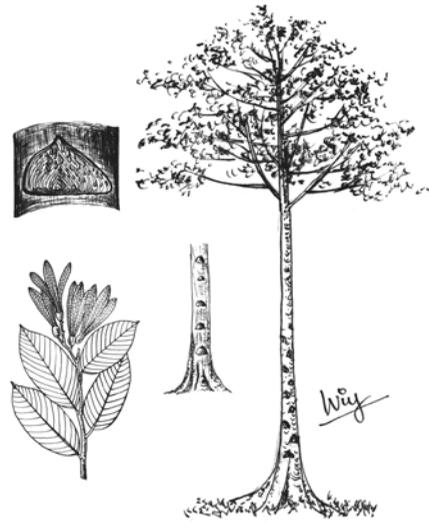
There are many examples of agroforestry systems developed by local farmers in Indonesia (Michon et al., 2000, 2007), but none of them has been researched with such intensity as the damar agroforests of the Krui region. We believe that the depth of understanding of these agroforests, most particularly the evidence the research provided that they were indeed planted and not ‘natural’ forests, was a critical element in the Minister of Forestry’s decision to choose Krui as a test case.

Damar agroforests were first discovered by the outside world through a Dutch forester who visited the Krui region in 1936. He reported the existence of stands of *Shorea javanica* trees that had been planted by local farmers around Krui for producing damar resin. He estimated the area covered to be around 70ha, with some plantations being more than 50 years old (Rappard, 1937). The local farmers’ ‘invention’ of damar agroforests could thus be dated to the 1880s, at least.

The man-made damar plantations then fell into oblivion for 40 years, until their re-discovery in 1979. After a long and difficult journey across the southern tip of Sumatra, a group of master’s students from the University of Montpellier in France,

along with their botany professor (F. Hallé), and a researcher from the Southeast Asian Regional Centre for Tropical Biology (Seameo-Biotrop) (Y. Laumonier), arrived in Krui for a one-week field trip. Their aim was to study the local primary rainforest for a vegetation map of Sumatra (Laumonier, 1997). Tropical deforestation was already making newspaper headlines, and the group walked for hours in a deforestation pioneer front to arrive in what they decided was a 'pristine' forest, high in the mountains. On their way, however, the group spent even more hours walking below a majestic canopy dominated by a species of resin-producing trees locally called 'damar'. After questioning local villagers, it became obvious that this majestic forest cover was not 'natural', but the result of a cultivation process. The group was deeply impressed by the reforestation success they had unexpectedly encountered. It was a success that appeared as an island of hope in a desolate ocean of deforestation; a success that had to be studied and widely reported.

One of the students in the group returned to Indonesia a few years later (in 1982) as a scientist for the Regional Centre for Tropical Biology (Biotrop), and undertook the first study of the composition and structure of this man-made dipterocarp forest (Torquebiau, 1984). Another student from the group (the co-author of this chapter, H. de Foresta) returned to Krui in 1983 and 1984, and assisted a group of PhD students, also from the University of Montpellier, in field data collection. This group was engaged in a research project devoted to the ecology and socio-economy of 'agroforests' – a word first coined by the same group. One example was the damar agroforests (Mary and Michon, 1987). Between 1989 and 1994, two of these early participants (de Foresta and Michon) were posted as scientists to Biotrop by Orstom (the French government research organization, later known as IRD). They launched a new series of research studies on the damar agroforest system, including its biodiversity, long term monitoring of tree stands and associated anthropology. Both researchers joined the World Agroforestry Center (ICRAF)'s Southeast Asia regional office as IRD scientists in 1994. De Foresta continued working at Krui quite intensively until 1999, and more occasionally afterwards. His most recent field visit was in 2014.



Shorea javanica Koord. & Valeton [Dipterocarpaceae]

Soaring, straight-boled trees with dome-like canopies, the producers of damar resin have long been planted and nurtured by local people in the Krui agroforests of Sumatra. The resin is collected from permanent wounds cut into the trunks of the trees.

In 1992, local government authorities in Krui asked the IRD scientists to help them by providing data and scientific information on damar agroforests to counter a plan by the Ministry of Forestry to establish monoculture *Acacia* plantations in the area. This came as a shock to the scientists, who realized that the damar agroforests were largely unknown in Indonesia, even though the international scientific and forestry community considered them a model of indigenous sustainable forest management. The IRD scientists decided to launch a campaign to popularize the main results of their research, including translation into the Indonesian language and dissemination of publications, promotional T-shirts (Figure 52-2) and illustrated calendars.

This effort soon resulted in local newspaper articles, and most importantly in a new awareness in the provincial office of the Ministry of Forestry that led to the abandonment of the *Acacia* plans and a visit to Krui by the Minister of Forestry in 1993. Deeply impressed by the success of the damar agroforest farmers, the Minister decided to press for new research on damar agroforests by the Forestry Research and Development Agency (FORDA) and P3AE-UI, a research organization based at the University of Indonesia. The IRD scientists' efforts also attracted the interest of two environmental non-governmental organizations (NGOs), LATIN and WATALA, whose members decided to launch research and support programmes in Krui.

A new wave of research on damar agroforests thus began in 1994. By then, it was deeply rooted not only in the international research framework (IRD, ICRAF and CIFOR), but also in the national research and NGO context (FORDA, LATIN, P3AE-UI and WATALA).

It is not common for an indigenous agroforestry system to be the subject of long-term research endeavour, encompassing a wide array of disciplines from plant ecology and forestry to socio-economy and anthropology. Thanks to numerous scientific publications and communications, the damar agroforests soon became famous around the world. Collaboration between scientists and NGOs that began in 1994 resulted in efficient dissemination of information and awareness among the Indonesian public. It was perhaps not surprising, therefore, that the reputation of the damar agroforests, established by a substantial knowledge base accumulated over more than 20 years of research, created a unique setting in 1997 and 1998 for the Krui region to become a test area for a new category of state forest in Indonesia (Figure 52-3).



FIGURE 52-2: T-shirts designed and produced by IRD scientists to help popularize damar agroforests and their environmental benefits. The T-shirts were proudly worn by Krui farmers when the Minister of Forestry visited the area in 1993.

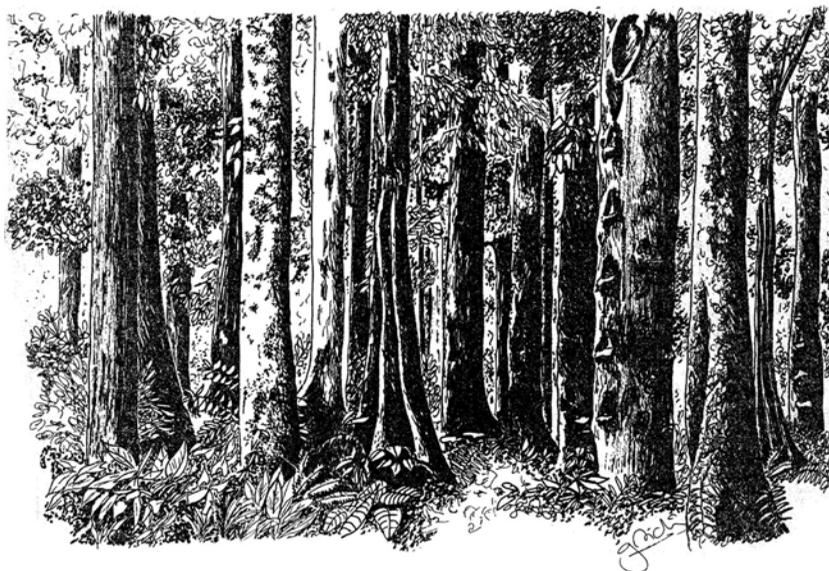


FIGURE 52-3: A damar agroforest at Krui, showing the dominant *Shorea javanica* trees in a dense forest setting, their boles marked by permanent wounds from which the damar resin is regularly collected

Sketch: Dr Genevieve Michon

The Krui access-rights context: From recognition to negation⁸

To understand the conflict related to land access that existed between the state and damar farmers in the time before the KDTI decree, we must refer back to colonial times. The forest in the Krui area was divided into a clan-forest zone (*hutan marga*) and a reserved-forest zone by the Dutch colonial administration in 1937, following a consultation process with the clans (*marga*). After this, even though local people at times entered the reserved forest and even established some damar agroforests there, they were always aware of its borders, which they called (and still call) 'BW' (for *boschwezen*, meaning 'forest reserve' in Dutch). Most of the damar agroforests, which now cover more than 50,000ha, were gradually established in the clan-forest zone, between the borders of the reserved-forest zone and the coast of the Indian Ocean. The reserved-forest zone became the Bukit Barisan Selatan National Park in 1991. Most of the damar farmers did not have legal title to their agroforestry land. However, they believed their tenure was secure because they had abided by the rules of local customary access. They saw these as the only valid and legitimate rules because they had been officially recognized by the colonial power in 1937, with the delineation of their clan-forest zone.

However, another story was being devised in Jakarta, far from Krui, under the New Order regime of President Soeharto. In the 1970s, the international development paradigm was based on a massive short-term liquidation of forest resources to provide

capital for the industrialization of tropical countries (Pretzsch, 2005). The Indonesian government began encouraging the development of its forest sector for the sake of national development. In Krui in 1972, this national effort was instrumental in the granting to a logging company of ‘timber harvesting rights’ (converted to ‘forest concession rights’ in 1981) over 52,000 hectares of forest. Almost all of the damar agroforests were included in the concession area. However, the company halted its activities in 1991, after having harvested timber from rainforest remnants in the extreme north and south. It did not enter the damar agroforests, so the farmers never knew that their agroforests were under threat of being ‘legally’ clear cut, as had already happened in neighbouring Bengkulu province.

In 1991, the Minister of Forestry issued a decree formalizing the Forest Land Use Master Plan by Consensus for Lampung province. The associated map did not mention the existence of man-made damar agroforests in the Krui area, and the decree created a new strip of state forest covering about 42,000ha between the border of the national park and the coast, covering what had, in fact, been clan-forest land since before independence. This new state-forest area was designated mainly as production forest, with small pieces of protection forest distributed thinly along the western border of the national park.

The local people only gradually became aware of this change. Forestry Services delineated the new state-forest borders in the field between 1992 and 1996. Forestry regulations stipulated that local people should be informed of the localization of planned borders and any claims to land that was owned and managed within the state-forest area had to be taken into account and the border modified accordingly. However, according to village heads in the Krui area, field delineation officers never informed village authorities of their mission (as required by law), nor of the potential consequences for local people of what they presented as a simple field exercise. As a result, the border of the state forest in the Krui area was delineated in full accordance with the Ministry of Forestry map. The new and official production forest included more than half of the area covered by the damar agroforests, legally depriving the farmers of their previous ownership rights.

The context leading to the KDTI decree: Researchers and NGOs as mediators of local communities’ concerns

With the emergence in 1994 of new research and support programmes in Krui, researchers, NGOs and representatives of local communities began to meet regularly in Bogor, West Java. The informal group – soon known as ‘Team Krui’ (Suporahardjo and Wodicka, 2003; Kusters et al., 2007) – held regular meetings through 1999. Its initial aim was to coordinate various programmes and share information. However, escalating social tensions caused by two oil-palm plantations (Michon et al., 2000, 2007) and the inclusion of damar agroforests in the state-forest area lifted the matter of securing the rights of local communities over their damar agroforests to prominence on Team Krui’s agenda.

In October 1995 the group decided to form a new research and support programme. It was funded by the Ford Foundation and involved ICRAF, LATIN and WATALA, with H. de Foresta (IRD, on behalf of ICRAF) as programme coordinator. The sole aim of the CBFSM-Krui programme (standing for Community Based Forest System Management – Krui) was to help secure local people's rights over their agroforests by developing new models for relationships between the government and local forest communities, with the damar agroforests of Krui as an example. Although the programme was in line with the

Ministry of Forestry's policy discourse, it faced significant resistance from within the Ministry and its services, so that the programme could not be a joint exercise with forestry services, as originally planned. However, it was able to conduct various activities to pave the way for official recognition of the rights of damar agroforestry farmers who were inside the state-forest zone. These included:

- participatory mapping in eight villages and land-use mapping covering the whole region;
- supporting the development of two local institutions: the Krui Customary Communities' Association and the Damar Agroforest Farmers' Community Association;
- supporting local communities in expressing their concerns and forwarding them to various authorities, such as the Minister of Forestry;
- providing complementary data on the ecological impact of damar agroforest management, in particular on the impact of local timber-harvesting practices;
- informing various local government authorities about the damar agroforests and the problems faced by the farmers;
- proposing that the Krui customary communities be nominated as recipients of the 'Kalpataru' National Environment Award in 1997 (all institutions involved in Team Krui sent official forms to the Ministry of Environment, based on drafts prepared by the programme);



Durio zibethinus L. [Malvaceae]

A native of Southeast Asia, durian grew from seed and was protected and nurtured by the farmers of the damar agroforests. Its sweet flavour and pungent odour have now made it a popular fruit in many Asian markets.

Resistance within the Ministry, mentioned earlier, did not come from the Minister himself. Following his visit to Krui in 1993, he said he was strongly convinced that damar agroforests were a model of sustainable forest management by local people. The Ministry's support was later decisive, not only in recognizing damar farmers' rights within the state-forest zone, but also in protecting damar farmers from the plans of oil-palm companies.

In November 1996 two ICRAF members of Team Krui (C. Fay and G. Michon) were able to discuss the concerns of Krui communities directly with the Minister of Forestry, particularly their fears related to the development of two oil-palm plantations, which were the most pressing issue at that time. The Minister acted as he promised: within a few weeks, the company operating in the south of the state-forest zone halted its activities. The company planning to establish oil-palm plantations in the north halted its land-measuring activities and abandoned its project, while the Governor of Lampung issued a decree protecting damar trees.

In March 1997, at a meeting with the Minister and his high-level staff, two ICRAF scientists (C. Fay and H. de Foresta) raised concerns about the impact on the management of damar agroforests from the recent gazetting of a major part of the Krui damar agroforests as state forest. In response, the Minister asked ICRAF to collaborate with the Directorate General for Reforestation and Land Rehabilitation (RRL) in assessing the problems and devising potential solutions. He suggested the organization of a 'discussion panel'.

The discussion panel was held in June 1997, a few days after the Kalpataru National Environment Award had been presented by the President of Indonesia to a representative of the customary Krui communities for the environmental contribution made by their damar agroforests. The synchrony could not have been better. The Kalpataru Award sat prominently on the table of the communities' representative for the entire duration of the discussion panel, as a symbol of the communities' success in attracting national attention to their case. Three days later, the panel's main conclusions were reported to the Minister and his high-level staff by C. Fay (ICRAF), H. de Foresta (IRD-ICRAF) and N. Gintings (FORDA). ICRAF and FORDA listed six demands made by the Krui communities:

1. That the markers delineating the border of the state-forest zone (Figure 52-4) be moved back to the border of the Bukit Barisan Selatan National Park;
2. That products from the damar agroforests not be taxed as forest products;
3. That damar agroforest farmers be allowed to continue to implement their agroforestry system;
4. That harvesting and marketing of timber from the damar agroforest be unrestricted;
5. That all rights over the damar agroforest be inheritable; and
6. That the government formally recognize the damar agroforest management system.

The Minister said he was unable to meet the primary demand of the Krui communities, that the markers delineating the border of the state-forest zone be moved back to where they were before 1991. He said the best solution ‘for the time being’ would be the creation of a special-use zone within the state-forest zone for the Krui agroforests. He cited as an example the State Forestry Corporation in Java, which classifies forests in and surrounding graveyards as *Lahan dengan Tujuan Istimewa* (land with a special purpose). He asked ICRAF to work with the Directorate General of RRL and the Ministry’s Legal Bureau on a decree that would similarly classify the Krui agroforests as *Kawasan dengan Tujuan Istimewa*. He instructed the group to ensure that the basic demands of the farmers were met through such an approach.

The KDTI decree-drafting process

The Minister of Forestry signed the KDTI decree on January 23, 1998. His action ended the seven-month process of developing the decree – a process that was far longer than expected and not without complications. But a comparison of the final document and the first draft produced by mid-level RRL staff reveals enormous improvements in content and indicates that, for all involved, an important learning experience had taken place. For the sake of simplifying a complex chain of events, the process can be divided into three phases:

1. An internal Ministry process with limited outside involvement (June to November 1997);
2. An official working group with increased participation by ICRAF and LATIN (November and December 1997); and
3. High level Ministry discussions and consultations with other relevant ministries (January 1998).

Phase 1: RRL/Legal Bureau/ICRAF-LATIN

After the discussion panel, N. Gintings from FORDA and the Director of Social Forestry and Reforestation (a sub-section of RRL) provided the Minister with



FIGURE 52-4 Signs such as this one were posted in damar agroforests by Forestry Services between 1992 and 1996 to mark the boundary of the new state-forest zone. The signs created a feeling of insecure tenure in damar farmers’ communities.

details of the discussion panel in separate reports. While the FORDA report closely resembled ICRAF's account, the RRL view of what transpired in Liwa was more selective. There was no mention of the fundamental dispute over land and the RRL staff clearly saw the *Hutan Kemasyarakatan* (HKm) scheme as the only option for addressing the presence of damar agroforests inside the state-forest zone.⁹ This position set the tone for discussions between RRL and ICRAF/LATIN for the next several months.¹⁰

On 2 July 1997, the Minister of Forestry sent a letter to the Legal Bureau with copies to all Directors General, instructing that:

1. All damar agroforests within the state-forest zone would be classified as a *Kawasan dengan Tujuan Istimewa* (KDTI);
2. Future generations of damar farmers would be able to inherit the gardens from their ancestors; and
3. Damar agroforests outside the state-forest zone should receive certificates of private ownership in coordination with the National Lands Agency.

In mid-August, the Ministry of Forestry's directorate responsible for forest-boundary delineation and mapping, INTAG (*Inventarisasi dan Tata Guna*), called a meeting to discuss the delineation of the Krui agroforests. This meeting never took place. It appeared that the Legal Bureau let it be known that they were responsible for calling meetings that concerned Krui. From then on, INTAG took part in the process only with great reluctance. This began a period of about two months in which ICRAF and LATIN waited for the Legal Bureau to present a first draft.

In this period, LATIN took the initiative and drafted its own version of the decree. It centered on making the entire Krui area a buffer zone for the adjacent national park. LATIN also met the head of the HKm programme to discuss its draft.

It soon became apparent that RRL staff involved in drafting the decree preferred to keep ICRAF and LATIN in a purely advisory position; separate from the actual drafting process. This was not regarded as a problem by ICRAF and LATIN until they took part in initial meetings on the drafting of the policy, when it became apparent that RRL staff had ignored the recommendations of both LATIN and ICRAF and had unilaterally sent what they considered to be the final draft directly to the Minister for his signature.

The draft, based only on what was allowed within the restrictive HKm framework, also bypassed the Legal Bureau, a breach of procedure that we learned was common in the competitive environment of the Ministry of Forestry. It was also sent on the Minister's stationery in the hope that he would give it a cursory review and quickly sign it. ICRAF staff learned of this directly from the RRL lawyer who drafted the decree and was orchestrating its signing. Since the draft was already on the Minister's desk, he was pleased to provide a copy. ICRAF staff who reviewed the draft had many serious concerns, the major one being that if the RRL approach was signed, there was little prospect of achieving anything in the field apart from further antagonizing

the Krui farmers. ICRAF then spoke to staff at the Legal Bureau, and discovered that although the RRL draft had reached the Minister's office, a Legal Bureau ally 'at the gate' had noted the lack of Legal Bureau endorsement. He then sent it back for endorsement. While angry at having been bypassed, the Legal Bureau staff were concerned that they might be accused of delaying the process (the Minister had complained twice about the slow pace). They quickly signed off on the draft and sent it directly back to the Minister.

ICRAF staff then prepared a preliminary report to the Minister. It once again detailed the main concerns of the Krui farmers and made recommendations on the overall size of the area in question (RRL had stuck with a figure of 7000ha, while ICRAF believed it to be more than 20,000ha). It also urged that there be no time limits on land rights provided by the Ministry. Having developed a positive working relationship with a key staff person in the Legal Bureau, ICRAF staff sought his guidance before sending the report to the Minister. He was genuinely surprised to learn that ICRAF had not been able to review the draft before it was sent, and he confessed that the draft had left the Legal Bureau with a note saying that ICRAF had endorsed it. The Legal Bureau contact then called an ally in the Minister's office and, for a second time, managed to have the draft plucked from the Minister's in tray. He recommended that, rather than ICRAF sending its report to the Minister, he would rewrite the Legal Bureau's cover letter saying that ICRAF had not yet endorsed the draft and had concerns about it. He then included much of the text of ICRAF's preliminary report in the Bureau's cover letter and sent the draft to the Minister.

The Minister commented immediately, expressing substantial dissatisfaction with the draft prepared by RRL. He went as far as to ask who had mustered the courage to send him such a 'half-baked' concept. Then, for the first time, he outlined how he expected the decree to become a prototype for securing the rights of isolated communities whose traditional lands were within the state-forest zone. He sent it back to the Director General of RRL for revision. He also requested that the boundary-delineation and mapping directorate, INTAG, prepare a map of the area in question. ICRAF staff assisted by supplying a satellite image and a preliminary map of the area, which showed that more than 29,000ha of damar agroforests had been included in the state-forest zone. The process of creating the map was drawn out and, at the time, contentious. In defiance of the minister's direct order, INTAG staff resisted supplying a map that estimated the size of the area. Ultimately, however, they had to comply.

Phase 2: The RRL Official Working Group

The final two months of 1997 may be considered the second phase of the Krui policy development process. The Minister assigned the Secretary of the Directorate General of RRL to coordinate the process and a working group was formed. The first meeting, on 24 November was attended by forestry officials from Lampung and from the Ministry headquarters, along with ICRAF and LATIN staff. The RRL's



Lansium domesticum Corrêa
[Meliaceae]

a synonym of *Lansium parasiticum*
(Osbeck) K. C. Sahni & Bennet.

The fruit known as Langsat or Lanzones originated in western parts of Southeast Asia and was a common component of the damar agroforests. The tree, coming from the Mahogany family, now supplies fruit to markets throughout the region.

draft was discussed and revised over several days. The main issues were the definition of the agroforestry system, the estimated size of the area, and the nature of the agreement – or, indeed, whether there should be an agreement at all. Of these, the shape of the agreement generated the most discussion. Over the course of developing several new drafts, the duration of tenure rights in the agreement became a point of contention. ICRAF and LATIN recommended that it be open ended, and not bound to a specific period. RRL staff preferred a 20-year period that could be renewed. ICRAF argued successfully that a limited period created a potential disincentive for agroforestry farmers to continue to invest in their systems and created uncertainty as the end of the

agreement period approached. After some ‘back and forth’ on this issue, the Minister’s staff accepted an open-ended agreement and agreed that a five-year evaluation process would give the Ministry an opportunity to review the agreement if the community was violating the Ministry’s requirements.

Another aspect of the agreement that received much attention was whether it was awarding rights to individuals or to groups. Following a lengthy explanation of the social organization in Krui by LATIN, RRL staff agreed that individual contracts were unrealistic and that agreements with each social group or clan (*marga*) were preferable. Over several meetings, much discussion focused on whether the Ministry could enter in ‘agreements’ with local people. The Legal Bureau said it could not, and that strictly speaking, the Ministry awarded rights over given areas of the state forest zone. It was eventually agreed that rights over clan areas that were covered by damar agroforests would be awarded through a decision letter issued by the head of the Ministry’s office in Lampung province to the head of the clan, in the name of the community. The clan, in turn, would sign a declaration letter stating that it agreed to the rights and responsibilities as outlined in the decision letter.

Another important point of discussion concerned agroforestry activities in areas classified as protection forest. From the outset, RRL staff opposed timber extraction from these areas. However, ICRAF and LATIN staff analysed existing regulations and argued that cutting trees was not prohibited in protection forests. However, there

were heavy sanctions for those who *disturbed the ecological functions* of these forests. The Minister agreed that Krui farmers could continue with limited extraction of timber from agroforests located inside protection forests, but with restrictions aimed at protecting the functions of these forests. ICRAF staff assisted in refining these restrictions so they were compatible with existing farmer practices.

Only ICRAF and LATIN representatives and two or three RRL staff attended the final drafting meetings of this phase. During this time, the Minister became concerned about clearly defining the legal basis upon which he could make a forest classification such as was being proposed, and requested that a RRL lawyer prepare a memorandum on the issue. The resulting analysis provides an important definition of the legal boundaries within which a Minister of Forestry can operate and has implications for other policies, particularly those concerning the recognition of *adat* (customary) areas within the state-forest zones.

Phase 3: High Level discussions, consultations with other relevant Ministries and signing of the decree

During the latter part of December 1997 and most of January 1998, the Minister hosted several meetings with his senior staff concerning the final draft of the KDTI policy. It was clear that the Minister saw such an approach in Krui as a major initiative towards securing the rights of all *adat* (customary) communities living inside state-forest areas. At one point, he asked the Legal Bureau for an opinion on whether he should consult the President. However, he chose to make sure that other relevant Ministries were consulted, but planned to report the ground-breaking policy to the President after the fact. In early January, staff from the Legal Bureau held meetings with legal staff of the Ministry of Interior and the National Lands Agency. After reporting to the Minister that there was no opposition to the KDTI initiative from these meetings, the Minister of Forestry signed the decree on January 23, 1998.

Responses to the KDTI decree

The KDTI decree (see appendix 1) did not respond to the primary demand of damar farmers, that they be given back full ownership rights and that the border of the state forest be returned to match the boundary of the Bukit Barisan Selatan National Park. However, the decree was unprecedented in Indonesia at that time, in that it:

- Recognized a community-based natural-resource management system as the official management regime within an area of the state-forest zone;
- Devolved the management responsibility for state-forest lands to a traditional community governing structure; and
- Provided for inheritable rights that were without a time limit (Fay et al., 1998).

The decree was regarded as a major forestry-policy breakthrough by almost all experts dealing with social and community forestry programmes and concepts in

Indonesia (Fay and de Foresta, 2001). However, it received criticism from some human rights NGOs that focused (correctly) on the fact that damar agroforests remained in the state-forest zone and on the lack of participation by the intended beneficiaries in the development process.

In Krui, perceptions of the decree were nuanced. Before the seismic political events that culminated in the fall of President Soeharto and assumption of power by the 'reformasi' government, Team Krui organized a series of meetings in villages around Krui to present the decree and measure the reactions of local villagers (Figure 52-5). In general, there was disappointment on one hand, because the land was still gazetted as state forest and damar agroforests were not explicitly recognized as the result of the hard work of local people. There was also local concern about restrictions such as the need for both the continuous

existence of the customary community and its official recognition, about the monitoring and sanctioning role of the Ministry of Forestry and about the complexity of the formal process that was needed to get their rights officially recognized. On the other hand, there was satisfaction in learning that their rights had been legally recognized, not only for themselves but also for their children.

Following the fall of Soeharto in June 1998, the attitude of local communities changed to total rejection of the KDTI as a solution to their problems. The KDTI, which would have been acceptable under policy conditions prevailing when it was issued, was no longer considered acceptable. Basically, the Krui communities stuck to their claim that gazettement of the land they had developed into damar agroforests and other land-use systems was a violation of their private property and basic rights.

On the other side, the Forestry Services whose job it was to implement the KDTI decree had shown their resistance to the decree on many occasions and had no reason to be enthusiastic about it because they saw it as curtailing the power they held over land that they felt was under their full authority.

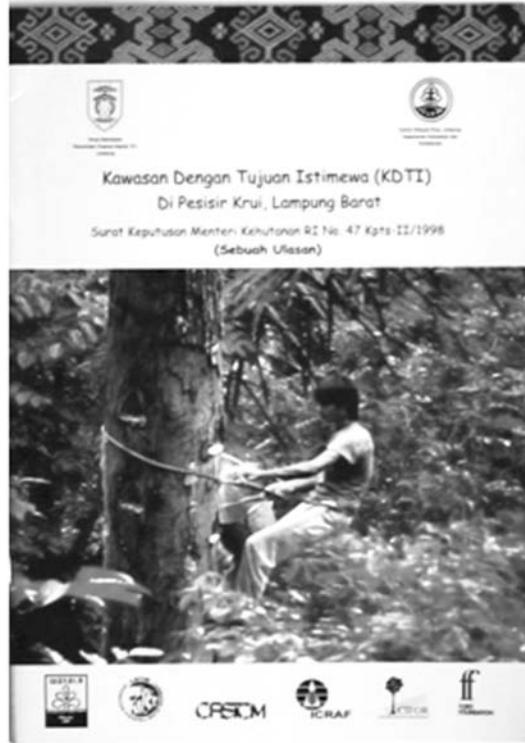


FIGURE 52-5: The cover page of a booklet prepared for presenting the decree to local communities in Krui. In 1999, hundreds of booklets were distributed by Team Krui in villages bordering the KDTI area.

With both sides reluctant to implement the decree, and given the major political upheaval that occurred after its signing, it is perhaps no surprise that over the past 17 years, no attempt has ever been made to bring the decree into force: the Ministry of Forestry has not undertaken the delineation of the KDTI and no customary-community head has ever applied for a Damar Concession Right.

In 2005, Kusters et al. (2007) reviewed the impacts of the KDTI decree. They found that although it had never been implemented, the KDTI decree had been successful in reaching its objectives, i.e. improving security and maintaining the agroforest area under community management. Importantly, they noted that it had been ‘instrumental in stopping outsiders’ attempts to appropriate damar agroforests’, and that damar farmers had continued to manage and reap the full benefits of the agroforests located inside the state-forest zone, with no restrictions from the Forestry Services (Kusters et al., 2007).

However, the production forest within the KDTI area (24,835ha) was designated as a *Hutan Tanaman Rakyat* (community-based timber plantation) project area by the Minister of Forestry in 2010.¹¹ Up to mid-2014, eight cooperatives had obtained permits and 865ha of land had been planted with various fast-growing timber species such as *jabon* (*Anthocephalus cadamba*), acacia (*Acacia mangium*), and *cempaka* (*Michelia champaka*) (Herawati, 2013).

This is the beginning of another story. Although no damar agroforests (*repong damar*) have yet been converted, the new designation, which re-asserts the power of the Ministry of Forestry over state forest land at Krui, and the random process by which the project has been implemented so far, are both worrying and worth monitoring. These factors could well lead to conflict within the Krui communities, between those who wish to continue to manage their damar agroforests and those who wish to pursue the community-based timber plantation scheme.

Conclusion

Important lessons about development policy in general and forestry policy in particular may be drawn from the experiences recounted in this chapter, surrounding the KDTI decree and the processes that led to its issuance.

In detailing the processes leading up to the decree, this chapter reiterates the commonly held concern that local communities have a limited capacity to present matters of disputation to policy-makers and seek external support in terms of facilitation, funding, information and technology. The experiences presented here also show that key findings and recommendations provided by researchers, academicians and practitioners need to be reinforced by advocacy efforts in order that they are properly understood and most likely to generate positive responses from policy-makers. This important process of advocacy, i.e. bridging science to the policy-development process, is overlooked in many policy studies, so that recommendations often go no further than scientific publications.

Seven main lessons may be drawn from experiences in the process of developing and drafting the KDTI decree:

1. Forestry policies in Indonesia emerge from competing interests both inside and outside of the Ministry of Forestry. Formal procedures are often bypassed and conceptual development of new policy is largely done quietly, if not in secret.
2. Non-governmental organizations and academics, including international institutions, may provide critical support for policy reform by 'entering the process from within', and providing decision-makers with technical information that they need as well as honestly analyzing the possible or even likely implications of various decisions.
3. The success of research and advisory institutions 'entering the policy process from within' is heavily dependent on them having a mandate from at least one faction within the Ministry of Forestry. In the Krui case, the ability of ICRAF and LATIN to provide recommendations benefited significantly from having a mandate from the Minister himself.
4. Success is also dependent on being present. The haphazard nature of policy development requires those involved to be prepared to respond at a moment's notice and, at times, to be proactive. For example, some of the most important meetings during the development of the KDTI decree took place spontaneously, following a chance encounter in an elevator at the Ministry's headquarters. A proactive approach can also create such 'spontaneous' encounters, or go one step further and 'keep the ball rolling' by assisting in organizing meetings or moving information;
5. To be successful, institutions working from within must be well informed and have a solid basis for their recommendations. This often means 'having one foot in the field' and maintaining close relationships with groups working with local communities, as well as with advocacy groups. These latter groups join with local communities to 'enter the process from the front', often projecting analysis and recommendations on the basis of a political agenda focused on promotion of justice and human rights. Pressure from these groups can often create the political space within government institutions that reform-minded officials and policy-advisory groups need to achieve change. Local communities and advocacy groups 'entering from the front', can create the need for a response and empower those from within to shape that response in a way that meets the needs of the local communities and the environment.
6. The process of developing a policy such as the KDTI is a process of negotiation, and one that does not end with the signing of a decree. The Krui case illustrates this clearly. In the end, the local communities reviewed the government's response to their concerns and decided that it did not go far enough. It is important to note that prior to the May 1998 change in government, it appeared that the Krui farmers and heads of the *margas* (clans) would accept the KDTI,

albeit not without opposition from within. It seems that the perception of greater political space and opportunities for reform from the new government weighed heavily in the community's decision to stand by their initial demand of moving the production–forest boundary back to the national park. Significantly, the Krui communities have faced no serious outside threats to the integrity of the overall damar agroforestry area following the issuance of the KDTI decree. This has potentially lessened the urgency to follow through with moves to secure their agroforestry boundaries.

7. Policy development in Indonesia is heavily dependent upon precedent. A policy breakthrough applying to a specific geographic area can have impacts beyond the immediate location. This is why the process of developing the KDTI decree was so difficult and why its signing was so important. For a while, the decree became another tool for local people to use in their efforts to gain tenure rights over traditional lands. It also became a tool for those working to develop a national policy that creates a process for recognizing traditional rights, along with the forest creation and management capacities of communities whose lands have been classified as state forest.

An important lesson may also be drawn from reactions to the KDTI decree, pointing to the identification of its domain of relevance.

The evolution of local communities' reactions to the decree reveals that it would have been acceptable only as a temporary solution; in other words, it was judged better than the previous situation but still far from what local communities considered fair: an unequivocal official recognition of their land-ownership rights. In similar situations elsewhere, it is probable that a solution such as the KDTI decree would have been found acceptable only with the emergence of serious outside threats to the integrity of the overall area.

It is important to note that when land that is already covered with agroforests or other agricultural land uses is gazetted as state-forest land it means that the field-delineation process has not been conducted according to national laws and regulations and the ownership rights of local communities have been at best ignored or at worst violated. Local communities, if they can gain access to official documents, would thus have strong legal arguments to contest the gazetting of their agricultural land as state-forest land. In such situations, KDTI-type solutions will only temporarily soothe the wounds resulting from flawed implementation of national laws and regulations. Permanent solutions have to be found through revisions of the delineation processes, in a much-needed attempt to establish state-forest zones that are really 'clear and clean'.

In fact, therefore, KDTI-type solutions cannot be considered as permanent or acceptable rulings in state-forest areas where agricultural activities were developed before gazettement. If they are to be regarded as permanent, KDTI-type solutions will only fit those natural forest areas that may be claimed equally – or almost equally – by local communities on one hand and the government on the other. In such cases, the

rights of local communities to manage their immediate environment and the rights and responsibility of the government to preserve forests and develop forest utilization in a sustainable way for the benefits of the whole nation may be equally defensible claims.

Dedication

This chapter is dedicated first to the late head of Pahlungan village, Pak Rusba Toha, who almost fainted when, after being shown the new official land-use map of the West Lampung district, he realized that the independent government of Indonesia had negated local people's rights that were recognized even by the colonial government. The map showed no damar agroforests in the whole Krui region; they had been swallowed within the new boundaries of the state forest.

And second, to the late Restu Ahmaliadi, from LATIN, who devoted years of living in Krui to helping in community organization and participatory mapping, and who, along with the three other 'musketeers' (C. Fay, H. de Foresta and M. Sirait), struggled through the KDTI drafting process to ensure that the rights of damar agroforest farmers were recognized and that damar agroforests could continue to be managed sustainably.

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Notes

1. IRD (Institut de Recherche pour le Développement, ex ORSTOM) is a French government research organization. See <https://en.ird.fr/ird.fr>.
2. ICRAF (World Agroforestry Centre) is a CGIAR consortium research centre. ICRAF headquarters are in Nairobi, Kenya, with five regional offices located in Cameroon, India, Indonesia, Kenya and Peru. See <http://www.worldagroforestry.org>.
3. CIFOR (The Center for International Forestry Research) is a non-profit, scientific facility that conducts research on the most pressing challenges of forest and landscapes management. Its headquarters are in Bogor, Indonesia. See <http://www.cifor.org/>.
4. WATALA (Friend for Nature Environment) is a non-governmental organization based in Lampung. See <http://www.watala.org>.
5. FORDA (Forestry Research and Development Agency) is a research and development unit of the Indonesian Ministry of Forestry. See <http://www.forda-mof.org/>.
6. LATIN (Lembaga Alam Tropika Indonesia). See <http://www.latin.or.id>.
7. P3AE-UI (Program Penelitian dan Pengembangan Antropologi Ekologi Universitas Indonesia) Department of Ecological Anthropology, University of Indonesia.
8. This section is based primarily on Michon et al., 2000 and 2007.
9. The *Hutan Kemasyarakatan* (community forestry in a state-forest zone) scheme was formalized in a decree from the Minister of Forestry in 1995. This scheme was conceived in order to involve communities in the rehabilitation of degraded forest land, but was strongly restrictive in terms of community rights. For the Ministry of Forestry, it became a solution for all problems related to the presence of local communities on state forest land. Its basic flaw, not only in the case of Krui, but also for numerous other cases in Indonesia, was that it did not take into account the possibility that local communities had access rights to land before it was gazetted as state forest land.
10. Because of its in-depth knowledge about land-access issues at Krui acquired over recent years by LATIN field staff, ICRAF asked the Ministry to include the NGO in the decree-drafting process. The demand was accepted.
11. According to the Minister of Forestry's Decree No. 47/Menhut-II/2010.