USE OF THESES

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Has Indonesia's Decentralisation Led to Improved Forestry Governance? A Case study of Bulungan and Kutai Barat Districts, East Kalimantan

by

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Dedication

To my husband, Budy Prasetyo Resosudarmo and my children, Adhikara Jananuraga Resosudarmo, Kalyana Ananggadipa Resosudarmo, and Wisesa Jnana Siddhi Resosudarmo.

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Abstract

This study investigates the nature and the outcomes of the devolution of forestry authority to local governments under Indonesia's most recent and far-reaching decentralisation initiatives, put in place in 1999. The research focuses on the dynamics of the relationships between district governments and other actors in that context, based on case studies of the forest-rich Bulungan and Kutai Barat Districts, East Kalimantan.

The adverse outcomes for both forests and local communities of the previous centralised forest governance regime under Indonesia's New Order Government, have been profound and well documented. Indonesia's most recent experiment with decentralisation, often referred to as regional autonomy, provided an opportunity for decentralized forestry regimes that many believed and hoped would improve forest management and provide benefits for local communities. Although there are many studies examining the devolution of forestry governance to the community or village levels, few focus on the transfer of forestry powers to the local government level.

The research framework developed for this study integrated three approaches in the analysis of decentralisation of natural resources governance. The first of these is that proposed by Agrawal and Ribot (1999), which emphasizes the analytical dimensions of actors, power, and accountability. The second is the institutional analysis suggested by Manor (1999), focusing on aspects of democratic, administrative and fiscal decentralisation. The third is a model for decentralized forest management suggested by Larson (2003b), highlighting the power relations among actors. The research focuses on the initial period of decentralisation, from 1999 to 2004, using a qualitative case study approach.

The changes to the political, administrative, and fiscal framework resulting from decentralisation have had a profound effect on the dynamics of forest governance in Indonesia. The most dramatic changes were in control of access to timber resources: this moved from the Centre to the districts, and then largely back again. Districts also enjoyed significantly augmented fiscal powers and increased share of forestry revenue. During the period that substantial powers were formally devolved to the district level, the two case study district governments exploited the space created by their decentralized mandates quite effectively; as a result, local actors were increasingly important in district decisions, and more benefits accrued to the local level. However, many of the accountability outcomes expected to follow decentralisation did not eventuate. Few downward accountability mechanisms, held to be critical for improved natural resource management, were found to be effective in the case study districts. Thus, at least during the first few years of decentralisation, increased control of access to forest resources and greater share of forestry-derived revenue did not improve forest management in the study districts.

The study revealed dynamic and fluid forest politics at the district level. District forestry decision-making and operations have reflected the interplay between the legal-regulatory
framework, relations between the Centre and district governments, and relations between and among actors at the district level. Organisational and individual actors each have their own interests and objectives shaping forestry decisions and operations at the district level, and these are well-illustrated in the research case studies.

The ambiguity and inconsistency of the legal-regulatory framework, and the reluctance of Central actors to forgo powers, have resulted in tensions and a bitter power struggle between the district governments and the Centre. One of the important consequences has been that district actors have perceived their window of opportunity to be insecure, and have thus vigorously pursued short-term benefits from forest exploitation. Despite the Centre’s efforts to retain and subsequently regain its powers, the case study district governments were able to develop strategies and tactics, at least for a period, to continue to ensure they and other local-level actors benefited from regional autonomy.

Power relations between and among actors have determined the ways in which timber politics have been shaped at the district level. Local actors have increasingly influenced district government decision-making and forestry operations in the districts, and have destabilised the previously firm position of centrally-linked actors operating at the district level. In one district, the influence of extra-legal actors was significant and largely unchecked. However, as decentralisation progressed, the Centre’s policies have ultimately determined district decisions, above and beyond local actors’ influences.

Forest exploitation has thus continued at the district level, at the expense of longer-term sustainability of the forests. Given the absence of strong downward accountability mechanisms, vertical accountability to the judiciary has been the most effective mechanism in keeping districts’ forestry powers in check.

The research conducted for this thesis suggests that the research framework developed here has shown useful in the analysis of forest governance dynamics at the district level under the decentralisation regime. Both de jure and de facto powers were taken into account in analysing how decentralisation has been played out, and this proved to be important. The institutional analysis that advances the importance of decentralised financial powers, and analysis of the role of various accountability relations beyond conventional downward accountability were relevant and useful. Further research, however, could be useful in determining how downward accountability in these contexts can explain the direct causal-effect linkages between local-level governance and NRM. The outcomes of this study also suggest that it would be desirable to investigate the incentives and motivations likely to lead to improved NRM under local forest governance. This is particularly relevant given the emphasis on avoided deforestation and reforestation in Indonesia.

Finally, the rapidly evolving nature of Indonesia’s decentralisation, and its progression beyond the early phase investigated by this research, suggest that it will be important to establish whether the outcomes and trends reported here will continue as they have during this
initial period, or whether they will change as the decentralisation process and associated institutions mature.
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List of acronyms and abbreviations

APHI  Indonesian Association of Forest Concessionaires (Asosiasi Pengusaha Hutan Indonesia)
APKASI Association of District Governments Across Indonesia (Asosiasi Pemerintah Kabupaten Seluruh Indonesia)
APHI  Indonesian Association of Forest Concessionaires (Asosiasi Pengusaha Hutan Indonesia)
APKASI Association of District Governments Across Indonesia (Asosiasi Pemerintah Kabupaten Seluruh Indonesia)
APL Areas for uses other than forestry (Areal Penggunaan Lain)
Babinsa Village Military Supervision (Bintara Pembina Desa)
BAPPEDA Regional or Local Planning Agency (Badan Perencanaan Pembangunan Daerah)
Bawasprap Provincial Monitoring Agency (Badan Pengawas Propinsi)
BMZ German Federal Ministry for Economic Cooperation and Development (Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung)
BPDAS Watershed Management Agency (Badan Pengelola Daerah Aliran Sungai)
BPKP Agency for the Monitoring of Finances and Development (Badan Pengawas Keuangan dan Pembangunan)
BPN National Land Agency (Badan Pertanahan Nasional)
BUMD Regional or Local Government Enterprises (Badan Usaha Milik Daerah)
CIFOR Center for International Forestry Research
DAK-DR Special Allocation Fund-Reforestation Fund (Dana Alokasi Khusus-Dana Reboisasi)
Dandim District military commander (kemandan kodim)
DFID The Department for International Development of the UK Government
DPRD Regional or Local Legislative Body (Dewan Perwakilan Rakyat)
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<td>DR</td>
<td>Reforestation Fund (Dana Reboisasi)</td>
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<td>GNRHL</td>
<td>National Movement for the Rehabilitation of Forest and Land (Gerakan National Rehabilitasi Hutan dan Lahan)</td>
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<tr>
<td>GTZ</td>
<td>Deutsche Gesellschaft für Technische Zusammenarbeit (GmbH)</td>
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<td>HPH</td>
<td>Forest Exploitation Right (Hak Pengusahaan Hutan), large-scale timber concession right issued by the Ministry of Forestry; in 1999 licenses for medium and large-scale concession rights became IUPHHK (see below). Although HPH is actually the rights held by concessionaries over forest exploitation, the term HPH is also used to refer to the concessionaires or operators holding the license.</td>
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<tr>
<td>HPHH</td>
<td>Forest Products Harvesting Right (Hak Pemungutan Hasil Hutan)</td>
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<tr>
<td>ICRAF</td>
<td>International Center for Research in Agroforestry</td>
</tr>
<tr>
<td>IFAD</td>
<td>International Fund for Agricultural Development</td>
</tr>
<tr>
<td>IGES</td>
<td>Institute for Global Environmental Strategies, a research institution, based in Japan</td>
</tr>
<tr>
<td>IHH</td>
<td>Forest Product Royalty (Juran Hasil Hutan)</td>
</tr>
<tr>
<td>IJHPH</td>
<td>Timber Concession Fee (Juran Hak Pengusahaan Hutan)</td>
</tr>
<tr>
<td>IJUPHHH</td>
<td>License for Forest Product Harvesting Right (Ijin Hak Pemungutan Hasil Hutan)</td>
</tr>
<tr>
<td>INPRES</td>
<td>Presidential Instruction (Instruksi Presiden)</td>
</tr>
<tr>
<td>IJPHHK</td>
<td>License for Timber Forest Product Harvesting Right (Ijin Pemungutan Hasil Hutan Kayu)</td>
</tr>
<tr>
<td>IPK</td>
<td>Timber Utilisation License (Ijin Pemanfaatan Kayu)</td>
</tr>
<tr>
<td>IPPK</td>
<td>Licenses for Timber Harvesting and Utilisation (Ijin Pemungutan dan Pemanfaatan Kayu)</td>
</tr>
<tr>
<td>IUKHM</td>
<td>Community Forestry License (Ijin Usaha Kehutanan Masyarakat)</td>
</tr>
<tr>
<td>IUP</td>
<td>Plantation Licenses (Ijin Usaha Perkebunan)</td>
</tr>
<tr>
<td>IUPHHK</td>
<td>Licenses for the Utilisation of Timber Forest Products or medium to large-scale timber licenses (Ijin Usaha Pemanfaatan Hasil Hutan Kayu), previously known as HPH</td>
</tr>
<tr>
<td>Jampidsus</td>
<td>Deputy Attorney General for Special Criminal Actions</td>
</tr>
<tr>
<td>Kandep</td>
<td>District-level Regional Office (Kantor Departemen)</td>
</tr>
<tr>
<td>Kanwil</td>
<td>Regional Office (Kantor Wilayah)</td>
</tr>
<tr>
<td>Kapolda</td>
<td>Provincial-level police chief (Kepala kepolisian daerah)</td>
</tr>
<tr>
<td>Kapolsek</td>
<td>Sub-district police chief (Kepala polisi sektor)</td>
</tr>
<tr>
<td>Kaur</td>
<td>Head of administrative matters of a village (Kepala Urusan)</td>
</tr>
<tr>
<td>Keppres</td>
<td>Presidential Decree (Keputusan Presiden)</td>
</tr>
<tr>
<td>KBK</td>
<td>Forestry Development Area (Kawasan Budidaya Kehutanan)</td>
</tr>
<tr>
<td>KBNK</td>
<td>Non-Forestry Development Area (Kawasan Budidaya Non Kehutanan)</td>
</tr>
</tbody>
</table>
KHM  Community Forestry (*Kehutanan Masyarakat*)
KKPKD  Regional Forestry Working Group (*Kelompok Kerja Program Kehutanan Daerah*)
KKRHL  Working Group for Forest and Land Rehabilitation (*Kelompok Kerja Rehabilitasi Lahan dan Hutan*)
KNPI  National Indonesian Youth Committee (*Komite Nasional Pemuda Indonesia*)
Kodam  Regional Military Command (*Komando Daerah Militer*)
Kodim  District Military Command (*Komando Distrik Militer*)
Kopassus  Elite Military Unit (*Komando Pasukan Khusus*)
Koramil  Raysun Military Command (*Komando Raysun Militer*)
Korem  Military Area Command, the army command between the Kodam and the Kodim (*Komando Resor Militer*)
LHP  Timber Production Reports (*Laporan Hasil Produksi*)
Mabes Polri  Police Headquarters (*Markas Besar Kepolisian Republik Indonesia*)
MENPAN  Minister of State for the Control of the State Apparatus (*Menteri Negara Penertiban Aparatur Negara*)
MOF  Ministry of Forestry (*Departemen Kehutanan*)
MOFIN  Ministry of Finance (*Departemen Keuangan*)
MOHA  Ministry of Home Affairs (*Departemen Dalam Negeri*)
NRM  Natural Resource Management
PAD  Locally or Regionally Generated Revenues (*Pendapatan Asli Daerah*)
PANGDAM  Regional Military Commander (*Panglima Daerah Militer*)
PERDA  Local or Regional Regulation (*Peraturan Daerah*)
PMDH  Forest Community Empowrment Program (*Pembinaan Masyarakat Desa Hutan*)
PSDH  Forestry Resource Rent Provision (*Provisi Sumber Daya Hutan*)
Polda  Provincial-level police unit (*Kepolisian Daerah*)
Polres  District-level police unit (*Kepolisian Resor*)
Polsek  Sub-district level police unit (*Kepolisian Sektor*)
Pospol  Police posts (*pos polisi*)
PPP  Patriot Pancasila Party (*Partai Patriot Pancasila*)
PSDH  Forestry Royalty (*Provisi Sumber Daya Hutan*)
PWK  Sub-district Development (*Pembangunan Wilayah Kecamatan*)
RAPERDA  Draft of a district regulation (*Rancangan Peraturan Daerah*)
RENSTRA

Strategic Plan of a particular level of Government (Rencana Strategis)

RHL

Rehabilitasi Hutan dan Lahan (Forest and Land Rehabilitation)

RKPH

Forest Utilisation Plan (Rencana Kerja Pengusahaan Hutan)

RKPL

Five-Year Working Plan (Rencana Kerja Lima Tahunan)

RKT

Annual Working Plan (Rencana Kerja Tahunan)

RT

Community Neighbourhood Group (Rukun Tetangga)

RTRWN

National Spatial Plan (Rencana Tata Ruang Wilayah Nasional)

RTRWP

Provincial Spatial Plan (Rencana Tata Ruang Wilayah Propinsi)

RUTRWK

District Spatial Plan (Rencana Umum Tata Ruang Wilayah Kabupaten)

SDO

The Subsidy for Autonomous Regions (Subsidi Daerah Otonom)

SKSHH

Timber transport document (Surat Keterangan Sahnya Hasil Hutan)

SPJ

Literally Instruction to Travel (Surat Perintah Jalan), often used to refer to travel allowance

SPK

Third Party Contribution (Sumbangan Pihak Ketiga)

TGHK

Forest Land Use by Consensus (Tata guna Hutan sepakatan)

TNI

Indonesian National Army (Tentara Nasional Indonesia)

ULHC

Temporary Timber Cruising Report (Usulan Laporan Hasil Cruising)

ULHP

Temporary Timber Production Reports (Usulan Laporan Hasil Produksi)

UPTD

Local or Regional Technical Implementation Unit (Unit Pelaksana Teknis Daerah)

USAID-NRMP

United States AID-Natural Resources Management Project

WWF

World Wildlife Fund for Nature
## Glossary of Indonesian Terms

<table>
<thead>
<tr>
<th>Term</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adat</td>
<td>Customary, traditional; a rich and complex concept that extends to law, tenure, religion, symbolism, practice, and ethnicity</td>
</tr>
<tr>
<td>Biaya Khusus</td>
<td>Literally, &quot;special costs&quot;</td>
</tr>
<tr>
<td>Bina Desa</td>
<td>Forest Community Empowerment Program, later became PMDH (see Acronyms and Abbreviations)</td>
</tr>
<tr>
<td>Bupati</td>
<td>Head of district</td>
</tr>
<tr>
<td>Cabang Dinas</td>
<td>Provincial Government</td>
</tr>
<tr>
<td>Camat</td>
<td>Head of sub-district</td>
</tr>
<tr>
<td>Cukong</td>
<td>Capital provider</td>
</tr>
<tr>
<td>Dewan Pengurus Cabang</td>
<td>Party Branch</td>
</tr>
<tr>
<td>Dinas Kehutanan Kabupaten</td>
<td>District Forestry Service</td>
</tr>
<tr>
<td>Dinas Kehutanan Propinsi</td>
<td>Provincial Forestry Service</td>
</tr>
<tr>
<td>Dusun</td>
<td>Hamlet</td>
</tr>
<tr>
<td>Ijin prinsip</td>
<td>A permit in principle</td>
</tr>
<tr>
<td>Instruksi Presiden</td>
<td>Presidential Instruction</td>
</tr>
<tr>
<td>Inti</td>
<td>Nucleus of a plantation</td>
</tr>
<tr>
<td>Jaksa</td>
<td>District attorney</td>
</tr>
<tr>
<td>Kabupaten</td>
<td>District</td>
</tr>
<tr>
<td>Kawasan Hutan</td>
<td>Forest Estate</td>
</tr>
<tr>
<td>Kecamatan</td>
<td>Sub-district</td>
</tr>
<tr>
<td>Kemitraan</td>
<td>Partnership arrangement between a company and community</td>
</tr>
<tr>
<td>Kepala desa</td>
<td>Village head</td>
</tr>
<tr>
<td>Kelompok Tani</td>
<td>Farmer Group</td>
</tr>
<tr>
<td>Kepala dusun</td>
<td>Hamlet head</td>
</tr>
<tr>
<td>Keputusan Menteri</td>
<td>Ministerial Decree</td>
</tr>
<tr>
<td>Keputusan Presiden</td>
<td>Presidential Decree</td>
</tr>
<tr>
<td>Kerja kayu</td>
<td>Activities associated with timber harvesting and transportation</td>
</tr>
<tr>
<td>Kerja Sama Operasi</td>
<td>Contracting agreement</td>
</tr>
</tbody>
</table>
Kota  Municipality
Ladang  Swidden or shifting, dry land rice cultivation
Masyarakat  Community, people
Menggesek  Felling timber
Mitra  Partner
Monografi desa  Village data
Oknum  Rogue officials
Paduserasi  Integrating and reconciling of spatial plans
Penghijauan  Regreening, the rehabilitation of degraded community lands, afforestation
Pengurus  Those responsible for administering matters
Plasma  The area of a plantation managed and owned by households in the participating community
Pola umum  General pattern
Preman  Thugs, goons
Program Pengawasan Kecamatan  Sub-district Development Monitoring Program
Reboisasi  Reforestation
Reformasi  Indonesia’s wide-ranging reforms post New Order period
Retribusi  Volume-based local charges
Sosialisasi  Promoting an idea or program, usually by disseminating information or mobilizing communities
Sumbangan Pihak Ketiga  Third party contribution
Surat Edaran  Circular
Surat Perintah Pembayaran  Instruction to pay
Surat Perjanjian Kerjasama  Work Agreement
Swakelola  Self-management
Uang debu  Literally, “dust money”
Uang keamanan  Literally, “security” fees
Uang kesungguhan  Collateral to ensure that land is developed for its purpose after clearing, associated with the development of plantations
Uang pelcin  Literally, “grease money”
Uang terimakasih  Literally, “thank you money”
<table>
<thead>
<tr>
<th>Term</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>Wakil Bupati</td>
<td>Deputy district head</td>
</tr>
<tr>
<td>Wartawan Amplop</td>
<td>Envelope journalists; journalists demanding an envelope of money</td>
</tr>
<tr>
<td>Wartawan Bodrex</td>
<td>Journalists operating in a group to “attack” officials demanding money</td>
</tr>
<tr>
<td>Wartawan Tanpa Suratkabar</td>
<td>Journalists without a newspaper</td>
</tr>
</tbody>
</table>
Chapter 1: Introduction

"In reality nobody is managing the forests, at best only monitoring timber production through their documentation." (interview with a senior official at the Ministry of Forestry, N-G-1)

1.1 The problem – management of Indonesia’s forests

In 1967, the New Order government of President Soeharto of Indonesia passed two laws which established the administrative arrangements for the exploitation, on a previously unimaginable scale, of Indonesia’s natural tropical forests. Law 1 of 1967 on Foreign Investment, through land use rights and tax breaks, created favourable conditions for multinational companies to invest in Indonesia’s natural resource sectors, including forestry. Law 5 of 1967 on Basic Forestry, often referred to as the Basic Forestry Law, centralized control over forests and decisions about their allocation and use. While domestic companies have since replaced their multinational predecessors, the large-scale, centrally-run commercialization of Indonesia’s forests has allowed the exploitation of the forests to continue. The consequences have been profound: the forest industries have become a major source of revenue and employment, with exports worth more than USD 7 billion (Bank Indonesia Statistics, 2007), direct employment of 2.3 million people and a much larger number in indirect employment (Ministry of Forestry, 2006b). However, the cost of over three decades of continuous exploitation has also been exorbitant: the forests of Indonesia’s forest-rich Outer Islands – first Sumatra, then Kalimantan, and most recently Papua – have been lost at a rate second highest in the world, paralleled only by Brazil (Maps of World, 2007). Deforestation averaged 1.7 million hectares annually during the first part of the 1990s (Holmes, 2002) and 2 million hectares annually per year since 1996 (FWI/GFW, 2002), or equivalent to 235 and 277 soccer fields per hour, respectively.

Under the New Order regime, most of the benefits of forest exploitation were captured by Indonesia’s business and political elites (Dauvergne, 1997; Ascher, 1998; Barr, 1998; Ross, 2001), local communities lost their traditional forest resources and thus their livelihoods (SKEPH and Kiddell-Monroe, 1993; Barber et al., 1994), and they and the wider community lost the biodiversity¹ and the ecosystem services the forests provided (Brookfield et al., 1995; MacKinnon and Sumardja, 1996; World Bank, 2001). These issues and their implications have been widely analysed and well-summarised (for instance, Hurst, 1990; Barber et al., 1994; Dauvergne, 2001; Jepson et al., 2001; World Bank, 2001; Down to Earth, 2002).

¹ Including wood, wood products, pulp, and paper
² For a comprehensive study of the effects of commercial logging on wildlife in Kalimantan, see Meijaard et al. (2005).
Of particular relevance to the study is that central control of the country’s forests has meant that both local governments and local people have had very little say on how local resources, including forests, were managed as well as on how their benefits should be shared (Kartodihardjo and Jhamtani, 2006). An overview of forest administration and management during the New Order period is presented in Appendix 2.

The dramatic political and social events of 1998 which saw the end of the New Order Government led to reformasi, which comprised a suite of administrative, economic and political reforms (Turner and Podger, 2003; Aspinal and Fealy, 2003; Nordholt and van Klinken, 2007). In 1999, two decentralisation laws, often referred to as regional autonomy laws, were enacted, setting in place decentralisation of the governance of Indonesia’s natural resources, including its forests, to local governments. Although autonomy and decentralisation are different concepts (Chapter 2), in the Indonesian case the terms decentralisation and regional autonomy are often used interchangeably.

The period since 1999 has been one of considerable turbulence in the administration of Indonesia’s forests, and has seen a continuation of forest exploitation and conversion, including a marked increase in illegal logging (Casson and Obidzinski, 2002; Smith et al., 2003; McCarthy, 2004; Obidzinski, 2005; Wadley and Eilenberg, 2005; Tacconi, 2007) and a rise in conflicts over forests (Shroeder-Wildberg and Carius, 2003; Jarvie et al., 2003; Wulan et al., 2004). These rapid and unprecedented developments provide the context for the research reported in this thesis.

### 1.2 Decentralisation of natural resource management: the flavour of the era

The problem of rapid deforestation as one form of inappropriate natural resource management (NRM) is not confined to Indonesia: it is a problem in most developing countries (Repetto and Gillis, 1988). Much of the problem has been closely associated with centralized control, both of the resource and of the benefits of resource exploitation (for instance, Ascher, 2000).

Decentralisation has been promoted in the last three decades as a response to the failures of centralized approaches in development (for review see Manor, 1999 and Appendix 1). Political, fiscal, and administrative powers are being devolved to sub-national governments (World Bank, 2000). As in development more generally, the unsatisfactory record of the centralized mode of NRM has promoted many nations to experiment in devolving their NRM arrangements (for instance, Agrawal and Ribot, 1999; Ribot, 2004, Chapter 2).

Decentralisation is now commonly defined as “any act by which Central Government cedes powers to actors and institutions at lower levels in a political-administrative and territorial hierarchy” (Agrawal and Ribot, 1999:475). It has been promoted as a foundation for development and democratization (Smith, 1985; Manor, 1999; The World Bank, 2000). Decentralisation is often claimed to enable improved resource management through increased
Local participation in public decision making (Agrawal and Ribot, 1999). Local people are believed to possess better knowledge about local resources and to better observe local regulations governing natural resources that were formulated with local people's inputs (Carney, 1995; Larson, 2003b). Local governments are assumed to be more familiar with and better able to respond to local desires and circumstances than distant, Central authorities. These claimed virtues are particularly lauded in the context of democratic decentralisation; these arguments are reviewed and elaborated in Appendix 1.

Despite its assumed potential in improving NRM, the stakes in the decentralisation of NRM are high because of the characteristics of natural resources. Natural resources are a source of wealth, livelihood, and income. These unique features often encourage rent-seeking activities, promote elite capture, and can often lead to conflicts (Appendix 1).

Indonesia has followed in the footsteps of many other countries and embarked on recent decentralisation initiatives that extend to the natural resource sector. The legal basis for these most recent decentralisation efforts, as described in the beginning of this chapter, was set up in 1999.

1.3 Indonesia's past experiments with decentralisation

The 1999 decentralisation initiatives came about after several attempts at decentralisation reforms. The earlier reforms, however, mostly failed to achieve their objectives or focused on trivial aspects (Yusuf, 1997; Mokhsen, 2003). The two major previous decentralisation initiatives were launched in 1974 and in 1995.

In 1974, the Ministry of Home Affairs attempted a major decentralisation initiative through the enactment of Law 5 of 1974 on Basic Governance in the Regions, which provided a legal basis for the regions' autonomy. Regional governments in the Indonesian context refer to sub-national governments: provincial, district (kabupaten) and municipal (kotamadya) governments. However, this initiative did not result in meaningful local autonomy (Devas, 1997; Yusuf, 1997; Mokhsen, 2003): the national government decentralized functions to regions, but largely kept decision-making authority in Jakarta's hands (Yusuf, 1997; Mokhsen, 2003). Regional governments remained merely administrative units, with very little meaningful authority and high dependence on the Centre for resources. This decentralisation attempt thus did not involve “power sharing” between the Central and Regional Governments (Amal and Nasikun, 1988). The shift was only limited to deconcentration, the least extensive form of decentralisation (Appendix 1). It thus affirmed and reinforced the Central Government's control over regions through, for example, the appointment by the Central Government of regional leaders who were loyal to the central authority (Malley, 2003; Mokhsen, 2003).

Recognizing the slow pace of the 1974-based decentralisation process, the New Order government set up a pilot project scheme for decentralisation. The project, initiated by the Ministry for Administrative Reform (MENPAN), abolished all vertical line agencies from technical agencies (Kandep) and from the Provincial Government (Cabang Dinas), and
transferred their tasks and budgets to the apparatus of the district governments. Twenty-six districts across Indonesia participated in the project. One of the districts studied in this thesis, Kutai Barat, was partitioned from one of these participating districts, the district of Kutai.

Of particular relevance to this thesis, there had also been limited efforts to decentralize the agriculture, infrastructure, health (Mokhsen, 2003) and forest sectors. In the 1950s through to the end of 1960s, significant forestry authority was placed in the hands of the first level of sub-national governments, the provincial governments. During this (President Soekarno’s) period, commercial natural forest exploitation, particularly in the Outer Islands, was minimal (Manning, 1971; Gillis, 1988).

President Soeharto’s 30-year period in office changed all this. The locus of authority over forests shifted firmly to the Central Government. Institutions and policies to enable large-scale exploitation of natural forests, which had previously remained largely limited to small-scale harvests for local markets, were put in place, ostensibly to support the country’s economic growth (Dauvergne, 1997; Resosudarmo, 2002). The subsequent exploitation of these forests has threatened their existence and quality; over the years, they have been relentlessly damaged and converted to other uses (for instance Barber et al., 1994; Dauvergne, 2001). Moreover, little of the benefits accrued to the local level, to local communities or to local governments. Instead, the benefits had largely flowed to businesses and elite circles close to the Centre (Ascher, 1998; Barr 1998; Ross, 2001). Similar skewed distribution of benefits occurred in all other natural resource sectors of Indonesia (Resosudarmo, 2005).

During the New Order period, the few initiatives to delegate some forestry responsibilities to regions were insignificant or ineffective. This was clear, for example, in the area of forest protection. Although in 1985 the Central Government transferred forest protection responsibilities to the provincial level, most policies related to forest protection continued to be made by the Centre, with provincial officials carrying out only technical functions (Rahmadi, 2000).

Indonesia’s wide-ranging reforms post-New Order were partly a response to grievances over the imbalance of the distribution of natural resource benefits between the Centre and the regions (Van Zorge Report, 1999; Kantaprawira, 2000; Resosudarmo, 2004). These reforms began immediately after President Soeharto stepped down from office. Within a month, a Government Regulation had already granted some areas of governance to the regions. Although the types of authority transferred were trivial, comprising mostly authority over minor revenue sources or over non-revenue generating activities, this Government Regulation turned

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1 Government Regulation 64 of 1957
2 Except for Eastern Indonesia, where these matters had been transferred to the second level of sub-national governments. In 1968, however, this district-level authority was shifted to the provincial level.
3 Government Regulation 28 of 1985
4 Government Regulation 62 of 1998
out to be – as discussed in Chapter 3 – significant in the establishment of district forestry regimes.

1.4 Indonesia’s latest decentralisation and forest management

Both the reformasi environment beginning in 1998 and the 1999 regional autonomy laws set the stage for local forest management regimes; this was a departure from the previous approach of tight central control over forest management. The political turmoil and the perceived illegitimacy of the government leading the country immediately after the downfall of the New Order, worked to the disadvantage of the Ministry of Forestry in maintaining its control over forests. In addition, the frequent changes in the Ministry’s leadership during a relatively short period, 1998-2001, resulted in a number of Central policies diverging from those promulgated during the New Order. In particular, as I discuss further in Chapter 3, the reformasi environment has led to a number of Central forest policies in favour of local communities.

Indonesia’s recent decentralisation laws provided the legal basis for the far-reaching devolution to local governments of many hitherto centrally-held authorities, and for the extensive restructuring of fiscal arrangements to finance its implementation. They imply a shift in meaningful decision-making powers in many areas from the Central authorities to local governments, including forestry. These recent decentralisation initiatives were expected to involve the most extensive type of decentralisation, democratic decentralisation (Chapter 2 and Appendix 1), in contrast to the merely administrative decentralisation of previous decentralisation experiments.

The decision to decentralize during a state of economic crisis and political instability meant that there were other forces at play that also influenced how decentralisation was to be implemented. Fearful of losing momentum and under pressure to make reforms, the Government not only passed these two decentralisation laws, but also a flurry of other laws. Consequently, laws were written in haste, without sufficient public consultation, and reflected divergent interests (Van Zorge Report, 8 May, 2000; Turner and Podger, 2003). The resulting legislation ranged from ambiguous to conflicting. For example, the provisions of Law 41 of 1999 on Forestry, enacted a few months after the decentralisation laws, tend to retain control over forests in the hands of the Central Government. This law therefore conflicts with the provisions of Law 22 of 1999 which had transferred sectoral authority, including forestry, to local governments. The enactment of this new forestry law is thus of particular relevance to this research (Appendix 2).

The term forest management here and throughout the thesis is used to refer to a broad scope of forestry related activities, including policies or decision making and their implementation.
Indonesia's dependence on its natural resource base to finance national development extends to sub-national governments. With no industrial capacity and a lack of established infrastructure, many local governments outside Java rely on their natural resource base to develop their areas. Hence, increased local government powers in forestry under decentralisation can have profound implications for the management of the resource.

1.5 The research and its relevance

It is now several years since Indonesia's decentralisation initiative was formally implemented, on January 1, 2001. Studies and analyses of Indonesia's decentralisation have been more focused on fiscal, administrative, and political decentralisation in general, and less on natural resource management. As described briefly above, decentralisation of natural resource management is unique compared to that in other sectors. Because it involves the shift of power over productive resources, the decentralisation of NRM is different in terms of the potential and risks. Hence, Indonesia's decentralisation provides an opportunity to conduct timely empirical research into what decentralisation has meant in practice in the forestry sector.

1.5.1 Research objectives

State or centralized natural resource management in many parts of the world has often been shown to be unsatisfactory in terms of social and distributional equity, in terms of the sustainability of the resource itself, and in terms of environmental and ecological aspects (for instance, Potter, 1993; Painter and Durham, 1995; Ascher, 2000; Dauvergne, 2001; Oyono, 2005). These failures, among others, have led countries to take the alternative path of devolving resource management tasks down to the local level. Much research has focused on the devolution of forest management authority to community or village levels, such as those on community-based forest management (for instance, Enters et al., 2001; Edmunds and Wollenberg, 2003). In contrast, there has been little focus on the local government level. As with communities, decentralisation to local governments is also challenging, due to their lack of capacity and resources (for instance, Ferroukhi, 2003), and their potential vulnerability to pressures, including those from the communities they represent, for rapid resource exploitation.

This research therefore focuses on understanding the nature and the outcomes of the devolution of authority of forestry matters to local governments. This focus on local government corresponds to Indonesia's decentralisation reforms, where the locus of decentralisation has been to the local government level, as opposed to the level of community, and is therefore of fundamental importance to understanding the Indonesian situation.

* Of 55 case studies on decentralisation of forests and wildlife in Latin America and Africa, only one focused on local government (Agrawal, 2001b). Increasingly, more studies now include local authorities as the emphasis of analysis. The Center for International Forestry Research, for instance, pioneered and has continued to carry out studies of Indonesia's decentralisation in forestry.
Several studies conducted during the beginning of the decentralisation process in certain districts of Indonesia showed that it can have profound implications for forests and local development (Barr et al. 2001; Casson 2001a, 2001b; McCarthy 2001a, 2001b; Potter and Badcock, 2001; Resosudarmo and Dermawan 2002; Resosudarmo, 2003, 2004; Soetarto et al., 2001). Local governments are now at the forefront in determining the direction of resource use and local development. Yet how local authorities make their decisions on forests, what factors or influences affect these decisions, and the relationship between these decisions and forest use, are not yet adequately understood. This research therefore seeks to understand these issues.

1.5.2 Summary of research framework

In order to achieve the research objectives, this thesis combines three approaches to analyse decentralisation: the framework for analysing decentralisation in NRM suggested by Agrawal and Ribot (1999); the more common way of analysing decentralisation reforms through institutional analysis of political, administrative, and fiscal decentralisation, as suggested by Manor (1999); and Larson's (2003b) model for decentralized forest management.

Agrawal and Ribot (1999) propose that three distinct analytical dimensions underlie all acts of decentralisation: actors, powers, and accountability. They argue that in order to understand the extent of meaningful decentralisation that has taken place (that is, if decentralisation has occurred and whether or not it is effective) one needs to understand the powers of various actors, the domains in which they exercise their powers, and to whom and how they are accountable.

In this research, Indonesia's decentralisation in the political, administrative, and fiscal realms relevant to forestry are analyzed by reviewing the institutional arrangements that provide the foundations for formal reforms, namely through the array of relevant legislation and the administrative structure and functions of different levels of governments. The implementation of these institutional arrangements is then discussed around and within the three themes derived from Agrawal and Ribot's framework above.

While Agrawal and Ribot's framework is concerned with the who and the what, that is, who are the actors who have been given what new powers, this research extends to the how question. It analyzes how the newly-found formal powers have actually been manifested in practice, at the level which is the locus of the power shift, the district. It does this by adapting a model proposed by Larson (2003b), which emphasizes power relations between and among relevant actors, and integrating it into the research framework (Chapter 2).

The analysis carried out in this research consists of three main elements. The first element, which provides background for the other two, is concerned with what decentralisation formally entails for Indonesia in the forestry sector. This necessarily considers the new institutional
arrangements provided by the decentralisation legislation. This is reviewed in Appendix 2 as the basis for analysis of the next two elements. The second element addresses how local (district) governments and the Central Government agency in charge of forestry affairs have, in practice, interpreted and acted upon these new arrangements in the case of the forestry sector. The third element focuses on the decision-making processes actually occurring at the level which is the locus of decentralisation, the district.

1.5.3 Summary of research methodology

This research was conducted using Layder's adaptive theory approach (Layder, 1998, Chapter 2), which adopts an iterative process and is compatible with the need to analyze both the behavioural, micro phenomenon of individual actors and the systemic phenomenon of organisations. It uses a qualitative (Miles and Huberman, 1994; Schwandt, 1997; Creswell, 1998; Denzin and Lincoln, 2004), case study approach (Stake, 1995; Flyvberg, 2001; Yin, 2003), but is supported by quantitative data, whenever possible and/or necessary.

Two forest-rich districts in the province of East Kalimantan were selected as case studies: Kutai Barat and Bulungan Districts. Data were collected through in-depth interviews of key informants, close observations of district-level actors’ activities, local government reports and decisions, legislation and national legal instruments as well as provincial government documents, and scrutiny of local and national media. To retain confidentiality, interviewees are referred to by the codes they were assigned, no names are mentioned, and their positions are not specified unless they specifically gave the consent to be disclosed (Appendix 4).

1.5.4 Brief background to the case study districts

Bulungan and Kutai Barat Districts are two of the thirteen districts/municipalities in East Kalimantan Province. There are some similarities between the two districts – including in the types of forests and the composition of the ethnic groups in the population – but also some differences. Notably, Bulungan has mangrove forests along its eastern coast while Kutai Barat is a land-locked district.

Bulungan District

Bulungan is located in the north eastern part of the province, between 116°20' - 118°00' East Longitude and between 2°06' - 3°45' North Latitude. To the north lies the district of Nunukan, to the east the Sulawesi Sea and the municipality of Tarakan, to the South lies Berau District, and to the west it shares a border with Malinau District. The capital of the district, Tanjung Selor, lies in the southeast of the district (Figure 1.1).

* Legislation here refers to laws and bylaws, including the decentralisation laws and their implementing regulations, as well as sectoral decrees.
The topography of the district varies from undulating steep lands to lowland areas. In the northern and the western parts of the district stretches a mountain belt with steep slopes and sheer cliffs. The middle part of the district consists of hills to 500 meters above sea level. The lower areas in the south and eastern part of the district consist of plains and tidal wetlands. The district encompasses a number of islands, among the largest are Mandul, Mangkudulis Besar, Sengatok Besar, and Bunyu Islands. As in Kalimantan in general, the district depends heavily on its rivers for both its economy and transport. Bulungan District is supported by an extensive network of rivers: the seven major ones are Kayan, Sesayap, Sekatak, Bandan, Pimping, Linuang Kayan, and Jelarai rivers (BPS and BAPPEDA Bulungan, 2004).

The district has an area of 1,800,000 hectares, comprising 13 sub-districts and 87 villages (BPS and BAPPEDA Bulungan, 2004). As of 2006, the population of the district was 93,987 people; 86% of the working population are farmers (BPS and BAPPEDA Bulungan, 2004). The four major ethnic groups in the district are Dayak, Bulungan, Banjar, and Tidung.

The district has 1,386,356 hectares categorized as forests. They comprise Protected Forests 122,462 hectares, Production Forests 721,694 hectares, and areas designated for other uses 541,199 hectares (Kabupaten Bulungan, 2007).

**Kutai Barat District**

Kutai Barat District borders Malinau District to the north, Kutai District to the east, Pasir District to the south, and the provinces of Central and West Kalimantan as well as Sarawak to the west. It is located 113°49'-116°26' East Longitude and 1°32' North Latitude – 1°04' South Latitude, straddling the Equator (Figure 1.1).

The district is crossed by the longest river in East Kalimantan, the Mahakam, and six other major rivers (Muyub, Peri, Merah, Alau, Boh, Ninjah). The topography of the district is distinguished into three zones: lowlands, dry zone highlands, and the zone upstream of the Mahakam rapids.

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"Dayak is the broad term used to refer to the indigenous population of Kalimantan. It encompasses the different sub-ethnic groups including Dayak Kayan, Benuaq, Tunjung, Lun Dayeh, Punan and many others.

"See Appendix 2 where the Indonesian forest categories are described and explained."
The red areas in the map depict the area affected by the 1997-1998 forest fires that ravaged East Kalimantan. Although these fires are not discussed in the thesis, the latest available data incorporated the burnt vegetation, hence the red areas in the map.

The district comprises an area of 3,162,870 hectares, and 21 sub-districts and 223 villages. In 2006, the population of the district was 147,776 people (Gönnen et al., 2007); more than 65% of the population depended on agriculture and the forestry sub-sector (Andrianto, 2006). The population consists of several ethnic groups: the majority are Dayak (63.9%), followed by Kuitai...
(15.5%), Javanese (10.7%), and the remainder are Banjarese, Bugis, and Batak (Günner et al., 2007).

Within Kutai Barat District’s jurisdiction, 1,481,068 hectares are designated as Production Forests, 744,038 hectares are Protection Forests, 5,050 hectares are Nature Reserve, and the remaining 932,266 are designated for other uses (KKPKD, 2001a).

1.6 Organisation of the thesis

Chapter one provides an introduction to the entire work, setting the background of the study, the objectives of the study, justification for and relevance of the study. It summarizes the analytical framework and the methodology used in the research, and presents the organisation of the thesis.

Chapter two describes the research framework. The first part sets forth the objectives of the research and the research questions. The second part summarizes, from the detailed review presented in Appendix 1, relevant concepts and theories that serve as the foundation for the research and the research framework. The third part presents the analytical framework by laying out the details and relevance of the major models that together form the basis of the research: Agrawal and Ribot’s (1999) framework, Larson’s (2003b) model, as well as the application of institutional analysis suggested by Manor (1999). The fourth part justifies the choice of the case study and qualitative approaches.

Chapter three centres on intergovernmental relations and how these relations affect local government decision-making in forestry. It discusses the power struggle between districts and the Central and provincial governments, showing the dynamics that were played out in districts’ efforts to uphold district forestry regimes that had been created under decentralisation. The chapter first summarizes, from the detailed review provided in Appendix 2, the new formal institutional arrangements (legislation and government regulations) and the structure of forestry administration as a result of decentralisation. The chapter then discusses the contentious process of the transfer of power to districts, detailing the Centre’s hesitant initiatives to transfer power that ended with its withdrawal and district governments’ response toward these actions. Two sections highlight Bulungan and Kutai Barat’s specific attempts to use the opportunity presented under decentralisation to self-govern districts’ forests. The next section analyses the wrangling over forestry authority between district and provincial governments. Pressures from other sectors illuminating the importance of other sectors to district forestry governance, particularly important when districts’ forestry authority were withdrawn, are highlighted in the last section.

Chapter four focuses on fiscal decentralisation in the forestry sector. It focuses on two themes: forestry-derived revenues as a result of the decentralisation of fiscal powers and how these revenues were used by districts. The first theme includes the change in the structure of fiscal relations between district governments and the Centre, how this forestry revenue sharing was implemented, and the generation of forestry revenues exclusively benefiting districts’
coffers. The second theme observes the extent of districts' commitment to reinvest forestry-derived revenue back into the resource.

Chapter five revolves around the Forest and Land Rehabilitation Project as a forestry project financed by districts' share of the Reforestation Fund, one of the types of forestry revenue discussed in Chapter 4. It first discusses the challenges in the Fund's actual process of allocation and distribution to the districts, illustrating that the method of intergovernmental fiscal transfer may be as important as the actual transfer of the money itself. This is followed by an analysis of the implementation of the Forest and Land Rehabilitation Project funded by this Fund.

Chapter six emphasizes the dynamics of district forestry governance, with the actors operating at the district level as the main focus. It elaborates on district governments' interactions with these actors that in turn affect district forestry. It first discusses the role of international organisations, NGOs, and academics in district forestry decision-making, followed by an analysis of the influence exerted by local people. The next section centres on the role of forestry businesses in district forestry regimes, followed by a discussion of a particular set of actors influential in Kutai Barat's forestry: the preman.

Chapter seven analyses the accountability relations and processes relevant to the study districts. It examines both the formal and informal accountability processes relevant to forestry governance. In particular, it observes all types of accountability relations and processes that have worked, rather than maintaining focus on downward accountability as suggested by Agrawal and Ribot's framework.

The concluding chapter summarizes the most important findings of the research in relation to the research questions. It first summarises the major findings, then describes them in more detail. A section of this chapter is devoted to an analysis of the utility of the research framework. The conclusion also provides suggestions for further research and discusses how improvements could be made in similar studies.

Since the fieldwork for this thesis was conducted, there have been several changes in the legislation, thus the fluidity of district forestry governance arrangements. The major relevant developments are addressed in a short postscript, presented as Appendix 5.
Chapter 2: Research Framework

The previous chapter provides the overall description of the thesis and describes briefly how decentralisation has been and is championed in both development and natural resource arenas all over the world, including Indonesia. This chapter elaborates the framework of the research which rests on the concept of decentralisation and elements believed as critical in determining the outcomes of decentralized NRM. It first sets out the objectives of the research and the research questions. It is followed by a brief overview of the key concepts of decentralisation and elements essential in understanding decentralisation as well as justifications for its application in NRM; this synopsis draws from the extensive literature review presented in Appendix 1. The third section of this chapter presents the analytical framework of this research. The last section justifies the choice of research methods and approaches.

2.1 Objectives of this Research

The objective of this research is to analyse forestry governance under Indonesia’s decentralisation. Thus, the core research question is: Has Indonesia’s decentralisation led to improved forestry governance at the district level? To answer this question, three sub-research questions are investigated:

1. What is the extent and nature of Indonesia’s decentralisation in the forestry sector, formally and in practice?
2. How have district decisions that affect forest use and management been shaped in the context of decentralisation?
3. What have been the principal consequences of Indonesia’s decentralisation, and of decision-making\(^1\) about forests at the district level under that decentralisation, for patterns of forest use and management?

The research does not directly assess the outcomes of this decentralisation for forests, as it does not draw on data characterising the biophysical condition of forests pre-and post-decentralisation. However, the general consequences for forest use and management are apparent from the analyses reported in this thesis.

2.2 Key concepts in decentralisation and elements essential in decentralisation of NRM

This section provides a brief overview of the main concepts of decentralisation and the elements essential in understanding decentralisation of NRM. A comprehensive review of the decentralisation literature – addressing its benefits and pitfalls, justifications for decentralisation

\(^1\) Decision-making refers to a process or outcome, and is an intrinsic part of a policy process (Adger et al., 2003). When undertaken by some authority on behalf of society, decision-making is analogous to policy-making (Parsons, 1995 in Adger et al., 2003).
in NRM and the elements suggested as crucial in determining the outcomes of NRM decentralisation— is presented in Appendix 1.

Although the term “decentralisation” is often used in different ways, as a basic concept, decentralisation refers to the shift of power and resources away from the Central government to different territorial units of governments and across local groups (Appendix 1). The most common types of decentralisation and relevant to the thesis are political decentralisation, often referred to as democratic decentralization, administrative decentralisation, and fiscal decentralisation. Democratic decentralisation involves the transfer of powers to sub-national level authorities with significant autonomy and which are democratic in some manner (Manor, 1999; Appendix 1). A central dimension in democratic decentralisation is accountability (Manor, 1999; Agrawal and Ribot, 1999; Appendix 1), in particular, downward accountability, or accountability of those exercising power, to their constituencies (Agrawal and Ribot, 1999; Appendix 1). Administrative decentralisation refers to the devolution of power to local-level units or extensions of the Central government. The principal distinguishing feature between democratic and administrative decentralisation is accountability: democratic decentralisation occurs when those exercising power are downwardly accountable to their constituents (Agrawal and Ribot, 1999); administrative decentralisation occurs when the actors receiving the powers are accountable to their superiors (Ribot, 2004). Fiscal decentralisation refers to the transfer of authority to raise revenues and make expenditure decisions from the Central government to sub-national levels of government (Parker, 1995; Manor, 1999) and the sharing of revenues (Mokhsen, 2003).

Decentralisation in the development arena is justified by reference to the assumed benefits of increased efficiency, equity, participation, and responsiveness of government to citizens (Parker, 1995; World Bank, 1997; Blair, 2000; Smoke, 2003). The main underlying arguments are that decentralisation “brings the state closer to the people”, where popular participation in decision making is believed to promote democracy (World Bank, 1997) and that local governments are believed to be more familiar with local needs compared to a distant Central Government, and thus more responsive (Smith, 1985; World Bank, 2000).

However, in many cases, decentralisation outcomes have fallen short of their assumed benefits in terms of both development performance and governance (for instance, Turner and Hulme, 1997; Azfar et al., 1999; Smoke, 2003). The caveats of decentralisation include: 1) the quality of public services declines due to local authorities’ lack of capacity; 2) the concentration of the benefits of decentralisation within elite circles; 3) the increased distribution and incidence of corruption (Appendix 1). Irrespective of outcomes, decentralisation nevertheless continues to be on the agenda of many countries, in part because centralization has proven not to be a desirable alternative. Importantly, decentralisation continues to be promoted not only for its assumed desirable end, but also as a means to an end: at the very basic, democratic decentralisation allows for citizens to determine their own affairs (Rondinelli et al., 1983; Agrawal and Ribot, 1999).
Similarly, failures in centralized approaches of NRM have led to heightened interest in local-level NRM governance arrangements (Appendix 1), which are held to parallel the benefits of decentralisation more generally (that is, efficiency, effectiveness, equity, and democracy). Thus, the thinking and fashion of decentralisation in development and governance has also “infected” the natural resource sectors. In particular and most relevant to this thesis, democratic decentralisation has been assumed to improve NRM (Agrawal and Ribot, 1999).

The potential and stakes of decentralisation of natural resources are higher than those of other sectors, because of the specific characteristics of natural resources. Natural resources are sources of income and wealth for various segments of the population and for states. The transfer of NRM responsibilities, unlike responsibilities in public service sectors, is often seen as revenue-generating, rather than as cost-incurring (Kaimowitz and Ribot, 2002). Decentralisation of NRM provides a vehicle for local governments to generate revenues to finance the development of their areas. Thus, local governments’ authority over natural resources makes local governments politically, economically, and socially important to the local population. The commercial value of natural resources, however, has also often led to conflicts between the different actors who have interests in them.

Natural resources also differ from that of other sectors because, despite being locally specific, also have multi-scale features. Thus, issues of subsidiarity – to what level should natural resource be devolved – are important (Andersson, 2000). The size of of the jurisdiction over which powers are devolved and the balance of powers among levels of authority are, therefore, important issues in the decentralisation of NRM.

As discussed comprehensively in Appendix 1, two major elements affecting the outcomes of NRM decentralisation are power and accountability (Agrawal and Ribot, 1999). The key elements revolving around the power dimension are 1) the nature and types of power devolved; 2) the means for the transfer of power; 3) the balance of powers among authorities of power; and 4) power relations among and between actors. The effectiveness of decentralized natural resource governance is hinged upon the transfer of meaningful discretionary powers to the local level (Agrawal and Ribot, 1999; Ribot, 2005). The means by which power is transferred, that is, whether the transfer of power is secure or not, will affect the outcomes of decentralized NRM (Conyers, 1990 cited in Ribot, 2005). The granting of unlimited powers to local governments can result in indiscriminate exploitation of the natural resources; hence, there is always a need for an appropriate balance of powers among levels of government (Larson, 2003b; Ribot, 2004; Capistrano and Colfer, 2005). The political and economic nature of natural resources makes power relations among and between actors, each with its own interests, important in determining the outcomes of decentralized NRM (Larson, 2003b).

Accountability, in particular downward accountability, is assumed to be critical in determining the outcomes of democratic decentralisation. Only if local authorities gaining decentralized powers are accountable to their constituents will democratic decentralisation lead to improved NRM (Agrawal and Ribot, 1999).
Accountability is a complex, ambiguous, and contested concept (Appendix 1). Accountability is "the obligation to account, a method by which the public is kept informed and the powerful in check" (Mulgan, 2003:1). It is often explained using the principal-agent relationship (Mulgan, 2003). In the delegation of power, those who delegate (the principal or account-holders) would need to check the actions of those to whom they delegate the power (the agents or the accountors). Accountability is viewed to consist of two principal dimensions: answerability and enforcement or rectification (Schedler, 1999; Brinkerhoff, 2001; Mulgan, 2003; Grant and Keohane, 2005). Thus, accountability is complete when agents are not only called to account, but they must also be held to account.

Mulgan (2003) restricted accountability relations and mechanisms to those involving external scrutiny and sanctions, thus involving state accountability institutions. Others, however, typically include non-state institutions, such as civil society, as instruments of accountability (for example, Peters, 1984; Agrawal and Ribot, 1999; Smulovitz and Peruzzotti, 2000). The latter, societal accountability, involves a means of control of power which does not involve both components calling and holding anyone to account.

These concepts and elements provide the basis for the analytical framework of the research.

2.3 Analytical framework

Cohen and Peterson (1996) pointed out the confusion over and careless use of the conceptual term "decentralisation" as one of the most serious methodological issues confronting studies of decentralisation (Appendix 1). Because of the often multiple meanings associated with and the different uses of the term in the analysis of decentralisation (Appendix 1), what is meant by decentralisation in this thesis needs to be defined. Thus, decentralisation is defined as "any act by which a Central Government formally cedes powers to actors and institutions at lower levels in a political-administrative and territorial hierarchy" (Agrawal and Ribot, 1999:475). Ribot (2004) also uses the same definition (see Box 2.1 and Appendix 1 for definitions used in thesis).

Decentralisation and autonomy are distinguishable but often treated as interrelated concepts; the more extensive decentralisation, the larger the autonomy (Smith, 1985; Rolla, 1998; Verhoest et al., 2004; Fleurke and Willemse, 2006). Autonomy is interpreted as "the extent to which local government determines its own agenda; the extent to which other government authorities give local government freedom of policy-making; and the extent to which local government is dependent on other authorities in its decision-making practices" (Fleurke and Willemse, 2006:75). As noted in Chapter 1, in the Indonesian case, the terms decentralisation and regional autonomy are often used interchangeably.

The analysis here of decentralisation in Indonesia’s forestry sector in general and district-level forestry decision-making in particular applies a modified version of a framework proposed by Agrawal and Ribot (1999) for analysing decentralisation. Following Agrawal and Ribot’s
definition of democratic decentralisation (section 2.2 and Appendix 1), they suggest a framework that focuses on three dimensions: actors, power, and accountability. They look at the actors concerned, that is, who surrenders powers and who receives the powers. The transfer of some powers to local-level authorities constitutes some form of decentralisation. However, according to this framework, decentralisation will only be effective, that is, whether or not it can achieve its stated aim of improved natural resource management, depends on the relations of accountability between those who receive power and their constituents.

Therefore, the overall research framework used in this thesis has three major elements. The first is the legal-regulatory and administrative structure of Indonesia's decentralized governance (described in detail in Appendix 2). The second element revolves around the dimensions of actors, powers, and accountability as defined by Agrawal and Ribot (1999). The third element concerns power relations between and among relevant actors (Larson, 2003b). As the two major research questions posed above overlap with each other in many ways (that is, district decision-making is analysed in the context of the implementation of decentralisation), by default it is not possible to answer the two research questions in isolation from each other.

### Box 2.1 Definitions adopted in this thesis

**Accountability** is the obligation to account; a method by which the public is kept informed and the powerful in check.

**Actors** refer to individuals or organisations with the capacity to act and make decisions or influence others.

**Administrative decentralization** (or deconcentration) occurs when the actors to whom the powers are transferred are accountable to their superiors in a hierarchy.

**Authority** is legitimate power.

**Decentralization** is any act by which a Central government formally cedes powers to actors and institutions at lower levels in a political-administrative and territorial hierarchy.

**Democratic (or political) decentralization** occurs when the actors receiving powers are accountable to their constituents.

**Power** is the capacity to act, to influence, or control others.

### 2.3.1 Agrawal and Ribot's framework for analysis of democratic decentralisation

Agrawal and Ribot (1999) argue that to understand the extent of decentralisation, that is, if decentralisation has occurred and whether or not it is effective, one needs to understand the decision-making powers of various actors, the domains in which they exercise their powers, and to whom and how they are accountable. This argument is supported through the framework they espouse.
**Actors**

Within this framework, decentralization is considered to involve at least three sets of key actors, each set positioned at different levels of social action. They comprise the Central state and its apparatus that relinquishes powers, the local authorities that receive the powers, and the local population to whom the local authorities are accountable. Local actors receiving (and exercising) power over public resources can include appointed or elected local officials, NGOs, local or customary leaders, powerful figures, or corporate bodies such as communities, cooperatives, and committees.

**Powers of decision-making**

A full discussion of the theory is beyond the scope of this thesis (see Chapter 1). However, the thesis employs the concept of powers of decision-making to refer to the particular type of powers (concerning forestry) exercised at the local level.

Because different actors have different interests, Agrawal and Ribot’s framework assumes that the devolution of similar types of powers to different actors can result in different outcomes. Thus, the nature of decentralization is determined by who receives and exercises power and the accountability relations to which those exercising power are subject.

Corresponding to the categories relevant to the separation of powers and checks and balances in state administration and politics, Agrawal and Ribot distinguish four broad powers of decision making in decentralisation. These are: 1) the power to make new rules or modify existing rules; 2) the power to make decisions on how a certain resource or opportunity is to be used; 3) the power to implement the newly created or modified rules and ensure their compliance; and 4) the power to adjudicate disputes associated with the creation of the new rules and their compliance. These are described in Box 2.2.

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The term “stakeholder” is commonly used to refer to people or groups who share an interest or stake in a certain issue, system or activity (Ribot, 2002; Mulgan, 2003), either being affected by an activity, having an influence on it, or both (Hobley, 1996 in Sithole, 2002). In actor-oriented research, the term “actor” refers to individuals or social groups with the capacity of agency, for decision-making and action (see Hindess, 1988; Long, 1992; Ramirez, 1999, cited in Mahanty, 2000).
### Box 2.2 Types of decision making powers

**The power to create new rules is typically**
- Held in some domain of decision making over which governments seek to decentralize control, and in relation to some groups of actors;
- Those actors who exercise the power to design new rules or modify old ones do so for some kind of resources and for some groups of people;
- This set of powers allows decentralized actors to legislate principles that structure decisions and actions concerning who can benefit from given resources or opportunities, how, and to what extent.

**The powers to make decisions in some domain of action that influences others**
- Increase the autonomy of the actors who gain these powers;
- Enhance the discretionary authority of local bodies and directly affect the use of resources;
- Decisions need not affect the behaviour of others by prescribing what they must, must not, or may do (for example, greater powers in revenue raising or autonomy in budget spending means a degree of decentralization has been achieved even if the greater of rule making has not been devolved).

**The powers to implement and ensure compliance with decisions and rules:**
- Are the power to execute and monitor whether actors are carrying out the roles they are supposed to perform;
- Also include the power to impose sanctions on non-performing actors and to enforce those sanctions;
- The power to ensure rule-breaking individuals conform to the sanctions imposed when they violate rules;
- The devolution of powers to make decisions and rules without the devolution of powers to enforce them can be meaningless;
- The power to enforce could be transferred to administrative branches of the state rather than local governments; but those given the power to enforce should be accessible and/or under the control of those who have the power to make decisions and rules.

All of these executive powers (making, implementing, and enforcing decisions) require fiscal and administrative resources.

**Power of adjudication:**
- New rules and decisions are likely to be contested and negotiated and will spill over into the arena of adjudication;
- Two aspects of adjudication are important: accessibility and independence;
- Constituents should have access to channels of adjudication;
- The channels of adjudication should be institutionalized such that they do not have structural links with sectoral interests;
- Constituents should be able to challenge the rules, decisions, and their implementation and enforcement by those who hold decentralized powers, and the outcomes of such challenges should not be biased in favour of power holders;
- Not critical that it be devolved to some representative bodies at the local level, but it should be accessible and exercised without systematic bias.

Source: Agrawal and Ribot, 1999

Decentralisation, then, involves the transfer of different sets of powers of decision making and rule making to lower-level actors. According to Agrawal and Ribot's framework, however, decentralisation will achieve its stated aims, in this case improved NRM, when the actors
exercising decentralized powers are accountable to their constituents. Such accountability is explained in Box 2.3.

Ribot (2001, 2004, 2005) later noted that, although this framework is useful, it has limitations in that it does not take into account changes through time and differences in space; thus it only provides a static model. He proposed that another dimension, accountable representation, is critical for democratic decentralisation to be effective. In this view, equitable and efficient resource management is likely to be achieved (through democratic decentralisation) if local authorities are not only downwardly accountable to their constituents, but also responsive to the local population.

Box 2.3 Accountability in Agrawal and Ribot’s framework

Accountability

- Decentralization is likely to be effective when constituents come to exercise accountability as a countervailing power;
- Accountability is also about the mechanisms through which counter powers are exercised by those subject to actors with decentralized power;
- Modes of accountability are relational—therefore must attend to the actors among whom relations of accountability exist;
- Where power is devolved to public actors (such as local governments), the primary concern would be downward accountability (accountability relations of actors downward to their constituents); but
- There is some degree of upward accountability of appointed and representative actors;
- Vertical and horizontal ties among branches of government can also shape the relations of accountability between local government actors and their constituencies;
- Similarly, the relations between customary authorities and their administrative superiors can shape the downward accountability of local authorities receiving decentralized powers;
- However, downward accountability of those who receive powers from the Center (state) on behalf of a constituency is the primary dimension of decentralization since it can broaden the participation of local populations and enhances the responsiveness of empowered actors;
- Actors can be held downwardly accountable to local constituencies in numerous ways. Elections are not sufficient to hold elected officials accountable to their constituents;
- Mechanisms to increase local or downward accountability include among others, legal recourse through courts, monitoring by third party (media, NGOs), political pressures and lobbying by association, social unrest and resistance, widespread participation, central state oversight, taxation.

Source: Agrawal and Ribot, 1999

2.3.2 Thesis Framework

Agrawal and Ribot’s framework provides an informative starting point in pursuing the objectives of the research. However, other literature and my own research experience both prior to and during the research conducted for this thesis suggest that some adaptation of this framework may be useful. The framework used in this thesis includes specific emphasis on other aspects and highlighting specific issues. It stresses particular emphasis on the legal-
regulatory framework for decentralisation and for forestry valid in the period within which that decentralisation occurred and the administrative structure of government relevant to forestry. It specifically observes the decentralisation of financial powers and power relations between and among actors, and highlights various accountability relations. The model is based on distinguishing the actors and their power and accountability relations in the context of forestry. These are described and analysed in the latter part of this section.

**Legal-regulatory framework**

The thesis combines the analytical framework proposed by Agrawal and Ribot with the more conventional way of treating decentralisation reforms, that is, through an institutional analysis of political, administrative, and fiscal decentralisation – insofar as they exist – as suggested by Manor (1999). The thesis thus first observes the institutional arrangements that provide the foundations for formal reforms, through analysis of the legal-regulatory and administrative structures underpinning the decentralisation process and decentralized governance in forestry in Indonesia. The legal-regulatory framework determines who are the actors formally receiving the powers of decision making in decentralisation, what sorts of powers are legally devolved to which actors, and what sorts of formal accountability relations and mechanisms are present. Their actual implementation is then discussed along the three dimensions proposed in Agrawal and Ribot's framework, that is, actors (who receive the powers), powers of decision making (rule-making, powers to make and implement decisions, and powers of adjudication), and accountability. The process and the dynamics of decentralisation are thus examined by observing the extent to which the legal-regulatory framework for decentralisation translates into actual decision-making powers held by sub-national actors, and the extent to which those powers are actually exercised in a manner downwardly accountable to their constituents. Focusing on communities and the issue of property rights, Thanh and Sikor (2006) used a similar approach, observing the extent to which legal acts were translated into actual rights, in their observations of forest devolution in Vietnam. However, Hesseling (1996) asserts the possibilities as well as the limits of laws in changing local natural resource management behaviour.

The formal legal-regulatory framework allowing for decentralisation in forestry is not limited to legislation in this particular sector. Broader and more general decentralisation legislation, including that not directly concerning natural resources, may have particular relevance to, if not significantly determine, the way decentralisation processes in forestry take shape. This has been observed in other countries, particularly in Latin America (Larson, 2003b; Pacheco, 2005). This thesis observes the decentralisation legal-regulatory framework of local governance and fiscal balancing between the Centre and the regions (Chapter 3 and Appendix 2, and Chapter 4) and the legal-regulatory framework of forestry (Chapter 3 and Appendix 2).

The analysis of the legal-regulatory framework for decentralisation also allows for the examination of the means of the transfer of powers. The security of powers has been noted as
one other attribute associated with the powers important in determining the outcome of decentralisation initiatives (section 2.2 and Appendix 1).

**Fiscal powers**

The thesis framework also differs from that of Agrawal and Ribot in its treatment of fiscal decentralisation initiatives. While Agrawal and Ribot treat fiscal decentralisation as a means of providing one kind of power, they do not consider it as an analytical category per se. This thesis, on the other hand, observes fiscal powers as one major form of power devolved to and affecting both how decentralisation in forestry has been played out as well as district forestry decision-making under that decentralisation dynamic.

The incorporation of fiscal decentralisation into the analytical framework is necessary for a number of reasons. First, the fiscal and administrative capacity of local authorities is fundamental to making political decentralisation work (Appendix 1). Adequate financial capacity is crucial to local-level autonomy and is often the means by which intergovernmental power is exercised (Smith, 1985); thus, in my analysis of decentralisation the financial issues of local governments need to be addressed. Lack of funding for lower level authorities was the most important factor in the failures of the earlier wave of decentralisation attempts in many countries (Cheema and Rondinelli, 1983). Therefore, political decentralisation must be accompanied by at least some fiscal decentralisation which provides financial resources, and by some administrative decentralisation which supplies bureaucratic resources. For instance, Edmiston (2002) found that revenue assignment is crucial both for autonomy and accountability in Papua New Guinea's decentralisation.

Second, the decentralisation framework implemented in Indonesia in the period covered by this study does provide for parallel fiscal decentralisation initiatives (Chapter 4). This is a marked difference from the previous attempts of decentralisation in Indonesia under the New Order (Mokhsen, 2003). Studies conducted in the first few years of Indonesia's decentralisation*, particularly in the forestry sector (Ngakan et al., 2005; Resosudarmo et al. 2006), suggest that the opportunity offered by the fiscal decentralisation framework to enhance fiscal capacity at the district level determined, to a significant extent, the dynamics of decentralisation.

**Administrative structure**

An analysis of decentralisation also requires an understanding of the basic administrative structures of the country's territorial division pre and post-decentralisation (Hutchcroft, 2001), as the administrative structure of the bureaucracy can also affect the outcomes of political decentralisation. The three major types of decentralisation, that is, democratic, administrative,

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* See SMERU case studies at [http://www.smeru.or.id](http://www.smeru.or.id)
and fiscal decentralisation (Appendix 1), are interconnected through at least one element: accountability (Brinkerhoff, 2001). Agrawal and Ribot (1999), for instance, point out that horizontal and vertical linkages between positions in the bureaucracy can also determine the relations of accountability between local government actors and their constituencies.

The research therefore considers pertinent legislation, including ministerial acts and decrees with lower legal status, insofar as they are relevant to political, administrative, and fiscal decentralisation that may have a bearing on district forestry decision-making. The administrative structure of the bureaucracy and their corresponding functions and responsibilities will also be observed, to the degree that they are relevant to forestry decision-making.

**Power relations**

The research framework also goes a step further than Agrawal and Ribot's framework, to include an examination of power relations between and among the actors concerned in the process of answering the first two research sub-questions. Power relations are a critical component in Larson's (2003b) model in decentralized forest management.

The balance of powers between actors relinquishing and receiving decentralized powers has been assumed to be an important feature for a successful decentralisation in NRM (section 2.2 and Appendix 1). Power relations between and among actors at the local level have been suggested as one of the decisive factors in understanding the arena of local decision-making about natural resources under decentralisation (Larson, 2003a, 2003b). These power relations are distinguished through the use of the spatial metaphor of "vertical" and "horizontal" power relations of actors, discussed below under subheading Actors and depicted in Figures 2.1 and 2.2.

**Accountability relations and mechanisms**

One other modification to Agrawal and Ribot's framework applied in this research is in the examination of accountability relations. Whereas Agrawal and Ribot concentrate on downward accountability mechanisms, this research "keeps an open mind" to other and any accountability relations that exist. The analysis thus not only includes downward accountability relations, but also other forms and types of accountability relations and processes (Appendix 1) as relevant to the actors' responsibilities in the forestry realm. As discussed above, Brinkerhoff (2001) notes the interconnection of political, administrative and fiscal accountability. Furthermore, other relations of accountability may affect downward accountability (Agrawal and Ribot, 1999; Edmiston, 2002). Moreover, because Indonesia's decentralisation is part of an early phase of a democratization process, the concept of downward accountability as used in Agrawal and Ribot's framework is likely to be in a parallel, early stage. In this particular situation, the thesis attempts to capture and explore the relevance and value of other accountability relations. This approach is supported by African examples where upward and other forms of accountability
were found important in decentralisation reforms in the context of development in general (Crook, 2003; Olowu, 2003).

**Actors**

As in other analyses (for example, Rhodes, 2003) and consistent with Layder's (1998) approach, in this research actors are defined as both individuals and organisations.Specifying actors as individuals, collective actors, or those associated with an office is consistent with the nature of power, one of the three central dimensions of the definition of decentralisation adopted in this study.

Power may be possessed by an individual or by a collective actor. It may also be associated with an office. Discretion may be delegated to an individual or to an office according to the judgment of those who delegate. Discretion may be presented as that of an individual or that of an office holder. There is no fundamental problem here (Barnes 1988: 66).

The focus of this study, the primary actor, is the district governments, as the loci of decentralized power. Other actors interact with the primary actor, or between and among themselves. These other actors are positioned at two levels. The first set of actors is positioned vertically above the local government actors, that is, state actors at the national level. Also discussed to a much lesser degree are other state actors in between the two levels, that is, the state actors at the provincial level. The second set of actors consists of groups of non-local state (government) actors whose major activities take place at the district level. The third set of actors is the population or constituents of the district, whose activities are mostly concentrated at the village level and therefore within the district. Relations between the primary actor and the first set of actors illustrate the "vertical" relations; relations between the primary actor and the second and third sets of actors illustrate the "horizontal" relations (Figures 2.1 and 2.2).

The major actors in the analysis of decentralisation are therefore the Central Government, as the actor relinquishing powers, the district governments, as the loci of powers transferred, and the constituents in the districts, as the ultimate power holders (Figure 2.1). The research thus specifically analyses the dynamics of the relations between the Central government and district governments and in a more limited fashion, also those between the district governments and the provincial government. Hutchcroft (2001) emphasizes the necessity of supplementing general observations with historical examination of the territorial dynamics of politics and administration, that is, the pre-existing character of Central-local relations. Rhodes (2003) asserts that the relations between local governments and Central Government do not represent one-way dependency but are actually two ways of interdependency.¹⁵ According to Smith

¹⁵ The links between Central government departments and local authorities are often termed "central-local relations" (Rhodes, 2003:7). These relations were seen as too narrow (Rhodes, 1993), however, prompting the usage of the term intergovernmental relations, or IGR. IGR is
(1985), local governments acquire a measure of autonomy. The extent of discretion which local
governments can exercise is limited by the influence and sometimes the control exerted by the
national government.

![Diagram of decentralization framework](image)

**Figure 2.1 Scheme of research framework for decentralisation in forestry**

For the analysis of district decision-making, the research framework sees the district
government units, Bulungan and Kutai Barat bureaucrats, or the entire district government
entity, as the central actors, in relation to other actors (Figure 2.2). It includes observations of
the ways in which these central actors interact with other sets of actors and the ways in which
these interactions influence the decision-making of the former. The factors or motivations of
these actors in their decision making are observed as they relate to other actors. Andersson
(2003), citing Larson (2000) and Pacheco (2000), noted the motivation and incentives of local

defined as "patterned, interdependent, and bargained behaviour among national, state, and
local officials" (Wright, 1988 cited in Rhodes, 2003:7).
governments as the most important factors determining local governments' forestry decisions under a decentralized situation.

Several relevant groups of actors operating at the district level are identified in this research. They consist of international organisations, academics, NGOs, the timber industry, communities, a specific influential actor called the preman (Chapter 6), and the media. Communities are referred to as the local people or masyarakat living within the jurisdiction of the district, usually groups at the village level.\footnote{The term "communities" is used to refer to groups of varying sizes and composition. They are not homogeneous, but are pluralistic and stratified.} Within the broader context of local government
institutions, the district legislative body (Dewan Perwakilan Rakyat Daerah, DPRD) is also discussed. These actors are identified based on at least one of the following considerations: 1) the existing literature that suggests their importance in local development and resource governance (NGOs, academics, international organisations, and the media); 2) their role in forestry, by default (the timber industry, communities); 3) their role as defined by the legal-regulatory framework (the local legislative body); and 4) observations in the field (the preman).

2.4 Research methods

The methodology adopted in the study includes the use of Layder's adaptive theory, the case study approach, and the use of qualitative methods.

2.4.1 Layder's adaptive theory

The research makes use of Layder's adaptive theory approach (Layder, 1998). Three major features of this theory are applied: 1) the findings and conclusions are both shaped by incoming empirical evidence, and filtered by theory, concepts and ideas informing the research; 2) research is iterative throughout the process; the activities of problem definition, data collection and analysis, theorizing, and reviewing are continuous and concurrent processes; 3) the approach allows for a micro (including behavioural phenomena) as well as a macro (systemic) level of analysis.

The adaptive theory approach is compatible with the use of both qualitative and quantitative data, or some combination of the two, the use of surveys and fixed-choice questionnaires, case studies, observation techniques, and in-depth-interviewing (Layder, 1998).

Following Layder's adaptive theory approach, therefore, this research is initially guided by several bodies of literature. The first set includes literature that utilizes and defines specific concepts, including decentralisation, accountability, and power. The second includes several disciplinary approaches, including political ecology, political economy, public policy and government studies, and forest management and policy. The third strand of literature concerns the methodological aspects of social science research.

2.4.2 The case study approach

Schwandt (1997:12) regards a case study as: "a specific instance of a phenomenon selected for study, bounded in time and space" (see also Smith, 1978, cited in Stake, 1995; Miles and Huberman, 1994). A case study approach is undertaken because of the particular interest in that particular case (intrinsic case study), to provide insight into an issue of external interest or refinement of theory (instrumental case study), or to inquire into a phenomenon or general condition by involving the study of a number of cases (collective case study) (Stake, 1995).

Flyvbjerg argues the strength of the case study approach, in which context-dependent knowledge is critical in the study of human affairs (Flyvbjerg, 2001). The case study strategy is appropriate when the questions being posed are "how" and "why" questions, when the
researcher has little control over events, and when the focus is on a contemporary phenomenon within some real-life context (Yin, 2003). The case study approach is therefore appropriate for use in this study, as it is a contextual/situated analysis attempting particularly to understand how Indonesia’s decentralisation has been manifested in the particular context of forestry and district forestry decision-making.

**Indonesia as a case study**

The selection of Indonesia for the study is appropriate for several reasons. The first of these is the establishment of a decentralisation legal-regulatory framework that provides the basis for the far-reaching devolution of much hitherto centrally-held authority to local governments, including authority over forestry and over fiscal matters. Second, as historical context to a certain extent often determines the trajectory of decentralisation reforms (Manor, 1999), Indonesia’s case presents one example of the devolution of extensive and broad-ranging powers to the local level, after previous experiences of limited or failed decentralisation reforms (Devas, 1997; Mokhsen, 2003; section 1.3). The previous “failed” attempts to devolve meaningful powers to the local level may have a bearing on the implementation of the current decentralisation reforms. Third, the decision to decentralize was made while the country was in a state of economic crisis and political instability, and legislation was pushed through in haste and without sufficient public consultation (Turner and Podger, 2003). This consequently leads to huge challenges and complications in implementation. Fourth, natural resource decentralisation experiences around the world to date show that the types of powers devolved and to what levels, as well as their outcomes, are dependent on the context: “one shoe does not fit all” (Capistrano and Colfer, 2005:298). The Indonesian experience will provide additional insights into the experiences observed in other contexts.

A detailed study of decentralisation in the forestry context is of great interest to researchers and policy makers in and outside Indonesia. First, studies and analysis of Indonesia’s decentralisation have been largely oriented around fiscal, administrative, and political decentralisation in general. What studies there are on forestry governance under decentralisation have mostly been done by or under the auspices of CIFOR. Thus, although increasing attention has been paid to natural resource decentralisation, there remain many unresolved issues, particularly in the area of forestry. Decentralisation in natural resource management is unique compared to that experienced by other sectors because of the higher potential, but at the same time, also the greater stakes involved (section 2.2 and Appendix 1). Second, Indonesia is endowed with the world’s third largest area of tropical forests, rich in valuable timber and in biodiversity. Covering 1.3% of the world’s land area, Indonesia has 10%
of the world’s known species of flora, 12% of known species of mammals, 7.3% of the known species of reptilia, and 17% of the known bird species (BAPPENAS, 2003). The island of Kalimantan alone, which covers 0.2% of the earth’s land area, provides habitat for 1 in 25 of all known plants and 1 in 20 of all identified birds and mammals (MacKinnon et al., 1996:632). Rich with commercially-valuable Dipterocarps (MacKinnon et al., 1996), in the last three decades these forests have been exploited intensively and are dwindling rapidly in terms of both area and quality. In the latest estimate, based on landsat imagery, out of the 124 million hectares of the Forest Estate (kawasan hutan), only 94 million hectares remain forested (Ministry of Forestry, 2005a)." The deforestation rate is staggering by any standard, estimated in the order of 2 million hectares per year (Chapter 1 and Appendix 2). The promises held out by decentralized natural resource management provide some hope for better management of these forests. Understanding the dynamics of decentralized forest governance is therefore necessary to understand the prospects for improved forest management. Third, this thesis continues the author's previous research in forest governance and decentralisation (Resosudarmo and Dermawan, 2002; Resosudarmo, 2003, 2004), building from that base to undertake an in-depth analysis of the local dynamics of forestry regimes under decentralisation.

**Study sites**

Two specific research sites were selected for intensive study in this research. They were Bulungan and Kutai Barat Districts in the province of East Kalimantan. The two districts were selected based on the following considerations:

*Forest-rich districts*

Bulungan and Kutai Barat are both forest-rich districts, and a large proportion of the population, mostly indigenous communities, depend on these forests to some degree for their livelihood. In addition, the timber industry has been and is an important sector in both districts, thus a source of both local government revenues and employment opportunity. However, the forests of both districts are rapidly being exploited. Thus, both district governments have the opportunity to use the resource for their development but face real challenges maintaining it.

*"Original" versus "new" districts*

One particular trend occurring across Indonesia under decentralisation has been the partitioning of many existing districts into several independent new districts. Bulungan was part of a larger, original district with the same name. The original Bulungan was legally partitioned in 1999 to become three independent districts, one of which remains as Bulungan, but with a significantly reduced area of jurisdiction; hence an "original" district. Kutai Barat was established from the partitioning of a larger district, Kutai, and is a "new" district. Thus, Kutai

*" However, a more pessimistic perspective estimated that only 68 million hectares of forests nation-wide remain (WALHI, 2007)
Barat has the opportunity to start “afresh” in comparison with Bulungan, in terms of its bureaucratic structure, its development policies, and in particular, in terms of its newly acquired responsibility and experience to manage forests.

**Participation in the 1995 decentralisation pilot program**

Prior to the current decentralisation reforms, the original Kutai District from which Kutai Barat originated was one of 26 districts participating in the 1995 nation-wide pilot program on decentralisation. In East Kalimantan province, this has implications under the current decentralisation in terms of the administration of forestry. Districts that took part in the pilot program now have only one forestry unit operating at the district level, the District Forestry Service. All forestry services at the district level are administered and provided by the District Forestry Service. All new districts established from the partitioning of such districts, such as Kutai Barat, also have only one forestry unit operating at the district level. By contrast, districts which did not participate in the decentralisation pilot program now have two separate forestry agencies functioning at the district level: the District Forestry Service itself and the forestry technical implementing unit as the arm of the Provincial Forestry Service (Figure A2.3). As Bulungan did not take part in the aforementioned program, two forestry units thus operate in parallel in the district. The circumstantial difference in the forestry structures of the two districts thus provides a useful comparison and contrast in terms the actual powers devolved to district governments and their implications for district forestry decision-making. This difference is further elucidated in Appendix 2.

**Geographic location**

Although both districts are quite remote, the capital of Kutai Barat is situated closer to the provincial capital Samarinda, and can be reached directly from there by river, road, and air. In contrast, the capital of Bulungan has to be reached by combination of air and boat (sea and river). While it is possible to travel to Bulungan’s capital by road, road conditions are very poor and journey times are very long. Because forestry-related activities in East Kalimantan province prior to decentralisation were to a large extent determined by the activities occurring in Samarinda (for instance, the national government extended its powers in managing and controlling forestry activities through its regional office in Samarinda; environmental NGOs were concentrated in or worked from Samarinda), the dissimilarity in terms of the districts’ proximity to the provincial capital may lead to distinguishable variations in district forestry decision-making. In addition, Samarinda is the centre for timber marketing activities of East Kalimantan; most timber produced in Kutai Barat goes to or through this provincial capital. There is, however, a smaller timber market and producing centre in East Kalimantan, Tarakan, a municipality in the north of the province. The capital of Bulungan, Tanjung Selor, although distant from Samarinda, is only one hour by boat from Tarakan. All traded timber originating from Bulungan goes to or through this municipality.
The multitude of actors at the district level

There is a different level of engagement of external actors, including international organisations and NGOs operating in the two districts. Compared to Bulungan, for instance, there are a higher number of external actors in forest-related activities in Kutai Barat (Chapter 6). As these external actors are analysed as one distinct group of actors (Figure 2.2), the two districts’ different circumstances in terms of the extent of their engagement can provide a richer analysis of their roles, allowing for some comparisons or contrasts between the two.

Practical considerations

Practical considerations were important factors in the selection of districts. Considering the sensitivity of the inquiries and for practical reasons, the two districts were selected based on the possibility of carrying out effective field work, as networks and channels through which the researcher could gain the trust of district actors were available.

2.4.3 Qualitative method, data collection and analysis

Major field work was conducted in January-March and July-August 2004, with follow up in January 2006. Personal communications with informants, through email and telephone, wherever possible, continued until May 2007.

The research primarily adopted a qualitative approach (for instance, Miles and Huberman, 1994; Schwandt, 1997; Miller and Dingwall, 1997; Creswell, 1998; Huberman and Miles, 2002; Denzin and Lincoln, 2003, 2005). The analysis of fiscal decentralisation, however, necessarily made use of quantitative data.

Initially, for consistency, the research strove for the use of semi-structured interviews. Soon thereafter, however, it was clear that structured interviews were ineffective in revealing important issues. Underlying motivations and interests, for instance, were more effectively revealed through in-depth interviews. Consequently, most interviews were in-depth. One of the main issues was the inequality in the depth of the interviews and information gathered (among others, attributed to perceived risk, personalities of interviewees, their positions, the subject matter, and time constraints).

Government actors being the primary focus, the major challenges were associated with making the interviews actually happen and in obtaining “factual” information. Spending time to get to know interviewees and becoming known and accepted by them was critical for gathering information that was not merely rhetoric. The strategy of inquiry for most key informants then had to accommodate each circumstance: most were interviewed in-depth, some more than once and in length. The methods used in these situations are often referred to as the ethnographic approach (for instance, Atkinson and Hammersley, 2000). The numerous relevant actors in both districts and the limited time, added to the difficulties in obtaining comprehensive and detailed information evenly across actors or cases.
The interviews as much as possible were triangulated and supported by government reports and government-generated data. The research also involved a search for and use of relevant local and national media reports from 1998 to July 2007, in order to follow the dynamics of the fluid and continual changes. The research also analyses "grey" literature and other relevant research reports (see for instance, Stewart, 1984, for the use of secondary information sources and methods).

Analysis of the legal-regulatory framework required the gathering of sometimes sensitive government documents at all levels of government. Provincial directives and ministerial directives, for instance, were often confidential or were seldom readily obtained. This was also true for district government documents. Only general and selective Ministry of Forestry's documents, for instance, are accessible through the web. The gathering of media reports and government documents consumed considerable time and resources.

The analysis was done manually. It involved reading the transcripts and notes from interviews over and over again many times, comparing them with each other, and assessing them against official reports and government documents. In particular, interviewees often conveyed issues in an indirect or subtle way using certain set phrases or body language. Content analysis through word identification or using a computer-aided analytical tool therefore would not have been helpful.

During the course of the research and subsequent analysis, confidentiality of information and sources has emerged as an important issue. Many cases involving local bureaucrats in the alleged abuse of public authority across Indonesia, including in the area of study, have been and continue to be brought to court. To maintain confidentiality and due to the sensitivity of some of the information, each actor is given a code. For example, a government official in Kutai Barat District, 4th on the list among Kutai Barat government officials interviewed, is coded K-G-4 (Appendix 4). Some interviewees were interviewed several times. Hence, K-G-4c denotes a third interview with the same government official. Where the explanation provided by interviewees refers explicitly to an individual or concerns sensitive issues, their names or positions are disclosed only with their agreement. To maintain confidentiality of the same interviewee during other interviews, an asterisk is used in place of the third element of the code, thus K-G-*. 

The next chapter focuses on intergovernmental relations and how these relations affect local government decision-making in forestry under decentralization. It first sets out briefly the first major elements of the research framework discusses above, that is, the legal-regulatory framework for the decentralization of forestry authority, and the relevant administrative structure of government under that decentralization.
Chapter 3: The Dynamics of Power over Forestry Decision-making: District versus Higher Levels of Government

The disjuncture between the idealized processes of decentralisation and how they have actually occurred in practice in many parts of the world has been increasingly documented (Appendix 1). The causes of such gaps have included politically-motivated institutional conflicts. Those with political powers at higher levels of government, or those who stand to lose from decentralisation, tend to pursue avenues to circumvent or reverse the process. Parts of Asia, Latin America, and Africa have seen reluctance by Central Governments or Central Government units to relinquish power, in particular over natural resources (Colfer and Capistrano, 2005; Ribot et al., 2006). A similar pattern is observed in the Indonesian forestry sector.

The ways in which actors originally receiving decentralized powers have responded to Central Government's strategies to regain or retain power, however, have been much less documented. As Hidayat (2005) points out, even under circumstances of minimum decentralized authority or autonomy during the New Order period, local actors sought to pursue ways to advance their interests within the constraints and limitations imposed on them. The central argument of this chapter is that, under decentralisation, Central Government policies have indeed significantly affected local government forestry decisions, but only after they have been sieved through local government's own interests and objectives.

This chapter focuses on the power struggle over forestry decision-making authority between the Central Government, as the actor relinquishing power under decentralisation, and district governments, as the actor gaining the power. This vertical relationship between local and higher levels of government is illustrated in the schematic diagram of the research framework (Figure 2.1). This power struggle revolves around two themes. The first relates to the tussle for formal authority between the two levels of government. The second revolves around the losers' attempts (in this case, as we shall see, the local governments) to pursue their objectives within the limitations dictated by the outcomes of this struggle. The tussle also involved a third actor, the provincial government, but to a lesser degree. The chapter then relates the dynamics and the outcome of this power struggle to the power dimension of Agrawal and Ribot's framework for analysis of decentralisation (Chapter 2).

Prior to this analysis and discussion of power relations, it is necessary to review Indonesia's legal-regulatory framework for the devolution of authority to local governments, and the changes in government administrative structure as a result of that decentralisation. However, because historical context strongly determines the trajectory of any decentralisation reforms (Manor, 1999), it is useful to first review forestry governance in the period preceding decentralisation, viz. the New Order period. The following synopsis of forestry administration
prior to decentralisation, and of the new institutional arrangements under decentralisation, is
drawn from the comprehensive review and analysis of these arrangements presented in
Appendix 2.

3.1 Brief overview of Indonesia's forestry under the
New Order and the legal-regulatory and
administrative framework for decentralized forestry
governance (1999-2004)

Centralized control over Indonesia's forests under the New Order period was made
possible through the enactment of Law 5 of 1967 on Basic Forestry, often referred to as the
Basic Forestry Law (the BFL).

3.1.1 The Basic Forestry Law (the BFL), central control, and
intensive logging

The Basic Forestry Law served two purposes. First, it provided the national government
with de jure control over forests in the Outer Islands. Second, it provided the framework for the
commercial exploitation of Outer Island Forests – until then harvested manually for local needs –
as the “engine of development” by generating revenue the country urgently needed
(Resosudarmo, 2002:162-163). Thus, the BFL profoundly changed the ways in which Outer
Islands forests were managed.

The Central Government’s authority over forests encompasses both
protection/conservation and production. Most importantly, the BFL allowed the Minister in
charge of forestry to designate forest areas as Forest Estate (kawasan hutan) providing these
areas with legal tenure as state-controlled forest land (GOI/FAO, 1990). Several forest
categories were subsequently specified: Conservation Forests, Protection Forests,
Production Forests (comprising Production Forests and Limited Production Forests), and Conversion
Forests. These categories remain unchanged to date. Some 144 million hectares, almost 70% of
Indonesia’s total land area, was classified as Forest Estate – although not all of this was
forested, and the area has since declined significantly as a consequence of deforestation and
conversion (Appendix 2).

Subsequent national policies promoted large-scale commercial timber production through
the issuance of large concession rights, Forest Exploitation Rights (Hak Pengusahaan Hutan,
HPH). The HPH is a large-scale forest concession license granted to private or state-owned
companies by the Central Government, for a duration of 35 years. Between 1970 and 1989, the

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20 Article 7(2)
21 Government Regulation 21 of 1970
22 Although HPH is actually the license held by large concessionaires, the term HPH is also used
to refer to the concessionaires or operators holding the license. The term HPH in this thesis thus
Provincial Forestry Service could issue limited small-scale licenses for up to 100 hectares, Forest Products Harvesting Rights (Hak Pemungutan Hasil Hutan, HPHH). In return for the rights to the timber resources, HPH concessionaires were obliged to pay license fees and royalties (see Chapter 4).27

Forest administration and management under this regime was characterised by: 1) firm Central control over the lucrative forest resources of the Outer Islands; 2) allocation of rights over these resources by the Centre, based on patronage – to nurture and maintain loyalty to the regime in power; and 3) a lack of enforcement of regulations on harvesting methods and reforestation responsibilities. Consequently, 1) forest exploitation was carried out unsustainably, compounded by poor reforestation; 2) forest benefits largely accrued to the Centre and centrally-linked actors; 3) local people in these forests areas with historical claims over their rights became marginalized (Appendix 2).

Reformasi and the current decentralisation not only arose, at least partly, as a reaction to perceived injustices with regard to who had benefited from the extraction of forest resources, but were also expected to address these injustices and improve the quality of forest management.28

3.1.2 The decentralisation laws

A set of landmark decisions paved the way for administrative, political, and fiscal reforms in May 1999: Law 22 of 1999 on Regional Governance and Law 25 of 1999 on Fiscal Balancing between the Centre and the Regions.29 Consistent with the ways in which these two laws have been referred to in Indonesia, unless otherwise noted, usage of the terms the “decentralisation law” or the “regional autonomy law” refers to Law 22 of 1999; and “fiscal decentralisation law” refers to Law 25 of 1999. When the terms “decentralisation laws” or “regional autonomy laws” are used, they refer to both Law 22 and Law 25 of 1999 together. This section is concerned with Law 22 of 1999; Law 25 of 1999 is explained in Chapter 4.

Major stipulations of Law 22 of 1999 on Regional Governance

Law 22 of 1999 provided for three major changes relevant to this thesis. Firstly, it transferred political, administrative, and fiscal powers to regions; regions were defined as provinces, districts, and municipalities. Under this law, power was largely transferred to districts (rural areas) and municipalities (urban areas), previously the second-tier of sub-national governments; this bypassed the provinces, previously the first tier of sub-national governments.

follows this common use of the term, to refer to either the right/license of large-scale forest exploitation or the holder/operator of that right/license.

27 The Reforestation Fund was a performance bond, but later effectively became nationally imposed charges to allow the government to carry out reforestation activities.

28 Interview with N-G-6a

The law expanded the role of regional governments as autonomous entities. Provinces perform both autonomous and deconcentration functions, the latter as the arm of the Central Government (Appendix 2). All authority—except for foreign relations, national defence and security, monetary and fiscal affairs, and religion—were granted to regions (Resosudarmo, 2004; Appendix 2). Thus, authority over natural resources was also shifted to regions. However, with respect to the authority over natural resources, the law contains provisions that are ambiguous and inconsistent (Resosudarmo, 2004; Appendix 2). The law also eliminated the hierarchical relationship between districts/municipalities and the provinces, and strengthened the role and authority of the regional legislative bodies, Dewan Perwakilan Rakyat Daerah (DPRD).

As in other Indonesian laws, the law is implemented through implementing regulations, in this case Government Regulation 25 of 2000 (Appendix 3), as well as other legal instruments. The hierarchy of Indonesia's legal instruments, which fails to specify the relationship between certain important legal instruments, including Ministerial Decrees, has led to different interpretations among levels of government. The hierarchy of Indonesia's legal instruments is depicted in Figure A2.1 in Appendix 1.

### 3.1.3 The 1999 forestry law

In September 1999, the Government passed a new forestry law, Law 41 of 1999 on Forestry (Appendix 2). This law is inconsistent with Law 22 of 1999; it retains the basic tenets concerning the locus of control and tenure over forests specified in its predecessor, Law 5 of 1967. State control under Law 41 grants the Centre the authority to regulate and administer all aspects related to forests, forest areas, and forest products, and to assign the status of a particular area as a forest or non-forest area. The administration of forests includes forestry planning and forest management. Thus, the Ministry of Forestry has formal control over all areas under the category of Forest Estate (kawasan hutan) and importantly, has the authority to determine any conversion of forest lands into non-forest uses. The law, however, does provide a provision that allows for the delegation of authority to local governments.

The provisions of the 1999 forestry law also need to be further elaborated by implementing regulations and other legal instruments. Of particular relevance to this thesis is Government Regulation 34 of 2002 concerning Forest Structuring and Development of Forest Management Plans. Most importantly, this government regulation specifies who has the authority over logging licensing (see Appendix 2). The 1999 forestry law and Government Regulation 34 of 2002 clearly affirm the authority of the Central Government over forestry affairs. Thus, in contrast to the 1999 decentralisation laws, the forestry legal-regulatory framework has a centralistic tone.
3.1.4 The structure of forestry administration under decentralisation

Decentralisation changed the structure of forestry administration in two major ways. First, it abolished the Forestry Regional Offices (Kantor Wilayah Kehutanan, Kanwil). Second, there are no longer direct reporting responsibilities between the forestry unit overseeing forestry at the district level, the District Forestry Service, with the Provincial Forestry Service (Appendix 2).

There may also be significant differences between the structure of forestry administration in districts, as is the case for Bulungan and Kutai Barat Districts in this study (Appendix 2). Bulungan has two forestry units operating at the district level: the District Forestry Service responsible to the Bupati (district head), and the Provincial Technical Implementation Unit (Unit Pelaksana Teknis Daerah, UPTD) responsible to the Provincial Forestry Service. By contrast, only one forestry unit, the District Forestry Service, operates in Kutai Barat. This difference has implications for the actual forestry powers that can be exercised by the district governments.

3.2 Decentralisation of forestry powers to district governments: a hesitant and contentious process

Among the most illuminating examples of the dynamics of the power struggle in the forestry sector between district governments and the Central Government have been the issues of logging licensing authority, the passage of District Regulations (Peraturan Daerah or PERDA), and the conversion of Forest Estate (kawasan hutan) into other uses.

3.2.1 Reformasi and district small-scale logging licenses

One distinct feature of decentralisation in the forestry sector – compared to other sectors such as in services – has been the de facto implementation preceding the de jure (for example, Rhee, 2001; Resosudarmo and Dermawan, 2002). This was enabled by a series of Central policies as part of the country’s wide ranging political, economic, and social reforms or reformasi.

In the natural resource sector, the reformasi period was characterized by a more open expression and articulation of past grievances over what were perceived in the regions as the skewed distribution of natural-resource derived benefits against regions and the local population where those resources originated. The Habibie Government, the successor to the New Order government, passed policies and legislation reforming many areas, including forestry, and appointed figures believed to be “reform-minded” individuals to the Cabinet. The result was the formulation of a number of forestry policies that diverged from those of the past, and that were intended to mitigate local populations’ and regional governments’ dissatisfactions over forestry policies.

During this period, President Habibie signed two government regulations augmenting the authority of Bupatis in the forestry sector: Government Regulation 62 of 1998 on the Granting
of Some Governmental Affairs to Regions and Government Regulation 6 of 1999 on Forest Utilisation and Forest Products Harvesting in Production Forests (Appendix 3 and section 3.2.2). The first of these authorized districts to manage private forests (hutan milik/rakyat), while the latter gave Bupatis the authority to issue licenses for the harvesting of timber forest products over areas of not more than 100 hectares, or a specified volume, for a maximum duration of 1 year.

The then Forestry and Estate Crops Minister26, Muslimin Nasution, who had experience in promoting cooperatives in the past, issued a series of Ministerial Decrees more favourable to previously neglected groups, including customary (adat) communities and local populations in and around forest areas. His decrees gave these groups the opportunity to participate more meaningfully in forestry activities, notably through district-issued licenses for logging. They were The Ministry of Forestry and Estate Crops Decree 310 of 1999 on Guidelines for the Granting of Rights to Forest Products Harvesting, the Ministry of Forestry and Estate Crops Decree 317 of 1999 on Rights of Customary Communities to Forest Products Harvesting in Production Forests, and Ministry of Forestry and Estate Crops Ministerial Decree 318 of 1999 on the Participation of Communities in Forest Utilisation (Appendix 3). These policies also notably promoted adoption of the people-oriented economic concept of cooperatives, in contrast to the predominantly large-scale capitalistic entities, in forestry activities.

The above set of policies specified several main points. Districts could grant licenses for small-scale timber harvesting activities to individual Indonesian citizens living in and around forest areas, to cooperatives, or to wholly Indonesian-owned corporate entities in production forests targeted for conversion, provided that there were no associated existing Hak Pengusahaan Hutan, HPH (that is, centrally-licensed, large-scale timber concessions, section 3.1.1 and Appendix 2) over the area. Districts could also now issue licenses of small-scale timber harvesting activities in Production Forest areas with existing HPH, to customary communities. In this latter case, timber activities could only be carried out with the consent of the HPH and only on areas outside the HPH’s annual working plan. Finally, HPH were obliged to involve the local populations in the HPH’s activities, including them as part of the HPH’s labour force and in HPH’s timber felling-related activities.

Consistent with the spirit of the national policy to engage and empower local communities in the forestry sector, these decrees limited the area under the licenses to small-scale areas of 100 hectares, the duration to 1 year, and types of equipment used to non-mechanical equipment.

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26 For a short period, May 1998 to April 2000, the Ministry of Forestry extended to the Estate Crops sector and became the Ministry of Forestry and Estate Crops. It subsequently reverted to the Ministry of Forestry.
These policies immediately established unprecedented district forestry regimes that were virtually nonexistent during most of the New Order. The opportunities emerging from the political and social changes during this reformasi period were quickly seized by the two districts studied. The specific features of the districts and the way in which forestry activities were carried out in the past were among the factors motivating the districts to create their own initiatives.

As described in Chapter 1, the two districts are characterized with an abundance of forests, a high proportion of the population reliant on forests for their livelihoods in one way or another, and a history of logging activities. However, they lacked other forms of non-resource based industries and the established infrastructure required for developing other forms of industry. Consequently, for the two districts, forestry was then seen as one of the most convenient, prospective, and readily available activities to pursue.

During the New Order, as was true for other districts across Indonesia, forestry activities in the two districts were largely centrally-imposed undertakings. Centralized management encompassed the entire spectrum of forestry activities, from policy to implementation to monitoring. There was limited involvement of local communities, and in particular, benefits mostly flowed to the Centre. There was overall a strong perception that too much was imposed and taken by the Centre: almost all interviews with district-level actors confirmed this impression. This background motivated districts to create their own forestry regimes, under which they decided and implemented their own policies designed to retain most of the benefits in the districts. The two case study districts immediately applied these policies for their benefit by issuing ostensibly small-scale district licenses to communities, through cooperatives.

3.2.2 Decentralisation and the proliferation of district licenses

In May 1999, the Government simultaneously passed the two decentralisation laws – Law 22 of 1999 on Regional Governance (also referred to as the regional autonomy law) (section 3.1 and Appendix 2) and Law 25 of 1999 on Fiscal Balancing between the Centre and the Regions (Chapter 4). The opportunities brought earlier by reformasi through the formulation of national policies sympathetic to communities and to local governments were greatly amplified by the passage of these two laws. Local governments' perception that autonomy was half-heartedly relinquished and could be withdrawn – affirmed by contradictions in the provisions of the regional autonomy law and the forestry law (section 3.1 and Appendix 2) – shaped distrust on the part of local governments of the Centre’s true intention and only enhanced local

With the exception of a short period, from the late 1960s to the early 1970s. During this period, district governments in East Kalimantan issued small-scale licenses to the local population. Logging operations, however, were carried out manually. Timber was moved downstream through flooded rivers during the rainy season. This was known as the banjir kap phenomenon. Large-scale commercialization of Indonesia’s national forests ended these operations. For documentation, see Magenda (1971) and Potter (1991); see also Appendix 2.
governments' efforts to make use of favourable national policies to their advantage. Among the most notable, many superfluous logging licenses were issued. As of November 2001, Kutai Barat had issued 497 small-scale licenses; by 2002, as many as 1,319 licenses were operating in the district (Rustamaji, 2002). Similarly, 585 100-hectare licenses were operating in Bulungan in 2000 and 618 in 2001.” These small-scale district licenses varied in name but were similar in their operations: Hak Pemungutan Hasil Hutan, HPHH (Forest Products Harvesting Rights), Ijin Pemungutan dan Pemanfaatan Kayu, IPPK (Licenses for Timber Harvesting and Utilisation), and Ijin Pemungutan Hasil Hutan Kayu, IPHHK (Licenses for Timber Forest Product Harvesting).

District governments issued these logging licenses to fulfil various social, economic, and political objectives. The most common explanation given for their proliferation relates to the perception that it was high time the locals enjoyed the material benefits—in this case an income stream—from forests in their area. Almost all local actors from the various categories interviewed (including local governments, community leaders and the local population, NGOs, and even centrally-licensed timber business actors) in the two districts shared a common perception, that is, any extraction of local forests prior to regional autonomy for the benefit of national or non-local actors was unfair or unjust and now it was their turn to enjoy the benefit.

Another justification given for districts' issuance of logging licenses was to accumulate Locally Generated Revenues or Pendapatan Asli Daerah (PAD). In addition to PSDH and DR payments, which are nationally-imposed forestry fees (Appendix 2 and Chapter 4), districts also applied fees that entirely and directly accrued to their own coffers. They included an area-based contribution, a Third Party Contribution or Sumbangan Pihak Ketiga (SPK), and a volume-based payment, a levy or retribusi. The significance of these payments and how they affected districts' actions are discussed in Chapter 4.

For both study districts, the issuance of district licenses also served political objectives. The period during which national legislation worked in their favour coincided with the election of the Bupatis of both Bulungan and Kutai Barat Districts. As described in Chapter 2, the original Bulungan District underwent partitioning during this period into three districts, one of which encompassed the original Bulungan District but now with a much smaller jurisdiction (the district being studied). Kutai Barat District, on the other hand, was a newly established district, partitioned from the original Kutai District. The government appointed interim Bupatis to lead each of these districts during the transition period. The districts then elected new Bupatis, through representation (that is, not direct election, but by the local legislature—Chapter 7). The interim Bupatis of both case study districts were candidates in the election. The issuance

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Similar local perception that “it is now the locals” turn to enjoy the benefit of forest extraction after many years of remaining at the periphery under centralized control of forests was also reported in Cameroon (Oyono et al., 2005).
of district logging licenses can thus be seen as a populist move to attract political support because it allowed for increased community participation in commercial timber harvest and provided a new form of income stream for the people of the district. Each logging license was individually issued by the Bupati, therefore had the potential to boost the Bupati’s image of being pro-local people. However, environmental aspects were not considered in the issuance of licenses.30

The issuance of logging licenses and timber activities under these licenses was also associated with the capture of informal benefits to certain actors, for personal and organisational use. These issues are discussed in Chapters 6 and 7.

With the districts’ general perception that their new-found power – first presented by reformasi and then compounded by regional autonomy – may not last, the main aim of districts’ decisions was to use the opportunity quickly. Consequently, the districts’ numerous licenses were issued in haste and gave little thought to appropriate technical, social, and resource considerations. As a result, these logging licenses were issued indiscriminately. Thus, in practice, the issuance of district licenses and logging operations under these licenses often deviated both from national guidelines, and more importantly, from the spirit of national policies – that is, to empower and benefit local communities living in and around forests.

Thus, the two districts issued licenses that often breached national guidelines, in particular in terms of restrictions on the area and the ways in which logging operations were carried out. This was done in order to filter the advantageous aspects of national policy and ignore those that restricted districts’ interests. The two districts issued several 100-hectare licenses to one licensee, which could total thousands of hectares at a time. Furthermore, in some cases one licensee owned several companies under different names. For example, Bulungan granted 81 licenses or over 8,100 hectares to three different companies, each of which could be traced to the same single ownership.31 In total this area would be equivalent to a medium sized concession. Hence, the ways in which these licenses were issued allowed a single licensee to carry out logging activities above and beyond the supposed 100 hectares, as originally intended by the spirit of the Ministerial Decrees that provided the legal basis for these district licenses, to empower local communities through their direct participation. In addition, the list of the licenses available to the researcher showed that many of Bulungan’s licenses were allocated in areas that were part already of a Centrally-licensed HPH concession area.32

Both districts allowed for mechanization of felling activities, against the intention of the Ministerial Decree which emphasized that scope of the activities be limited to small-scale and

30 As bluntly admitted by senior officials of Bulungan and Kutai Barat Forestry Services, B-G-16 and K-G-1b
31 PT KAS, PT PB, and PT BBP, respectively, owned by A (from Bulungan District Forestry Service documents)
32 They include PT I1, PT AH, PT I, PT IM
community-oriented undertakings. In reality, communities holding the licenses formed partnerships with logging companies and logging activities were carried out using heavy mechanized equipment, resulting in a higher rate of felling. Senior district forestry officials also admitted that the requirements for environmental impact assessment and other environmental conditions were not met. 34

The implementation of logging activities under these district-issued licenses in the two districts was typically similar. The licensees (that is, a group of community members or cooperatives formed by community members) mostly did not have the means, including the capital and technical abilities, to carry out the felling activities themselves. Therefore they had to seek partners that would act as the “capital providers” (cukong) and operators and/or contractors. In Kutai Barat these roles were often played by the HPH in the areas where these licenses were located. This is consistent with observations by Nanang and Devung (2004). In Bulungan, many of these cukong were Malaysian investors (Chapter 6). In exchange, these communities received a certain level of fees, usually based on the volume of timber felled. However, community members did take part in the activities as paid labourers, in work ranging from felling and measurement to transportation. A few representatives of the community usually were also given the task of making sure that the company or operator reported the accurate volume of timber felled, as the fees received by the community were dependent on the recorded volume of logs cut. It was also clear that virtually none of these operators carried out any replanting or other conservation measures. 35 It was also not unusual that logging was carried out outside the areas covered by the license. Many horizontal conflicts arose from these activities, in particular over issues around the fees received, as reported by many interviewees from the two districts. Nevertheless, in these two districts and one other, interviewees noted some positive outcomes, including the communities’ improved skills in negotiating with external actors, such that companies began to take account of the existence and rights of communities. 35 These were consistent with observations made by other researchers for Kutai Barat (Nanang and Devung, 2004).

The manifestation of local governments’ increased authority, in the form of indiscriminate issuing of logging licenses and operations, was seen by the Ministry of Forestry as a threat to the sustainability of the forests and to national control over the resource. As it had been aware of the consequences of the new arrangements from early on, in April 2000, the Ministry of Forestry and Estate Crops, now under new leadership, had already attempted to suspend its earlier Decree that provided the guidelines for the issuance of these small-scale licenses. Nur

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34 For instance, with a senior forestry official of Kutai Barat, K-G-21
35 For example, interviews with a village representative in charge of monitoring timber operations under Bulungan district’s small-scale license, B-G-5, and village head in Bulungan, B-C-7. This finding accords with analysis by KKPKD (2001a) and Nanang and Devung (2004) for Kutai Barat, and Lembaga Pionir Bulungan-CIFOR (2003) for Bulungan.
35 For example, interview with B-G-8
Mahmudi Ismail, Muslimin Nasution’s successor, issued Ministerial Decree 084 of 2000 suspending the Ministerial Decree 310 of 1999, but to no avail. Insisting that districts were now autonomous, local governments continued to issue logging licenses. Performing its deconcentration function, in October 2000, the Provincial Forestry Service instructed all District Forestry Services within East Kalimantan not to provide technical recommendations required for the issuance of new HPHH licenses, to the Bupatis. As described in section 3.1 and Appendix 2, under Law 22 of 1999, District Forestry Services did not have a hierarchical relationship with the Provincial Forestry Service. Thus this instruction made no impression on the district governments who continued to issue HPHH licenses.

The stated reason for the suspension was that Government Regulation 6 of 1999 – the implementing regulation for the previous Forestry Law (Law 5 of 1967), and the regulation elaborated by Ministerial Decree 310 of 1999 – was no longer suitable. At the time, the implementing government regulation for the new forestry law had not been promulgated. The suspension was to take effect until the implementing government regulation for the new forestry law was issued; this government regulation was issued much later, in June 2002.

In May 2000, the Government passed the implementing regulation of Law 22 of 1999, Government Regulation 25 of 2000. This regulation specified the Centre’s and provincial governments’ authority by sector. In the forestry sector, the Centre was assigned the authority to determine the criteria and standards for the licensing of the utilization of forest areas, the utilization of forests and the harvesting of forest products and their tariffs (Appendix 2). Government Regulation 25 of 2000 gave provincial governments the authority to grant licenses for the utilization of timber forest products and non-timber forest products for areas spanning more than one district. Because this regulation assigned residual powers to districts and municipalities, districts were left with the tasks not specified in the regulation, including, presumably, logging licensing (Bell, 2001).

As 1 January 2001, the official date for the implementation of regional autonomy, drew closer, pressures mounted on the Ministry of Forestry to hand over the authority for logging licensing. In November 2000, the Ministry of Forestry released Decree 05.1 of 2000, granting district governments an unprecedented, substantially enlarged authority over the licensing of forest concessions (Appendix 3). This Ministerial Decree made specific reference to the 1999 forestry law and the regional autonomy law. It gave Bupatis the authority to grant a range of logging licenses: from small-scale licenses of 100 hectares each to individuals and cooperatives, to large scale licenses up to a maximum 50 thousand hectares to cooperatives, small-scale and medium scale businesses, state-owned enterprises, regionally owned enterprises, and large

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36 Letter of the head of East Kalimantan’s Provincial Forestry Service to District Forestry Services and UPTDs in East Kalimantan No. 522.11/415/DK-I/2000 on Instruction to Suspend HPHH, dated 6 October 2000
37 Up to 100 thousand hectares in the province of Papua
This authority granted to districts to issue large-scale logging licenses was the first in the history of the Republic. The decree, however, specified an important caveat: the issuance of all these licenses was restricted to areas with no existing centrally-licensed HPH.

This means that between April and November 2000, if the districts had consistently followed each and every one of the Ministry of Forestry’s decrees, they should have adhered to the provision of the Ministry of Forestry’s April 2000 decree (which suspended the authority of districts to issue logging licenses) and halted the issuance of logging licenses, at least until the issuance of the Ministry of Forestry’s November decree (which reinstated and augmented the extent of districts’ authority to issue licenses). However, during this specific period, Bulungan and Kutai Barat governments simply ignored the April 2000 decree. They continued to issue licenses and did so explicitly, continuing to make reference to the suspended Ministry of Forestry and Estate Crops Decree 310 of 1999. During this period (in June 2000), the Bupati of Bulungan not only continued to grant (ostensibly) 100-hectare licenses, but went further, issuing a Decree on the Licensing of the Harvesting of Timber Products in Private Forests, People’s Forests and Adat Forests. This Bupati’s decree also made reference, for its legitimacy, to the already suspended Ministry of Forestry Decree 310 of 1999.

The issuance of the Ministry of Forestry’s November 2000 Decree significantly boosted district governments’ authority over logging licensing. The two districts now had the authority to issue logging licenses of various sizes, and this prompted them to continue to issue small-scale logging licenses indiscriminately. In addition to numerous small-scale logging licenses, some districts strove to issue medium and large-scale logging licenses. The latter involved a more complex process, because the requirements were stricter, and it was more difficult to find large and unfragmented tracts of forest areas that were not already under active HPHs. Despite the difficulties, however, Kutai Barat managed to issue 21 medium to large-scale licenses, now with a different name, IUPHHK or Ijin Usaha Pemanfaatan Hasil Hutan Kayu (previously known as HPHs).

As districts were basing their decisions on a Ministerial Decree that made reference to the decentralisation law, this was now a decentralisation-related phenomenon. Similar issues around logging licenses and their operations raised earlier continued, notably indiscriminate issuance of licenses and logging operations under them.

Unlike Kutai Barat, Bulungan was not able to issue IUPHHK, but was quick to discover another avenue to use the opportunity. The district is close to Tarakan, the second timber marketing centre in East Kalimantan, and close to the Malaysian border in the northern part of

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36 For example, copies of two HPHH licenses, issued on June 14 and August 8, 2000 by Kutai Barat District, respectively, referred to Law 22 of 1999, Law 41 of 1999, Government Regulation 62 of 1998, the suspended Ministry of Forestry’s Decree 310 of 1999, and Bupati’s Decree 004 of 20 April, 2000
37 Decree of the Bupati of Bulungan 196 of 2000
Kalimantan. Many of the capital providers (cukong) behind district-licensed logging operations were Malaysian investors. Both the district’s location and the Malaysian connection created the opportunity for Bulungan to export logs directly to Malaysia. Log exports had been nationally banned between 1985 and 1997 to support the establishment of a domestic wood processing industry. This ban was lifted, but with many restrictions, in 1998; under stringent requirements and procedures HPHs were allowed to export a limited volume of logs within the limited national quota determined by the Ministry of Forestry. In February 2001, in the pursuit of generating PAD (see Chapter 4), Bulungan produced two district regulations (PERDA) allowing for both the exportation of logs and the application of district charges for logs to be exported. A significant volume of timber produced in the district, ostensibly through district-licensed logging operations, was then exported directly, without any coordination with the Ministry of Forestry or the Ministry of Industry and Trade as national policy decreed. Bulungan generated very significant earnings for the district’s coffers from these log exports (Chapter 4). Such lucrative, direct exports made the issuance of district logging licenses even more attractive and further loosened the Centre’s control over logging activities. This action led to the Ministry of Forestry and the Ministry of Industry and Trade issuing joint decrees explicitly and totally banning the exportation of logs in October 2001. 

These developments posed a threat to the Ministry of Forestry’s control over the Forest Estate. Most notably threatening the Ministry of Forestry’s power was the fact that many district licenses were issued in areas with existing centrally-issued HPHs, prompting it to take measures to regain its power. Perceiving that matters were rapidly moving out of control, on 21 February 2002, the Ministry of Forestry issued Decree 541 of 2002, revoking its own previous Decree 05.1 of 2000 that had given local governments the authority to issue small to large-scale logging licenses. Decree 541 was to be effective on March 1, 2002. On this basis, neither Bupatis nor Governors, starting from March 1, 2002, had any logging licensing authority. However, the two district governments nevertheless continued to issue licenses, thereby challenging the Centre’s directives.

Facing this relentless challenge from local governments, in June 2002 the Central Government issued the implementing regulation of the new forestry law, Government Regulation 34 of 2002 concerning Forest Structuring and Development of Forest Management Plans, Utilisation of Forests and Use of Forest Areas. This government regulation affirmed the Ministry of Forestry’s authority and severely circumscribed that of the Bupatis. The Ministry of Forestry now had and continues to have the sole authority to issue commercial logging licenses. The Bupatis’ authority, on the other hand, was now limited to the issuance of permits for the collection of wood for household purposes, up to a meager 20 cubic meters.

According to the Minister of Forestry at the time, export ban is applied to curb illegal logging (Kompas, 3 May 2002)
Although the power of regional governments over issuing logging licenses had been removed earlier in February 2002 through enactment of Ministerial Decree 541 of 2002, a Government Regulation is much stronger than a Ministerial Decree as it is explicitly placed higher in the legal hierarchy in relation to a district bylaw or District Regulation (PERDA) (Appendix 2). This meant that district decisions must now conform to Government Regulation 34 of 2002. Thus, from the point of view of local governments, the passage of this government regulation was a major drawback and was perceived by many as "recentralization": the power pendulum had swung back to the Centre.

Previously, district governments had clung to the regional autonomy law in their decision to continue to issue logging licenses, arguing that the position of a district regulation/PERDA was higher than that of a ministerial decree. Ironically, however, in issuing licenses, local governments had referred to earlier ministerial decrees that had given them the authority to issue them, but they did not follow later ministerial decrees that had revoked the very same authority. Furthermore, the Ministry of Home Affairs' Decree 130-67 of 2002 affirmed the administrative authority of levels of governments in various sectors, including in forestry. With the issuance of Government Regulation 34 of 2002, the local governments' argument could no longer stand up, and the Centre regained the upper hand.

Even though Government Regulation 34 of 2002 has strong legal standing, district governments did not immediately bow down to its provisions. At district level and, in the case of Papua, at provincial level, apparently even this government regulation was, for a period, "contested".

The contentious nature of authority over the issuance of concession licenses was so fierce that the Ministry of Forestry needed to assert its "regained" authority over logging licensing through extended efforts for several years after the enactment of Government Regulation 34 of 2002. In early October 2002, in what seems to have been a desperate effort, the Ministry of Forestry circulated a letter to local governments ordering them to stop the issuance of medium and large-scale logging licenses (IUPHHK) in their areas, and to report on all licenses that had been granted to the Ministry of Forestry. A week later, the Ministry of Forestry sent a "socialization team" to the capital of East Kalimantan province to hold a meeting with the Bupatis, Mayors, and the Governor of the province with the intention of directly informing and reminding these regional and local state actors of this government regulation. This event, however, was also used by the provincial government to convey its dissatisfaction over the way in which forestry administration was handled under regional autonomy, requesting that

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4 For instance, interview with a senior forestry official of the East Kalimantan Provincial Forestry Service, P-G-5.
4 Ministry of Forestry's Letter 1714 of 3 October 2002 on the issuance of medium and large-scale logging licenses (IUPHHK)
41 "Socializing", from the Indonesian term sosialisasi, means publicising a certain program or disseminating information (see also section 5.2.2).
provinces be granted a greater authority over forest administration and an increased supervisory role. The governor, for instance, pointed out the way districts in the province had responded to Government Regulation 34 of 2002, despite its higher legal standing vis-à-vis districts’ regulations (PERDA). Most districts in the province rejected this government regulation, did not respond, or continued to refer to PERDAs made prior to the passage of the regulation. Many of these PERDAs therefore had conflicting stipulations, over which the Governor had no control.46 In March 2003 the Ministry of Forestry again reaffirmed its authority through a Ministerial Letter addressed to the Governors and Bupatis.47 However, districts in the province of West Kalimantan – Sintang, Kapuas Hulu, and Pontianak – continued to issue small- and medium-scale licenses well into 2003 (Derawan, 2004; Ministry of Forestry Decree 249 of 2004; Yasmi et al., 2005).

In January 2005, the Ministry of Forestry circulated yet another letter to warn sub-national leaders that the Ministry of Forestry has exclusive authority to issue commercial logging licenses.48 Apparently, even though most regions had ceased issuing logging licenses by this time, this was not the case in Papua. In March of that year, the Governor of Papua’s numerous logging licenses issued to customary communities made national headlines (Media Indonesia, 22 March 2005, see also section 4.3.3).49 The Ministry of Forestry contended that their issuance contravened Law 41 of 1999 on Forestry and Government Regulation 34 of 2002 because, by June 2002, the Governor no longer had the authority to issue such licenses. Consequently, timber harvested under these licenses was considered illegal. On March 29, 2005, the Ministry issued a Ministerial Regulation revoking its earlier Ministry of Forestry and Estate Crops Decree 317 of 1999 on Rights of Customary Communities to Forest Products Harvesting in Production Forests.50 This was a last-ditch effort by the Ministry of Forestry to prevent further issuance of sub-national level logging licenses.

The local governments and the Ministry of Forestry each stood by its own arguments in the struggle for power over logging licensing authority. Officials of the two districts complained that the Ministry of Forestry changed its policy too often and too rapidly and were adamant that it was not possible to expect them to make changes to districts’ policies as swiftly as the changes in the Centre’s policies, due to operational considerations.51 The districts’ main argument for the proliferation of district licenses has been to allow communities to obtain benefits from local forests, which had not occurred during the New Order period. Officials of the two local governments argued that it was difficult for districts to adjust quickly to the

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46 The Governor of East Kalimantan’s speech, 10 October 2002
47 Letter of the Ministry of Forestry 185 of 31 March 2003 on the issuance of IUPHHK and IPHHK (small-scale logging licenses) on Production Forests
48 Letter of the Ministry of Forestry S.26/Menhut-VII/2005
49 Unlike other regions, in Papua and Aceh, autonomy resides with the province, not with the districts.
50 Ministry of Forestry Regulation P.07 of 2005
51 For instance, interviews with B-G-4a and K-G-1c
changes in national policy, because it was the district governments that had to face and explain the changes to the local population, to whom the licenses were issued. They further insisted that adjustments associated with these changes needed time, in particular to prevent unrest or violence on the part of local communities. As licenses were obtained at a cost, district governments also feared litigation by license holders if their licenses were withdrawn before logging operations could commence or if any provisions in the licenses were altered.

While district officials were clearly concerned about actions they saw as “recentralization”, they were convinced that authority over forestry matters was rightfully theirs and that this was now “the era of autonomy”. Most district officials interviewed, including those outside the forestry service, did not believe that forestry had been decentralized in the first place. At best, district’s autonomy in the forestry sector had always been “half hearted”. Officials of both Bulungan and Kutai Barat argued that the forests exist within the districts’ jurisdiction – rather than within the province’s or the Centre’s – and were determined to manage and administer these resources themselves.

The Ministry of Forestry’s justifications for withdrawing districts’ authority have included genuine concern over forest sustainability, but also arose out of fear of losing control over the Forest Estate (kawasan hutan). About local governments’ accusations of recentralization, a senior official at the Ministry of Forestry pointed out that there has been no “recentralization”, but a “correction of policies”. Referring to the Ministry’s groundbreaking November 2000 decree, this key official pointed out that the Ministry had in fact previously attempted to grant local governments substantial authority through its November 2000 decree, but that this authority had been largely abused. As the senior official explained:

“We have tried to decentralize, giving them quote unquote increased authority to regions, with Ministerial Decree 05.1, although subsequently it was misinterpreted. And then there were other decisions that were misinterpreted. ...That was why we corrected our policies with the revocation of Decree 05.1 through Decree 541, which was strengthened by Government Regulation 34 passed in June 2002.” (Interview with N-G-9)

Insisting that all of the Ministry’s policies were based on the objective of achieving sustainable management, this official did not believe that local governments at this point in time were capable of carrying out sustainable management; he felt that decentralisation needed to be done in phases.

51 For instance, interviews with B-G-4a, B-G-6; B-G-16; K-G-1c
52 The Indonesian phrases commonly used to describe local government’s perception of decentralisation as a halfhearted process were “otonomi setengah hati” (half-hearted autonomy) and “kepala dilepas ekor dipengang” (head – of a snake – released but its tail maintained).
53 Interview with a senior Ministry of Forestry official, N-G-9
Ministry of Forestry officials, pointing to the numerous instances of indiscriminate issuance of logging licenses and of districts ignoring the Ministry of Forestry’s efforts to halt them, insisted that decentralisation had gone too far, beyond what was intended or what should have occurred. They held the common perception that local governments had shown little regard for proper management of forests and have been merely treating them as a source of formal and informal revenue. The concerns of the Ministry of Forestry officials that district governments had gone too far were echoed by a senior official at the Ministry of Home Affairs and a senior official of a donor agency supporting the Ministry of Home Affairs in decentralisation measures.

In particular, the Ministry of Home Affairs felt that it was difficult for the Ministry to carry out its supervisory role over more than 400 autonomous districts/municipalities. Provinces were not able to carry out their supervisory role as the “hands” of the Central Government, because districts mostly continued to ignore provinces’ instructions. As a consequence, these Ministry of Home Affairs officials felt strongly that Law 22 of 1999 needed extensive revision.

A senior Ministry of Home Affairs official interviewed also felt that the Ministry of Home Affairs had lost control over many districts’ policies. Previously, in order to be legal, all district regulations had first to be signed and endorsed by the Ministry of Home Affairs. Under decentralisation, districts/municipalities, endorsed by their local legislative bodies, produced numerous local regulations. Formally, the Ministry needed to review and approve (or reject) districts’ regulations within 30 days after the date of passage. In practice, however, it was impossible to do this within the given time frame, as there are more than 400 districts/municipalities, each with its burgeoning new regulations. Lacking the necessary resources, the Ministry had relied on the districts to report their new regulations. This meant that if districts did not report them, the Ministry would not have been aware of them. As a result, there were many problematic district regulations/policies, including, for instance, double taxation.

Provincial forestry officials, in particular, also complained that districts now acted as freely as they wanted, and did not heed them. Similar to most of the officials at the Centre, they perceived that in practice, decentralisation in forestry had gone too far. They felt that they had lost control of districts’ forestry-related actions, and demanded revision of Law 22, in particular to restore the hierarchical relation between the province and districts.

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53 Interviews with senior Ministry of Forestry officials, N-G-1 and N-G-5
54 Interview with a senior official of the Ministry of Home Affairs, N-G-6a, and a senior official of a donor agency in Jakarta, N-I-3
55 Interviews with a senior official of the Ministry of Home Affairs official, N-G-6a and N-G-6b
56 Interviews with senior officials of the East Kalimantan provincial forestry service, P-G-5 and P-G-8b
3.2.3 Districts' responses to their diminishing authority in forestry decisions

"If there are loopholes in higher level policies or regulations, then we determine our policies." (A senior official of Bulungan District Forestry Service, B-G-17)

With diminishing authority after only a short period, district governments were now severely constrained in pursuing their objectives. Whenever possible, they strove to operate within the boundaries of their legal authority, but without relinquishing the potential benefits associated with forest activities or authority. Despite the supremacy of a government regulation vis-à-vis a district regulation, the two case study districts found strategic ways to continue district-licensed logging operations for some time, until well into 2004.

Bulungan's strategy

Bulungan devised a strategy to allow district-based (ostensibly) small-scale logging activities to continue by "manoeuvring" the provision of Government Regulation 34 of 2002 that had revoked districts' authority to issue logging licenses. This district deliberately interpreted the regulation as only applying to the issuance of new district logging licenses. Based on this interpretation, Bulungan issued an "extension" to licenses that had expired, or "revised" the specifications in the original licenses. As the duration of Bulungan's original licenses were between 6 months and 1 year, if one refers to Government Regulation 34 of 2002, all licenses should have expired by June 2003, or a year after the introduction of this Central Government regulation. The extension and/or revisions of original licenses enabled logging operations to continue beyond June 2003.

Bulungan government justified the extension or revision of the small-scale logging licenses that expired before or by June 2003 on the grounds of unmet quotas or under-harvesting.\textsuperscript{57} For example, some license holders were not able to harvest timber commensurate with the stock potential estimated in the original licenses because of operational circumstances, including weather or temporarily unfavourable timber prices. In this case, the original licenses were extended. In other instances, the actual timber stock was lower than that estimated under the original licenses. Under this situation, license holders were given permission to log in another area to meet the estimated volume; hence, the original licenses were revised (and extended). Overlap with an area under other district licenses or central HPH licenses also prompted

\textsuperscript{57} In October 2004, both Law 22 of 1999 and Law 25 of 1999 were succeeded by a revised version, which accommodated some of the concerns of the Ministry of Forestry and the provincial authorities (see Appendix 5, Postscript).

\textsuperscript{58} Interviews with senior officials of Bulungan District Forestry Service, B-G-8a and B-G-16, respectively and a DPRD member of Bulungan in charge of forestry, B-L-2
revision of licenses. Available data showed that, by July 2003, Bulungan had extended and/or revised at least thirty-five licenses, each permit covering an area ranging from 100 hectares to 1500 hectares, to a total of 18,000 hectares.\(^{59}\)

Bulungan had to maintain the "current" status of its licenses, because the status of a license is important with respect to the legality of the logging operations and the legality of the timber harvested. A "current" license is needed for a timber operation to be "legal" and the operator is required to obtain documents to transport the timber, *Surat Keterangan Hasil Hutan* (SKSHH), without which the said logs would be considered illegal (see also Chapter 4). The extension and revision of district licenses that had originally expired within one year after the cut-off date of districts' licensing authority, therefore, served two purposes. First, it enabled logging operations to occur, based on district licenses effectively issued after the June 2002 cut-off date. Second, it ensured that timber produced in the district could be legally marketed.

![Figure 3.1 Is this legal timber?](image)

*Figure 3.1 Is this legal timber?*  
One of the checkpoints where documents that must accompany timber transported out of the district, Bulungan. Such documents determine the legality of logs. Photo by Ida Aju Pradnja Resosudarmo, 2004

Higher levels of government, however, were alerted to this situation and exerted pressures on the extension and revision of district logging licenses, to the extent that Bulungan government had to respond. In January 2004, the Governor of East Kalimantan, with the involvement of the district attorney, warned the district government to cease the issuance and/or extension and revision of district licenses.\(^{60,61}\)

\(^{59}\) A list of extended and revised IPPK licenses (source: Bulungan District Forestry Service, 2003)  
\(^{60}\) Interview with a senior official of Bulungan District Forestry Service, B-G-8b
As described in section 3.1.4 and Appendix 2, in Bulungan District an UPTD – the technical unit of the Provincial Forestry Service operating at the district level – operates in parallel with the District Forestry Service. The District Forestry Service primarily handled the administration of timber operations under district logging licenses, while the UPTD handled those that pertained to centrally-licensed HPHs. One of the important responsibilities of the UPTD was (and still is) to administer the SKSHH, the document required for the transportation of all timber, including – at the time when district licenses were issued – that harvested under district licenses. The existence of the UPTD not only curtailed the responsibility of the District Forestry Service, but also enabled the UPTD to remain informed of district licenses and to convey the information to the provincial level.

The demise of district licenses would thus have severely limited the operations or actions of the District Forestry Service. Consequently, district forestry officials quickly sought ways to stall or stop the process. They rushed to seek outside assistance to help them map existing district licenses, in an attempt to show and prove to the Ministry of Forestry that these licenses were mostly located in KBNKs, that is, outside the Ministry of Forestry’s territory (see also section 3.4). However, finding such assistance took time. On this occasion, presumably due to the involvement of the district attorney in the Governor’s warning letter, the Bupati took the matter seriously and responded swiftly, before the District Forestry Service could offer a solution.

In February, 2004, the Bupati sent his response to the East Kalimantan Governor regarding the cancellation of Bulungan’s small-scale logging licenses. This letter explained the district’s two important policies with regard to the issuance of district licenses: 1) all revisions and extensions of licenses granted by Bulungan government in 2003 had expired on December 31, 2003; and 2) as of December 31, 2003, Bulungan government did not grant any new, extension, or revisions of licenses.

Thus, this means that Bulungan’s small-scale logging activities had formally continued for some time – under licenses extended and/or revised after the 2002 Central Government policies that had revoked districts’ authority over logging licensing (that is, Ministry of Forestry Decree 541 of 2002 and Government Regulation 34 of 2002) – until 31 December 2003. However, at least until July 2004, although district-licensed timber activities had largely subsided, some of these activities – therefore questionable in terms of their legality – continued to occur.

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52 East Kalimantan Governor’s letter No. 522/86/Ek.Proda I/2004 dated 29 January 2004 on the Cancellation of IPKs. IPK or ijin Pemanfaatan Kayu is a license for the clear cutting of forests, carried out to convert the Forest Estate into other, non-forest uses. These licenses are to be given only for forest areas targeted for conversion (see section 3.4) and issued by the Ministry of Forestry or delegated to provinces. In the case of Bulungan, district small-scale logging license, the IPPK, was often conflated with the term IPK.

sporadically. Furthermore, up until the time of writing, local media reports suggest that illegal logging activities have continued to take place in the district.

**Kutai Barat’s Strategy**

Kutai Barat applied a strategy different from that of Bulungan. Rather than revising or extending their small-scale logging licenses that had expired – and most of them had expired by December 2002 – the district allowed logging activities under district licenses to continue by “manipulating” the application of a technical procedure, commonly known as *Stock Opname* or SO. The concept of SO refers to stock inventory of logs. The activities are usually carried out when a logging license is about to expire, at year end, and in cases where there is still timber remaining from SO in the previous year. The understanding of SO has included stock inventory of logs already harvested/felled, but that have not been moved out of the area of harvest, at the time the licenses expired, were about to expire, or at year end.

Kutai Barat District Forestry Service, however, allowed logging activities based on SOs that had referred not only to the inventory of logs already felled, but also to timber stock still standing and not yet harvested. The District Forestry Service continued to provide administrative services – among the most important, the required timber transportation documents, the SKSHH (see also Chapter 4) – also for timber from SOs that referred to stocks remaining standing at the time the inventory was carried out, towards the end of 2004. This means that logging activities effectively continued well beyond the expiry date of district licenses, and certainly beyond the date of the issuance of Ministry of Forestry Decree 541 of 2002 and Government Regulation 34 of 2002 that had revoked the authority of district governments to issue logging licenses.

There was a significant difference in the nature of the two districts’ strategies. Bulungan’s was an administrative strategy, while Kutai Barat’s was a technical one. The major actor responsible for the extension or revision of licenses, as for the issuance of original licenses, was the office of the Bupati. Thus, in the case of Bulungan, the Bupati’s office was formally involved in the extension of licenses. The principal actor involved in Kutai Barat’s SO strategy, however, had been the District Forestry Service, as SO was a technical procedure. In the case of Kutai Barat, the decision to deviate from the conventional SO concept was formally made at the discretion of the head of the District Forestry Service. The office of the Bupati may not be involved in, or may not even formally be informed of, these activities. However, while the Bupati did explicitly express his disapproval of the way that SO had been carried out by the district’s Forestry Service (Chapter 4), he was nevertheless keen to continue to accumulate revenue from this sector (Chapter 4). Furthermore, informal interventions from higher-level district officials (Chapter 7) suggest that it is not possible to determine whether the head of the District Forestry Service’s decision on the district’s implementation of the SOs was indeed purely his decision.
Ultimately, however, district decisions are strongly influenced by national policies. In practice, districts had to seriously consider the risks of legal action being taken for challenging national policies, in any of their operations. By the end of 2004, increasing national pressures forced the two local governments to formally halt timber operations under the small-scale district licenses. However, illegal logging activities have continued to occur in these areas.

3.2.4 Kutai Barat’s medium to large-scale licenses

During its short period in (formal) power, Kutai Barat was able to go beyond making decisions pertaining to small-scale logging activities. Referring to Government Regulation 6 of 1999 and the short-lived Forestry Ministerial Decree 05.1 of 2000, under which local governments were authorized to grant small to large-scale logging licenses, this district issued 21 medium and large-scale logging licenses in Production Forests. These licenses were referred to as IUPHHK or Ijin Usaha Pemanfaatan Hasil Hutan Kayu, which was a new term replacing HPH, the term used to describe large-scale concession rights issued in the New Order period. The area covered by each of these IUPHHK ranged from 5,000 to 50,000 hectares, and totaled 481,942 hectares. The duration of the licenses was 20 years (Table 3.1).

The issuance of Kutai Barat’s medium to large-scale logging licenses is significant, because first, it would not have happened during the New Order Period, when larger-scale licenses were all allocated by the Central Government (section 3.1 and Appendix 2). Second, ironically, in issuing these licenses, Kutai Barat made reference to a Ministerial Decree that, from the perspective of district governments, had been questionable in terms of its status in the legal hierarchy vis-à-vis district regulations, particularly in situations where districts would be disadvantaged if the national decree were to be applied (section 3.2.2). The issuance of Kutai Barat’s medium and large-scale licenses thus demonstrates that the district used or referred to national policies that worked in its favour while it ignored (for a period, successfully) those that limited its discretion.

\[6^\] Interview with the Bupati of Kutai Barat, K-G-
### Table 3.1 List of Kutai Barat’s Medium to Large-scale Licenses

<table>
<thead>
<tr>
<th>Name of Company</th>
<th>Date of License</th>
<th>Area (Ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>PT RSM</td>
<td>17-Jun-01</td>
<td>32,750</td>
</tr>
<tr>
<td>PT WLA</td>
<td>28-Dec-01</td>
<td>19,900</td>
</tr>
<tr>
<td>PT KWS</td>
<td>28-Dec-01</td>
<td>20,500</td>
</tr>
<tr>
<td>PT ACK</td>
<td>23-Jan-02</td>
<td>17,340</td>
</tr>
<tr>
<td>KSU MPP</td>
<td>11-Feb-02</td>
<td>16,475</td>
</tr>
<tr>
<td>PT NPP</td>
<td>14-Feb-02</td>
<td>8,200</td>
</tr>
<tr>
<td>YPSDM</td>
<td>15-Feb-02</td>
<td>20,000</td>
</tr>
<tr>
<td>KFKPJ</td>
<td>15-Feb-02</td>
<td>5,000</td>
</tr>
<tr>
<td>PT WKL</td>
<td>15-Feb-02</td>
<td>50,000</td>
</tr>
<tr>
<td>PT PSWL</td>
<td>19-Feb-02</td>
<td>5,000</td>
</tr>
<tr>
<td>PT MKT</td>
<td>19-Feb-02</td>
<td>24,820</td>
</tr>
<tr>
<td>KBJ</td>
<td>19-Feb-02</td>
<td>15,025</td>
</tr>
<tr>
<td>CV PJM</td>
<td>19-Feb-02</td>
<td>18,395</td>
</tr>
<tr>
<td>YUHL</td>
<td>19-Feb-02</td>
<td>10,232</td>
</tr>
<tr>
<td>PT RKR</td>
<td>20-Feb-02</td>
<td>45,000</td>
</tr>
<tr>
<td>PT HKL</td>
<td>21-Feb-02</td>
<td>49,500</td>
</tr>
<tr>
<td>KSU JPJ</td>
<td>27-Feb-02</td>
<td>50,000</td>
</tr>
<tr>
<td>Pt SMS</td>
<td>27-Feb-02</td>
<td>35,250</td>
</tr>
<tr>
<td>KPN</td>
<td>28-Feb-02</td>
<td>3,730</td>
</tr>
<tr>
<td>PT KS</td>
<td>28-Feb-02</td>
<td>18,000</td>
</tr>
<tr>
<td>KUD MJ</td>
<td>28-Feb-02</td>
<td>16,825</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>481,942</strong></td>
</tr>
</tbody>
</table>


### Conflicts with national policies and guidelines

Similar to the small-scale logging licenses, some of these medium and large-scale licenses were also problematic in terms of their inconsistency with national policy and guidelines. They gave rise to four main problems: the date of and/or process of the issuance of licenses; the concession area under the district license overlapping with the area of an existing centrally-licensed HPH; a license issued in a protected area; and district-licensed logging operations trespassing on the area of an existing HPH.
At first glance, the date of issuance of the district's IUPHHK licenses did not appear to have been an issue, but closer examination reveals this not to have been the case. What did not seem obvious at first was the fact that a greater portion of these licenses was granted in February 2002, or approaching the date of the withdrawal of districts' authority to issue licenses (March 1, 2002; section 3.2.2). This was towards the end of the period during which district governments' authority to grant these licenses, if a Ministerial Decree had any clout, would cease. This means that with respect to the date of issuance, all of the medium and large-scale logging licenses issued by Kutai Barat government would be formally considered legal.

However, the date of issuance of some of these IUPHHK licenses was very close to the "cutoff" date of districts' authority, and so questions were raised about the actual process of the granting of the licenses. A key district forestry official suggested that the dates of some of the licenses appeared to have been "adjusted" to enable them to be included within the period during which Bupatis still had the authority to issue logging licenses. As this senior district forestry official suggested:

"I will not say it formally, but informally, it appears because it was close to the date the Bupati's authority was revoked... the dates were probably adjusted, backdated." (interview with K-G-3b)

Another senior official of the District Forestry Service disclosed a more convincing and straightforward description:

"But we only knew about the regulation [later]... However, people had submitted their proposals way beforehand, and we were in the midst of processing them. We had no choice; the date couldn't go beyond the end of February. So, they were backdated." (interview with K-G-ld)

The same senior official, when interviewed a year and a half later, however, gave a milder response:

"The licenses had to be issued prior to the date our authority was revoked. So, for some of them, they were issued before the process to fulfil all the requirements were completed. We then had to continue with the process after the licenses were granted." (interview with K-G-1f)

Although it was not possible to obtain district documents that could provide evidence of the district’s attempts to backdate the issuance of district IUPHHK licenses, other district

" Licenses were issued by the Bupati's office, with technical recommendations provided by the District Forestry Service."
documents did suggest that backdating in the administration of logging activities under district IUPHHK did take place. These documents showed that there were efforts to backdate district’s endorsement of the working plans (RKL – *Rencana Kerja Lima Tahunan* and RKPH – *Rencana Kerja Pengusahaan Hutan*) and working maps of a company holding a district IUPHHK, from as late as April 2004 to June 2002. Before any logging activities could commence, Government Regulation 34 of 2002 requires that these working plans, RKL and RKPH, would need to be completed within 3 months and one year after the issuance of the IUPHHK, respectively. Apparently the district was making sure that the company’s working plans were endorsed within the timeframe specified by that government regulation, thereby making sure that the district government worked within legal corridors.

Either way, whether backdating the issuance of the IUPHHK – as suggested by the earlier interview with a senior district forestry official – or completing the requirements of the process after the licenses were granted – as suggested by the follow-up interview – has meant that the process of the granting of at least some of these IUPHHK licenses was illegitimate. Later, as it turned out, the Ministry of Forestry specifically placed these two issues, the date of the issuance of the license and the requirements that must be met during the process of the application of licenses, among the criteria in the Ministry’s subsequent verification of district IUPHHK (see below).

A district IUPHHK holder who was actually only asked simply *how long it took him to obtain* his license, had instead emphasized when he got the license in relation to the cutoff date, the date when the Bupati no longer had the authority to grant logging licenses. He asserted:

“I got my license in February 2002, I am sure prior to the date when IUPHHK licenses could no longer be granted by the Bupati.” [my emphasis](interview with K-P-2)

According to another entrepreneur operating in Kutai Barat, the practice of back-dating documents to meet legal requirements was quite common.

During an interview, however, the Bupati insisted that the district government had not violated national policies and guidelines in the issuance of the district’s IUPHHK. He maintained that 1) all of these licenses were issued prior to the withdrawal of districts’ authority, and that 2) these licenses were given in Production Forests but had been allocated outside active HPH concessions.

"I got my license in February 2002, I am sure prior to the date when IUPHHK licenses could no longer be granted by the Bupati." [my emphasis](interview with K-P-2)

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65 Staff evaluation on the issuance of RKL, RKPH and working map for KUD MJ to be issued by the Bupati (12 April, 2004), with handwritten memo (24 April, 2004) from the Bupati asking clarification of the need to backdate the issuance of documents.

66 Interview with K-P-1

67 Interview with the Bupati of Kutai Barat, K-G-"
licenses, the latter was not the case and had become an issue that the district has had to deal with since the beginning of 2004.

Districts’ authority to grant IUPHHK resulted in the issuance of Kutai Barat’s licenses whose area overlapped with a forest concession license issued by the Ministry of Forestry. This has intensified the tension between the two levels of government and caused uncertainty and confusion on the part of affected logging companies.

The Bupati issued an IUPHHK to PT WLA on December 28, 2001 over a 19,900 ha area (Table 3.1). However, the Ministry of Forestry’s subsequent assessment of this IUPHHK found that the entire area under PT WLA’s license overlapped with the area of a centrally-issued IUPHHK (previously known as HPH licenses) under the name of PT BRT, whose concession right was granted on 11 October, 1999.

This scrutiny resulted in the Ministry of Forestry’s revocation of the said district’s license on June 17, 2004. The Ministry justified its decision by referring to Government Regulation 34 of 2002 that gave it the authority to impart, control, and monitor the policies of Governors, Bupatis, and Mayors to maintain the smooth operations of forest structuring and planning, and the utilization and use of the Forest Estate. It supported its action stating that it was done to ensure legal certainty in the timber business sector, in this case, that of PT BRT which was granted a Central timber license over the area in question prior to PT WLA being issued a license.68

According to a senior district forestry official, this overlap was discovered only by chance. Each medium and large-scale concession holder can only carry out logging activities following an approved annual working plan, the Rencana Kerja Tahunan or RKT. PT BRT was in the process of applying for its annual working plan when it found out about the overlap. PT BRT first complained to the district government and then took the matter all the way to the Ministry of Forestry.69

Ministerial Decree 05.1 of 2000 explicitly specified an important caveat to districts’ authority over logging licensing, that districts must not issue IUPHHK on any active centrally-licensed concession area (section 3.2.2). PT BRT, a centrally-licensed IUPHHK (previously known as HPH) holder which was part of a large and long standing timber group AK, therefore had a strong legal basis to pursue its rights over the area in question to the Ministry of Forestry.

The District Forestry Service’s involvement in the granting of the RKT has been in providing technical recommendations. RKTs are approved by the Provincial Forestry Service.70 In the above case, this has necessitated both of the contending concession holders, the centrally-licensed PT BRT and the district-licensed PT WLA, to work with the District Forestry Service.

68 Ministry of Forestry Decree 214 of 2004
69 Interviews with a senior official of Kutai Barat District Forestry Service, K-G-3a and K-G-3b
70 Ministry of Forestry Decree 16 of 2003
each seeking an outcome that worked in their favour. PT BRT needed to ensure that no other companies operated in their area and that they be issued an RKT to carry out logging activities for that year. PT WLA needed to ascertain that their license was legitimate and operational. This led to a situation where the District Forestry Service involved could take advantage of the case for personal benefit (see also Chapter 6 for interactions between timber businesses and district officials). The forestry official interviewed explained that he was consulted by both of the contending concession holders, each wanting to secure its operation. In his words:

“I act as a consultant for both parties. I have interests.” (interview with K-G-3b)

It was not clear how the district had issued a large-scale license whose entire area overlapped with a centrally-licensed logging concession, while the provisions of national policy (assuming that the time of issuance of the district license was within the period when district authority to issue logging licenses was still valid) on districts’ authority stated explicitly that districts must not grant logging licenses over an area that already had active rights over it. District licenses were issued by the Bupati, based on the technical recommendations of the District Forestry Service. It was Kutai Barat Forestry Service’s responsibility, therefore, to ensure that all of the technical requirements pertaining to WLA’s license were met, prior to providing the recommendation to the Bupati’s office for the issuance of the license. That included ascertaining that the area under the proposed license was clear of any existing active rights. Thus, the “blunder” could have occurred within the District Forestry Service, for whatever reason, the District Forestry Service either genuinely did not know that the area had an active right over it, acted as if it did not know about it and purposely gave the technical recommendation to the Bupati’s office in support of the license, or knew about it but nevertheless gave its recommendation to go ahead with the license.

District forestry officials declined to provide an explicit explanation. However, they did provide an indirect explanation, suggesting that the District Forestry Service was under pressure to give the recommendation in support of the license. The Wakil Bupati71, then second in charge in the district (and who in 2006 won the district election and became the new Bupati), was said to have a stake in PT WLA and was instrumental in the process of the issuance of this company’s license.72 Key district forestry officials confided that one of the biggest challenges in carrying out their responsibilities was not in the technical aspects of the tasks, but more often in addressing pressures from district state actors higher up in the hierarchy. While district forestry officials were often pressured to make certain decisions in the interest of these higher ranking

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71 The Deputy Bupati
72 Interviews with officials of Kutai Barat Forestry Service, KG-3a, K-G-3b, K-G-25
bureaucratic actors, these district forestry officials were often the ones who subsequently had to be accountable for these actions (Chapter 7).

Although it was the Bupati who would ultimately be responsible for the issuance of licenses, the exercise of sanctions thus far has involved the revocation of licenses, while the Bupati himself so far has remained untouched. Legal sanction associated with district decisions has been limited so far to corruption charges. With regard to the case of PT WLA, at some point in 2004, the then head of the District Forestry Service was initially investigated for alleged corruption associated with PT WLA’s timber transporting documents, the SKSHH. The probing was initiated by inquiries made by the Ministry of Forestry and the Provincial Forestry Service (Indonesia Corruption Watch, 2006). At the time of writing, it was not clear whether or not the process was being pursued further.

Another example of Kutai Barat’s problematic medium and large-scale logging licensing involved the IUPHHK issued to KPKPJ (Table 3.1). Some of the area under this license fell within a Protected Forest category. During my fieldwork in July 2004, the district was in the process of submitting a request to the Ministry of Forestry to convert this area into the Production Forest category, and in exchange, had proposed another area to be converted to Protection Forest category. It is not known how the process has advanced, but in January 2006, this district IUPHHK was to have been revoked.

As in the case of PT WLA, district forestry officials declined to provide an explicit explanation. However, similar to the case of PT WLA, a senior and key district forestry official suggested that the district forestry unit had a good reason for recommending the issuance of the license in the first place. The recommendation was given either because the district forestry office genuinely did not know that the area in question was under a protected area category, – a reason plausible considering the lack of accurate data, including the few available maps that they could work with – or that it was given deliberately over a protected area. If the recommendation had been given purposely over a protected area it could be either a deliberate move or prompted by pressures imposed by higher ranks in the district bureaucracy. He emphasized:

"Either way, it will be difficult to prove administratively." (interview with K-G-3b)

Problems associated with Kutai Barat’s IUPHHK were not confined to the issuance of licenses, but also to their operations. They included a district IUPHHK-based timber activities trespassing on a centrally-licensed concession area. For instance, in March 2004, PT TB, a HPH operator, complained to the District Forestry Service that the holder of a district IUPHHK,

*Interview with K-G-1f*
PT PSWL, was transporting logs through its concession area. This resulted in the District Forestry Service suspending all administrative services to PT PSWL until the matter was resolved. 14

**Other issues surrounding Kutai Barat's IUPHHK**

Kutai Barat’s IUPHHKs were problematic not only in terms of their inconsistency with national policy and guidelines, but also in terms of the certainty of the concession area specified under the license in relation to other district IUPHHKs.

District documents suggested that there were issues of overlaps of areas among district IUPHHKs, sowing the seeds for conflict. For instance, part of the 50,000 hectare area of KSU JPJ had overlapped with the adjacent PT MKT (southern border of KSU JPJ) and KPN. 15 The overlap was discovered by the office of the Secretary of the District through an evaluation of maps and environmental assessments provided by the District Forestry Service and the District Environment Office, respectively, after the issuance of the licenses. The oversight may, as in the case of the overlap of PT WLA and PT BRT, have different explanations. The problem could have resulted either from the lack of careful scrutiny in the rush to grant the licenses in time – to issue the licenses prior to the cut-off date of district licensing authority, from having to accommodate various interests and pressures, or simply from the inadequacy of available data. This also suggested that the environmental impact assessments which should have been done prior to the issuance of the licenses were only conducted after the licenses were issued. This was consistent with the explanation provided by the senior forestry official cited earlier, that some of the requirements were completed after the licenses had been issued. Clearly, there were important weaknesses within the process of granting district IUPHHKs.

The District Forestry Service was also unable to effectively monitor the operations of its IUPHHK, leading to illegal harvesting. In November 2005, the local media reported that a subcontractor of PT PSWL allegedly used a 2004 Stock Opname (SO) document provided by the District Forestry Service (section 3.2.3) to harvest timber in 2005 (Kaltim Post, 10 November 2005h). Similarly, the subcontractor of PT KS, holder of another district IUPHHK, was accused of conducting illegal logging activities (Kaltim Post, 25 October, 2005g). The contractors of KUD MJ and PT KS, each holding a district IUPHHK, had reportedly logged outside the area under the licenses and had encroached into a protected area (Kaltim Post, 16 May, 2006b).

15 Letter from the Secretary of Kutai Barat District to heads of the District Forestry Service and the District Environment Office, respectively, 21 May 2002, requesting explanation of overlap of the KSU JPJ area with PT MKT and KPN
National actions over district’s “contesting” decisions

As explained above, the overlap of the concession area under Kutai Barat’s license issued to PT WLA with the concession area under a license issued by the Ministry of Forestry to PT BRT was discovered fortuitously. Clearly more powerful now with the passage of Government Regulation 34 of 2002, in 2005, the Ministry of Forestry began to take a tougher stance and declared that all local medium and large-scale district licenses were now required to follow a verification process carried out by the Ministry.⁶

The validity of districts’ IUPHHK is now tested by the Ministry of Forestry against four criteria. The first verifies whether the license in question was issued during the period within which the authority of the issuance of licenses was placed with regional authorities. This means within the period covered by Ministry of Forestry Decree 05.1 of 2000 (from 6 November 2000) until the effective date of its suspension through the Ministry of Forestry Decree 541 of 2002 (to 1 March, 2002). The second criterion scrutinizes whether the procedures for the issuance of the license had followed those stipulated by Ministerial Decree 05.1 of 2000. The third criterion assesses the area covered under the license, to see whether this area had any other legal rights over it or not. The fourth criterion focuses on the completion of the required documents, including environmental impact assessments.

Only if all of these criteria were met would the Ministry of Forestry recognize and endorse district IUPHHKs. At first, the Ministry’s endorsement was conferred by notifying Bupatis that these licenses had adhered to the existing laws and regulations; only then could technical and administrative services be provided to the logging company in question. In 2006, the Ministry took further steps to make sure it gained control over previously district-licensed companies and their operations. Rather than endorsing district licenses, all of these licenses are now to be renewed by the Ministry of Forestry. By renewing existing (and active) district licenses, the Ministry of Forestry now became the grantee of the licenses.⁷ In doing so, the Ministry of Forestry makes sure that all existing forestry companies are once again under its sole control and must directly interact with the Ministry of Forestry.

As of June 2005, at least two of Kutai Barat’s “problematic” IUPHHKs, PT WLA and KSU JPJ, were revoked (Kaltim Post, 29 June, 2005b). Two others were inactive due to various operational difficulties (Kaltim Post, 29 June, 2005b). One of the inactive companies was a local government-owned enterprise (Badan Usaha Milik Daerah, BUMD). As of January 2006, the IUPHHK for a concession right which was entirely located on a protected area was also reportedly revoked.⁸ Apparently, the Ministry of Forestry had also revoked IUPHHK licenses

⁶ Ministry of Forestry Regulation P.03 of 2005; the stated purpose of this verification process was to ensure the sustainability of forests and the certainty of forestry business.
⁷ Ministry of Forestry Regulation P.05 of 2006
⁸ Interview with K-G-1f
issued by other districts. Similar to the case of Kutai Barat, no other sanctions were applied to the Bupatis involved.

The above discussion has shown that although Kutai Barat was able to issue medium to large-scale licenses, in the end it had to bow to the Centre's directives. The Centre's pressures were so great that the Bupati had no option but to withdraw some of the IUPHHK he had issued himself, on the grounds of not meeting national requirements. The self-withdrawal of the Bupati's licenses, despite the risk of being sued by license holders, illustrates the culmination of the power struggle between district governments and the Central Government over logging licensing authority: the Bupati lost the battle.

The tussle for authority over logging licensing, however, was only one among several "battles" between district governments and the Ministry of Forestry. The following two sections describe the struggle for a substantially broader and more far-reaching authority over forestry in the two study districts.

3.3 Controversial District Regulation (PERDA)

Among Kutai Barat's major forestry decisions have been the formulation of a District Regulation on Forestry, PERDA 18 on District Forestry. Issued in November 2002, this PERDA has been highly controversial because, although it is similar in structure to Law 41 of 1999 on Forestry, it is in stark contrast in substance. Many of the provisions of this PERDA contradict Law 41 of 1999 on Forestry.

PERDA 18 shifts the authority for administering forests, including planning and management, from the Central Government to the district. The PERDA contradicts the forestry law in three contentious areas of responsibility: determining the status and function of forests; recognizing and determining customary (adat) areas; and administering forests. The PERDA gives authority in these three important areas to the district government, while Law 41 of 1999 on Forestry places it with the Ministry of Forestry. Clearly infringing the authority of the Ministry of Forestry, the formulation of this PERDA invoked conflict between the two levels of government and "damaged" the relationship between the Ministry of Forestry and the Bupati of Kutai Barat.

The Ministry of Forestry expressed its displeasure over the matter and strove to cancel the PERDA. Because the authority to cancel a PERDA resides with the Ministry of Home Affairs,

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7 For example, the IUPHHK issued by the district of Malinau in East Kalimantan (Ministry of Forestry Decree 477 of 2004), municipality of Pontianak in West Kalimantan (Ministry of Forestry Decree 249 of 2004), Belitung district in the Bangka Belitung Island Province (Ministry of Forestry Decree 127 of 2005), an IUPHHK license issued by the Governor of Papua (Ministry of Forestry Decree 204 of 2004); see Appendix 3.
8 Personal communications with FS, Kutai Barat's forestry official, December 6, 2006 and January 16, 2007
in April 2003 the Ministry of Forestry requested the latter to cancel this particular PERDA.\textsuperscript{81} However, instead, the Ministry of Home Affairs recommended that the district government go ahead with it, as long as it conformed to the decentralisation law.\textsuperscript{82} A senior official at the Ministry of Home Affairs maintained that sectoral laws such as the forestry law should conform to the decentralisation laws.\textsuperscript{83} Referring to Article 133 of Law 22 of 1999, he insisted that in the case of a conflict, district decisions should refer to the decentralisation law, rather than the sectoral law. At the time of writing of this thesis, there has been no further development on the issue.

A high ranking Ministry of Forestry official explained that the Ministry of Forestry had sent hundreds of district decisions regarded by the Ministry as contravening national legislation or policies (laws, government regulations, and ministerial decrees), to the Ministry of Home Affairs, requesting the latter to revoke these district decisions. However, very few were followed up, and when they were, the process was drawn out.\textsuperscript{84}

This instance not only highlights the disharmony existing between two government agencies at the Centre, but also the competition for power between ministries at the national level in the implementation of decentralisation. One of the failures in the previous decentralisation effort – the 1995 pilot project on decentralisation in 26 districts across Indonesia (section 1.3) – was the fear among central government agencies of the Ministry of Home Affair’s increased power vis-à-vis other departments (Mokhsen, 2003).

The Ministry of Forestry sought to overcome this obstacle by identifying high-level individuals at the Ministry of Home Affairs who shared a common understanding with the Ministry of Forestry and thus could work together to support the Ministry of Forestry’s effort to enforce national forestry policies. In addition, the Ministry of Forestry also built alliances with the district attorney to carry out investigations on “defiant” Bupatis and district officials who were perceived to have breached national legislation or policies. The Ministry of Forestry’s strategy had been, rather than requesting the Ministry of Home Affairs to take action on district decisions perceived to be in contravention of national legislation or policies – including Bupati’s Decrees – to directly revoke them. This explains the Ministry of Forestry’s revocation of district IUPHHKs (section 3.2.4).\textsuperscript{85}

\textsuperscript{81} Letter of the Ministry of Forestry to the Ministry of Home Affairs 196/Men hut-II/03 and interview with a senior Ministry of Forestry official, N-G-9
\textsuperscript{82} Interview with the Bupati of Kutai Barat, K-G-
\textsuperscript{83} Interview with a senior official of the Ministry of Home Affairs, N-G-6b
\textsuperscript{84} Interview with a senior official of the Ministry of Forestry, N-G-9
\textsuperscript{85} Interview with a senior official of the Ministry of Forestry, N-G-9
It is worth noting that the views of decentralisation within the Ministry of Home Affairs itself were polarized. While one group genuinely supported decentralisation down to the district level, another group was more reluctant for decentralisation to go forward.

Although Kutai Barat’s PERDA on Forestry has not been cancelled, in practice the district government finds it difficult to exercise or implement its provisions. Fear of legal consequences for violating the forestry law and Government Regulation 34 of 2002 has hindered the district from formulating policies based on this PERDA. Furthermore, in practice it is difficult for Kutai Barat to implement its policies – which are not consistent with certain national policies – if relevant external actors follow the national policies, rather than Kutai Barat’s policies. For instance, it is hardly possible to determine the function of a particular forest area for other purposes if it has an existing centrally-issued concession right in the same area. Kutai Barat’s policies that had been implemented, such as the district’s issuance of logging licenses, ultimately had to be stopped for fear of legal scrutiny. In this case, although the Ministry of Forestry has not been successful in its attempt to cancel the PERDA itself, the Ministry of Forestry nevertheless in effect exercises de facto leverage.

The Ministry of Forestry, however, succeeded in the cancellation of a controversial regulation of another district, this time involving a 2001 PERDA on community forestry, of the district of Wonosobo, Central Java. As requested by the Ministry of Forestry, in 2005 the Ministry of Home Affairs cancelled this PERDA for contravening the forestry law. The four-year process shows the persistence of the Ministry of Forestry in upholding its legitimacy. It is not clear why the two cases, the Wonosobo and the Kutai Barat cases, had such different outcomes.

3.4 Bulungan’s agro-industrial development and the pursuit of greater district control over forested lands

Unlike Kutai Barat, Bulungan did not pursue medium and large-scale IUPHHK logging licenses; instead it looked for other ways to benefit from its forests. This initiative primarily stemmed from the restrictions imposed by national policies that had initially limited the district’s opportunity to establish district logging regimes and then formally extinguished it altogether. Although Bulungan for a while had managed to find ways around these national policies, in the end it had to comply for fear of legal scrutiny and sanctions.

Bulungan thus has focused on the conversion of the Forest Estate (kawasan hutan), that is, the conversion of lands under the control of the Ministry of Forestry, much of which is still forested, to non-forest uses. This has been in line with the district’s emphasis on developing

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* Interview with senior Ministry of Home Affairs officials, N-G-6b and N-G-8, and a senior official of a donor project assistance on decentralisation, N-I-3
* Ministry of Home Affairs Decree 9 of 2005
agribusiness-based activities, particularly oil palm plantations. This development has enormous implications for the future of forests.

One of the major thrusts of Law 41 of 1999 is that control over the Forest Estate (kawasan hutan) rests with the State. The Central Government, represented by the Ministry of Forestry, determines the status of forests, whether State or Rights Forest, and the functions of all forests. Conservation, Protection or Production Forests (section 3.1 and Appendix 2). As long as an area is categorized as forest, its status and its functions are determined by the Ministry of Forestry. This has implications with respect to what district governments (and provincial governments) can or cannot do with forests under their jurisdictions.

Bulungan was fully aware of this limitation and therefore sought to gain control over forests within the district by proposing to convert Forest Estate into non-forest uses, thereby removing it from the jurisdiction of the Ministry.

In spatial planning maps, lands fall into two basic categories: Forest Estate for forestry activities, the Kawasan Budidaya Kehutanan (KBK), and areas for purposes other than forests, known as either Areal Penggunaan Lain (APL) or Kawasan Budidaya Non Kehutanan (KBNK). The KBK category includes all lands under the Ministry of Forestry (that is, the permanent Forest Estate or kawasan hutan) which are categorized into Production Forests, Protection Forests, and Conservation Forests. The KBNK category consists of all land area designated for non-forestry purposes, including Forest Estate that has been released from the KBK category. Once an area is assigned as a KBNK, the Ministry of Forestry will no longer have formal control over that particular area because it is no longer part of the permanent Forest Estate. Rather, the administration of areas under the KBNK category, such as land titling, is maintained by the National Land Agency (Badan Pertanahan Nasional or BPN).

Considering the restrictions imposed by the Ministry of Forestry in the management and administration of KBKs, it is in the interest of Bulungan District to convert KBKs into KBNKs.

District officials argued that much of the forested area within the district had been designated (by the Ministry of Forestry) for forestry development, the KBK category, and had mostly been allocated to large-scale centrally-licensed HPHs. District data suggest that as of 2003, of the district’s 1.4 million hectares of forest, some 887,334 hectares, or more than half, were allocated to four HPHs. This made it much harder for the district government to allocate licenses over areas that were still viable for logging activities but did not overlap with areas under HPH concessions. For instance, in 2001-2002, the allocation of several district licenses in a KBK area that belonged to PT 11 – a state-owned HPH company – resulted in conflict.

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Footnotes:

66 For instance, interviews with B-G-16 and B-G-5
67 Data on the licensing of the utilization of forests as of June 2003 (source: Bulungan District Forestry Service)
between the HPH company and district license holders. Under pressure from the Ministry of Forestry, the district government subsequently had to revise its licenses to KBNK.\(^9\)

Under regional autonomy, the advantage of KBNK categories over KBK categories to districts has become even more pronounced. On the one hand, restrictions imposed by the Ministry of Forestry on activities that could be initiated by district governments in KBK categories were disincentives for districts to maintain KBK areas. As described in sections 3.2.1 and 3.2.2 districts were authorized, for a short period, to issue small-scale licenses in KBK areas, provided that areas under these licenses did not overlap with any existing HPH, or in the case of areas with existing HPHs, with the consent of the relevant HPH holders. A KBNK category, on the other hand, would result in greater district authority. Once an area became a KBNK, it would not only be excluded from the Ministry of Forestry’s jurisdiction, but would also allow the district government to issue mining and plantation licenses over the area. According to Government Regulation 25 of 2000 (see Appendix 2), districts now have the authority to issue plantation and general mining licenses.\(^9\) The Home Affairs Ministerial Decree 130-67 of 2002 further affirmed that the authority to issue Plantation Licenses or Ijin Usaha Perkebunan (IUP) now resides with the Bupatis. These two types of licenses can only be issued in KBNK areas. As districts’ increased authority to issue plantation licenses in KBNK areas was in line with Bulungan’s Strategic Plan, which focuses its development on the agroindustry sector, a KBNK area now becomes far more attractive to Bulungan than a KBK area.

As put bluntly by officials at the district planning agency (BAPPEDA), Bulungan’s main objectives in proposing the conversion of KBK into KBNK were to gain control over the area in question and have the power to issue licenses.\(^9\) They also argued that the issuance of district licenses for a specified (development) purpose would prevent encroachment from other uses.\(^9\)

Bulungan has, from early on, sought to convert certain areas of KBK into KBNK, but the district’s proposed conversion was rejected by the Ministry of Forestry. One such case involved the district’s proposal to the Ministry of Forestry in 2000 to convert some 20 thousand hectares of KBK into a KBNK area in the subdistrict of TP for the purpose of developing an oil palm plantation; the plantation was to be established by PT BPS. As described in Appendix 2, the assignment of Forest Estate and its release remains under the authority of the Ministry of Forestry. The need for approval of the Ministry of Forestry in the conversion of KBKs to

\(^9\) Interviews with B-N-1f and with B-G-8a

\(^9\) Note that as shown in district documents, many district licenses did overlap with PT I1. It is not clear why some overlapping licenses were particularly a problem and had to be revised while others managed to go ahead with their activities.

\(^9\) Districts’ authority to issue general mining (that is, outside the oil and gas sectors) was also affirmed by Government Regulation 75 of 2001 on the Second Amendment of Government Regulation 32 on the Implementation of Law 11 of 1967 on the Basic Mining Law.

\(^9\) Interviews with B-G-9a and B-G-10

\(^9\) Interviews with B-G-9a and B-G-10
KBNKs has severely limited the actual capacity of districts to plan the uses of their own areas. After three years waiting for approval, Bulungan officials attempted to negotiate directly with the Ministry of Forestry to push for this conversion. Senior officials including the head of the district’s planning agency and the head of the district’s economic unit met the Ministry of Forestry in April 2003 in Jakarta, proposing to swap the KBK area for an equal area of KBNK. However, as of mid 2004, the Ministry of Forestry held its position and rejected the proposed conversion. A senior Ministry of Forestry official insisted that the proposed conversion was far from necessary, because the district had vast areas of KBNK on which plantations could be established. This official suspected that it was really the timber on the proposed land area that was being targeted. Both the Ministry of Forestry’s and the district’s data show that more than 500 thousand hectares within the district were already classified as KBNK (Table 3.2).

Reports have suggested that licenses to establish oil palm plantations in the province of East Kalimantan as well as in other provinces were often abused, and that plans to establish such plantations have largely failed. Rather than establishing plantations, such licenses have often been used to merely harvest the timber on the land (for instance, Casson 2001c; Kompas 9 December, 2003; Colchester et al., 2006). Oil palm plantation development in East Kalimantan began in 1990, but was reportedly far below target. Much of the land allocated for oil palm plantation, scattered across districts and municipalities throughout the province, had been stripped of its timber and abandoned. As of 2003, these neglected lands included areas in the two case study districts: 353,500 hectares were allocated to 17 plantation companies in Bulungan and 530,042 hectares were allocated to 23 companies in Kutai Barat (Kompas, 9 December, 2003).

District officials, however, argued that they had good reason to propose the above conversion to KBNK. For instance, a senior district executive, an individual identified as a strong influence in district decisions, claimed that virtually all KBNKs had either been claimed by masyarakat (communities) or already had existing plantation licenses. The district therefore had to request that more area under KBK be released and converted into KBNK.

Rather than waiting for the Ministry’s approval of the proposed 20,000 hectare conversion, the Bulungan government had went ahead with its plan. In 2001, some 11,000 hectares were allocated to PT BPS through 110 district small-scale logging licenses, ostensibly to make way for the establishment of an oil palm plantation in subdistrict TP. In November 2002, the Bupati extended some of PT BPS’ existing licenses covering an area of some 3,660 hectares. The

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95 Interviews with B-G-9a and B-G-17
96 Interview with N-G-9
97 Interview with a senior Bulungan official, B-G-4b
98 Bupati of Bulungan Decree 522.11/01 to 30/Ek.Proda l/01; Decree 522.11/31 to 42/Ek.Proda l/01; Decree 522.11/43 to 54/Ek.Proda l/01; Decree 522.11/55 to 66/Ek.Proda l/01; Decree 522.11/67 to 80/Ek.Proda l/01; Decree 522.11/81 to 110/Ek.Proda l/01
99 Bupati of Bulungan Decree 522/43/Ek.Proda l/2002
district spatial plan shows that the area proposed for conversion to the Ministry of Forestry was located in the same subdistrict and was earmarked for the expansion of PT BPS (BAPPEDA, 2003, cited in Samsu et al., 2005).

During fieldwork in January 2004, the case of the licenses issued to PT BPS stirred a heated debate in the district’s legislative body, the DPRD. Some of the DPRD members questioned the executive’s decision to extend the district’s licenses, arguing that the area had been stripped of its timber. Although these licenses were allocated to clear-cut the timber on the land to make way for the establishment of the oil palm plantation, apparently there had been minimal oil palm development activity. At the same time, the legislature was concerned that the district’s license to establish an oil palm plantation on a KBK area remained problematic, with the Ministry of Forestry refusing to release the Forest Estate into KBNK. However, the district legislature in this particular case could only criticize the Bupati’s decision, but not alter it. This was an example of the limited function of the DPRD as the people’s representative body to whom the executive should, in theory, be accountable (Chapter 7).

In June 2003, the district passed a District Regulation on District Spatial Planning, PERDA 5 of 2003. This PERDA assigned the areas for its forests under different categories. However, there are discrepancies between the district’s assignments and those of the Ministry of Forestry.

The land area of Bulungan in the PERDA was larger than the area determined under Ministry of Forestry Decree 79 of 2001. According to a senior BAPPEDA official, at the time of partitioning of the district in 1999, boundaries with neighbouring districts were fuzzy and the district government just accepted this. After conducting a series of surveys, the district claimed that the boundaries in its proposed spatial plan maps were more accurate.

### Table 3.2 Forest categories in Bulungan District according to the Ministry of Forestry and Bulungan Spatial Plan

<table>
<thead>
<tr>
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<th>Ministry of Forestry (hectares)</th>
<th>District Spatial Plan (hectares)</th>
</tr>
</thead>
<tbody>
<tr>
<td>KBK (Production Forests)</td>
<td>721,695</td>
<td>767,738</td>
</tr>
<tr>
<td>KBNK (Other Uses)</td>
<td>542,199</td>
<td>572,055</td>
</tr>
<tr>
<td>Protection Forests</td>
<td>122,462</td>
<td>122,462</td>
</tr>
</tbody>
</table>

Source: Dinas Kehutanan Kabupaten Bulungan, 2003 and Bulungan District Regulation 5 of 2003 on Bulungan District Spatial Plan for 2001-2010

Similar to the district’s argument on the issuance of district logging licenses, the district government insisted that a PERDA is higher in the legal hierarchy than a Ministerial Decree and

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100 Interviews with a senior official of Bulungan Agricultural Forestry Office, B-G-19 and Bulungan’s DPRD members in charge of forestry affairs, B-L-1b and B-L-2
101 Bulungan District Regulation 5 of 2003 on Bulungan District Spatial Plan for 2001-2010
102 Interviews with a senior Bulungan BAPPEDA official, B-G-9a and B-G-9b
that the district’s PERDA on the District Spatial Planning should prevail over the Ministry of Forestry’s Decree. Hence, the district maintained that its specification of its forest area and each category within it should prevail over the Ministry of Forestry’s.

Various interviews and comparison between the maps of the existing district spatial plan and the proposed district spatial plan or Rencana Umum Tata Ruang Wilayah Kabupaten (RUTRWK) indicated that the district wished to convert some areas of KBK to KBNK categories, including coastal areas on the eastern part of the district that had already become established fish ponds. Some 300,000 hectares of KBK were proposed for conversion to KBNK. A senior official of the BAPPEDA explained that the district’s proposed conversion of KBK to KBNK in the RUTRWK was based on considerations that these KBK areas were already largely degraded. These degraded land areas, the official argued, clearly demonstrated the previous failures of the Central Government to exercise control over their use and management. Pointing at past failures, he further argued that these areas be regulated and managed for non-forestry purposes, and suggested that it would be better if the district did it. He pointed out, however, that the district also proposed that the area covered under the Protection Forest category be increased.

Maintaining degraded KBKs was even less attractive to the Bulungan government. When presented with another option to maintain KBKs, such as through reforestation efforts, the responses indicated that reforestation was not perceived as a workable solution by district officials. They noted that, firstly, funding was an issue. This was somewhat inconsistent with the fact that over 50 billion rupiahs of the DAK-DR Fund (Chapter 4) were received by the district during 2001-2003, some of which were idle or appeared to have been used for other purposes (Chapter 5). Secondly, pointing to the DAK-DR Forest and Land Rehabilitation (RHL) Project (Chapter 5), they were sceptical that reforestation and rehabilitation efforts would succeed. Thirdly, they believed that communities (masyarakat) would prefer oil palm plantation development over reforestation activities to foster livelihoods. Bulungan government’s justification for its policy on oil palm development in the regional autonomy period was similar to its justification for the issuance of district logging licenses, which was to improve livelihoods and to provide income opportunities for the local population. This inevitably raises questions about the commitment of the district to the nationally-guided Forest and Land Rehabilitation Project funded by the DAK-DR (Chapter 5).

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104 Interview with a senior Bulungan BAPPEDA official, B-G-9a
105 Samsu et al. (2005), with external assistance, compared the existing spatial plan maps with the proposed spatial plan maps
106 Interview with a senior Bulungan official, B-G-4b
107 Interview with a senior BAPPEDA official of Bulungan, B-G-9b
108 Interview with a senior BAPPEDA official of Bulungan, B-G-9a; this was also depicted in Bulungan’s proposed spatial plan (BAPPEDA, 2003 cited in Samsu et al., 2005)
109 Interviews with BAPPEDA officials of Bulungan, B-G-9a and B-G-10
110 Interview with a senior official of Bulungan, B-G-4a
The proposed district spatial plan (RURTWK) must, by a process known as *paduserasi*, be accommodated in and be made compatible with the provincial spatial plan or *Rencana Tata Ruang Wilayah Propinsi* (RTRWP) and endorsed by the provincial administration. In turn, the provincial spatial plan has to be compatible with the Ministry of Forestry’s Forest Use by Consensus Map or *Tata Guna Hutan Kesepakatan* (TGHK). Bulungan exerted significant efforts in negotiating with the provincial administration and with adjacent districts to approve the changes in its RURTWK, including the head of the BAPPEDA going back and forth to Samarinda, the capital of East Kalimantan. However, as of July 2004, the district’s proposed conversion had not been endorsed by the provincial administration. According to senior district officials, apparently the provincial administration did not have the courage to endorse Bulungan’s proposed changes.\(^{111}\) Because all proposed conversion of KBKs into KBNKs must be approved by the Ministry of Forestry, the province must obtain approval from this Ministry for any changes in its RTRWP.

By January 2006, the *paduserasi* process between the RURTWK and RTRWP was completed. Much to the dismay of Bulungan government, however, its proposed RURTWK had to undergo many revisions, as many aspects of the proposed conversion were not approved.\(^{112}\) Consequently, among districts and municipalities in the province, Bulungan was the last to agree to and the last to sign the *paduserasi* between the RURTWK and RTRWP.

Oil palm plantation development has been a national policy in the last decade. One of the priorities of President Megawati and more recently President Bambang Yudhoyono\(^{113}\) in the agriculture sector has been to develop massive oil plantations in the Outer Islands. Supportive national policies for oil palm plantation expansion, as well as the diminishing and much higher restrictions on district-led forestry activities, have led to a burgeoning of district plantation licenses, despite the failures of past licenses. In August 2004, President Megawati signed Law 18 of 2004 on Plantations. This law strengthened the authority of Bupatis in issuing plantation licenses in areas of land under the administrative jurisdiction of the National Land Agency, *Badan Pertanahan Nasional* (BNP), meaning, in the KBNK category. The policy of East Kalimantan province to establish one million hectares of oil palm plantation across the province further legitimized the Bulungan government’s objectives.

Although district officials’ position on plantation development appeared to be ambivalent, nevertheless the orientation of district policy on this issue was clear. While openly acknowledging that most existing oil palm plantation licenses issued in the past (that is, in the 1990s) had failed to establish the planned plantations – while the forests on which the plantations were to be developed had been destroyed – they nevertheless appeared keen to set

\(^{111}\) Interview with senior Bulungan officials, B-G-4b and B-G-9b
\(^{112}\) Interview with a senior BAPPEDA official of Bulungan, B-G-10d
\(^{113}\) The Presidents of the Republic of Indonesia, July 2001 to October 2004, and October 2004 to the present, respectively
aside more areas for new plantations." The newly elected Bupati, for instance, was very much aware that the timber on the lands reserved for oil palm plantation development was one of the factors attracting investors. Nevertheless, he urged the population to support the Bulungan government's policy in order to lure potential oil palm plantation investments into the district (Tribun Kaltim, 24 July, 2006).

By July 2004, the district had approved seven oil palm plantation developments. At the time, at least one site was also being proposed for coal mining. The district was then considering which activity between these two would bring more revenue to the district. By July 2006, the district had approved 14 oil palm plantation developments, and two applications were in the pipeline (Kaltim Post, 5 July, 2006). The area covered by each of the licenses range from 6,000 to 20,000 hectares.

It is not clear whether these licenses were given strictly over KBNK, as they legally should have been. However, the proliferation of the district's plantation licenses was inconsistent with its earlier argument for the proposed conversion of KBNK to KBK. Previously, district officials had contended that it was difficult for the district to assign an area for oil palm development on KBNKs—such as the case of PT BPS above—due to lack of available KBNK areas without existing claims and/or rights over them. Many of these licenses were issued prior to the completion of the padu serasi between the RURTWK (district spatial plan) and the RTRWP (provincial spatial plan); this means prior to any provincial endorsement of Bulungan's proposed expansion of KBNK areas. More importantly, they were issued prior to the Ministry of Forestry's signing off the RTRWP of East Kalimantan province. As of January 2007, the padu serasi between the RTRWP of East Kalimantan province and the TGHK was still in process.

A local NGO figure focusing on development issues was sceptical about the assignment of these oil palm licenses and their implementation:

"Although on the maps they may be on KBNK, in reality the activities may well not be in this category. Who is to control such activities?" (interview with B-N-5)

Control over the development of KBNK areas, including their licensing, not only gave the district government a higher degree of discretion to make and enforce their policies to achieve its stated objectives (that is, including district revenue, local employment, and means of community livelihood), but also provides other means to collect informal revenues. As

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11 Interviews with BAPPEDA officials of Bulungan, B-G-9a and B-G-10; with a senior official from the District Agricultural Office, B-G-19; with a senior official in the economic unit, B-G-17; and with a senior official of the district development unit, B-G-12
12 Interview with a BAPPEDA official of Bulungan, B-G-10
disclosed by a local entrepreneur, the process of getting a plantation license is much easier now because it can be done in the district, whereas previously it had to be done at the provincial level. However, the increased convenience had not been without costs, as more money was now being spent to help smooth out the processes (Chapter 6). At least two of these licenses were issued just as the then outgoing Bupati ended his term in office. A local NGO figure suggested that the Bupati was using this as his last opportunity to gain either political leverage for the (then) upcoming election or for personal gain.

The new Bupati has pledged to exercise much tougher supervision and control over oil palm plantation investors to make sure that they do establish the plantations, rather than just harvest the timber on the lands in question (Tribun Kaltim, 24 July, 2006). For this purpose, in August 2006, the district government submitted a draft of a district regulation (RAPERDA) on Plantation Licensing (Usaha Perkebunan) for the endorsement by the DPRD (Tribun Kaltim, 24 July, 2006; Kalim Post, 30 August, 2006f). One of the objectives of the proposed district regulation was to give the district government the legal authority, if necessary, to revoke the licenses in cases of violations, including the clear felling of an area under license solely for its timber without subsequent plantation development (Tribun Kaltim, 24 July, 2006). Although the district is taking this precaution only after some 14 licenses were already issued, rather than prior to their issuance, this points to some improvement in district’s policy with regard to land use.

The district now also applies a performance bond to plantation companies, known as uang kesungguhan (literally, “money that proves a company is committed to establishing the plantation”). The money is to be returned to the company once the plantation is established. However, the size of this uang kesungguhan, a mere 25 thousand rupiah or 2.5 USD per hectare, is miniscule by today’s standard, in particular when compared to the potential risk and loss associated with failure in developing the plantation. The amount is also hardly a disincentive for a company when compared to the potential gains it could reap from the timber proceeds.

One of the potential risks of oil palm plantation development as recognized by the district government, is how easy it would be for a company to extend its clearing activities and to log outside the area under the license. Harvesting timber outside the area covered under the district’s logging licenses was not uncommon (section 3.2.2). The Bupati was hopeful that this time the district would be able to enforce its decisions and to step up monitoring through increased community support (Kalim Post, 21 May, 2006c). However, given the district’s poor

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116 Interview with a local businessman and an adat leader, B-P-8
117 Interview with a local businessman and an adat leader, B-P-8
118 PT BSMP and PT BCAP
119 Interview with the director of a local environmental NGO, B-N-1h
120 Interview with a senior official in economic unit of Bulungan, B-G-17
121 Interview with a senior official of Bulungan Forestry Service, B-G-16
record of enforcing its decisions and its ineffective monitoring of district-licensed timber activities, it remains unlikely that the district will fare better in the case of plantation activities.

Many of the companies obtaining district oil palm plantation licenses are based outside the district, including in Jakarta, Balikpapan, or Tarakan. For instance, one company, PT SKI, is a subsidiary company of PT M Group, which is the agrobusiness division of PT GG, one of Indonesia’s largest, oldest cigarette companies. Several of these licenses are held by regional entrepreneurs based in the nearby municipality who also own other businesses in the province. The remaining licenses are held by prominent local entrepreneurs based in the district. Strikingly, the local and regional entrepreneurs holding district oil palm licenses were the same individuals involved in the timber businesses through holding the district’s small-scale logging licenses. According to a district official, local and regional entrepreneurs shifted to oil palm plantation ventures as soon as district small-scale logging licenses were no longer in operation. Also similar to the case of small-scale logging licenses, Malaysian investors have provided the capital for many of these oil palm development ventures. Furthermore, they have proposed to develop areas still heavily forested. This trend raises concern and apprehension about the actual motivation of these entrepreneurs and causes one to speculate whether or not the district’s licenses to develop oil palm establishment will in fact be used for oil palm development or simply be abused again, as in the past, to obtain valuable timber.

3.5 District-provincial wrangling over forestry authority

The tension over forestry authority has not been confined to the relationship between district and national levels but has also arisen between district and provincial levels. In the case of Bulungan this conflict has been associated with the existence of two forestry offices, each directly responsible to different levels of government. Kutai Barat did not encounter this problem; however, some tensions over forestry administration have also occurred between the district government and the Provincial Forestry Service.

3.5.1 Relationship between Bulungan District and the Provincial Forestry Service

As noted in section 3.1.4 and Appendix 2, there are two forestry units operating in Bulungan: the District Forestry Service (Dinas Kehutanan) and the Regional Technical Implementation Unit or Unit Pelaksana Teknis Daerah (UPTD). The District Forestry Service is a district unit responsible for the administration of district forestry matters, while the UPTD serves as the arm of the Provincial Forestry Service operating at the district level. Kutai Barat,

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122 Interview with a senior official of Bulungan’s economic unit, B-G-17
123 Interview with a senior official of Bulungan Agricultural Office, B-G-19, and personal communication the director of an NGO based in Bulungan, 19 September, 2006
124 Interview with a DPRD member of Bulungan, B-L-1b
on the other hand, being a new district partitioned from a “mother” district under the 1995 decentralisation pilot program, has only a District Forestry Service and no UPTD.

The presence of two forestry units operating at the district level has brought confusion with regard to the responsibilities and the services provided by each unit. The District Forestry Service was mainly responsible for the administration of district licenses, while the UPTD was responsible for the administration of centrally-licensed HPHs. However, there were no clear guidelines as to the separation of tasks. Some of the administration of HPH activities, including production reports, was handled by the District Forestry Service. Consequently, HPH holders needed to deal with both offices. Similarly, district-licensed logging companies also needed the services of both offices, as all SKSHH documents were issued by the UPTD (Chapter 4). As revealed by one HPH employee:

“Regional autonomy creates confusion for us; we don’t know who handles what. We therefore have no choice but to deal with and provide for both offices. We need to exist.” (interview with B-P-1)

Bulungan’s officials pointed to the UPTD operating in the district as one blatant example of the unwillingness of higher levels of government to let go of their power over forestry administration. The Bupati was at first very reluctant to recognize the UPTD, but had no choice because the District Forestry Service could not issue the SKSHH documents; in districts with UPTD, only the UPTD was authorized to issue these documents. Without these documents, timber cannot be marketed.

Both units compete for administrative authority at the district level. Interviews with officials from the two units clearly disclosed frictions between them, although they were often suppressed because of a previous professional relationship. Prior to decentralisation, the head of the District Forestry Service was the head of the Provincial Branch Forestry Service (Cabang Dinas Kehutanan or CDK, Appendix 2) overseeing forestry in the district, while the head of the UPTD was the secretary of the CDK.

The presence of UPTD in the district has circumscribed district forestry decisions and actions, and as described in the next chapter, also has implications for the district’s ability to monitor its share of forestry revenue. It has meant that, although a large proportion of forests in the district were under centrally-licensed HPHs, the district had little control over their operations. A UPTD in the district has also meant that the province could closely monitor district forestry strategies and actions, including those associated with district logging licenses and activities. The Governor’s letter warning the Bupati of the district to stop the issuance of
district small-scale logging licenses, extension, and revisions, and all associated timber operations in January 2004 (section 3.2.3) was partly attributed to the role of the UPTD as the "eyes and ears" of the provincial government in the district.

Rather than easing the tension between the two levels of government, the "demise" of district licenses has exacerbated it. The termination of district logging licensing meant that the District Forestry Service had lost much of its power, in particular because a significant component of its responsibility was handling processes associated with district logging licensing and operations. In addition, district licensing and operations had given a range of district state actors the opportunity to gain informal benefits (Chapter 6). Consequently, their termination meant that these actors would now need to seek other sources or opportunities.

By July 2006, one of the most pressing agendas of Bulungan's DPRD was to propose the abolition of the UPTD to the provincial administration (Kaltim Post, 18 July, 2006e). It was argued that under regional autonomy the existence of UPTD in the district no longer had a legal basis and that it was "undermining the operation of other district units".

3.5.2 Relationship between Kutai Barat District and the Provincial Forestry Service

In the case of Kutai Barat, the tussle over forestry authority between the provincial and district governments is illustrated through one administrative aspect associated with district medium-to large-scale IUPHHK. As noted above, one of the procedures that must be followed through by a logging company holding a IUPHHK prior to a logging operation in a particular year is to have its annual working plan or Rencana Kerja Tahunan (RKT - section 3.2.4) endorsed by the government. Forestry Ministry Decree 16 of 2003 stipulates that RKTs are endorsed by the head of the Provincial Forestry Service, on the recommendation of District Forestry Services. Apparently, however, some districts in East Kalimantan did not heed this Forestry Ministry Decree. On 7 May 2004, the head of the East Kalimantan Provincial Forestry Service circulated a reminder to all District Forestry Services within the province that the authority to endorse RKTs lies with the head of Provincial Forestry Service. Until July 2004 however, RKTs for the district IUPHHKs were endorsed by the District Forestry Service.127

Two of Kutai Barat's bylaws, District Regulation 2 of 2001 on the Authority of District Government and District Regulation 18 of 2002 on District Forestry (section 3.3) provided the district's authority in forest administration. If one adheres to these two district PERDAs, the District Forestry Service could well be authorized to endorse the RKTs of timber companies

128 According to a senior official of the District Forestry Service, this had been the policy of the former head of the District Forestry Service. For example, the 2004 RKT of PT ACK was endorsed by the Head of Kutai Barat Forestry Service Decree 522.110.1/26/Kpts/DK-III/2004 on 27 February, 2004.
operating under district IUPHHKs. However, their legality did not go unchallenged. Increasing pressures from the Provincial Forestry Service with regard to the province’s authority in the endorsement of RKT was foreseen to create operational problems. RKTs are important for any timber to be considered legal and form part of the administration of SKSHHs, the nationally-required transporting documents accompanying timber (supposedly) acquired legally. Every SKSHH is issued at the point of origin of the timber, and then invalidated at the point of destination. Problems could arise when the timber transported has reached its destination, which is usually outside the district in which the timber was produced. Here, the officials in charge for the SKSHH’s invalidation are outside Kutai Barat’s jurisdiction and do not report nor are responsible to the district of origin. These invalidating officials may consider Kutai Barat’s issuance of the SKSHH as illegitimate because it was issued based on an illegitimately endorsed RKT and may refuse to invalidate the SKSHH. Timber accompanied by an illegitimate SKSHH would be classified as illegal timber, leading to its possible rejection by potential buyers.

As of July 2004, the District Forestry Service continued to provide RKTs to companies operating under district IUPHHKs and continued to administer the SKSHHs of companies operating under district IUPHHKs as well as those operating under centrally-licensed concessions. Formerly, Kutai Barat’s SKSHH for timber produced under the district’s IUPHHK had not encountered any problems at the point of destination, which meant that Kutai Barat’s endorsement of RKT was not an issue. It is not clear why it was not a problem at that time. In July 2004, however, both the District Forestry Service and logging companies under district IUPHHKs were busy trying to resolve this issue. It was in the interests of both parties that these logging companies continued to be granted endorsement of their RKTs, despite intensified pressures exerted by the provincial government.

The concern over the status of timber logged under district-endorsed RKTs, that is, whether or not they were considered legal, has, according to a senior district forestry official, to do with the Ministry of Forestry’s plan at the time to submit a tough illegal logging law, which was later abandoned after the installment of a new forestry minister. After a period of much effort and repeated warnings from higher levels of government, by the end of 2004 both districts appeared to have stopped the extension and/or revision of district logging licenses and their

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129 Kutai Barat District Regulation 2 of 2001 on the Authority of District Government and Kutai Barat District Regulation 18 of 2002 on District Forestry
130 The Indonesian term for the invalidation of the document is “dimatikan”, literally “made dead”.
131 Interview with a senior official of Kutai Barat Forestry Service, K-G-20
132 A senior official at the Ministry of Forestry disclosed that a draft of the tough Illegal Logging Law was submitted to the national legislature (DPR) in April 2004 (interview with N-G-9). At the time of the interview, this official was hopeful that the Law would be passed by the DPR. Unfortunately, the period coincided with the national election and diverted the focus of the DPR members. A subsequent change in the Cabinet in October 2004 resulted in the abandonment of the proposed draft.
associated timber operations, as well as logging operations in the disguise of extended SOs (section 3.2.33.2.3). These decisions also apparently coincided with the national plan at the time to pass the aforementioned illegal logging law.

3.6 Pressures from other sectors

The "battle" between the different levels of government continues to date, albeit not directly in the forestry sector. Bulungan is very actively seeking to realize its plan to establish oil palm plantations. Although these plantations are to be developed on lands that are outside the jurisdiction of the Ministry of Forestry, it is common knowledge – and district officials themselves recognized this fact – that acquiring timber on the land is a major incentive for investors to establish these plantations. Considering both the lack of capacity and the lack of willingness of the district government, coupled with the deteriorating capacity of the Ministry of Forestry to exert on-the-ground control, timber felling could easily encroach on productive Forest Estate.

Another development in Bulungan that has bearing on its forests pertains to the fishery sector. By September 2006, the district government encouraged the legalization of the establishment of brackish water fish ponds in the area of what had been once mangrove forests in the eastern coast of the district. In 2004, during fieldwork, this policy was high on the district government's agenda, but had been undermined due to the status of the area as Forest Estate. It is not known whether these areas had been accommodated as slated for conversion to non-forest uses in the provincial spatial plan. However, according to a Ministry of Forestry official in charge of planning, as of September 2006 the Ministry of Forestry had not approved any release of Forest Estate to non-forest uses in East Kalimantan.

The withdrawal of district's power in forestry has also led to Kutai Barat government turning its focus to other sectors. By September, 2006 the district was also active in exploiting its coal resources and developing oil palm and rubber plantations. Legally, these activities can only be conducted in areas outside the Forest Estate or in Forest Estate that has been released by the Ministry of Forestry for specific purposes. However, Kutai Barat's issuance of an IUPHHK that overlapped with a Central license illustrates the ways in which it was willing to challenge the Ministry of Forestry's jurisdiction, and the ways in which the Ministry of Forestry had lost significant control over districts' actions involving activities in Forest Estate. As of September 2006, the district reportedly had plans to build a road through a Nature Reserve to facilitate three large coal mining operations. Under the 1999 decentralisation law, the management of Nature Reserves is under the responsibility of the Ministry of Forestry.

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133 Personal communication with S, the director of a local NGO, 19 September 2006
134 Personal Communication with B, official of the Planning Unit of the Ministry of Forestry, 25 September 2006
135 Email communications with EM, an NGO activist working in Kutai Barat, 7 September, 2006
It is notable that districts’ current and newer strategies with important implications in the forestry sector are made possible by districts’ authority outside the forestry sector. Legislation and national policies providing that authority include the 2004 law governing the plantation sector, the implementing regulation of the decentralisation law assigning district authority in the plantation and mining sectors, and the Ministry of Home Affairs’ Ministerial Decree affirming districts’ authority in these two sectors (section 3.4). The withdrawal of districts’ forestry powers, therefore, does not mean that districts do not make decisions that have implications for the forestry sector. On the contrary, it suggests that districts’ decisions outside the forestry sector are increasingly relevant to the forestry sector, precisely because they now have to look to these other sectors to achieve their objectives.

3.7 Conclusions

The ceding of forestry powers from the Centre to district governments under Indonesia’s decentralisation was ambiguous. The two major laws governing decentralized forest management, the regional autonomy law and the forestry law, were inconsistent in terms of the loci of authority to administer forests. The regional autonomy law tended to grant powers to local governments, while the forestry law tended to maintain forestry powers with the Ministry of Forestry. Moreover, inconsistencies in the assignment of power over natural resources to sub-national governments not only occurred between the two laws, but between provisions in the decentralisation legislation itself.

For a short period, however, significant powers were devolved to district governments. The Ministry of Forestry relinquished one of the most sought-after types of authority in forestry administration, logging licensing authority, to Bupatis. However, the fundamental authority in forestry, the authority over forest lands, that is, the control over the Forest Estate or kawasan hutan, continued to remain with the Centre.

Despite the ambiguity and partial nature of the release of powers, district governments did for a short period enjoy a significantly higher authority compared to the past. The authority to issue logging licenses - from small to large-scale - was a significant development, in particular from the perspective of the emphasis on the management of the forests, which had been and continues to be largely on the commercial exploitation of forests. Hence the establishment of district timber regimes.

The inconsistencies in the two most pertinent pieces of legislation were fundamental in the trajectory of forestry decentralisation. They show a degree of reluctance on the part of (at least some elements of) the Central government to relinquish forestry powers to local governments. District governments made use of their short stint of increased authority, taking the attitude that it may not last, due to historical distrust over past Central Government forestry policies, which was now, under decentralisation, compounded by the unfavourable provisions of the forestry law. Consequently, the two case study districts issued logging licenses indiscriminately, without due regard to their ecological consequences.
The result was a continuous tussle over forestry authority between and among levels of government, from the very beginning of decentralisation. On the one hand, the Ministry of Forestry had to follow the trend of other sectors in relinquishing powers to local governments, as guided by the regional autonomy law, but on the other hand, it wished to retain its powers to any extent possible. Under this situation, the Ministry of Forestry had to formulate a logging licensing policy favourable to local governments. But it soon realised the consequences and sought to regain this authority by withdrawing, ironically, this very same policy. Thus, the relinquishing of the powers that had been devolved was also temporary, as the Central Government subsequently issued a regulation that strengthened the provisions of the forestry law.

The two district governments sought to find ways around national policies and regulations. At first, districts could go forward with their forestry decisions by selectively following national policies that benefited them, while ignoring those that constrained them. As the struggle for power peaked, districts manoeuvred by filtering national policies and regulations, identifying their weaknesses, and manipulating them to achieve their objectives. In this way, both study districts for a period continued to successfully entertain their own interests and objectives, despite being severely constrained and limited by the new government policy.

Thus, referring to the decision-making power dimension in Agrawal and Ribot’s framework (Chapter 2), district governments did receive formal powers, albeit over a short period, to make decisions over forest resource use. During this limited period, the two district governments could exercise these powers and they proved adept at doing so.

After the status of the withdrawal of districts’ authority was no longer debatable, as it was affirmed by a government regulation which had a definite legal status vis-à-vis a district regulation, the two districts could still, for a period, apply their strategies and make and implement their decisions covertly, despite the formal withdrawal of their decision-making powers. This raises an important point with respect to the power dimension suggested in Agrawal and Ribot’s framework in analyzing decentralisation: that framework did not specifically distinguish between de facto and de jure decision-making powers over resource use in analysing decentralisation.

However, this chapter has shown that local governments will attempt to strategize, when and if they can, to use higher-level policies that would otherwise undermine districts’ discretion, in a way that would benefit the districts. Under Indonesia’s decentralisation, vertical power relationships as, in this case, manifested in constraining national policies, have influenced districts’ decisions significantly, but only after they have been filtered through the local governments’ own objectives and interests.

District governments’ “defiance” and/or manoeuvres that resulted in de facto decision-making powers clearly have implications for forest resource use. This suggests that local governments’ de facto decision-making powers – in this case local governments being the loci of power under the decentralisation arrangement – as opposed to formal decision-making
powers, are important in determining the outcome of the decentralisation of power over natural resources.

This chapter has also described how a similar trend of district “defiance” of unfavourable national policies has been observed in other forest-rich districts, in some cases to a more severe degree. The actual exercise of these other districts’ “acts of defiance” also shows that districts’ de facto decision-making powers – at least for a period – had prevailed over de jure decision-making powers, affirming the relevance of the former in the analysis of decentralisation.

Kutai Barat’s formulation of a district regulation on forestry is consistent with one of the forms of the power dimension in Agrawal and Ribot’s framework, that is, the powers to change old rules or make new rules. However, in this case, the difficulties in its implementation suggest that, although the Ministry of Forestry was not able to withdraw the particular regulation, in practice it does have leverage vis-à-vis the district government. The non-implementation of this district regulation also has implications for natural resource use. In this case, it is consistent with Agrawal and Ribot’s proposal that the power to implement and enforce decisions is an important element in natural resource decentralisation.

This chapter has shown that vertical power relations, in this case the power relations between district governments and the Centre, have been key to the implementation of decentralisation and to the dynamics of district governments’ decision making in forestry. It has also shown how the relations between “competing” agencies at the Centre have affected Central-local relations and their outcome. The dynamics of vertical power relations between local governments and the provincial government, though discussed in a more limited fashion, have also been shown to have affected district government forestry decision-making. The findings suggest that this element of the research framework (Figure 2.1) is useful in analysing decentralisation (research question #1) and at the same time, the dynamics of district forestry decision-making (research question #2).

Ultimately, districts’ policies have been highly influenced by national policies, above and beyond local considerations, such as decisions that aim to benefit local communities through income generation and livelihood from forestry activities. The two district governments ultimately have had to bow to national pressures. The raison d’être for this was the fear of legal consequences, which are increasingly a reality.

The overall theme of this chapter, as in the thesis as a whole, is local governments’ decision-making in the forestry realm under Indonesia’s decentralisation. Under Indonesia’s decentralisation, power relations between district governments and the Ministry of Forestry have significantly shaped district forestry decisions. However, this chapter has shown that losing the battle in the struggle for forestry powers has meant that districts have intensified their efforts outside the forestry sector to find other ways to achieve their objectives. Bulungan’s plans and strategies to convert Forest Estate into non-forest uses, Kutai Barat’s recent support for mining-related activities within a Nature Reserve, and national policies augmenting the authority of local governments in other sectors with implications for forests, illustrate that
district government forestry decision-making has been and will continue to be affected by the dynamics of other sectors. Therefore, to understand the dynamics of power over forestry decision-making, it is not sufficient to only address the respective power of actors (that is, local governments) in the forestry sector, but it is also important to understand how these actors use their authority in other sectors, and the consequences of those decisions for forests.

Forestry rent, both formal and informal, has been the major motivation for district initiatives in forestry and has been the underlying impetus for the power struggle over forestry authority. This chapter has described a formal form of forestry rent, that is, income stream and livelihood for the local people, as one of the important driving forces of districts’ issuance of district timber licenses. The accumulation of the informal forestry rent, as one of the more covert objectives of district decisions, is discussed in Chapters 6 and 7. The next chapter revolves around formal forestry rent derived from forestry activities in the districts: forestry revenue that accrues to district governments’ budgets. It analyses interactions between the two district governments and the Centre within the context of the decentralisation of fiscal powers.
Chapter 4: Sharing the profits but not the responsibility: fiscal decentralisation and its implications for district forestry development

The preceding chapter observed how the two local governments, by establishing district forestry regimes, responded to their increased authority provided by Law 22 of 1999. From the onset and continuing throughout, the dynamics of change were beset by a tug-of-war over de jure forestry powers between levels of government. With the withdrawal of the local governments' authority to issue logging licenses, the Central Government, represented by the Ministry of Forestry, has since gained “victory”. However, for a period of time, the two district governments were able to put in place coping strategies and continue to benefit from their de facto forestry regimes.

One of the underlying motivations for the power struggle over forestry authority has been forestry resource rent, both formal and informal. This chapter discusses the issues around the former: forestry-derived revenues that constitute the districts’ budgets.

Forestry revenues have been important for the two study districts’ finances as a means of financing their development in general. Within Agrawal and Ribot’s framework (Chapter 2), forestry revenues are seen to contribute to local governments’ fiscal powers. Decentralisation of decision-making powers with no means or powers to implement the decisions renders it ineffective. Together with administrative powers, fiscal sources are necessary to execute these decisions.

Under Indonesia’s decentralisation, the role of forestry-derived revenues in the two local governments’ finances has become more pronounced. Law 25 of 1999 on Fiscal Balancing between the Centre and the Regions increased local governments’ fiscal powers through two fundamental changes: 1) an increased share of natural resource-revenue and 2) regional governments now have more discretion over the management of central funds allocated to them. Simultaneously, the law decreed that local governments fill their budgetary needs through Locally Generated Revenues (Pendapatan Asli Daerah, PAD). Local governments acted upon the opportunities opened up by the provisions in the law by creating district forestry regimes centred on commercial timber activities (Chapter 3). Rent from these activities accrues through nationally and locally imposed fees and taxes and is collected by districts in the form of forestry revenue share and PAD. Districts also continue to receive a share of forestry revenues

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136 A version of sections 4.1, 4.2 and 4.3.1 and some of the information in the remainder of the chapter were used and published in Resosudarmo et al. (2006).
137 As noted in Chapter 1 and section 3.1.2, regions refer to provinces, districts (kabupaten), and municipalities (kota). “Local governments” refers to district and municipal governments.
derived from timber activities operating under Central licenses. Districts’ forestry revenue share is obtained from the redistribution of forestry revenues pooled in the Central Treasury Office. PAD is both collected and managed directly by districts.

This chapter follows two themes: the significance of forestry-derived revenues in districts’ budgets as a result of the decentralisation of fiscal powers; and how these revenues were used by the districts. The first theme comprises two issues: 1) the redistribution of forestry revenues from the Centre to local governments and 2) PAD from forestry. While the same types of nationally-imposed forestry fees and royalties applied under the New Order continued to be applied under decentralisation, the portion of forestry-derived revenues redistributed to local governments now differs from that during the New Order, to the districts’ advantage. However, the processes surrounding their allocation and disbursement are an issue. Just as the devolution of forestry authority involved struggles among levels of governments, the implementation of forestry-revenue sharing, particularly for local governments, has also involved a “struggle”.

Unlike shared revenues, forestry revenues derived from locally-imposed fees and charges directly accrue to local governments and therefore do not involve intergovernmental interactions. Their generation, therefore, is not affected by the same issues as forestry revenue transfers, and is thus more attractive to districts.

The first theme, covered in sections 4.1 to 4.5, begins with an overview of regional government (provincial, district and municipality) finance immediately before decentralisation (during the New Order period). Section 4.6 addresses the second theme: how forestry-derived revenue has been used by the two districts, that is, the ways in which and to what extent it has been reinvested back into the forests as the source of the revenue.

4.1 Overview of regional government finance prior to decentralisation

During the New Order period, Indonesia’s fiscal system was highly centralized. Regional governments (provinces, districts and municipalities) relied heavily on Central Government transfers for their revenues (Bawazier, 1988; Devas 1989; Lewis, 2003; Alisyahbana, 2005). These transfers comprised mostly routine and development grants as well as a limited amount of revenue shared between the regions and the Centre. Between 1995 and 2000, provincial governments generated only about 40 percent of their revenues through local taxes and fees (Lewis, 2003). The remaining 60 percent came from Central transfers, consisting of two Central Government grants, the Subsidy for Autonomous Regions (Subsidi Daerah Otonom, SDO) and the INPRES (Instruksi Presiden, Presidential Instruction) grant program, and shared revenue. Similarly, district and municipal governments were highly dependent on allocations from Jakarta: 85 percent of their revenues were derived from Central Government transfers (Lewis, 2003). The SDO grants were the most important source of revenue for regions, representing 31% and 43% of provincial and local government revenues, respectively. The INPRES constituted 17% and 28% of provincial and local government revenues, respectively. Revenue
sharing, which comprised mostly property taxes and some forestry and mining revenues, made up on average 12% of provinces' revenues and 14% of districts/municipalities' revenues.

The SDO was allocated to provincial and district governments to pay for staff salaries and other routine administrative expenditures. Provincial and district governments, however, had little discretion over the use of these funds, as they were directly linked to nationally-determined staffing levels and salary structures (DIPKPD, 2004). Lewis (2003) noted that, rather than promoting regional governments' autonomy, the SDO served as an instrument of central control over regional governments.

The Central Government initiated the INPRES grants in the early 1970s to boost employment through rural infrastructure projects. In the beginning, INPRES grants took the form of block grants, giving regional governments some flexibility in their administration. Later, INPRES grants evolved to become general-purpose grants, the General INPRES (INPRES Umum) and specific-purpose grants, Special INPRES (INPRES Khusus). The specific-purpose grants were distributed to finance national development priorities, for example the construction of roads, schools, public health facilities and sanitation schemes, as well as the well-known assistance for poor and less-developed villages (INPRES Desa Tertinggal), and reforestation (reboisasi) and regreening (penghijauan or afforestation) activities.138

During the New Order period, the Central Government controlled the most economically valuable natural resources. It maintained control by holding authority to grant exploitation permits and by retaining the revenues. The Central Government allocated permits for the exploitation of oil, gas, gold, copper, coal and forests. Only small-scale, minor mining commodities were left to the authority of provincial governments, and none to districts. The entire revenue from the oil and gas sectors, the most lucrative natural resources, went into the National Treasury (Table 4.1). In the forestry sector, while provincial and district governments did obtain a portion of the revenues, a larger portion was nevertheless retained by the Centre.

During this period regional governments had limited opportunities to raise their own revenues due to national restrictions on the types of revenue sources they could apply. Subnational governments could only apply fees and charges with minor revenue potential (Bawazier, 1988; Devas, 1989; Shah and Qureshi, 1994; Lewis, 2003). Their already limited ability to generate their own revenues was further restricted with the introduction of Law 18 of 1997 on Regional Taxes and Levies. District governments, for instance, were only authorized to apply levies on six minor sources of trivial revenue, none of which came from forestry: advertisements, hotels and restaurants, entertainment, street lighting, C-grade mining (sand and gravel), and surface and ground water.

138 Regreening is the rehabilitation of critical lands outside the Forest Estate (see Chapter 5).
4.2 State forestry resource rent and distribution prior to decentralisation

State resource rent from the timber sector is derived from a variety of fees and royalties. During the New Order, the government imposed taxes and fees which were paid directly to Central Government accounts. The three major types of forestry taxes and fees were and continue to be 1) Timber Concession Fee or *Iuran Hak Pengusahaan Hutan* (IHPH), 2) Forest Product Royalty or *Iuran Hasil Hutan* (IHH), which later became known as Forestry Resource Rent Provision or *Provisi Sumber Daya Hutan* (PSDH), and 3) Reforestation Fund or *Dana Reboisasi* (DR). The Timber Concession Fee or IHPH is a one-off area-based fee payable at the time when the logging license is issued. Forest Resource Rent Provision or PSDH is a volume-based royalty on each cubic meter of timber harvested. The Reforestation Fund or DR is also a volume-based fee levied on each cubic meter of timber harvested. The DR was initially introduced as a refundable performance bond to encourage reforestation and rehabilitation activities, but later was specified as a non-refundable forest fee. The Central Government periodically (albeit not regularly) determines the size of the PSDH and DR fees, which vary according to the type and location of the timber harvested.¹³

The same types of forestry taxes and fees continue to be applied to date. Most importantly, these taxes and fees also applied to timber produced under district licenses (Chapter 3).

During the New Order period, several distinct features marked the administration and distribution of revenues from the forestry sector. To whom the revenues accrued is the first feature. The Central Government secured a majority of the revenues from the forestry sector. However, compared to other natural resource sectors, regional governments received a comparatively larger portion of revenues from this sector (Table 4.1).

The second feature relates to the legal instrument specifying the proportion of forestry revenues distributed to each level of government, which was determined through a Presidential Decree (*Keputusan Presiden, Keppres*). As explained in Appendix 2, a Presidential Decree has a lower legal standing than a Law or a Government Regulation. Thus the share of forestry revenues returned to producing regions was decided largely at the discretion of the President. During this period, the proportion of forestry revenues redistributed back to regions changed several times, as determined by Presidential Decrees. During 1968-1990, 70% of timber royalties (IHPH and IHH) went to provincial governments and the remaining 30% flowed to the Central Government.¹⁴ Between 1990 and 2001, while the percentage of IHPH retained by

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¹³ For instance, at the time of writing, the PSDH rates were determined by Ministry of Industry and Trade’s Decree 436 of 2004. Similarly at the time of writing the DR rates continue to be based on Government Regulation 92 of 1999.

regional governments remained the same, the portion of IHH/PSDH redistributed to regional governments declined to 45% (Table 4.1).\textsuperscript{141}

The third characteristic relates to the principal actor in the process of allocation and distribution of the regions’ share of forestry revenues. The Ministry of Forestry as the technical department was responsible for calculating and determining the actual amount of the funds allocated to regions.

The fourth feature underlines the insignificance of local governments’ position (that is, districts and municipalities) vis-à-vis other levels of government with regard to the process of forestry revenue redistribution. During this period, districts were administratively the second tier of sub-national governments directly reporting to the province and had limited autonomy (Mokhsen, 2003). This position had a bearing on the actual flow of forestry revenue distribution to districts. The Central Government distributed the districts’ share of forestry revenues indirectly through the provincial government.\textsuperscript{142} Most notably, the mechanisms for the process of allocation and distribution of forestry revenue transfers to districts were not clear and transparent.\textsuperscript{143} The fifth feature involves the financial administration of forestry revenues in reference to the national budget. Revenues from this sector were not included in the state budget but were treated as off-budget funds and administered by the Ministry of Forestry. Thus, unlike the uses of funds in the national budget administered by the Ministry of Finance and requiring parliament’s approval, the Ministry of Forestry had significant control and discretion over the use of the money. However, President Soeharto often used his power to direct the uses of forestry revenues (Ascher, 1998; Christanty and Atje, 2004). As a result, through Presidential Decrees, the DR Fund was used to finance non-forestry developments, including the national aeroplane industry and the one million hectare peatland Project in Central Kalimantan.

In 1997, the government began to restructure the management of off-budget funds.\textsuperscript{144} Now non-tax revenues from natural resources, including forestry, are included in the state budget. However, the inclusion of the Reforestation Fund (DR) in the State Budget only began in 1999.\textsuperscript{145} This means that the allocation of the use of forestry funds, both the IHH/PSDH and the DR, now has to go through the same mechanisms as other state budgetary funds. It requires the approval of the state legislature; moreover, the responsibility for their management has shifted from the Ministry of Forestry to the Ministry of Finance.

\textsuperscript{141}Presidential Decree 30 of 1990 and Presidential Decree 67 of 1990
\textsuperscript{142}Presidential Decree 30 of 1990 and Presidential Decree 67 of 1998
\textsuperscript{143}See also, Kompas, 19 May 2004b
\textsuperscript{144}Law 20 of 1997; relevant implementing regulations concerning forestry levies were Government Regulation 22 of 1997, Government Regulations Nos. 51, 52, and 59 of 1998, and Government Regulation 74 of 1999
\textsuperscript{145}Government Regulation 92 of 1999
4.3 Regional government finance after decentralisation

Under decentralisation, provincial and local governments assumed much greater expenditure responsibilities (see also, Lewis, 2005). Districts, for instance, are now responsible for the provisions of services in the public works, health, education and culture, agriculture, communications, industry and trade, capital investment, environment, land, cooperatives, and labour sectors.

The increased expenditure responsibilities of regional governments, however, have not been accompanied by the devolution of increased major tax bases. Law 34 of 2000 on the Amendments to Law 18 of 1997 on Regional Government Taxes and Charges continues to limit the kinds of taxes that regional governments can apply. Nevertheless, both provinces and districts/municipalities may collect various user charges and fees. Districts and municipalities are now also allowed to create their own taxes through local bylaws (local regulations/PERDA), however, they are subject to certain criteria and Central Government approval.

The system of intergovernmental transfers was also significantly restructured and expanded, effectively beginning in 2001. Of particular interest to this thesis, regional governments now gained greater access to substantial amounts of natural resource revenues than previously.

4.3.1 Sources of local government finances

Law 25 of 1999 stipulated that regional governments (that is, provinces, districts, and municipalities) can obtain the funds needed to finance decentralisation from several sources: Balancing Funds (Dana Perimbangan), Regionally/locally Generated Revenues (PAD), Regional Borrowing (Pinjaman Daerah), and other legal sources of income. The following briefly describes the major components of each of these sources.

Balancing Funds

Law 25 of 1999 specified three types of Balancing Funds: 1) the General Allocation Fund (Dana Alokasi Umum, DAU); 2) the Specific Allocation Fund (Dana Alokasi Khusus, DAK); and 3) shared revenues from land and natural resource taxes.

The General Allocation Fund (DAU)

DAU is the core of the new system of inter-governmental transfers. The DAU has effectively replaced the SDO and INPRES Umum block grants (section 6.1) transferred during the pre-decentralisation period. The major difference is that now it is structured to favour districts over provinces. As with the SDO, the DAU is used to cover routine expenditures, particularly the salary of public servants. These funds are allocated from the national government budget according to a specified formula.
The Specific Allocation Fund – DAK

This consists of revenues from the Central Government budget that are allocated to regional governments to assist in financing special needs. These include needs that cannot be predicted using the general allocation formula, unlike DAU, as they are specific to the needs of a particular region. The allocation of DAK from the central budget depends on the availability of fiscal resources. Of particular relevance to this chapter, Law 25 of 1999 specified that 40 percent of the Reforestation Fund (DR) is to be allocated to regions and administered under the DAK (henceforth the DAK-DR). The remaining 60 percent is allocated to the Central Government.

Shared Revenues from Land and Natural Resource Taxes

In addition to the establishment of intergovernmental transfers through DAU and DAK, Law 25 of 1999 represented a major breakthrough in the distribution of natural resource rents among levels of governments. It modified the manner in which revenues from natural resource royalties, fees and land taxes are shared among the Central Government, provinces, districts, and municipalities. The magnitude of these revenues varied from the more modest Land and Building Tax (Pajak Bumi dan Bangunan) and Transfer Fee on Land and Building Rights (Bea Perolehan Hak atas Tanah dan Bangunan) to the more substantial natural resource royalties, including those for forestry. The law also determined the percentage of revenues generated from the oil, gas, mining, forestry and fisheries sectors that would be distributed among the national, provincial, and district/municipal governments.

Under this new system, the regions’ share of natural resource royalties has increased significantly. In the oil and gas sectors, Jakarta now retains 85 percent and 70 percent of these royalties, respectively, compared to 100 percent during the pre-decentralisation period. In the forestry sector, 80 percent of both the Timber Concession Fee (IHPH) and the Forest Resource Rent Provision (PSDH) is now returned to the regions. With the IHPH fee, the 80 percent allocated to the regions is divided between the province (16 percent) and the district/municipality in which the timber is produced (64 percent). Similarly, the regions’ share of the PSDH is divided among the province (16 percent), the producing district or municipality (32 percent), and among other districts or municipalities in the province (32 percent). Table 4.1 shows the proportion of natural resource-derived revenues transferred back to regions prior to and under decentralisation.144

144 Law 33 of 2004, which superseded Law 25 of 1999, did not change any of the natural resource revenue sharing arrangements. Beginning in 2005, however, the DAK-DR became part of revenue transfer, similar to the PSDH, but the distribution scheme remains the same (that is, 40% to regions, 60% to the Central Government).
Regionally or Locally-Generated Revenues – PAD

Law 25 of 1999 emphasized that under decentralisation, each regional government is expected to secure a proportion of its income from Regionally or Locally Generated Revenues, Pendapatan Asli Daerah or PAD. This category refers to the revenues that a regional government can directly raise from within its own jurisdiction, as opposed to transfers from the Central Government or other external sources. The law distinguished three major sources of PAD: regional taxes, regional levies, and revenues from regional government enterprises (Badan Usaha Milik Daerah, BUMD).

Regional Borrowing

Law 25 of 1999 authorized regional governments to seek funding through borrowing schemes. However, it allowed regional governments to borrow funds from foreign sources only through the Central Government.

Other Legal Sources of Income

The last category of revenue sources available to regional governments pertains to emergency situations. In cases where regional governments face sudden and unforeseen budgetary needs, Law 25 of 1999 stipulated that emergency funds may be made available from the national government budget.

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147 Regulations and procedures related to regional borrowing were further specified in Government Regulation 107 of 2000 on Regional Borrowing.
The new fiscal arrangement between the Centre and the regions changed the structure of local government revenues. During the first two years of decentralisation, for instance, on

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Table 4.1 Tax and Natural Resource Revenue Sharing Scheme between Central and Sub-national Governments before and under Decentralisation\(^\text{\textsuperscript{14}}\) (% of allocation)

<table>
<thead>
<tr>
<th>Source</th>
<th>Pre-decentralization</th>
<th>Decentralization</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>CG</td>
<td>PG</td>
</tr>
<tr>
<td>Land and Building tax(^\text{\textsuperscript{16}})</td>
<td>10</td>
<td>16</td>
</tr>
<tr>
<td>Land and building transfer fee(^\text{\textsuperscript{16}})</td>
<td>20</td>
<td>16</td>
</tr>
<tr>
<td>Income tax</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>Oil</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>LNG</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>Mining-land rent</td>
<td>20</td>
<td>16</td>
</tr>
<tr>
<td>Mining-royalty</td>
<td>20</td>
<td>16</td>
</tr>
<tr>
<td>Timber Concession Fee (IHPH)</td>
<td>30</td>
<td>56</td>
</tr>
<tr>
<td>Forest Resource Rent provision (PSDH)</td>
<td>55</td>
<td>30</td>
</tr>
<tr>
<td>Reforestation Fund</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>Fishery</td>
<td>Not clear</td>
<td></td>
</tr>
</tbody>
</table>


Note: CG: Central Government, PG: provincial governments; LG: local governments; RPLG: resources-producing local governments; OLG: other local governments in the province; OLG: all other local governments.

The proportions of natural resource revenues redistributed to the provinces of Aceh and Papua follow a different scheme. These are stipulated in Law 18 of 2001 on Aceh Special Autonomy and Law 21 of 2001 on Papua Special Autonomy.

\(^{14}\) Land and Building Tax: 9% of the 90% of regional governments' share is allocated for collection costs and distributed to state and local government treasuries; Central Government's share is distributed to all districts and municipalities across Indonesia (65% distributed evenly to districts and municipalities across Indonesia, 35% as incentives for districts and municipalities that have exceeded their land tax revenue target) (articles 2 and 4 of Government Regulation 104 of 2000).

\(^{16}\) Land and building transfer fee: Central Government's share is distributed evenly to all districts and municipalities across Indonesia (article 7 of Government Regulation 104 of 2000).

\(^{19}\) 70% of the IHPH were transferred to provincial governments; local governments receive 20% of revenues received by the province (Shah and Qureshi, 1994:46).

\(^{20}\) 15% of the 45% regional share was to be used for financing the development of districts (Presidential Decree 30 of 1990 and Presidential Decree 67 of 1998).
average, shared revenue became significantly more important. Revenue from all types of shared sources increased from an annual average of 14% during 1999/2000 to 23% in 2002, respectively (Lewis, 2005). Central grants (now in the form of DAU and DAK) continued to make up the bulk of district government revenues, decreasing slightly from 76% in 1999/2000 to 69% in 2002. Conversely, PAD has, on average, become relatively less important to districts, declining to 8 percent in 2002 from 10% in 1999/2000.

The new revenue sharing arrangement provided resource-rich areas with access to increases in Central transfers. The relevance of the change in fiscal powers for the two case study districts is more pronounced because they are located in East Kalimantan, a province rich with natural resources, notably oil and gas, and the districts themselves are endowed with substantial tracts of forests (sections 1.5.4 and 2.4.2). For the two districts, therefore, the increased share of natural resource revenue has meant an increase in revenue not only from forests, but also from the oil, gas, and mining sectors. As this thesis is concerned about the forestry sector, the following sections focus on the two districts' forestry-derived revenues.

4.3.2 The significance of forestry-derived revenues for the case study districts

Forestry-derived revenues constitute a significant portion of the two districts' budget. The importance of natural resource revenue transfers under decentralisation for the two districts is reflected in the district budget (Table 4.2). For example, natural resource transfer constituted 43%, 47%, 49% of Bulungan's entire budget in 2001, 2002, and 2003, respectively. Similarly, natural resource transfer was 56%, 41%, and 46% of Kutai Barat's budget for 2001, 2002, and 2003, respectively. Forestry transfers in these three consecutive years were 5.4%, 2.5%, and 10% of Bulungan's budget, respectively, and translated into 21, 10, and 51 billion rupiahs or equivalent to 2.3, 1.1, and 5.7 million USD. For Kutai Barat, forestry transfers were higher, 40, 19, and 91 billion rupiah or 4.4, 2.1, and 10.1 million USD for 2001, 2002, and 2003, respectively. Districts' share of forestry revenues came from forestry fees and royalties for timber produced under both centrally-licensed HPHs and district licenses.

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15 Calculated at exchange rate of 9,000 rupiah per USD
Table 4.2 The significance of natural resource-derived revenues in district finances (in percentage)\[^{24}\]

<table>
<thead>
<tr>
<th></th>
<th>Bulungan District (%)</th>
<th>Kutai Barat District (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forestry PAD/Total District PAD</td>
<td>74</td>
<td>8</td>
</tr>
<tr>
<td>Forestry PAD/Total District Revenue</td>
<td>4</td>
<td>0.4</td>
</tr>
<tr>
<td>Total PAD/Total District Revenue</td>
<td>5.5</td>
<td>4.4</td>
</tr>
<tr>
<td>Forestry Revenue Transfer/Total NR Transfer</td>
<td>12.4</td>
<td>5.3</td>
</tr>
<tr>
<td>Forestry Revenue Transfer/Total District Revenue</td>
<td>5.4</td>
<td>2.5</td>
</tr>
<tr>
<td>Total Forestry Revenue/Total District Revenue</td>
<td>8.7</td>
<td>5.4</td>
</tr>
<tr>
<td>Mining Revenue Transfer/Total NR Transfer</td>
<td>4.6</td>
<td>7</td>
</tr>
<tr>
<td>Mining Revenue Transfer/Total District Revenue</td>
<td>2</td>
<td>3.3</td>
</tr>
<tr>
<td>Oil&amp;Gas Transfer/Total NR Transfer</td>
<td>83</td>
<td>87.7</td>
</tr>
<tr>
<td>Oil&amp;Gas Transfer/Total District Revenue</td>
<td>36</td>
<td>41</td>
</tr>
<tr>
<td>Total NR Revenue Transfer/Total District Revenue</td>
<td>43.5</td>
<td>46.8</td>
</tr>
</tbody>
</table>

Source: Calculated from data supplied by revenue offices of Bulungan and Kutai Barat Districts.

Notes:
1. PAD: *Pendapatan Asli Daerah* or Locally Generated Revenues; NR=Natural Resource
2. The Reforestation Fund (the DAK-DR) is formally given a specific category, the Specific Allocation Fund, and included as part of the Balancing Funds (see section 4.3.1). However, to reflect the actual forestry fees and royalties redistributed to districts, and because it is effectively a form of shared revenues, in the calculations of Table 4.2 the DAK-DR is included as a Natural Resource Revenue transfer.

\[^{24}\] The circumstances of both districts render the documentation of their revenues prior to this period either unavailable or irrelevant. The district of Kutai Barat was only formally established in late 1999 and was led by a temporary *Bupati* until his election in 2001. As a result, data repositories during the 1999 and 2000 transition years were often scattered between the original district of Kutai Induk and the new district of Kutai Barat. Bulungan District has become much smaller than the original Bulungan. Its partitioning in 1999 therefore renders the comparison of district revenue prior to this period with the decentralisation period largely irrelevant.
4.3.3 The contribution of forestry revenues for timber produced under district licenses: the double standard of legality

As noted in section 4.2, timber produced under district licenses was also subject to the same forestry taxes and fees; the most significant and levied on a continuous basis are the PSDH and DR. In this respect, one notable issue involving revenues generated from timber operations under district logging licenses has been related to the uncertainty over their legality. The Ministry of Forestry in effect applied a double standard to these licenses. While at different points in time it regarded them as illegal, it still applied forestry taxes and fees to timber produced under these licenses.

District government officials complained that the Central and provincial governments were inconsistent in their action with respect to how the latter have regarded district licenses on the one hand, and how they have, on the other hand, extracted forestry fees for timber produced by activities under the very same district licenses.\(^{157}\) National and provincial governments were adamant that district licenses and thus the associated timber activities throughout a certain period (Chapter 3) were in contravention of higher regulations or policies, and therefore illegal.\(^{158}\) However, the same governments nevertheless accepted and continued to enjoy their share of forestry royalty and fees paid for timber produced under these licenses. As illustrated in Table 4.1, the national government by default receives a 20% share of PSDH revenues and 60% of DR revenues. Provincial governments have the right to 16% of PSDH revenues derived from companies operating in their respective jurisdictions.

Table 4.3 shows the amount of PSDH and DR payments from timber produced under Kutai Barat's small-scale timber licenses and, following the formula specified by Law 25 of 1999, how much of this amount would have contributed to the national coffers. In 2003, Kutai Barat's small-scale licenses alone contributed more than 8 million USD in DR earnings to the Central Government. In the same year, both the Central and Provincial governments each received nearly 1 million and 800 thousand USD from PSDH funds, respectively.

\(^{157}\) For instance, interview with a senior official of Bulungan District Forestry Service, B-G-16

\(^{158}\) For instance, interview with B-G-3
Table 4.3 PSDH and DR payments from small-scale district licenses, Kutai Barat

<table>
<thead>
<tr>
<th>Year</th>
<th>PSDH (USD)</th>
<th>DR (USD)</th>
<th>Central Government Share of PSDH (USD)</th>
<th>Central Government Share of DR (USD)</th>
<th>Provincial Government Share of PSDH (USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>4,295,639</td>
<td>9,709,850</td>
<td>859,128</td>
<td>5,825,910</td>
<td>687,302</td>
</tr>
<tr>
<td>2002</td>
<td>3,123,176</td>
<td>6,586,812</td>
<td>624,635</td>
<td>3,952,087</td>
<td>499,708</td>
</tr>
<tr>
<td>2003</td>
<td>4,944,734</td>
<td>14,357,171</td>
<td>988,947</td>
<td>8,614,303</td>
<td>791,157</td>
</tr>
<tr>
<td>2004 (as of March)</td>
<td>320,725</td>
<td>927,273.31</td>
<td>64,145</td>
<td>556,364</td>
<td>51,316</td>
</tr>
</tbody>
</table>

Source: Kutai Barat District Forestry Service, 2004. Laporan Realisasi Penerimaan Iuran Kehutanan (LRPIK) for HPHHs, HPHHKs, IUPHHHKs, and HPHs

DR payments from timber operations under district licenses did make up a proportion of DR revenue accumulated in the national account. This apparently continued at least through the beginning of 2005, or nearly three years after regional/local licenses should have ceased to be issued legally. Three different sources supported this fact. Firstly, a list of DR payments made to the Ministry of Forestry’s account in Bank Mandiri shows that many of the 2004 payments were made by cooperatives and non-HPHs (that means mostly by companies operating under district or, in the case of Papua, provincial licenses). Secondly, at a meeting in mid July 2004 in Jakarta, one MOF official in the unit responsible for the calculation of forestry revenues admitted that around 50% of forestry royalty payments made to the Ministry of Forestry’s account comprises forestry fees obligations for timber produced under district or provincial (in the case of Papua) logging licenses. The official further acknowledged that by accepting these payments, the Ministry of Forestry in effect has been ambivalent towards activities they themselves consider illegal, turning a blind eye to such activities, or at the very least not discouraging them. Thirdly, the contention between the Ministry of Forestry and the Governor of Papua over the legality (or rather, illegality) of hundreds of Papua’s licenses at least until 2005 (section 3.2.2) has led to the Ministry of Forestry’s admission that it did receive a huge...
amount of forestry fees from timber operations under licenses issued by the Governor of Papua. However, the MOF argued that the Ministry had no way of knowing that these payments were made under “illegal” licenses.

For district governments, the size of these monies underscores the importance of the accuracy of the allocation, that is, following their interpretation of the formula specified in Law 25 of 1999. Districts expect that they will receive a share commensurate with the percentage of the payments made for timber produced in each district’s jurisdiction.

The importance of forestry revenue transfers to the district budget has meant that it is in the best interest of districts to monitor the level of transfers and to receive them early in the budget year. As depicted in Table 4.1, Law 25 of 1999 and its implementing regulations explicitly defined the respective percentage share of natural resource revenues to each level of government. Despite this predefined share, to the discontent of local governments, procedural and operational complexities have coloured the implementation of their transfer. The following section describes the process of allocation and distribution of forestry revenue transfers and the issues surrounding their implementation in the two districts.

4.4 The implementation of forest revenue transfers under decentralisation

Law 25 of 1999 guaranteed that a certain pre-specified proportion of forestry-derived revenues would be returned to local governments as shared revenue. Despite this guarantee, however, the implementation of the processes of allocation and distribution of forestry revenue share to regions has placed local governments at a disadvantage. The process of their attainment has involved yet another “struggle” on the part of district governments. This section illustrates the struggle of district governments in their attempts to obtain – as they see it – a “more proper and prompt share” of forestry revenues.

The two local governments studied are concerned about the actual process of allocation and distribution of natural resource revenue transfers, in particular with regard to their accuracy and timing. During 2001-2003, the disbursement of the funds was usually late or delayed, often well into the budget year. These untimely disbursements were not their highest concern, however, because district officials believe that they are legally entitled to these transfers and were therefore confident that the funds would eventually get transferred. The more important

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*Tempo Interaktif, 23 March, 2005 and Media Indonesia, 22 March, 2005

There are some similarities as well as differences with regard to the implementation of revenue sharing in the oil and gas and the mining sectors. For instance, in November 2006 coal producing districts formed the Association of Coal Producing Districts (Asosiasi Kabupaten Penghasil Batubara). This association was established to boost the districts’ bargaining power with the National Government. Districts perceive that although the formulae for the calculation and the allocation of mining royalties are specified, they have actually received less than their entitlement. The association demands that the mechanisms for the allocation be made clearer (Noe, 2006).
issue has revolved around districts’ perception of the accuracy of the amount transferred. District governments are not confident that the transfers are accurate and perceive that they might have in fact received a smaller share than their entitlement. This perception is shared by other districts in the country, highlighted in the national meeting of the Association of District Governments as one of the issues to be taken to the Central Government (APKASI, 2003). As these transfers make up a significant portion of districts’ finances, their unpredictability, that is, the uncertainty about when districts would receive the actual funds and how much, complicates the planning and management of districts’ budget and potentially undermines the implementation of districts’ programs. This section focuses on the two largest types of forestry-derived revenue transfers, the PSDH and the DR.

The major issue in districts’ disquiet over the process of forest revenue sharing has been the non-transparent process of allocation of their share and its distribution to districts. The two major actors involved in the process are two Central Ministries: the Ministry of Forestry and the Ministry of Finance. The Ministry of Forestry as the technical ministry identifies the size of each district’s contribution and calculates each district’s allocation. Based on the Ministry of Forestry’s calculations, the Ministry of Finance disburses these monies to districts.

District governments are not involved in the process and there are no systematic or transparent ways for districts to find out their respective contribution, whether the contribution of each district is recorded accurately, the size of the districts’ allocations, and whether in the end they actually received their entire allocation. The Provincial Forestry Service, however, as the arm of the Central Government carrying the deconcentration function (Figure A.2.3 in Appendix 2) has some involvement in the process, although it has no influence over it.

The lack of transparency in this process has led to districts perceiving that intervention can be made in the process of forestry revenue allocation and distribution, to the benefit of the districts. The two district governments thus have taken steps to intervene in the process by approaching the relevant national actors informally.

4.4.1 The process of determining the origins and size of forestry fees

The process of allocation of forestry revenue transfers during 2001-2004 was as follows. Each year, the Ministry of Forestry (MOF) provides estimates of regions’ (that is, provincial, district, and municipality) portions of the PSDH and DR (as specified in Table 4.1) to the Ministry of Finance (MOFIN) based on projected PSDH and DR receipts from each province.

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162 During APKASI’s national annual meeting in 2003, this issue was raised as one of the important issues facing district governments under regional autonomy. APKASI is the Association of District Governments across Indonesia.

163 The third type of forestry-derived revenues is obtained from the Timber Concession Fee or Iuran Hak Pengusahaan Hutan (IHPH) payments (section 4.2). As this is a one-off fee applied to new licenses, it does not provide an ongoing or continuous income for the state.
These estimates are made based on the projected volume of timber harvested in the Annual Cutting Plan (RKT), and therefore may not be the actual figures allocated to regions, and may be adjusted later in the year.

The actual annual PSDH and DR allocation for regions is determined by the Ministry of Forestry based on the actual payment receipts. The process begins by identifying the origin and size of timber payments. Specifically, this involves the identification of how much of each type of timber fee (that is, either PSDH or DR) was paid, by which timber companies and in which jurisdiction these timber companies operate. The total receipts from a particular type of timber fee originating from a particular district would then be used to calculate that district’s share and that of other districts/municipalities within the province, of that type of revenue. For instance, following the revenue sharing formula presented in Table 4.1, a producing district such as Kutai Barat gets 32% of the total PSDH payment made by timber companies operating in the district, while other districts in the same province, such as Bulungan, share the remaining 32% of the payments equally among them. Similarly, as a producing district, Bulungan gets 32% of the entire PSDH payment by timber companies operating in the district, while other districts in the same province, such as Kutai Barat, share the remaining 32% of the payments equally among them. For an accurate estimate of a particular district’s entitlement over forestry revenue transfer, therefore, a particular district needs not only to maintain data on payments made by timber companies operating in that district, but also needs to obtain data on payments made by timber companies operating in all of the (timber) producing districts in the province. Neither of these is an easy task.

The procedures for and administration of the payment of forestry fees

The collection of forestry royalties is an ongoing problem in Indonesia. For instance, unpaid 2003 DR and PSDH obligations reached 1.28 trillion rupiah (142 million USD) (Tempo Interaktif, 12 July 2004). Of this amount, 785 billion rupiah (87 million USD) were debts owed by 65 HPH holders, each debt amounting to 5 billion rupiah (0.6 million USD), suggesting the magnitude of debts accumulated by individual companies. By July 2004, the Ministry of Forestry was able to collect only half of this amount. In June 2005, deferred PSDH and DR payments amounted to nearly 480 billion rupiah (53 million USD) (Kompas, 24 June, 2005). To a significant extent, this can be attributed to the procedures of these payments, prompting the Ministry to look for ways to improve the processes.

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\(^{34}\) Letter of the Secretary General of the Ministry of Forestry to Provincial Forestry Services No. 2176/II-REN/2002 and interview with a senior official at the Ministry of Finance, N-G-10.
The methods of collection of forestry fees and royalties prior to decentralisation

Two notable issues involving the procedure for forestry royalty payments in the period prior to 1999 are identified. The first relates to how timber companies' forestry royalty obligations were determined. Payments of PSDH and DR were made based on self-assessment: timber companies were trusted to calculate and determine their forestry royalty/fee obligations themselves. This policy was intended to cut down on bureaucratic procedures and make the process more efficient (Greenomics, 2004).

The second issue concerns the absence of a working system that would ensure that forestry royalty obligations were met. Royalties were calculated and due after harvest, but there were no administrative procedures to make sure that the fees were actually paid. The administrative procedure prior to the marketing of harvested timber concerns the transportation of timber from its place of origin to destination. To be considered legal, the movement of timber had to be accompanied by a timber transport document, called SAKB. This document, as the calculation of the obligatory forestry payment, was also issued by the timber companies themselves. However, self-assessment of timber royalty and self-issuance of timber transport documents were often abused (Greenomics, 2004). They encouraged extensive exploitation and deviations between actual production and those reported and in the calculation of forestry royalty obligations. During this period, it was also legal and possible for companies, with interest, to defer the payment of PSDH and DR obligations until after the timber was transported out and marketed. The issuance of SAKB as the last administrative "guard" was not linked to the fulfilment of PSDH and DR payment obligations. This resulted in the Government having very little control over the actual receipts of PSDH and DR payments.

The methods of collection of forestry fees and royalties after decentralisation

In 1999, the Ministry of Forestry revised its policy on the issuance of SAKB and linked it to forestry royalty obligations. This transport document was now no longer issued by timber companies themselves, but by a designated Ministry of Forestry official. Furthermore, now the amounts of PSDH and DR due were determined based on a Timber Production Report or LHP (Laporan Hasil Produksi), a report providing details of the types and volumes of a particular timber harvest, which had to be verified by an appointed Ministry of Forestry official. This revised policy specified that the timber royalty must be paid before the timber could be moved.

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The transport document for processed timber was referred as SAKO, Surat Angkutan Kayu Olahan.

Ministry of Forestry and Estate Crops Decree 316 of 1999
from the area of harvest to its destination. This means that they must be paid prior to the issuance of the SAKB. Thus the issuance of the SAKB served as a way of ensuring that the obligation to pay timber fees is fulfilled.

In May 2000, SAKB and SAKO documents were replaced with a single timber transport document, known as the *Surat Keterangan Sahnya Hasil Hutan* or SKSHH (see also section 3.5.2). Similar to its predecessor (the SAKB), the SKSHH is issued by a designated MOF official. The designated official was appointed by the head of the Kanwil (Forestry Regional Office) (Figure A2.2), the coordinating forestry office reporting directly to the Ministry of Forestry in Jakarta. After the abolition of the Kanwil, the Provincial Forestry Service took over the task of appointing the SKSHH official.

Apparently, however, in practice it was a different story. The LHP was verified by a designated forestry official, but the fulfilment of PSDH and DR payments was not required for the issuance of SKSHH. Until at least the end of 2003, it was common for centrally-licensed HPH companies to defer actual payment of their PSDH and DR obligations for at least one month after the SKSHH was issued. However, many HPH holders deferred payment for long periods of time, in particular after the 1997-1998 economic crises. The official procedure allowed HPH holders to defer their PSDH and DR payments with a 2% interest. However, SKSHHs were often issued regardless of the status of the PSDH and DR; such issuance usually involved some “informal transactions” (section 6.3.2).

In April 2003, apparently triggered by the enormous accumulation of unpaid or deferred PSDH and DR obligations, the Ministry of Forestry attempted a major overhaul of its policies regarding these payments. As described in section 4.2, by this time the PSDH and DR revenues were now managed as part of the national budget under the Ministry of Finance. This means that the size of PSDH and DR revenues collected (or uncollected) would be more open to external scrutiny. In April 2003 the Ministry of Forestry simultaneously issued a set of decrees requiring: 1) that all timber companies must pay any deferred PSDH and DR owed before their next year’s felling allowance (specified in the RKT) was granted; 2) timber companies must now pay PSDH and DR in advance of the granting of the next year’s entire felling quota based on stock estimates (ULHC).

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*8 The Kanwil was abolished shortly thereafter, as a consequence of the decentralisation law (see Appendix 2).
9 Officially, a minimum of 10% of the entire volume of timber is actually checked.
10 Interviews with staff of a HPH, B-P-1; senior Bulungan UPTD official, B-G-26; Kutai Barat’s official, K-G-20; and a senior APHI official, P-B-1.
11 Interview with P-B-1. The abuse of SKSHH was commonly reported across Indonesia and acknowledged by the Ministry of Forestry (for instance, Ministry of Forestry, 2005b).
12 Ministry of Forestry Decree 124 of 2003, Ministry of Forestry Decree 126 of 2003, and Ministry of Forestry Decree 128 of 2003. These decrees were effective retrospectively to January 1, 2003.*
One of the decrees also placed a district forestry official, rather than a provincial staff member, in charge of the verification of the LHP. District officials of both case study districts saw this as bringing with it an increased authority in the forestry sector. Later, the verification of LHP proved to be an important step required for the issuance of the SKSHH, as the PSDH and DR were required to be paid after and based on the verified LHP.

The provisions of the decrees requiring prepayment of PSDH and DR were strongly opposed by timber companies and Governors. The latter were in charge of issuing the RKTs, thus having an interest in the matter. One of the major arguments was that companies’ limited cash flow would not allow for a one-off payment of PSDH and DR for the entire stock estimates. The second major argument was that PSDH and DR payments made based on timber stock estimates would not be accurate because the estimates do not necessarily reflect the actual timber cut. The Association of Indonesian Forest Concessionaires (Asosiasi Pengusaha Hutan Indonesia, APHI) also lobbied the Ministry of Forestry to revise this policy. In December 2003, due to the strong opposition, the Ministry eased its policy by changing the requirement of PSDH and DR payments to be made after a certain volume of timber is felled and only for that particular volume of timber. However, proof of payment of PSDH and DR is now required prior to the issuance of the SKSHH. Although the requirements in the December 2003 policy change were more lenient than the intentions of the April 2003 policy, it was nevertheless a major step to ensure that the royalties for state assets are actually paid. A similar procedure had been attempted earlier through a 1999 Ministerial Decree, but had failed to occur in practice, in particular in relation to HPH holders.

From the point of view of the Central and provincial governments, the major purpose for the issuance of the SKSHH is to serve as “the last guard” for the monitoring and control of timber production. The document is the final requirement in timber administration after the timber is harvested and before it is marketed. The stated objective is to ensure that the timber harvested and transported out of a district has been produced under a legal license.

Since 2003 (for HPH holders in practice it began in 2004), the SKSHH set of documents has also functioned as a means of control over forestry royalty obligations. With the issuance of SKSHH now being subject to the payment of the due PSDH and DR fees, the appointment of officials responsible for the issuance of the SKSHH comes to the fore. To maintain control, the Ministry of Forestry stipulates that each official in charge of the issuance of the SKSHH is designated by the Provincial Forestry Service. Note also that under decentralisation, the province (and therefore the units within the province) has dual functions: as an autonomous government but also as an arm of the Centre (that is, carrying its deconcentration function).

173 Interviews with B-G-8a and K-G-3b
174 Interviews with P-G-5 and K-G-21
175 Ministry of Forestry Decree 126 of 2003
176 Ministry of Forestry Decree 126 of 2003
The administration of forestry payments in the two case study districts

As described in Appendix 2, for most districts, as in Bulungan, there are two forestry offices operating at the district level: the District Forestry Service and the technical implementation unit of the Provincial Forestry Service, *Unit Pelaksana Teknis Dinas* (UPTD). The staff of the District Forestry Service ultimately reports to the *Bupati*, while the staff of the UPTD are responsible to the Provincial Forestry Service and ultimately to the Governor. The responsibilities of these two forestry units are not clear-cut; there are some overlaps and both units are competing for authority. The District Forestry Service has been responsible for administering some of the day-to-day operations of timber companies/logging activities, mostly those operating under district licenses. The UPTD is responsible for the administration of the operations of centrally-licensed logging companies (HPH). However, most importantly, the administration of the SKSHH documents for all timber produced in the district, by companies operating both under district and Central licenses, has been handled by the UPTD. This means that the official designated to issue the SKSHH document works for the Provincial Forestry Service and is on the provincial government's payroll.

Kutai Barat, on the other hand, being a new district partitioned from an original district that took part in an earlier pilot project on decentralisation, does not have a UPTD. All forestry administration at the district level is handled by one unit, the District Forestry Service. As in Bulungan, the District Forestry Service is a district unit responsible to the *Bupati*. However, the official in charge of the SKSHH document, although assigned by the Provincial Forestry Service, is on the district's payroll. This is a notable difference from the situation of Bulungan. In the case of districts with no UPTD such as Kutai Barat, the Provincial Forestry Service has to appoint staff from the District Forestry Service as the official in charge for the issuance of the SKSHH. The Provincial Forestry Service thus makes sure that it chooses individuals with a track record of some degree of loyalty to the province. For instance, the official designated for the issuance of the SKSHH in Kutai Barat was previously a staff member in the branch of the Provincial Forestry Service (*Cabang Dinas Kehutanan*, CDK) (Figure A.2.2) and was known to have good personal relationship with officials in the Provincial Forestry Service in Samarinda. CDKs were abolished after decentralisation (Figure A.2.3)

Apparently, the 1999 policy requiring the fulfilment of PSDH and DR obligations prior to the granting of the timber transport document (then SAKB but in 2000 became SKSHH) was not enforced or was unenforceable on timber produced from HPH holders; however, district-licensed operators were required to pay their PSDH and DR fees before their timber transport document was issued. In Kutai Barat, the timely payment of PSDH and DR obligations from

timber felled under district licenses appears to have been more strictly enforced from the beginning and even prior to 2003. For instance, Kutai Barat’s documents suggest that proof of payment of PSDH and DR for district-licensed timber harvesting carried out in 2002 was one of the considerations for the issuance of the SKSHH document.

This requirement suggests that the district was very much interested in making sure that timber harvested under district licenses was regarded as legal and the legal procedures set up by the Centre were followed. In the case of Kutai Barat, all forestry administration under district licenses, from the issuance of the logging license and administration of logging activities to the issuance of SKSHH, was handled by the District Forestry Service. Thus, the district government had the sole authority and power over district-licensed operators from the beginning to the end. It exercised its power by requiring these operators to make their PSDH and DR payments to obtain their SKSHH, thereby following the Ministry of Forestry’s 1999 and 2003 policies. This reinforces the analysis in Chapter 3: districts, as much as possible, do attempt to operate within legal boundaries.

In the case of Bulungan, because the SKSHH document is issued by the UPTD, rather than by the District Forestry Service, the district lacked control over the payment of PSDH and DR obligations not only for timber produced under Central licenses, but also for those harvested under district licenses. By contrast, this was where the UPTD, a provincial forestry unit at the district level, exercised power over timber companies operating under district licenses. Because SKSHH is the document that officially distinguishes legal from illegal timber, it was in the interest of district timber operators to obtain this document. They therefore placed priority on the fulfilment of PSDH and DR obligations, rather than on district-imposed fees.

Both arrangements, however, provided room for the abuse of office. The issuance of the SKSHH document has been commonly associated with informal payment to relevant officials (section 6.3.2), because of its importance in terms of the legal status of the timber.119

**Reporting of forestry royalty payments**

Although there was no explicit hierarchical relationship between the Provincial Forestry Service and the District Forestry Service, the former played an important role in the administration of forestry fees and royalties.

*The case of Bulungan: the consequences of duality of forestry administration*

The existence of UPTD in Bulungan resulted in difficulties of access to PSDH and DR data leading to incompleteness or inaccuracy of PSDH and DR attributed to the district as the producing area.

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119 Interviews with B-P-8, P-B-1
The procedures for payment of forestry royalty presented above illustrate the role of UPTD, as the provincial forestry unit operating in Bulungan, in the administration of data concerning PSDH and DR payments under decentralisation. Consequently, reports to the Provincial Forestry Service of forestry revenue contributions from Bulungan were the responsibility of the UPTD. This has continued to the date of writing (2007). The requirement for the payment of PSDH and DR prior to the issuance of SKSHH strengthens the control of provinces over both timber production and forestry payments.

To monitor the forestry revenue sharing process, district governments must maintain data on forestry royalty payments for timber harvested in their jurisdiction. Because the administration of SKSHH in Bulungan is handled by the UPTD, the district has to rely on the UPTD to supply data on PSDH and DR payments for timber produced in the district vital for the monitoring of district’s share of forestry revenues. These data include both timber produced by companies operating under HPHs but also, at least up until 2004, all data on PSDH and DR payments made by district-licensed timber operators. This dual administrative arrangement, that is, the co-existence of two forestry units at the district level, poses a constraint to Bulungan’s effective record-keeping of its overall timber production data and the timber’s associated PSDH and DR payments because it is largely dependent on the cooperation of the UPTD.

The existence of two forestry units at the district level, however, added another step to the process recording forestry payments. Critically, the UPTD office issues the SKSHH document, including that produced under district licenses. District officials thus needed to interact with the UPTD office for two purposes: 1) to reconcile the district’s data on timber produced and the associated royalty paid under district licenses with that recorded by the UPTD as part of the SKSHH set of documents, and 2) to obtain data on how much timber royalties were paid for timber produced by centrally-licensed HPH concessions operating within the district’s jurisdiction.

Another difficulty associated with the co-existence of UPTD has had to do with the jurisdictions of the UPTD offices. UPTD offices handle forestry matters according to watersheds, rather than administrative boundaries. This arrangement has resulted in the administration of some of the timber produced in Bulungan by yet another UPTD office located in the neighbouring municipality, Tarakan. Therefore, to obtain the complete data on forestry royalties for all the timber produced in the district, Bulungan is not only dependent on the UPTD office operating in the district, but also on the UPTD office located in Tarakan municipality. All UPTD officials, however, are on the provincial payroll and therefore do not care whether or not forestry royalty payments are accurately attributed to each district

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179 As described in Chapter 3, district-licensed small-scale logging should have formally stopped by 2004, but at the time of fieldwork, some have actually continued to operate.

180 Interview with B-G-16
administered within their unit. Furthermore, as noted above, the province’s share of forestry revenue ultimately depends only on the total forestry royalty and fees paid for timber produced within the province and does not depend on the specific contributions of each district and municipality within the province. Therefore, the provincial officials lack the incentives to ensure that the origins of forestry royalty payments (that is, from which district or municipality) are accurately reflected in their data. Provincial officials’ main concern is only to make sure that all forestry royalty payments from every district and municipality within the province are duly recorded as originating from that province.

The district government’s need to obtain data from UPTD offices necessitates a good relationship between them. Personal relationships that had existed prior to decentralisation between the head of the District Forestry Service and the head of the UPTD in Bulungan – both had worked for the branch office of the Provincial Forestry Service in the original Bulungan District (see also section 3.5.1) – made forestry data sharing, including on forestry royalty payments, possible. The Bulungan-based UPTD also routinely forwards a summary report of PSDH and DR payments to the District Revenue Office. The relationship between Bulungan District Forestry Service and the UPTD positioned in Tarakan, however, was less amicable. According to a senior official at the District Forestry Service, they have had to “beg” to obtain data on timber produced in Bulungan and its corresponding PSDH and DR payments recorded by this particular UPTD.

The case of Kutai Barat: the consequences of provincial administration of HPHs and geographical location

Kutai Barat did not have to address the issues facing Bulungan of dual forestry administration but had other, no less important, concerns. In the case of Kutai Barat, because the District Forestry Service is the only forestry unit operating in the district, data on timber production and the corresponding PSDH and DR proof of payments required for the issuance of the SKSHH documents are recorded and maintained by this unit. This arrangement, for the purposes of estimating and monitoring the district’s share of forest revenues originating from the district, would seem to place Kutai Barat at an advantage over Bulungan.

Apparently, however, this was not the case during the first several years of decentralisation. Until at least the end of 2003, centrally-licensed timber operators in practice continued self-assessing their PSDH and DR obligations and as noted above, their fulfilment was not attached to the issuance of SKSHH. This timber transport document was issued regardless of (PSDH and DR) payment. Furthermore, the administration of the payment was handled by the Provincial Forestry Service. Therefore, even though the SKSHH are issued by

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1 Interview with B-G-15
2 Interview with B-G-16
3 Interview with B-G-16
the District Forestry Service, until the end of 2003 the District Forestry Service did not maintain up to date and ongoing records for the PSDH and DR payments made by HPHs, but obtained the data through annual reports sent by the Province.¹⁸⁴ Until 2003, for the purposes of monitoring the districts’ contribution of PSDH and DR and estimating district’s expected share, district officials had to estimate the PSDH and DR contributions from HPH concession holders operating in the district based on timber production. As the policy linking PSDH and DR payment with the issuance of the SKSHH began to be enforced on HPH holders more strictly in 2004, Kutai Barat’s circumstance – in which the SKSHH official is on the district payroll - became an advantage to the district.

Kutai Barat is responsible for the reporting of all timber production in the district. The district also reports the PSDH and DR payments which, until 2003, were only those for timber harvested under district licenses, and beginning 2004, including those from HPH operators. District documents also show that the District Forestry Service carbon-copied each payment instruction to the Provincial Forestry Service. This suggests two things. First, the District Forestry Service felt the need to inform the provincial government that they were following national policies (that timber produced under district licenses was also liable for royalty payments). Second, the Provincial Forestry Service was made aware, not only of the payment, but also of the district license.

Another issue facing Kutai Barat was that some of the timber produced in the district had been recorded as originating from the downstream, adjacent district of Kutai Kertanegara. The geographic location of Kutai Barat requires that all timber exiting from that district destined for the provincial capital, Samarinda via the only two available routes, the river system or by road, must go through Kutai Kertanegara. The Bupati was convinced that a significant quantity of timber produced in the district, rather than being correctly recorded as originating from the district, was erroneously recorded as originating from Kutai Kertanegara and notably, had been provided their SKSHH documents by this district. This would have resulted in the underreporting of the volume of timber produced in Kutai Barat and simultaneously, the underreporting of the district’s forestry royalty contribution. The Bupati was concerned that the district would lose the corresponding forest revenues to Kutai Kertanegara while the associated environmental consequences resulting from the timber harvest would be borne by Kutai Barat.¹⁸⁵ For this reason the Bupati instructed the head of the District Forestry Service to approach its Kutai Kertanegara counterpart to resolve the issue. However, the head of the District Forestry Service insisted that he had refused to provide this timber with the necessary SKSHH documents in the first place, as it had mostly been felled illegally. This issue of illegal timber

¹⁸⁴ Interview with K-G-20
¹⁸⁵ Interview with K-G-5
was one of several that caused disagreements between the Bupati and the head of the District Forestry Service and is discussed further in section 6.4.

Complications on royalties derived from district licenses

The issuance of numerous logging licenses by district governments across Indonesia’s forest-rich districts (Chapter 3) complicated the process of the allocation of forest revenue sharing. Unlike in most of the New Order period when the Ministry of Forestry had virtually the sole authority to issue logging licenses and therefore maintained all the corresponding documentation and records, under decentralisation the Ministry of Forestry did not have direct access to complete data on timber companies and their activities in the regions, in particular those operating under district licenses. The Ministry of Forestry only maintained complete records on companies working under its licenses. However, as most timber produced under such logging licenses, like the HPHH and IPHHK issued by Kutai Barat and the IPPK issued by Bulungan, were also subject to PSDH and DR fees, the Ministry of Forestry also needed to determine the origin (which districts/municipalities) of forestry revenues derived from timber produced under district licenses.

The Ministry’s lack of control over the issuance of district licenses was among the reasons suggested by the Ministry to explain the tardiness of forestry revenue redistribution to regions. Among the major difficulties was in the identification of the source of forestry royalty contribution (which district/municipality). As a consequence, the Ministry of Forestry has had to rely on data supplied by the province to assist in determining the origins of some of the PSDH and DR payments, in particular those made by companies working under district licenses. The concern of the Ministry of Forestry over lack of regional data, however, appears to be less a concern over inaccurate identification of the origins of forestry payments, than a concern over the Ministry’s declining control over forest area and its management, and the overall rate of timber production.

The Ministry of Forestry, however, had access to baseline data to begin the process of determining forestry revenue allocations to regions. These data were in the form of bank printouts detailing each payment transferred by timber companies. Timber companies submitted their PSDH payments to a Ministry of Forestry account in Bank Indonesia (the Central Bank), and DR payments to a Ministry of Forestry’s account in one of the largest state banks, Bank Mandiri. Using these data, sometime around mid year, Ministry of Forestry officials travelled to provincial capitals to conduct an activity known as the “reconciliation process” or

186 Interviews with N-G-2 and N-G-9
187 Interview with N-G-9
188 According to a senior official in the unit administering forestry fees (Bina luran Kehutanan dan Peredaran Hasil Hutan), these monies remain in these Ministry of Forestry’s accounts for seven days, before being transferred to the Central Treasury (interview with N-G-2). Beginning in 1997, revenues from natural resources were administered as part of the national budget, thus, by the Ministry of Finance.
rekonstiliasi. This refers to a manual reconciliation between the MOF’s (Jakarta bank’s printout) data and the provincial data on DR and PSDH payments. The data critical for the calculation of forest revenue share comprise the amounts of DR and PSDH payments made by companies in each producing district, that is, to pinpoint where each payment came from. Rather than reconciling with data maintained by individual districts in which the timber was produced, however, the Ministry of Forestry reconciled their data with those gathered (through reports from the UPTD and District Forestry Services) by the Provincial Forestry Service.

The flow of the process suggests the important role of the province in the allocation of forestry revenue sharing. This is because the Ministry of Forestry made no effort to discover the origins of the payments coming directly from districts, thus reports from districts to the province and what the province did with them were important. The provincial official in charge of the reports, however, complained that only a few districts reported their timber activities. The official specifically praised the reports from the UPTD operating in Bulungan, and complained about the non-cooperation of Kutai Barat in providing reports on timber activities.

The last statement was somewhat contradictory, however. Kutai Barat documents reveal that it carbon-copied district licenses to the Provincial Forestry Service and sent reports related to PSDH and DR obligations of district-licensed timber operators to the province. This suggests that the province should have the data on Kutai Barat’s timber licenses and, of particular relevance to this chapter, data on the district’s forestry royalty contribution for timber issued under district licenses (see above). The same provincial official, however, acknowledged that the handling of the administration of districts’ reports at the Provincial Forestry Service was messy; for instance, it was not uncommon to lose or misplace reports.

The reconciliation process at the provincial level appears to be anything but meticulous. An interview with the provincial forestry official in charge of the reconcilement process revealed that instead of actually reconciling these two sources of data, the process has only involved the checking and reconfirmation of MOF’s data with provincial data, to determine where (which province, which district) these companies (who submitted the payments) operate. Ministry of Forestry officials largely worked on their own in checking data provided by the province.

Among the district, provincial and Central governments, it is the districts that are most concerned about the accuracy of the records of PSDH and DR contributions. Provincial governments are only concerned about the total fees originating from the entire province, because provinces are guaranteed a specified percentage of the total PSDH payments submitted by companies operating in each of the producing districts and municipalities in that particular province (Table 4.1), irrespective of the district of origin of the timber and its corresponding

189 Interview with P-G-9, an provincial District Forestry Service official involved in the reconcilement process
190 Interview with P-G-9
fees. Similarly, the Central Government’s share of forestry fees and royalties depend on the total payment of all regions, irrespective of their origin. However, with the exception of districts that were involved in the decentralisation pilot project, like Kutai Barat, it is the province, through its district level units (UPTD), that controls and maintains records of PSDH and DR payments. Districts like Bulungan always have to depend on their UPTD counterparts to provide them with these data. The administrative structure therefore does not allow for districts to be involved in the process of forestry revenue allocation, nor to be able to systematically monitor, their forestry royalty contribution. This in turn affects their capacity to monitor their forestry revenue share.

The complex and detailed process of determining how much payment originated from which area has resulted not only in the tardiness in the allocation of PSDH and DAK-DR, which occurred well towards the end of each budget year, but also provided room for inaccuracy in the calculations. The Ministry of Forestry had begun to implement a computerized system to identify the origins of DR payments. However, as of March 2004, the system was still new. Furthermore, according to the Ministry official in charge of the collection of forestry fees and royalties, the Ministry of Forestry expected that the reconciliation of PSDH payments would continue to be handled manually in the future, as these payments are made to the Ministry’s account in Bank Indonesia. Bank Indonesia as the Central Bank does not have an online or cash management system, preventing the establishment of a computerized, on-line system similar to that established for DR payments in Bank Mandiri.

Denied access to formal involvement in the process of allocating forest revenue share, districts decided to take an informal approach, and went straight to the national level. This is discussed next.

4.4.2 Districts’ strategies in “going after” the money

The three district agencies most involved with forestry revenue transfer, the district Revenue, Finance, and Economic Offices, work closely with the District Forestry Service in estimating their forest revenue allocation. More importantly, however, district government officials interact, mostly informally, with officials of relevant agencies in Jakarta, with UPTD units, and with neighbouring districts. District officials were confident that such interactions would assist them in obtaining a more accurate allocation of forestry-derived revenues and/or information about the allocation.

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191 Interview with N-G-2, a senior Ministry of Forestry official in the unit administering forestry fees and royalties
192 Interview with N-G-2
Networking with national level actors

Rather than relying on the Ministry of Forestry or the provincial data, district officials made special trips to Jakarta to “check” on these allocations, with the two departments concerned – the Ministry of Forestry and Ministry of Finance.

According to key officials in district finance, the bottleneck for the distribution of central funds, particularly with regard to districts' share of forest revenues lies more with the Ministry of Forestry than with the Ministry of Finance.193 There has been a common strategy among forest-rich districts of Kalimantan to lobby relevant Ministry of Forestry officials individually, to try to ensure that the districts' data on which the redistribution of forestry-derived revenues are based, are accurately recorded by the Ministry. District officials make regular visits to Jakarta to carry out their own, informal, “data reconciliation and negotiations” with relevant officials at the Ministry of Forestry. A senior official at the revenue office of Kutai Barat disclosed:

“There are individuals that open up avenues for us in the Ministry of Forestry. These people assist us in calculating our share.” (interview with K-G-14a)

Interviews revealed that this sort of informal “data reconciliation and negotiations” has involved a form of “struggle” (perjuangan) on the part of district governments. Certain expressions were used in the interviews to explain that these “reconciliation and negotiations” usually took place in a spirit of informal, mutual cooperation (kekeluargaan) and were accompanied by informal transactions.194 The degree of difficulty in carrying out the “reconciliation and negotiations” was “like obtaining an identity card” (seperti mengurus KTP).195 In the Indonesian context this refers to having certain services administered/rendered through an easier, speedier process by giving modest informal “tokens” as an incentive to the service provider.

Often, sources used subtle expressions to describe the involvement of informal exchanges requiring an understanding of the Indonesian ways of referring to situations in an indirect or oblique way. For instance, the following was explained by a senior official of Kutai Barat Revenue Office:

193 Interviews with a senior official of Bulungan’s economic unit, B-G-17 and a senior official of Kutai Barat Revenue Office, K-G-14a, K-G-14b
194 For instance, interviews with a senior official of Bulungan District Forestry Service, B-G-16 and with a senior official of Kutai Barat Revenue Office, K-G-14a
195 Interview with a senior official of Bulungan District Forestry Service, B-G-16
 Including those in the Ministry of Forestry, if we ask for our data to be processed and examined, s/he is motivated to do it and there is an assumption here that if s/he is not given the motivation then s/he will not be motivated. And if the data have already been processed then s/he will contact us again and tell us that maybe the figures will soon be submitted to the Ministry of Finance.” (interview with K-G-14b)

Districts also lobbied the Ministry of Forestry to obtain information on the districts’ allocations in advance of the Ministry of Finance’s official allocation of districts’ share. The motivation for districts to find out about these figures as early as possible was to assist them in planning the district budget, as these transfers were always made after mid year or even later. During an interview, a senior official of the economic unit of Bulungan showed copies of a set of letters from the Ministry of Forestry addressed to the Ministry of Finance and cc-ed to the Provincial Forestry Service, detailing the Ministry of Forestry’s data on the total PSDH and DR payments made by timber companies from each district across Indonesia during a particular year. District offices were not among the addressees of these letters, clearly showing that districts were not meant to be the recipients of such letters. Bulungan, however, managed to obtain copies through intensive lobbying and “friendship” nurtured with certain officials at the Ministry of Forestry. As a senior official in Bulungan Economic Office pointed out:

“District governments must have friends in the department.” [my emphasis]
(interview with B-G-17)

Besides the Ministry of Forestry, one other key actor in the allocation and the distribution process of forest revenue transfer is the Ministry of Finance. Districts therefore, also have had to set up their networks with this department. A senior official of the Revenue Office of Kutai Barat explained that sometime in 2004 his office found out through its informal channels that there were about 2.5 billion rupiah (280 thousand USD) of the district’s share of PSDH for year 2003 that had remained in the Central Treasury. This amounted to 7% of the total PSDH transfer actually received by the district in 2003. Yet the Ministry of Finance neither formally informed the district of the existence or status of this money, nor had transferred the money to the district. Gaining such information, he admitted, was only possible through the district’s informal network that he had built up with certain personnel at the Ministry of Finance. The senior official admitted:

“The original statement, in Indonesian, captures the “exchanges” more aptly: “Termasuk orang di Departemen Kehutanan, kalau kita minta data kita untuk diproses dan dite/iti, dia semangat untuk mengerjakan dan ada anggapan bahwa kalau tidak disemangati maka tidak semangat. Dan kalau datanya sudah diproses dia akan menghubungi lagi dan bilang mungkin dalam waktu dekat ini akan masuk ke Departemen Keuangan.” (interview with K-G-14b)
"In the Ministry of Finance we have a "friend" who usually gives us informal information, his [her] name is [ ]. We know that information is expensive and important. Although only through SMS we should understand ……. although it is actually his [her] routine task. Usually the person only gives the digit, there is no limit."(interview K-G-14b)

A similar case reported in the media shows consistencies with Kutai Barat’s experience. A large sum of PSDH share of 2000-2001 for the East Kalimantan provincial and local governments was reportedly retained by the Central Government until as late as September 2005 (Kaltim Post, 1 September, 2005c). East Kalimantan provincial officials had to lobby members of the parliament handling national budget issues and officials at the Ministry of Finance for its disbursement, which was promised following revisions of year 2005 national budget.297

District and national level officials interviewed admitted that such informal negotiations did occur and that they have involved “informal exchanges”, but they expressed different opinions on their outcomes. Officials in the two districts were convinced that the informal reconciliation process of their data with that of the Ministry of Forestry resulted in districts’ increased (or more accurate) allocation of shared forest revenues and in a more rapid process of their transfer.298 National level officials within or engaged directly with these two ministries, however, held a different view on the former. These “brokering” trends, although they could not be confirmed with the Ministry of Finance, were acknowledged by a Jakarta academic who is an expert in the Ministry of Finance and is familiar with how things work in the Ministry.299 This source, however, understood that such transactions could result in the speedier disbursement of transfers, but was sceptical about the perception that they actually increased the share of districts. Similarly, a senior Ministry of Forestry official admitted that these “brokering” arrangements did indeed occur within his Ministry, but they were individual exchanges and were by no means endorsed by the Ministry.300 According to this official, some individuals involved were demoted to lower positions as a result. Similar to the expert in the Ministry of Finance, this official asserted that these transactions would not affect the size of forest revenue allocation to districts, as they were determined based on the Ministry’s data.

301 Once the network is established, there is thus less necessity for district government officials to visit Jakarta in person as communicating by telephone or through short text messaging is then sufficient (interview with K-G-15a).
302 As natural resource revenues are now administered as part of the national budget, the parliamentary commission in charge of the national budgeting has to endorse the regions' allocations (that is, they must be within the national budget).
303 For instance, interviews with K-G-14a and with B-G-17.
304 Interview with N-A-8, an advisor to the Ministry of Finance.
305 Interview with N-G-9, a senior official of the Ministry of Forestry.
4.4.3 Fiscal decentralisation and Central grip: the power of money and information

Under decentralisation, districts not only had to struggle to retain a hold on their short-lived forestry authority (Chapter 3), but also felt that they had to (and did) make conscious efforts to pursue their — albeit legally guaranteed — forestry revenue share. Whether or not these efforts at the end resulted in an increased or more accurate share is largely irrelevant, as well as difficult to determine, as it would involve compiling forestry payments from all districts and municipalities within the province. In the eyes of the districts, obtaining the rightful share, commensurate with payments made for timber produced within their jurisdictions and as specified by Law 25 of 1999, has itself involved yet another form of “struggle”.

For local governments, this “struggle” has included efforts to 1) obtain data for forestry royalties on timber produced in the district from provincial units handling the data at the district level and from the neighbouring district government; 2) ensure that districts’ forestry payments are accurately taken into account in the calculations of forestry revenue allocation by the Ministry of Forestry; and 3) obtain information on the allocation of districts’ forestry revenue share from the Ministry of Forestry and the Ministry of Finance.

For the Ministry of Forestry, the process has involved difficulties over access to or in securing information on timber production, origins, and associated forestry royalty payments. These difficulties are inextricably linked to the structure of forestry institutions administering forestry data and to the locus of and struggle over forestry authority. The absence of administrative links between forestry units at various levels of government eroded Central Government’s control over districts’ actions (in this case, in districts’ failure to report district timber activities). Assigning provincially-appointed officials with the task of issuing the SKSHH documents would address this problem, as provincial officials in carrying out deconcentration functions act as the arm of the Central Government and because the set of SKSHH documents specifies the origin of the timber, its type and volume, and attaches proof of the PSDH and DR payments. However, the manual reconciliation process has opened up the potential for inaccuracy. Second, the shift in the locus of forestry authority from the Centre and then back to the Centre for a period of time resulted in uncertainty over the legality of district logging licenses and consequently, timber produced under these licenses, hence a disincentive on the part of district governments to report them.

In the two districts studied, the contestation of power around forestry revenue sharing processes has been peripheral, and has been mostly limited to failure to report their data. There were, however, more extreme cases where other districts openly challenged the Centre’s authority over the distribution of forestry revenues. Two districts in West Kalimantan seized the PSDH and DR fees by instructing logging companies to submit their payments directly to
district accounts, instead of to the specified Central Government accounts (Komite Anti Korupsi Rakyat Borneo, 2005). These districts instead retained the entire portion and included it in their budgets. The severity of this “challenge” was such that the Ministry of Forestry had to send strong warnings to all Bupatis, Mayors and Governors across the country to remind them that by law, these payments were required to be made directly to Central Government accounts. The Bupati of Berau District in East Kalimantan at one point had exempted district-licensed logging companies from paying PSDH and DR fees. This policy was scrutinized by the district attorney and the Bupati was subsequently investigated with corruption (Kompas, 21 October, 2004d; Gatra, 18 November, 2004). This Bupati’s policy was in effect challenging the Centre’s fiscal authority to impose forestry fees and taxes. While neither the Bupati of Bulungan nor Kutai Barat made similar extreme decisions, these other cases illustrate vividly the struggle over forestry-revenues and authority between local governments and the Centre in the forestry sector. The Bupatis of Bulungan and Kutai Barat Districts appear to have been more cautious about decisions that overtly contravene Central policies, and have instead chosen more covert strategies (Chapter 3).

It is therefore argued that, although the Ministry of Forestry has lost much of its power over the uses and distribution of nationally-pooled forestry-derived revenues, it has nevertheless managed to maintain some of its leverage vis-à-vis local governments, by playing a critical role in the process of forest revenue sharing. Prior to 1997, PSDH and DR revenues were not included in the national budget and were administered solely by the Ministry of Forestry (section 4.2). The uses of these revenues, including the portion to be shared to regional governments, during almost the entire New Order period were not transparent and were mostly determined through Presidential Decrees. This has often resulted in their ad hoc use (section 4.2). The inclusion of forestry-derived revenues since 1997 in the national budget means that the Ministry of Forestry has lost much of its control over the uses and redistribution of forestry revenue to the Ministry of Finance. Despite this reduced power and the difficulties involved in the collection of forestry data under decentralisation, however, the Ministry of Forestry still retains some control over the redistribution of forestry revenues. As a technical department, the Ministry of Forestry has positioned itself as an important actor in determining the share of regions. The non-transparent mechanisms in the calculation of forest revenue sharing allocations have resulted in the districts’ share, as districts have perceived it, being dependent on the manner in which the Ministry of Forestry actually carries it out. Thus from the

\[\text{Districts of Sintang and Kapuas Hulu in West Kalimantan.} \text{ Law 20 of 1997 on Non-Tax Government Revenues and Government Regulation 51 of 1998 on PSDH require that they are paid directly to Central Government accounts.} \]

\[\text{Ministry of Forestry’s Circular No. 1776/Menhut-VI/2002 regarding the payments of PSDH and DR} \]
perspective of control over the processes of forest-revenue sharing, the Ministry of Forestry has been able to continue to maintain at least some leverage over local governments.\(^{294}\)

Districts are not only (very) dependent on the Central Government for the forestry resource revenue transfer itself, as they represent a substantial portion of districts' budgets depicted in Table 4.2 but are also dependent on certain individuals in Central Ministries to make the transfers occur under more favourable circumstances. Individuals in the Ministry of Forestry and the Ministry of Finance "assisted" district governments in at least three ways: 1) receiving their transfers in a timelier manner; 2) receiving more accurate transfers (as perceived by district governments) by having districts' supplied data accommodated in their calculations; and 3) providing information about these transfers. These "central brokers" clearly expected and received material rewards in exchange for these favours. Hence, for districts, obtaining information regarding their share of (formal) forestry rents and obtaining the actual (formal) forestry rents under more beneficial circumstances have involved informal rents.

From the national level perspective, the processes associated with the structure of fiscal decentralisation in the Indonesian context as represented by the two case study districts have involved rent-seeking by individuals at influential Central ministries. From the district level perspective, fiscal decentralisation has necessitated informal networking with individuals at the Ministry of Forestry and the Ministry of Finance to both submit and obtain fiscal information district officials' perceive will lead towards forestry revenue share commensurate with the level of forest extraction within their jurisdiction as specified by Law 25 of 1999. Fiscal decentralisation as it has proceeded in the Indonesian context and specifically in the forestry domain, therefore, has opened up opportunities for the abuse of public power by exploiting privileged access to information to gain personal benefits at the level where power was relinquished (that is, the national level).

### 4.5 Locally Generated Revenues (PAD) from forest extraction

As described in Chapter 3, the need to raise revenues for the district budget to finance its development, and at the same time the increased opportunity for generating PAD, have motivated forest-rich districts to formulate and implement extractive forestry policies and decisions largely geared towards short-term economic rewards. Bulungan and Kutai Barat along with many other districts in the Outer Islands are characterized by a lack of established infrastructure and manufacturing industries. Thus, by default there are not many development or economic options other than the exploitation of their natural resources, including those

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\(^{294}\) Similar issues in the critical role of technical departments in the redistribution of natural-resource revenue sharing have been found in the case of oil, gas and mineral sectors (Anonymous, 2006).
facilitated by the issuance of district logging licenses. This section focuses on the significance of PAD in district finances and how they have been used by districts.

Unlike Central transfers such as shared forest revenues whose size and time of distribution have often been uncertain, the PAD is handled and controlled directly by local governments without any interference from the Central Government. Because of this advantage, the PAD is much preferred over Central transfers. The PAD in the forestry sector generally consists of levies and charges applied to timber activities, notably Third Party Contribution (Sumbangan Pihak Ketiga, SPK), which are area-based charges on timber concessions and retribusi, which are volume-based fees.

PAD did not make up a large percentage of the total district budget in either of the case study districts (Table 4.2). In terms of the percentage of Bulungan’s overall budget, the contribution of forestry-derived PAD was relatively small, namely 4%, 0.4%, and 0.6% in 2001, 2002, 2003, respectively. Similarly, the contribution of forestry PAD for Kutai Barat’s budget in 2001, 2002, and 2003 were 0.5%, 3%, and 0.8%, respectively. Nevertheless, they translated to 16, 1.6, and 3 billion rupiah (about 1.8 million USD, 180,000 USD, and 333,000 USD, respectively) for Bulungan and 1.8, 16, and 5.7 billion rupiah (about 200,000 USD, 1.8 million USD, and 633,000 USD, respectively) for Kutai Barat.

PAD derived from forestry, however, made up a substantial proportion of the total PAD for each district, thus explaining the emphasis on the districts’ extractive forestry policies in supporting the district budget (Table 4.2). These figures were probably lower than the actual figures because they were masked by the fact that some were unidentifiable, as they were lumped together in a category called “other miscellaneous income”. Because they were considered non-permanent income, they were not assigned a specific category.265

Much of the forestry PAD was derived from district logging licenses and their operations. However, the two districts also found ways to raise significant amounts from other sources, including from HPHs. For Bulungan, forestry PAD in 2001 was much higher than in the two following years; it constituted three-quarters of the entire PAD of the district. Much of this was raised from log export charges accumulated during the first ten months of that year, the short stint when Bulungan could get away with the direct exportation of logs before it ceased following a Central Government subsequent policy (section 3.2.2). For Kutai Barat, forestry PAD in 2002 contributed to nearly half (46%) of its total PAD, much higher compared to both the previous and following years. Retribusi on district-licensed small scale-logging activities represented one single largest source (99%). In 2003, 15 percent of the forestry PAD of Kutai Barat comprised direct Third Party Contributions (Sumbangan Pihak Ketiga, SPK) made by two

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265 Interview with an official at the Revenue Office of Bulungan District, B-G-20
HPhs. This “contribution” was as a result of the direct demand by the Bupati. The Bupati contended that the contribution of HPhs to district development was minimal and pressured them to submit a significant amount directly to the district’s treasury (see also section 6.3.1). The money raised was ostensibly planned to finance a segment of a road often utilized by the HPhs. The Bupati also applied pressures to a centrally licensed, foreign-based gold mining company to make substantial direct “contributions” to the district budget.

Districts’ total forestry revenues (that is, districts’ share of PSDH and DR payments in the form of forestry revenue transfer from the Central Government plus district forestry PAD) show the significance of the overall contribution of forestry activities to the district (Table 4.2). For Bulungan they represented 8.7%, 5.4%, and 12.7% of its total 2001, 2002, and 2003 revenues, respectively. For Kutai Barat, they constituted 11.3%, 6.7%, and 14.4% of its 2001, 2002, and 2003 revenues, respectively.

The revocation of districts’ authority to issue logging licenses, therefore, meant the loss of a significant portion of these revenues, as districts could now only accumulate forestry revenues derived from the payments made mostly by HPh holders or by other remaining timber activities. This has been one of the reasons why logging-licensing was extremely important to the districts, hence the tension between the districts and the Ministry of Forestry.

4.6 District uses of forestry revenues

The second theme of this chapter is how the funds originating from the rapid forest exploitation have been used in the districts. The bulk of forestry revenues redistributed back from the Centre, PSDH specifically, and other forestry-related revenues generated as PAD have mostly been used to finance non-forestry development expenditures. Only a small proportion was earmarked to support forestry activities.

For instance, in the case of Bulungan, in year 2003, out of the 292 billion rupiahs (about 32 million USD) of development funds, only 5.35 billion rupiah or 1.8%, was allocated for forestry activities. This was much smaller than the 12.7% of the overall contribution of forestry to the district total revenue (Table 4.2). Furthermore, 4.9 billion rupiah or nearly all of it was DAK-DR Fund earmarked specifically for the nationally-imposed forest and land rehabilitation activities (the RHL Project, Chapter 5). This is equivalent to 1.7% of district’s total development expenditure. The uses of DAK-DR funds are restricted to reforestation and rehabilitation activities, which must conform to Central Government guidelines and are monitored by provincial governments (Chapter 5). Only 150 million rupiah (about 17 thousand

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307 The data on the two districts’ budgets post-2003 were not available during the major field work.
USD) was used for other forestry development activities as the district’s own initiative. This translated to a mere 0.05 percent of unrestricted development funds. Compare this to the contribution of forestry revenue outside the DAK-DR for the same year, which was 4.7% of the total district revenue for that year.\(^{238}\)

This trend of placing a low priority on forestry projects continued in the following year. In the 2004 budget, only 0.07 percent of development funds outside the DAK-DR Fund was allocated for forestry development. Yet this allocation was to be used to fund supporting activities associated with the RHL Project (Chapter 5). This means that for this year, forestry development activities in the district were entirely nationally-imposed. The districts did not allocate any funds to carry out their own initiatives in the forestry sector.

Similar to Bulungan, Kutai Barat hardly reinvested any of its forestry-derived income in its forests. In 2001, only 0.2% of the total development funds were used to finance the district’s forestry development program. Although the RHL Project was to begin in that year, the delay of the DAK-DR Fund’s distribution until well towards the end of the year prevented it from being implemented in the same year (Chapter 5). Thus the DAK-DR allocation for 2001 was used to fund forest and land rehabilitation activities in the following year. In 2002 the district invested 3 billion rupiah or 1% of the total development expenditure in forestry activities other than the DAK-DR funded RHL Project. By comparison, forestry-derived revenue not including the DAK-DR Fund for that particular year contributed 5.3% of the total district revenue. The district’s DAK-DR funded RHL Project constituted 9.3% of the total development expenditure. In 2003, this reforestation and rehabilitation Project was the only project directly targeted in the forestry sector that was funded by the district budget. For that year, the DAK-DR revenue constituted 7.4% of the total development expenditure targeted in the district budget (but only 2.5% was actually realized). The district allocated only 0.05% of its development budget to support the RHL project. In comparison, outside the DAK-DR, the contribution of the forestry sector to the total district revenue for that year was 6.1%.

The description above shows that the two districts used much of the revenue derived from forestry activities to finance other development. It shows the importance of forestry in financing the districts’ needs, thus signifies the districts’ dependence on forestry-derived funding. In terms of the management of the resource base, it reflects the extent to which district governments consider forestry development or activities that support it unimportant relative to other development initiatives. Districts’ modest forestry-related expenditures clearly indicate that they consider forestry development in their areas a low priority and that they give other, non-forestry development much closer attention.

The intensive pursuit of forestry-derived revenue and its use largely for purposes other than forestry during the early years of decentralisation, as illustrated by the districts’ revenue

\(^{238}\) Calculated from data supplied by the Bulungan District Revenue Office
and budget in 2001-2003, suggest that forestry was used as a cash cow for districts' development. This parallels the situation during the early years of the New Order period, where the Central Government intensively extracted national forest resources and used their proceeds to finance national development (section 3.1.1 and Appendix 2).

Indonesia's fiscal decentralisation measures have given districts substantial discretion in expenditure and some discretion on the income side (Alm et al., 2001; Lewis 2005). Data from the two districts studied indicate that districts' discretion in income generation and their broader discretion in expenditure did not motivate decisions that sought to maintain the sustainability of their forestry resources. Districts appear to be more focused towards generating revenues via resource extractive policies, and less on reinvesting the revenues generated to ensure sustainability of the resource.

The above description not only demonstrates the lack of commitment and willingness of the districts to design and implement initiatives in forestry-related development activities, but notably, that the nationally-imposed Forest and Land Rehabilitation Project (the DAK-DR funded RHL Project) constituted the only major forestry activity financed by the district budget. In fact, in 2003, the RHL Project was the only forestry project in Kutai Barat financed through the district's budget. Other forestry development initiatives such as the establishment of legal instruments and technical guidelines for the district's community forestry project were supported by donor funding (section 6.1.1). Similarly, in 2004, the RHL Project was the only forestry project financed through Bulungan's budget.

### 4.7 Conclusions

Generating state revenue is one of the most important objectives of commercial forestry activities in Indonesia, both prior to and under decentralisation. Before decentralisation, the Central Government levied national forestry fees and royalties, which has continued under decentralisation. Under decentralisation, timber produced under district licenses has also had the same national forestry fees and royalties applied, in addition to district-imposed fees and charges.\(^{209}\)

As part of fiscal decentralisation, a larger percentage of forestry revenues derived from these national fees and royalties is now allocated and distributed to local governments. Because the districts' share of forestry revenue makes up a significant proportion of districts' budgets, their actual transfer, in terms of both size and timing, is important to the districts. Thus, it is not only the size of the financial transfers that is important to districts; the process of the allocation and distribution is no less important.

\(^{209}\)Kutai Barat's IUPHHK that have not been withdrawn or cancelled presumably are still in operation to date.
The major problem with the implementation of forestry revenue transfers has been the non-transparency of the allocation process. This has occurred despite Law 25 of 1999 (and its subsequent superseding revised version, Law 33 of 2004, Appendix 5) guaranteeing that local governments obtain a higher portion of forest revenue share. The resulting forest revenue transfers were often disbursed late in the budget year, and more importantly, local governments have perceived that these transfers were inaccurate. The two local governments studied were convinced that allocations were lower than they should have been or that part of their share had been withheld by the Centre.

Practical technical difficulties with determining the origins of forestry payments have contributed to the problem. These difficulties have been associated with the deterioration of the systematic collection of data on forestry payments. This breakdown has been attributed to 1) the duality of forestry administration at the district level, 2) the severance of direct linkages between forestry units at different levels of government, and 3) district forestry regimes, notably district logging licenses, operating mostly independently from other levels of governments.

The operation of two separate forestry units at the district level – the District Forestry Service and the forestry unit working under the provincial government – as in Bulungan, has meant that data on timber-related activities are scattered between the two units. Most importantly, and affecting the process of forestry revenue transfers, it is the forestry unit working for the provincial government, rather than the district forestry unit, that is in effect the repository for the data on forestry royalty payments at the district level. Yet as this provincial forestry unit has no line of formal responsibility to the district government, it is not obliged to provide these data to district agencies. The provincial unit supplied such data to the district merely as a friendly gesture that relies upon established informal or personal relationships between officials working for the unit and district officials. There is no systematic means of relaying these data to relevant district offices.

The abolition of a hierarchical administrative relationship (section 3.1.2 and Appendix 2) between districts and provinces has resulted in a disconnect in forestry administration between the district and provincial levels. Similarly, the lack of administrative linkages between districts and the Ministry of Forestry has led to a lack of direct links between forestry administration at the district and national levels. The absence of these direct linkages has caused gaps in the flow of forestry data between and among levels of government.

The issuance of district timber licenses and their operations, during the period when districts could issue logging licenses – legal or otherwise – was largely independent of other levels of government. Consequently, for districts without a UPTD such as Kutai Barat, unless districts reported these activities, other levels of government would not maintain the relevant data on timber products and forestry fees and royalties. Even if districts sent their data to the provincial level, whether or not their data would be taken into account in the calculation of their revenue share was largely beyond districts’ control. This in turn led to complications in the identification of the origins of timber produced and associated forestry payments.
The largely non-transparent process led to the districts' perception that they could influence the process of forest revenue transfer allocations. That process has encouraged informal forms of “intervention” to be perpetuated by local governments. Local governments perceived that they needed to actively affect the process to obtain the higher allocations that they perceived were more accurate, to find out about the allocations prior to disbursement, or to make sure that they actually received what had been allocated to them. District governments thus made a conscious effort to approach relevant actors, to have their data accommodated in the calculations or to obtain information about the districts' forestry revenue share, at the national level. This opened up opportunities for the abuse of power by officials in the two departments that determine the process of the allocation and distribution of forestry revenues to regions, the Ministry of Forestry and the Ministry of Finance.

While one of the often-assumed pitfalls of decentralisation has been the increase of local corruption (section 2.2 and Appendix I), this chapter has shown that both the structure and the processes of fiscal transfers under Indonesia's decentralisation in the two case study districts have opened up opportunities for informal exchange between sub-national level government officials and bureaucrats at the national level.

Thus the process of forestry revenue transfer has involved yet another form of “struggle” on the part of district governments. Central control is conspicuous in the process of fiscal transfers. On the one hand, the Ministry of Forestry has encountered difficulties in obtaining complete and accurate timber production-related data, including the origins of payments of forestry royalties critical to the determination of regions' allocation of their share of forestry revenue. These difficulties have been attributed to the changes in the forestry organisational structure under decentralisation and to the districts' increased autonomy which has led to districts failing to report their timber-related activities. On the other hand, however, the Ministry of Forestry continues to maintain leverage vis-à-vis local governments. As a technical department, it is responsible for identifying the origins of forestry payments and for determining the share of revenue to be paid to local governments. The Ministry of Finance acts as the main agent in disbursing the money. Thus these two ministries, from the perspective of forestry revenue sharing, are the two most powerful central agencies.

Consistent with the findings discussed in Chapter 3 about the power struggle between and among levels of governments over forestry authority, the findings of this chapter heighten the significance of the power relations between governments in shaping forestry-related dynamics under decentralisation. Power relations between levels of governments have, to a certain extent, shaped the processes of forestry revenue sharing. Specifically, the tension between and among levels of governments essentially boils down to, or at the very least is associated with, the squabbles over the share of forestry rent.

The struggle for power over forestry administration between governments has serious implications for the resource base. One indirect consequence of the contestation over forestry powers under decentralisation, between district governments as the loci to which powers were
transferred and the Ministry of Forestry that relinquished powers, has been the breakdown of the system of data collection with consequent deterioration in the quality of forestry data, including that associated with timber harvesting activities. Although the difficulty of obtaining accurate forestry data was also generally true during the pre-decentralisation period (for instance, FWI/GFW, 2002), the weakening of the structures for forestry data collection and recording under decentralisation has meant that informed policy making towards SFM is made even more difficult.

Forestry revenues for the districts both in the form of shared revenues and in those generated through local initiatives (PAD) have constituted a significant proportion of the districts’ budgets. However, the two district governments have so far expended much of their efforts on securing “profits” from timber, and much less on sustaining the resource. Both districts have spent very little of the monies derived from forestry activities on district forestry initiatives or development. In fact, the major forestry project in both districts has been a national initiative, the DAK-DR Forest and Land Rehabilitation (RHL) Project.

Because the DAK-DR Forest and Land Rehabilitation Project was the major, if not the only, forestry project financed through the districts’ budget, the Project is very important in terms of timber replenishment and ecological improvement. The ways in which the Project was implemented in the districts therefore are of particular interest, and are described in the next chapter.
Chapter 5: Regreening or Green Landcruisers? Implementation of the DAK-DR Forest and Land Rehabilitation Project

"The DAK-DR Fund is used by districts for regreening, for green landcruisers and for anything else that's green, but not for regreening critical lands." (interview with N-G-5)

During my 2004 fieldwork in Indonesia, the frenzy of logging activities under small-scale district licenses had formally subsided. From that year on, the Forest and Land Rehabilitation Project, funded by the DAK-DR Fund, began to dominate forestry activities in the two case study districts.

The previous chapter described the significance of the DAK-DR Fund in terms of the magnitude of the Fund compared to districts’ overall budgets and in terms of the size of the rehabilitation project it financed. For three consecutive years (2002-2004 implementation years), the DAK-DR Forest and Land Rehabilitation Project was the largest in terms of budget allocation in both Bulungan and Kutai Barat Districts, outside the transportation sector and the construction of district offices. Furthermore, the Project is the principal vehicle being used both to rectify the adverse environmental consequences of timber exploitation and to sustain the forest resource over the longer term. The ways in which the DAK-DR Fund was allocated to, and how the RHL Project was implemented by, the districts are thus important for both the district economy and environment, and are described in this chapter.

Under the national Reforestation Fund (DR) 60% is allocated to Gerakan Nasional Rehabilitasi Hutan dan Lahan (National Movement for the Rehabilitation of Forests and Lands - GNRHL) managed by the Ministry of Forestry, and 40% to the DAK-DR Fund managed by local governments (section 4.3.1). The latter is only to be used for reforestation activities, known as the DAK-DR Rehabilitasi Lahan dan Hutan (Rehabilitation of Land and Forests - RHL) Project, henceforth the RHL Project. Although both the GNRHL and RHL are national initiatives, the two projects are managed very differently. Implementation of the GNRHL is the responsibility of the Ministry of Forestry, and is outside the scope of this thesis. In contrast, while the RHL Project is imposed by the national government, its activities and financial management are handled directly by district governments, and thus is the focus of this chapter.

The chapter pursues two major themes: the allocation and distribution of the DAK-DR Fund under fiscal decentralisation, and the implementation of the RHL Project under that Fund.
5.1 The allocation and distribution of the Specific Allocation Fund-Reforestation Fund (DAK-DR) to districts

Four national legal instruments determined the allocation of the DAK-DR Fund to districts, the mechanism for the allocation, and the use of the DAK-DR Fund up until the period of this study. They were Law 25 of 1999 on Fiscal Balancing, Government Regulation 104 of 2000 on Balancing Fund, Government Regulation 35 of 2002 on Reforestation Fund, and the General Guidelines for the Management of the DAK-DR for the Implementation of the Rehabilitation of Forest and Land of 2001. For simplicity, the last of these will be referred to throughout the remainder of the thesis as the General Guidelines.

Similar issues to those discussed in Chapters 4 and 5, in the context of authority transferred to districts under decentralisation, also arose in the DAK-DR allocations to districts. Notably, the ambiguity or lack of specificity in the language of the relevant legislation and legal instruments resulted in different interpretations and, consequently, discontent among district governments. Unlike the PSDH (Chapter 4), the percentage of the district’s share of DAK-DR was not specified clearly in the governing legislation. Both Law 25 of 1999 and its implementing regulation, Government Regulation 104 of 2000, specified only that 40% of the DR collected was to be returned to producing regions. The remaining 60% was to be allocated to the national government. The term “producing regions” was not clearly defined in either of the legal instruments. As noted in Chapters 1 and 4, however, Law 22 of 1999 did define “regions”, to mean provinces, districts, or municipalities.

In June 2002, the Government passed Government Regulation 35 of 2002 on the Reforestation Fund; this set up the guidelines for the uses and allocation of the Reforestation Fund. As in Government Regulation 104 of 2000, this regulation merely restated that 40% of the Reforestation Fund was to flow to producing regions and the remainder to the Central Government, but once again did not specify explicitly what was meant by “producing regions”.

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124 These General Guidelines were prepared by four central departments and were promulgated through Joint Circulars No. SE-59/A/2001 (Minister of Finance circular); No. SE-720/MENHUT-III/2001 (Minister of Forestry circular); NO. 2035/D.IV/05/2001 (Head of the National Planning and Development Agency, BAPPENAS); and No. SE-522.4/947/V/BANGDA (Minister of Home Affairs and Regional Autonomy Circulars). Similar to the Ministry of Forestry which underwent a change in name during the initial process of regional autonomy, the Ministry of Home Affairs for a short period also became the Ministry of Home Affairs and Regional Autonomy, and was subsequently became the Ministry of Home Affairs again. Although a draft of a revised version was available by mid 2004, the 2001 version of these General Guidelines continued to be used at least up until 2004.
regions". It specified that provincial governments were to coordinate the 40% share among the local governments within their jurisdiction.

The process of allocation and final distribution of the DAK-DR Fund differed from that of the PSDH. The latter, after allocation, was distributed directly to district coffers. The allocation and distribution of the DAK-DR Fund, however, was to follow a two-stage process. The Ministry of Finance first determined the allocation of DAK-DR for each province. In each province, another process was then followed to determine the actual share of each district or municipality.

In practice, “producing regions” has not been translated as producing districts, but has referred to all local governments (districts and municipalities) within a particular province. Table 5.3 summarises the allocation of DR among districts and municipalities in East Kalimantan Province. The way in which this 40% share was allocated to each district/municipality within the province could, in fact, disadvantage “producing” (in the literal sense) districts. District governments, on the other hand, interpreted that the 40% share should go only to the districts actually producing the timber, rather than to all the districts and municipalities in the province. This lack of clarity has thus sparked discontent among producing districts, including the two case study districts.

5.1.1 Allocation of the DAK-DR Fund to provinces and the case study districts

Allocation to provinces

Based on the Ministry of Forestry’s allocations (Chapter 4), the Ministry of Finance determined the amount of DAK-DR allocations for each producing province through a Ministerial Decree. Based on this Ministerial Decree, the Budget Director General of Ministry of Finance informed each province of its allocation. Allocations for the 2001-2003 budget years are shown in Table 5.1

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211 Article 10 subsection 1
212 Article 11 only stated that “each year the provincial government coordinates districts’ RHL proposals for the Ministry of Finance to obtain the forty percent portion as stated in article 10 subsection 1”
213 For instance, interviews with senior officials of Bulungan and Kutai Barat, B-G-22, B-G-9b, K-G-14
214 The role of the Ministry of Home Affairs and the Head of the National Planning Agency in the allocations were not as critical as the other Central Agencies. The role of MOHA was to endorse the status of the districts/municipalities, while the Head of the BAPPENAS was to ensure that the allocations were included in national priorities.
<table>
<thead>
<tr>
<th>Province</th>
<th>2001 In million rupiahs</th>
<th>2002 In million rupiahs</th>
<th>2003 In million rupiahs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nanggroe Aceh Darussalam</td>
<td>22,834</td>
<td>2,506</td>
<td>697</td>
</tr>
<tr>
<td>North Sumatra</td>
<td>26,369</td>
<td>13,213</td>
<td>3,171</td>
</tr>
<tr>
<td>West Sumatra</td>
<td>14,293</td>
<td>19,664</td>
<td>13,509</td>
</tr>
<tr>
<td>Riau</td>
<td>81,673</td>
<td>113,200</td>
<td>100,495</td>
</tr>
<tr>
<td>Jambi</td>
<td>16,768</td>
<td>25,691</td>
<td>10,108</td>
</tr>
<tr>
<td>Bengkulu</td>
<td>4,073</td>
<td>228</td>
<td>292</td>
</tr>
<tr>
<td>South Sumatra</td>
<td>6,508</td>
<td>217</td>
<td>346</td>
</tr>
<tr>
<td>Bangka Belitung</td>
<td>384</td>
<td>0</td>
<td>278</td>
</tr>
<tr>
<td>Banten</td>
<td>----</td>
<td>16</td>
<td>0</td>
</tr>
<tr>
<td>West Kalimantan</td>
<td>21,038</td>
<td>11,869</td>
<td>5,227</td>
</tr>
<tr>
<td>Central Kalimantan</td>
<td>174,306</td>
<td>123,255</td>
<td>82,701</td>
</tr>
<tr>
<td>South Kalimantan</td>
<td>10,355</td>
<td>6,977</td>
<td>13,630</td>
</tr>
<tr>
<td>East Kalimantan</td>
<td>190,737</td>
<td>220,628</td>
<td>163,753</td>
</tr>
<tr>
<td>Gorontalo</td>
<td>3,048</td>
<td>630</td>
<td>603</td>
</tr>
<tr>
<td>North Sulawesi</td>
<td>2,153</td>
<td>1,294</td>
<td>241</td>
</tr>
<tr>
<td>Central Sulawesi</td>
<td>14,272</td>
<td>4,122</td>
<td>3,616</td>
</tr>
<tr>
<td>Southeast Sulawesi</td>
<td>3,012</td>
<td>1,134</td>
<td>1,303</td>
</tr>
<tr>
<td>South Sulawesi</td>
<td>9,798</td>
<td>4,243</td>
<td>3,578</td>
</tr>
<tr>
<td>Bali</td>
<td>----</td>
<td>21</td>
<td>0</td>
</tr>
<tr>
<td>West Nusa Tenggara</td>
<td>376</td>
<td>3,134</td>
<td>1,914</td>
</tr>
<tr>
<td>East Nusa Tenggara</td>
<td>4</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Maluku</td>
<td>11,735</td>
<td>11,629</td>
<td>22,083</td>
</tr>
<tr>
<td>North Maluku</td>
<td>18,084</td>
<td>18,046</td>
<td>12,320</td>
</tr>
<tr>
<td>Papua</td>
<td>68,747</td>
<td>38,958</td>
<td>22,962</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>700,562</strong></td>
<td><strong>620,679</strong></td>
<td><strong>462,826</strong></td>
</tr>
</tbody>
</table>


The amount of DAK-DR monies allocated to the regions each year so far has been significant. Over 700 billion rupiahs (80 million USD), 620 billion rupiahs (69 million USD), and 460 billion rupiah (51 million USD) were allocated to 21 provinces for 2001, 2002, and
2003 budget years, respectively. Among the provinces, for three consecutive years East Kalimantan received the largest amount: 190 billion rupiah (21 million USD) for 2001; 220 billion rupiah (24 million USD) for 2002; and 163 billion (18 million USD) for 2003. These figures demonstrate that during this period East Kalimantan was the highest contributor to the Reforestation Fund, and accordingly, was the largest producer of officially recorded logs in Indonesia.

**Allocation within East Kalimantan province**

The provincial government, in turn, determined the allocation of DAK-OR for each district/municipality within the province. This process was carried out by a team of four (tim empat), made up of representatives of the Provincial Office of the Directorate General of Budget (Kanwil Ditjen Anggaran), the Provincial Development Planning Agency (provincial BAPPEDA), the Provincial Forestry Service, and the BPDAS. The allocation of the DAK-DR for each district or municipality within East Kalimantan province followed a set of criteria as specified by the General Guidelines: 1) The level of projected DR receipts of each district/municipality: the higher the projected receipts, the higher the percentage weighting; 2) The area of degraded forests and critical lands in priority watersheds/sub-watersheds: the larger the degraded area, the higher the weighting; 3) The level of degraded watershed/sub-watershed ecosystem: the higher the level of degradation, the higher the weighting, and 4) Continuity of RHL activities in the preceding year: the better the continuity, the higher the weighting. Following the Ministry of Forestry’s definition, “critical lands” refers to “severely degraded lands due to their loss of vegetative cover, to the extent that their functions have completely been lost or declined in terms of water retention, erosion control, nutrient cycling, micro climate regulator, and carbon sequestration” (Ministry of Forestry, 2006a:1). Critical lands can be located within the Forest Estate (Kawasan Hutan) category or outside the Forest Estate.

For East Kalimantan province, the above criteria for the 2001 allocation were weighted as 50%, 20%, 20%, and 10%, respectively. The second criterion, the area of degraded forests and critical lands, became critical lands. Beginning in the 2002 allocation, because the average

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215 Monetary affairs is one of the few Government responsibilities not devolved to local governments. Therefore, unlike Regional Forestry Offices (Kanwil Kehutanan) that were abolished after decentralisation (Appendix 2), the Kanwil Ditjen Anggaran or the offices of the Directorate General of Budget at the provincial level, continue to operate.

216 The BP-DAS, Badan Pengelola-Daerah Aliran Sungai, is the agency responsible for the management of a particular watershed. The BP-DAS is one of the Ministry of Forestry’s technical implementation units located in the regions reporting directly to the Ministry of Forestry (see Figure A2.3 in Appendix 2). In East Kalimantan, the BP-DAS is responsible for the management of the Mahakam Berau watershed that span across both Bulungan and Kutai Barat Districts.

217 Based on the General Guidelines

218 The definition of degraded forests as used in the General Guidelines is not specified.
utilisation of the 2001 DAK-DR Fund was far below the amount of money allocated for each district, the province added another criterion: performance. Here performance was measured in terms of activities completed and represented by the amount of funds spent. The weighting for the calculation of DAK-DR allocation to districts and municipalities beginning in 2002 then became: projected DR revenues 48%; critical lands 20%; the level of degraded watershed/sub-watershed ecosystem 20%; the continuity of activities 10%; and performance 2% (Table 5.2). The governor then issued a Decree on the allocation of DAK-DR for each district and municipality in the province.  

Table 5.2 Calculation of East Kalimantan district allocations of DAK-DR for 2002

<table>
<thead>
<tr>
<th>District/Municipality</th>
<th>Weighting</th>
<th>Critical Lands</th>
<th>Degraded Watershed</th>
<th>Continuity of Activities / Institutional Capacity</th>
<th>Performance /Funds spent</th>
<th>Total</th>
<th>DAK-DR Allocation (millions Rupiah)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pasir</td>
<td>5.83</td>
<td>2.42</td>
<td>1.23</td>
<td>1.88</td>
<td>0.24</td>
<td>11.6</td>
<td>21,189</td>
</tr>
<tr>
<td>Balikpapan</td>
<td>0</td>
<td>0.16</td>
<td>0.45</td>
<td>1.25</td>
<td>0.04</td>
<td>1.9</td>
<td>2,090</td>
</tr>
<tr>
<td>Penajam</td>
<td>2.52</td>
<td>0.3</td>
<td>0.1</td>
<td>0.63</td>
<td>0</td>
<td>3.55</td>
<td>6,481</td>
</tr>
<tr>
<td>Tarakan</td>
<td>0</td>
<td>0.05</td>
<td>0</td>
<td>1.25</td>
<td>0.03</td>
<td>1.33</td>
<td>2,966</td>
</tr>
<tr>
<td>Bulangan</td>
<td>6.03</td>
<td>0.62</td>
<td>1</td>
<td>1.25</td>
<td>0.18</td>
<td>9.08</td>
<td>16,586</td>
</tr>
<tr>
<td>Malinau</td>
<td>3.57</td>
<td>3.25</td>
<td>1.85</td>
<td>0.63</td>
<td>0.19</td>
<td>9.49</td>
<td>17,324</td>
</tr>
<tr>
<td>Nunukan</td>
<td>9.87</td>
<td>0.21</td>
<td>0.28</td>
<td>0.63</td>
<td>0.23</td>
<td>11.22</td>
<td>20,499</td>
</tr>
<tr>
<td>Berau</td>
<td>6.92</td>
<td>0.93</td>
<td>2.78</td>
<td>0.63</td>
<td>0.23</td>
<td>11.49</td>
<td>20,992</td>
</tr>
<tr>
<td>Kutai Kertanegara</td>
<td>2.29</td>
<td>3.38</td>
<td>4.18</td>
<td>0.63</td>
<td>0.21</td>
<td>10.69</td>
<td>19,529</td>
</tr>
<tr>
<td>Kutai Timur</td>
<td>5.92</td>
<td>4.2</td>
<td>3.49</td>
<td>0</td>
<td>0.28</td>
<td>13.89</td>
<td>25,372</td>
</tr>
<tr>
<td>Kutai Barat</td>
<td>5.04</td>
<td>4.08</td>
<td>4.22</td>
<td>0</td>
<td>0.32</td>
<td>13.66</td>
<td>24,963</td>
</tr>
<tr>
<td>Samarinda</td>
<td>0</td>
<td>0.21</td>
<td>0.15</td>
<td>0.63</td>
<td>0.02</td>
<td>1.01</td>
<td>2,145</td>
</tr>
<tr>
<td>Bontang</td>
<td>0</td>
<td>0.19</td>
<td>0.27</td>
<td>0.63</td>
<td>0.02</td>
<td>1.11</td>
<td>2,569</td>
</tr>
<tr>
<td>Total</td>
<td>47.99</td>
<td>20</td>
<td>20</td>
<td>10.04</td>
<td>1.99</td>
<td>100.02</td>
<td>182,705</td>
</tr>
</tbody>
</table>

Source: East Kalimantan Governor’s Letter No. 522.5/714-HK/2002

Although the criteria for districts’ allocations of the DAK-DR had to follow the General Guidelines, the province had flexibility in determining the scoring/weighting of the criteria used to allocate funding. East Kalimantan placed substantial emphasis on the weighting of projected DR receipts (50 percent in 2001, 48% in 2002). In comparison, the province of South Sulawesi

219 A copy of the decree was sent to the Ministry of Finance, the Ministry of Forestry, the Ministry of Home Affairs, BAPPENAS, the Provincial Monitoring Agency (Badan Pengawas Propinsi—Bawasprop), all district heads/mayors within the province, the provincial BAPPEDA, the Kanwil Ditjen Anggaran, the Provincial Forestry Service, and the BP-DAS.
weighted these criteria as follows: projected DR receipts 30%, critical lands 25%, degraded watershed level 30%, and continuity of activities 15% (Ngakan and William 2004). In this regard, the producing districts in East Kalimantan enjoyed a larger proportion of the DR payments made by companies operating within their districts than the producing districts in South Sulawesi. Nevertheless, producing districts were not guaranteed 40% of DR payments for timber produced within their jurisdiction, as they had previously assumed based on their interpretation of Law 25 of 1999.

It is also important to note that districts’ allocations were determined based on the projected receipts of DR payments. These allocations were usually adjusted later in the year according to the actual receipts. The actual allocations for budget years 2001-2003 are listed in Table 5.3.

| Table 5.3 DAK-DR Allocation for Districts within East Kalimantan Province |
|-----------------------------|-------------|-------------|
| District/municipality/province | In million rupiahs |
|  | 2001 | 2002 | 2003 |
| Pasir | 23,085 | 25,587 | 16,327 |
| Balikpapan | 3,725 | 2,524 | 3,749 |
| Penajam Pasir Utara | 7,826 | 6,105 |
| Tarakan | 2,631 | 3,582 | 3,158 |
| Bulungan | 17,607 | 20,029 | 15,273 |
| Malinau | 18,082 | 20,920 | 13,717 |
| Nunukan | 21,829 | 24,754 | 14,039 |
| Berau | 22,121 | 25,349 | 16,663 |
| Kutai Kertanegara | 20,255 | 23,582 | 17,656 |
| Kutai Timur | 26,432 | 30,638 | 25,447 |
| Kutai Barat | 30,865 | 30,144 | 25,447 |
| Samarinda | 1,957 | 2,590 | 2,364 |
| Bontang | 2,147 | 3,102 | 2,177 |
| East Kalimantan Province | 190,737 | 220,628 | 163,753 |

Source: Ministry of Forestry data and East Kalimantan Governor Decrees (2001-2003)

Notes: The DAK-DR allocation for budget year 2002 underwent severe revisions: the total amount actually allocated in year 2002 was 54.022 billion rupiahs (with Bulungan and Kutai Barat’s corresponding allocations of 4.904 and 7.381 billion rupiahs, respectively). The remaining 166,606 billion rupiahs (with Bulungan and Kutai Barat’s corresponding allocations of 15.125 and 22.763 billion rupiahs, respectively) were actually distributed in 2003. Penajam Pasir Utara District was only established in 2001; hence zero allocation for that year.

For both Bulungan and Kutai Barat, the DAK-DR funds were significant. For Bulungan, DAK-DR was 17 billion rupiahs in 2001, 20 billion in 2002, and 15 billion in 2003, or 52 billion rupiahs (5.8 million USD) in the first three years of regional autonomy. These figures represent 11, 10, and 7 percent of the total provincial natural resource transfer in 2001, 2002, 2003
respectively, and 4, 4.6, and 3 percent of the total district revenue for each of those years. For Kutai Barat, the corresponding amounts were 30 billion rupiah in 2001, 30 billion in 2002, and 25 billion in 2003, totally 85 billion rupiah (9.4 million USD), and corresponding to 8%, 5%, and 4% of total district realized budget for years 2001, 2002, and 2003, respectively.

The East Kalimantan provincial government made use of its coordinating authority in the process of DAK-DR allocation to districts to take a share of these funds. In 2003, the province allocated 10% of the DAK-DR funds allocated to the province (1.6 billion rupiahs or 180 thousand USD) to itself. This occurred despite there being no national-level legal instrument or decrees stipulating that the province was to obtain a share of the DAK-DR. A senior provincial official, however, vehemently argued that this allocation was needed to finance "coordination activities and supervision". Districts in East Kalimantan, including Bulungan, protested, but recognized that they had to accept it because of the province’s power in the process.

**Disbursement of allocated funding**

After being informed of the allocation of DAK-DR, districts were to submit a proposal and a Definitive Plan, *Rencana Definitif* (RD) outlining the activities they wished to fund through the DAK-DR, to the Governor, copied to the provincial office of the Directorate General of Budget and the BPDAS. This proposal contained the aims and objectives, target locations (the area of degraded forests and critical lands, priority watersheds or sub-watersheds), physical and cost plans, institutional plans, time plan, and expected results. The *tim empat* then held a meeting with all district representatives (usually the district BAPPEDA official and the project leader of the RHL) to assess the proposal and the RD. Details of the RD included, for example, how much was to be allocated for reforestation activities (*reboisasi* – section 5.2.1) and how much for regreening/afforestation (*penghijauan* – section 5.2.1). The discussion and assessment of proposals were carried out based on the allocation of DAK-DR for each district/municipality stipulated in the Governor’s decree, the feasibility of unit costs of activities, the general pattern (*pola umum*) and standard and RHL criteria stipulated in Minister of Forestry Decree 20 of 2001, the provincial forestry development plan and the BPDAS plan.

RDs that had been successfully assessed by the *tim empat* were then submitted to the Governor. The governor then submitted the RDs to the Ministry of Finance. Following the assessment, the Ministry of Finance published the list of DAK-DR allocations and sent it to each district and municipality. After another series of administrative processes where the list of districts’ proposed activities (*Daftar Isian Proyek*) was checked for consistency by the Directorate General of Budget, the Ministry of Finance transferred the DAK-DR Fund to the

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[220] Interview with P-G-6a
[221] Interview with a senior official of Bulungan, B-G-9b
[222] The Director General of Budget, copied to the Ministry of Forestry, the Ministry of Home Affairs, BAPPENAS. These four central government agencies then were to assess the RDs submitted by the governor.
regional offices of the State Treasury. The money was then disbursed to the districts’ accounts specifically maintained for DAK-DR.

The province’s coordinating role in the determination of DAK-DR Fund allocation to districts has increased the provincial government’s power vis-à-vis the districts and municipalities and, at least until the DAK-DR Fund was actually disbursed to district governments, should not be underestimated. Provincial officials constantly complained about the uncooperative behaviour of districts that had occurred as a consequence of decentralisation, over the province’s requests to follow administrative procedures. However, for obvious reasons, districts were all cooperative in following the procedures for the allocation of the DAK-DR Fund to districts.

5.2 Implementation of the RHL Project in Bulungan and Kutai Barat

Because the RHL Project is a national initiative imposed on districts, its implementation has to follow national guidelines. Of the four national legal instruments regulating the DAK-DR described in section 5.1 above, the General Guidelines specify detailed guidelines for the management of the DAK-DR Fund which were to be used to implement the RHL. These are discussed below.

5.2.1 National Guidelines for use of the DAK-DR Fund

The General Guidelines for the RHL Project (section 5.1 and footnote 210) do not explicitly state the objectives of the Project, nor do they prioritize its goals. However, three objectives can be extracted from the document: first, the rehabilitation of forests; second, the rehabilitation of lands; and third, the empowerment of communities.

The General Guidelines specifically emphasize the active role of community and community institutions in the RHL Project, through several provisions: 1) DAK-DR is to be used as a stimulus for the rehabilitation of degraded forests and critical lands through the empowerment of the capacity and capability of community institutions; 2) the implementation of RHL activities should be self-managed by communities or swakelola, with the exception of RHL activities in the Forest Estate (Kawasan Hutan), that is, reboisasi; community self-management of reboisasi through swakelola is deemed not suitable; 3) districts and municipalities are to act as facilitators, and communities as the initiators and managers, of the activities.

Rehabilitation of critical lands began in 1976 through the Presidential Instruction Program (INPRES) for reboisasi (reforestation) and penghijauan (regreening). Beginning 1994/95 rehabilitation was carried out under the Second-tier Government Development Project Schemes (Daftar Isian Proyek Tingkat II). This section is concerned with the current rehabilitation project funded through the DAK-DR only.
The implementation of RHL activities must be carried out in line with the provincial forestry and watershed development plans. Implementation also needs to follow the general pattern, standard, and criteria of RHL stipulated by the Ministry of Forestry Decree 20 of 2001.

The General Guidelines specify that the RHL Project is to rehabilitate degraded forests and critical lands. The most recent available data on the area of land classified as critical lands in East Kalimantan were 2000 data and are shown in Table 5.4.

<table>
<thead>
<tr>
<th>District</th>
<th>Forest Estate (Ha)</th>
<th>Outside the Forest Estate (Ha)</th>
<th>Total (Ha)</th>
<th>% of total land area</th>
<th>Target for rehabilitation 2004-2008 (Ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pasir</td>
<td>50,875</td>
<td>118,303</td>
<td>169,178</td>
<td>11.28</td>
<td>13,750</td>
</tr>
<tr>
<td>Balikpapan</td>
<td>7250</td>
<td>14625</td>
<td>21,875</td>
<td>25.44</td>
<td>3,850</td>
</tr>
<tr>
<td>Tarakan</td>
<td>1,813</td>
<td>4,375</td>
<td>6,187</td>
<td>12.20</td>
<td>1,675</td>
</tr>
<tr>
<td>Bulungan</td>
<td>54,351</td>
<td>32,744</td>
<td>87,275</td>
<td>4.96</td>
<td>5,550</td>
</tr>
<tr>
<td>Malinau</td>
<td>406,408</td>
<td>50,118</td>
<td>456,526</td>
<td>10.71</td>
<td>8,750</td>
</tr>
<tr>
<td>Nunukan</td>
<td>9,500</td>
<td>20,568</td>
<td>30,068</td>
<td>2.22</td>
<td>8,000</td>
</tr>
<tr>
<td>Berau</td>
<td>56,375</td>
<td>74,424</td>
<td>130,799</td>
<td>5.36</td>
<td>7,750</td>
</tr>
<tr>
<td>Kutai Kertanegara</td>
<td>233,843</td>
<td>348,374</td>
<td>582,217</td>
<td>20.20</td>
<td>22,500</td>
</tr>
<tr>
<td>Kutai Timur</td>
<td>335,219</td>
<td>254,937</td>
<td>590,156</td>
<td>17.21</td>
<td>20,750</td>
</tr>
<tr>
<td>Kutai Barat</td>
<td>169,496</td>
<td>376,024</td>
<td>545,519</td>
<td>16.18</td>
<td>20,000</td>
</tr>
<tr>
<td>Samarinda</td>
<td>0</td>
<td>27,563</td>
<td>27,563</td>
<td>32.78</td>
<td>1,550</td>
</tr>
<tr>
<td>Bontang</td>
<td>18,938</td>
<td>6,062</td>
<td>25,000</td>
<td>61.47</td>
<td>25,000</td>
</tr>
</tbody>
</table>

Source: calculated from data supplied by BPDAS Mahakam Berau, 2000
Note: Data prior to the partitioning of the district of Pasir into Pasir and Penajam Pasir Utara Districts

RHL activities are divided into two broad categories: reforestation, known as reboisasi, and afforestation, known as penghijauan (regreening). Reboisasi refers to rehabilitation activities through the planting of timber species carried out within the Forest Estate (Kawasan Hutan), that is, in forests classified as Production Forests, Protected Forests or Conservation Forests. This means that reboisasi is carried out on state lands or lahan negara. Penghijauan (regreening) refers to the rehabilitation of degraded community lands, lahan masyarakat (that is, on non-state lands), and/or activities related to forest sustainability and watershed conservation.

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224 Government Regulation 35 of 2000, article 17
225 With the exception of Nature Reserves and core zones of National Parks; Government Regulation 35 of 2000, articles 1 and 17
226 Government Regulation No. 35 of 2000, articles 1 and 17
The General Guidelines also specify very precisely the ways in which the DAK-DR funds are to be used and not used. Notably, they restrict the use of DAK-DR to financing direct physical activities of reforestation and regreening, including planning activities. They specifically prohibit the use of DAK-DR monies for support activities, including administration of the Project, Project preparation, training, extension, travel, and other general costs. They also prohibit the use of the DAK-DR funds for financing RHL activities in Production Forests with concession rights.

5.2.2 Implementation of RHL Project in the study Districts

"Apparently, the measure for success of a rehabilitation activity is perceived differently in each area. In Java, rehabilitation is deemed successful only if the trees bear fruit. In Kalimantan, plants merely showing signs of growth are already called a success. In Irian, just having the courage to attempt to plant is perceived as a success. Sometimes we follow regulations rigidly, sometimes we do not." (interview with B-G-9b)

At the time of fieldwork, the RHL Project in Bulungan was a highly sensitive issue; this affected the gathering of data and information on this subject. The period of fieldwork coincided with the height of the formal investigation of one of the previous Project leaders of the RHL for the abuse of the DAK-DR Fund. Although both districts had established their own District Forestry Service in 2001, in Bulungan the unit became functional only in 2002. Thus, in the interim, the implementation of the first year of RHL in Bulungan was distributed among several district units, including the District Agricultural Service and the District Fishery Service. A Project leader from the District Fishery Service had been arrested for the misuse of the 2001 allocation of the DAK-DR Fund (section 7.2.4); that particular part of the Fund had been earmarked for the rehabilitation of the district’s mangrove forests along its east coast.

The former RHL Project leader of Kutai Barat was also being investigated at the time of my fieldwork about alleged misuse of funds; the investigation process was at an earlier stage. Unlike the situation in Bulungan, gathering of information and data about the Project in Kutai Barat was not affected by the investigation process; officials in Kutai Barat were generally more open about the Project compared to their Bulungan counterparts.

Two strands of issues have been identified in the implementation of the RHL Project in the two districts. The first strand of issues relates to the challenge of achieving simultaneously the triple objectives of the Project – viz reforestation, rehabilitation of critical lands and community participation. While resource replenishment, ecological objectives, and community empowerment outcomes may not necessarily conflict with each other, the two district

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133 Interviews with B-G-22; B-N-1a
governments have not put these three priorities on equal footing. The second strand of issues is primarily associated with the challenge of administering such large amounts of funds. While, on the one hand, the inflow of funds is always welcomed by districts, on the other, the substantial restrictions on the large funds flowing into district coffers have in themselves posed difficulties for districts.

**Challenges in achieving the multiple objectives of reforestation, rehabilitation of critical lands and community participation**

Although the RHL Project is aimed at rehabilitating degraded forests and critical lands, the two case study districts have implemented RHL activities focusing more on the latter. For reasons discussed below, reforestation activities to “replenish” the timber resource were, in reality, carried out half-heartedly due to practical difficulties as well as the perceived uncertainty over who would benefit from future harvest opportunities.

*Reboisasi (reforestation) versus penghijauan (regreening, afforestation)*

Kutai Barat has emphasized prime local species for timber species, such as *ulin* (*Eusideroxylon* sp.), in addition to *keruing* (*Dipterocarp* sp.), *meranti* and *bengkirai* (*Shorea* sp.). Bulungan, however, did not have the same emphasis and has welcomed exotic species such as *jati emas* (*Tectona* sp.) and *Acacia mangium*.

There are four main types of penghijauan carried out in the districts: *Hutan Rakyat Murni* (pure community forests, where timber species are planted on community lands/forests); *Hutan Rakyat Pola Kebun* (community forest gardens, usually comprising fruit tree species); *Hutan Rakyat Pola Tumpangsari* (Taungya), that is, the planting of perennials or other plants among timber species; and *Aneka Usaha Kehutanan* (the planting of non-timber species, such as rattan).

In practice, in both districts, rehabilitation activities have focused more on penghijauan activities, while much less reboisasi has been done. This means that only a very small area of the Forest Estate (*Kawasan Hutan*) has been rehabilitated using the DAK-DR Fund. Therefore, very little of the logged-over production forests and protected forest areas are being rehabilitated; instead, much of the planting activity has been done on community lands and gardens.
Table 5.5 Reboisasi and Penghijauan activities in Bulungan and Kutai Barat (2002-2004)

<table>
<thead>
<tr>
<th>Year</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulungan</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New planting (Ha)</td>
<td>R</td>
<td>P</td>
<td>R</td>
</tr>
<tr>
<td>New planting (Ha)</td>
<td>550</td>
<td>1721</td>
<td>800</td>
</tr>
<tr>
<td>Maintaining previous year's planting (Ha)</td>
<td>550</td>
<td>1346</td>
<td>0</td>
</tr>
<tr>
<td>Kutai Barat</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New planting (Ha)</td>
<td>1000*</td>
<td>5660*</td>
<td>200*</td>
</tr>
<tr>
<td>Maintaining previous year's planting (Ha)</td>
<td>425*</td>
<td>4653*</td>
<td>0</td>
</tr>
</tbody>
</table>


Notes: R = reboisasi (reforestation, Forest Estate); P = penghijauan (afforestation, other than Forest Estate)
No symbol = target or planned; * = realized

Reboisasi is not attractive to communities because it is carried out on state lands. Consequently, communities planting such lands are most likely not entitled to harvest those trees in the future. However, according to a Kutai Barat forestry official involved in the RHL Project, the difficulties for reboisasi primarily lie in identifying the area to be rehabilitated, as it is difficult to differentiate between a piece of land that has been claimed by masyarakat as theirs, and which has not. As this official explained:

"When we look at the map, sure, administratively we can see the lines that delineate state forests from non-state lands, but when we visit the location, it is difficult to determine" (interview with K-G-17a).

Although much of the forest area in the two districts, as in other parts of the Outer Islands, have been delineated as Forest Estate, in practice many communities have claimed these forests as historically theirs (Barber et al., 1994; Lynch and Harwell, 2002). Consequently, there are very few areas of state lands with no claims over them. District officials also wanted to avoid conflict with communities, to the extent possible, posing a further constraint for reboisasi. Another difficulty has been in identifying Production Forests over which there are no concession rights.

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Interviews with K-G-1c, K-G-17b, K-G-17c, K-G-18a
In both districts, the RHL activities have involved the planting of more fruit trees and non-timber species than timber species (*kayu-kayuan*). In Bulungan, the preferred species have been fruit trees and cocoa. The current fruit production from Bulungan is marketed in the neighbouring Tarakan municipality and exported to Tawau, Malaysia. In addition, a new road to Tanjung Redeb, the capital of the neighbouring district of Berau south of Bulungan has opened up new market opportunities for products from Bulungan. This development has made the planting of fruit trees more attractive to communities. In Kutai Barat, the cultivation of rattan has had a long history and has been one of the major non-timber forest products of the district. The cultivation of rattan thus has been a popular type of RHL activity in the district.

The planting of timber species is not attractive to communities for several reasons. First, the period between planting and harvest is too long. The long time interval before timber can be harvested poses a disincentive to planting timber species compared with fast producing, non-timber species. In Bulungan, for instance, cocoa was one of the chosen species because the harvest can begin as early as four years after planting. In comparison, Dipterocarps would take at least 30 years before reaching a diameter suitable for commercial harvest. Second, communities are reluctant to plant timber species because there is no guarantee that they will be able to actually harvest or benefit from those trees in the future. Learning from historical experience, the community generally perceived that there is no guarantee that government policy at the time of harvest will allow them to benefit from their planting, even if the trees had been planted on what they claimed to be their own lands. The insecurity of tenure and the
frequent changes in Central policy, which were often more favourable to commercial timber companies than to local communities, have discouraged communities from planting trees for timber; rather, they prefer to plant non-timber species such as fruit trees or cocoa. In addition, timber species have generally been less popular than other commodity species because the marketing of timber from legally recognized private lands is also burdened with administrative documentation in order for the timber to be recognized as legal. The rampant illegal logging in timber producing areas across Indonesia has made the provision of legal documentation for any timber, important.

*Improving critical lands versus community participation*

The second and third purposes of the RHL are the enhancement of degraded lands and the empowerment of communities through their active involvement in RHL activities. While these ecological and community participation outcomes may not necessarily conflict with each other, the two district governments clearly have found it difficult to put these two priorities on equal footing: districts have tended to prioritize the community aspect.

**Community participation**

According to the General Guidelines, the DAK-DR funded RHL Project must involve the active participation of the community and community institutions. In principle, the two districts have both attempted to apply this notion of community participation. In practice, however, a number of issues have arisen in its implementation.

Procedures for community participation

*Reboisasi* and regreening both involve the participation of communities but in different ways. Typically, members of a community form a farmer group or *Kelompok Tani*. Each group usually consists of 25 to 50 members and has a leader. Regreening activities are usually carried out through *swakelola*, that is, they are self-managed by communities.

One of the challenges of the districts in the first years of the Project was to promote the establishment of the farmer groups that would participate in the Project. Kutai Barat attempted to improve the process and administration of the RHL Project, including the process for communities to participate in the Project. First, communities were encouraged to form farmer groups or *Kelompok Tani*. The *Kelompok Tani* then submitted a proposal to the District Forestry Service.

Because it was costly for members of the *Kelompok Tani* to administer these in the district capital, usually a few members were selected to represent the *Kelompok Tani* in handling administrative matters, including receiving the Project’s monies. These representatives were

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229 For instance, interview with a village administrator in Bulungan, B-C-1
commonly referred to as the *pengurus*, usually comprising the leader and one or two other members of the *Kelompok Tani*.

After proposals were received by the District Forestry Service, they sent a team to conduct *sosialisasi* and *prakondisi* (often commonly referred to as *sospra*) to the villages. *Sosialisasi* and *prakondisi* activities were carried out by a team from the District Forestry Service; they checked the administrative consistencies between the proposals submitted and the reality on the ground. This included checking the existence of the farmer groups, the preparedness of the groups, and the availability of support from the relevant village and *adat* institutions. Thus, *sospra* was carried out both to disseminate information about the Project to villages and to assess the feasibility of villagers' involvement in the Project and its conformity with requirements.

Provided that a *Kelompok Tani* had passed the administrative and institutional checks done through *sospra*, the District Forestry Service then prepared a technical plan for each *Kelompok Tani*. The primary objective of preparing this plan was to gather data on the proposed location and to plan physical activities. Through this process it would be determined whether the area proposed for rehabilitation met the criteria for the type of activity proposed (either *penghijauan* or *reboisasi*) and whether the plant types or species proposed would be accepted by the Project.

These proposals and the technical plans laying out the feasibility of their implementation together provide the basis on which the Project leader of RHL (usually jointly with a BAPPEDA official), prepared the district RHL proposal for negotiation with the provincial team of four to obtain the district's DAK-DR allocation (section 5.1.1).

Upon initiation of Project activities, the partnership arrangement between the District Forestry Service and the *Kelompok Tani* was finalized with the signing of a Cooperation Agreement (*Surat Perjanjian Kerjasama, SPK*); the RHL Project leader represented the District and the leader or the *pengurus* of the *Kelompok Tani* represented the *Kelompok Tani*. The SPK specified the responsibilities of the *Kelompok Tani*, the amount of funds allocated to carry out those responsibilities, the process of disbursement of the funds, as well as the procurement of seedlings, fertilizers, herbicides and equipment.

The District Forestry Service disbursed the money with which to finance the activities directly to the *Kelompok Tani*, according to a predetermined schedule specified in the SPK. Usually, the monies were disbursed in stages, corresponding to the progress of activities completed.

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139 Analyzed from Kutai Barat's documents (including the 2004 *Dokumen Anggaran Satuan Kerja Dinas Kehutanan*) and interview with a district forestry official involved in the RHL Project (K-G-17c)
Specifically for *reboisasi*, the management of the activities was assigned to a business entity with a corporate status, usually a CV, rather than to communities. The CV then usually hired villagers or workers, also grouped as a *Kelompok Tani* to do the planting and other field activities. This was in line with the General Guidelines as because of their nature, *reboisasi* activities were perceived to be too difficult to be carried out by communities; thus community self-management (*swakelola*) was deemed not feasible (section 5.2.1).

The procurement of seedlings, fertilizers, herbicides, and sometimes equipment for both *reboisasi* and *penghijauan* were typically assigned to a third party (contractors/businesses). Provided that they had the capacity, Kutai Barat allowed the participating *Kelompok Tani* to prepare the seedlings themselves. The appointment of a third party to provide the seedlings had been meant to ensure both the availability and quality of seedlings. As this was a large-scale Project, a large quantity of seedlings was required. The third party, however, rather than providing the seedlings themselves, often bought seedlings from farmers – farmers participating in the RHL Project in the *Kelompok Tani* or non-participating farmers. Although this activity provided another source of income for communities, the provision of seedlings by communities has been criticised as having resulted in the use of seedlings of not only uneven quality but in particular, inferior to the required standard, leading to inferior quality of plants or their lower rate of survival. The head of Kutai Barat Forestry Service, however, was strongly of the view that local communities were capable of supplying good quality seedlings.

Similar procedures for community-district partnership arrangements, with some variations or different emphasis, were applied in Bulungan. Variations on the procedure of Kutai Barat, however, were found in Bulungan, including in the formation of the *Kelompok Tani* and the extent of *sosialisasi*. The ways in which *Kelompok Tani* were formed and the extent of actual *sosialisasi* activities have affected or contributed to the two major issues surrounding the notion of participation of communities identified in the Project: the benefits of the Project accruing to district or community-level elites and conflicts among community members. These are discussed next.

Issues concerning community participation in RHL

While Project funds can be substantial, the significant unit cost for RHL activities nevertheless does not allow for the participation of all members of the district rural community in the Project. Equally limiting are the financial and human resources of the District Forestry Service to manage Project activities, as the administrative procedures that must be managed by this office to effectively achieve the Project's objectives are tedious and time consuming. For

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231 CV, from the Dutch term *Commanditaire Vennootschap*, a partnership firm with one or more silent partners who only contribute capital.
232 For instance, interviews with B-L-1b; B-L-2; B-G-11b; B-N-1a; K-L(M/A)-2
233 Interview with K-G-*
instance, checking the Kelompok Tani requirements, the location, type of vegetation, monitoring progress of activities and disbursing the monies all require detailed work. Thus, only a proportion of community members can form Kelompok Tani and become involved in the Project. In Kutai Barat, 83 and 173 Kelompok Tani participated in the RHL project in 2002 and 2003 implementation years, respectively.

**Benefit capture from the RHL Project**

In the first year of the Project (implemented in 2002 but under the 2001 DAK-DR Fund), information regarding the Project in both study districts was disseminated through subdistricts and further down through village heads. In practice, information regarding the Project was largely captured by village elites. These elites were able to secure information on the Project because they had the means to find out such information, due to their position, or their connection with officials in the district capital. They consequently often seized the opportunities themselves and mobilized relatives to form Kelompok Tani (section 6.2.4). The reach of the implementation of the RHL Project was therefore often limited to these elite circles. Consequently, many members of the community were excluded and did not enjoy any benefit from the Project. Kutai Barat, however, subsequently attempted to improve this situation through active dissemination of information through sospra, as described above.

In Bulungan, the formation of the Kelompok Tani notably involved the appointment of contractors by the Project leader. These contractors were usually village heads, adat leaders, local entrepreneurs, or outsiders who had the information about the Project and/or had access to the Project leader. The contractors were responsible for recruiting villagers to establish the Kelompok Tani. This recruitment process resulted in two types of beneficiaries: particular segments of the community had more opportunity to participate than others, and those participating did not necessarily have the capacity. Thus, as noted above, those with the right network or connections had more opportunities to participate in the Project; they were not always the people who needed it or were capable of doing it.

There is also an underlying issue related to labour availability, which constrains many community members' capacity to participate in and thus derive direct benefit from the Project. The rural communities in both of the districts are mostly swidden farmers who meet their subsistence needs for staple food through dry land rice agriculture. In these areas, as in many of the Outer Islands, labour is the limiting factor.\[234\] The planting season in both the ladang (swidden plots) and in the RHL Project is short, normally from August through October. Thus, the period when farmers need to focus their labour to tend to their swidden coincides with rehabilitation activities. This has been one of the difficulties in attracting farmers to participate

\[234\] See for instance, Sunderlin et al. (2000) and Angelsen and Resosudarmo (1999)
in the Project and has been among the justifications for using contractors in their recruitment. Because tending to their ladang, understandably, remains a priority for many farmers, ensuring that participating farmers exert an adequate effort and time to tend to the rehabilitation activities, including maintaining the previous year’s planting, continues to be a challenge for Project officials. In such circumstances, the limited capacity of the district governments in terms of both personnel and operational resources poses not only administrative constraints, but also very real practical obstacles in maximizing the probability of success of the rehabilitation activities.

Limited sosialisasi of the Project among communities reinforces the tendency to concentrate beneficiaries into a limited circle of individuals or certain segments of the district community. Bulungan conducted limited sosialisasi (see also Financial Issues below), which continued at least through the period of fieldwork. However, even though the RHL Project was well into its third year of implementation when the major fieldwork was conducted, Bulungan, unlike Kutai Barat, neither provided nor disseminated written guidelines for participation in the RHL Project. This was confirmed in interviews with village leaders, who had to “seek information for and about the Project themselves.” According to village leaders, however, this is less of an issue now, because after a few years of implementation, the communities are more familiar with the Project and are thus more interested in participating.

Horizontal conflicts among and within communities

At least partly related to the first issue, the second problem associated with community involvement in the Project has been conflicts among members within a Kelompok Tani, and between community members not included in the Kelompok Tani with those in the Kelompok Tani (see also section 6.2.4).

The simple requirement to participate in the Project has led to problems, including the people supposedly representing the Kelompok Tani (the pengurus) not actually residing in the village where the Kelompok Tani was located; listed members of Kelompok Tani did not actually exist; members of the Kelompok Tani only provided signatures but did not know what the Project was all about, nor knew what their responsibilities and rights were with regard to the Project; conflicts over claims on the land/area where the rehabilitation activities were supposed to be carried out; and the pengurus supposedly representing the Kelompok Tani kept the Project money for themselves and not sharing it with the other members of the Kelompok Tani. To

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235 Interview with B-P-8
236 Interview with B-G-26
237 Interview with B-G-21a; B-G-22; B-G-26
238 Interview with a Bulungan forestry official involved in the RHL Project, B-G-25
239 Interviews with B-C-4 and B-P-8
240 For instance, the pengurus of the farmer groups in the subdistricts of MP, D, and J, were alleged to have siphoned off a large portion of the funds disbursed by the District Forestry Service for reforestation activities. Interviews with three members of the farmer group from the
address the problems encountered during 2002 that had led to conflicts among and within communities, Kutai Barat has since improved the procedures for the formation of Kelompok Tani.

The rehabilitation of critical lands

As described in section 5.2.1, the triple objectives of the RHL Project are the rehabilitation of forests, the rehabilitation of lands, and the empowerment of communities. To achieve the first two objectives, degraded forests and critical lands (that is, degraded lands, see section 5.1.1) is specified as one of the criteria for implementing RHL activities. However, in practice, rehabilitation of critical lands did not emerge as a high priority for districts, for reasons outlined below.

At the district level, the District Forestry Service prepared a masterplan for RHL in the district, based on data and a map of critical lands in the district. This masterplan should be consistent with the provincial masterplan of RHL. However, in Kutai Barat, the emphasis of the Project was on the third objective, the participation of communities. The objectives of the rehabilitation of forests and the rehabilitation of lands appear to become only a secondary consideration. As a senior district forestry official put it:

“It is not important whether the Project is successful or not, it is not important whether or not the money is embezzled by the communities. The important thing is that communities have access.” (interview with K-G-1a)

When asked whether the critical lands criterion was important in the implementation of the Project in the district, this officer’s response was:

“Well, we do have a map of critical lands in the district ... we use the map to allocate RHL activities. But the locations are only a guide. If there are huge areas of critical lands in an area, but no farmer groups have submitted a proposal to work in that area, then what is the point? So for the time being, firstly, RHL activities are carried out in areas identified in the proposals submitted. Secondly, we prioritize areas with a high probability of success rate and little conflict. Now we prioritize communities, rather than placing emphasis on critical lands. We actually have the data on critical lands, though they are incomplete. But we follow parts of it; our approach emphasises community.” (interview with K-G-1a)

Indeed, although the implementation of RHL began in 2002, the provincial Master Plan for Rehabilitation was only completed in 2004. Furthermore, according to a provincial BAPPEDA

village of Ti, the sub district of J, Kutai Barat, K-C-5, K-C-6 and K-C-7; Kaltim Post, 29 September, 2003d, Kaltim Post, 5 January, 2004a.
senior official who was a member of the tim empat, the map on which the master plan is based may not necessarily reflect the real conditions in the field.

The emphasis on the community aspect rather than on the natural resource to be remedied or enhanced is also reflected in the criterion used by both districts in selecting Kelompok Tani or determining the RHL areas. This criterion has been equity of access: regardless of the locations of degraded lands, the activities were to be distributed across each and every subdistrict. The argument for ensuring RHL is carried out across all subdistricts is political, as the RHL is seen as (and is) a government Project, and thus its benefits should be distributed evenly across the districts. However, recognizing the disappointing outcomes, in 2004 the Bupati of Kutai Barat reconsidered this priority; subsequently, locations were primarily based on the probability of success. In Bulungan, priority on the wide distribution of Project money across the district continued at least into 2004.

Figure 5.2 The challenges of the Forest and Land Rehabilitation Project
A reboisasi (reforestation) site, Kutai Barat. Is reforestation necessary in such naturally occurring secondary growth? Photo by Ida Aju Pradnja Resosudarmo, 2004

My field observations of several locations of reboisasi and penghijauan in both districts confirmed that, at least in some locations, RHL activities were carried out in areas where secondary forest growth was naturally occurring or in already matured gardens. A senior

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241 Interview with P-G-6
242 Interviews with B-G-9b; K-G-1e
243 Interview with K-G-1e
forestry official of Kutai Barat admitted that the district carried out *reboisasi* in forest areas or *penghijauan* in mature gardens where it would not have been necessary in terms of forest/vegetative cover, but argued that it would nevertheless make sense to plant commercially marketable commodity species in such areas. In Bulungan, the mature garden visited, which was part of the RHL Project, belonged to a family member of the village head. Seedlings were planted among 10-12 year old fruit trees.

In addition to being strongly network-based, as discussed above, the recruitment process of *Kelompok Tani* in Bulungan has also been heavily target-oriented. Rather than targeting those most appropriate to be involved in the Project, however, the district has used contractors to recruit as many *Kelompok Tani* as possible because of the large amount of money in the DAK-DR Fund. Consequently, the recruitment process has frequently resulted in the establishment of *Kelompok Tani* whose members were not farmers, but non-farmers including business actors such as traders. These people had no agricultural or forestry skills, but have participated in the Project only because they had connections to the contractors, the Project leader, or other influential officials, and did so just for the sake of obtaining the Project’s money. Even in Kutai Barat, whose government had clearly put much effort into reaching a wider segment of community-based participants through more effective *sospra*, the participation of “farmers wearing a tie” (*petani berdasi*) has been an issue in the RHL Project. This term denotes technocrats (that is, non-farmers) who are close to higher-level people in the district government. The recruitment of *Kelompok Tani* whose members comprise “farmers” without the capability of actually carrying out the rehabilitation activities can adversely affect its effectiveness. In this way, the outcome of the Project, in terms of the objectives of reforestation and rehabilitation of critical lands, has been prejudiced.

Going through contractors rather than directly working with *Kelompok Tani* has also meant that the value of funds spent on the actual planting activities was lower than would appear on the books as rehabilitation costs, as some of the money would have gone to these contractors. This potentially lowers the rehabilitation outcome in terms of quality and/or quantity even further. Therefore, the use of contractors has not only turned a significant portion of the benefits away from communities, but also siphoned off part of the Project money that otherwise could be used for direct rehabilitation activities, and thus has implications for resource rehabilitation outcomes.

Both districts have thus focused on the most direct and short term benefits of the Project – by focusing on the community participation aspect, or ostensibly so – rather than on the longer-term rehabilitation outcomes. There is an attitude emphasizing use of the money in the districts;

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244 Interview with K-G-1b
245 Interview with B-N-1b
246 Interview with K-G-3b
resource replenishment and ecological improvement a secondary consideration. As a senior district forestry official of Kutai Barat recalled:

"The chairman of the DPRD said, rather than having to return the money to the Centre, we just squander that 30 billion rupiah to communities in the district." (interview with K-G-1b)

Some of the participating farmers interviewed have shown genuine understanding and interest in rehabilitation and in the long-term livelihood opportunity of penghijauan activities, whereas others have shown a "project attitude", focusing more on the government handouts, rather than on the rehabilitation activities. District functionaries recognized that some farmers participated merely for short term cash. In Kutai Barat, there were cases where fires burned out RHL areas, one of which occurred during the time of fieldwork. A DPRD member was suspicious that the fires were lit deliberately to enable the use of the Project funds, originally allocated for maintenance, for personal use. When I enquired about this with one of the district forestry officials handling the RHL Project, the official only responded that the District Forestry Service was looking into the case.

![Figure 5.3 The challenges of the Forest and Land Rehabilitation Project](image_url)

One failed site of the RHL Project, Kutai Barat. Photo by Ida Aju Pradnja Resosudarmo, 2004

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247 For instance, shown through focus group discussion with K-C-5
248 Interviews with K-C-6; K-C-7; K-C-8; K-C-9
249 Interviews with K-G-3b; K-L-1
250 Interview with K-G-17c
Financial issues in the implementation of the RHL Project

While, on the one hand, the size of the DAK-DR Fund is a blessing for the districts, on the other hand, its appropriate management has been a challenge. The difficulties have included the untimely disbursement of the funds, their abuse, and restrictions on their uses.

Timing of the disbursement of funds versus Project implementation

When interviewed on the topic of the inflow of the DAK-DR Fund, district officials, particularly those responsible for the districts’ finances, made much of the timing of its disbursement to the districts. Since 2001 its allocation to districts has always come very late in the budget year, as late as November (Chapter 4). The larger portion of the 2002 allocation was actually disbursed by the Ministry of Forestry in 2003 (see notes in Table 5.3).

In reality, the Project is a rolling multi-year Project, rather than an annual Project: the 2001 DAK-DR allocation was used to finance activities in 2002; the 2002 allocation was used to finance activities in 2003; and the 2003 allocation was used to support activities implemented in 2004. Consequently, districts would have sufficient time to plan their activities. Therefore, the timing of the disbursement of the funds well into a particular year, while it complicates the districts’ annual budget estimates, should not significantly affect the process and the way the Fund is used.251

On the contrary, the significant amount of DAK-DR monies allocated each year to both districts posed a difficulty in a different direction: the under-utilisation of the Fund. Because of the restrictions on what it can be used for, spending the large sums of the DAK-DR Fund has been a problem for districts. For example, Kutai Barat could not spend the entire amount of the 2002 allocation (for RHL implementation in 2003). By early 2004, the district had accumulated 55 billion rupiahs (6 million USD) in its DAK-DR account.252 Apparently, underspending has been an issue for each and all thirteen districts/municipalities in East Kalimantan right through 2007. As of July 2007, the unspent DAK-DR Fund in these East Kalimantan districts/municipalities’ bank accounts reached 1 trillion rupiah (about 111 million USD) (Tempo Interaktif, 21 July, 2007b).

According to a senior Kutai Barat forestry official, the main reason for the “failures” to use up the DAK-DR Fund allocated for year 2003 implementation was that the (then new) Project leader was too cautious in managing the DAK-DR Fund and the RHL activities. This was largely influenced by the investigation of the previous Project leader for alleged mismanagement of the Fund. Similarly, the 2002 DAK-DR Project leader in Bulungan was arrested in early 2004 and charged with the mismanagement of the Fund (see also Issues

251 Both districts have also found ways to address this issue. Since 2003, the DAK-DR monies were no longer included in the districts’ budget estimates, instead, they were recorded in the district budgets only after they were actually realized (that is, transferred to district accounts) which usually takes place in the following year.
252 Kutai Barat’s Bupati accountability report, 2004
concerning community participation in RHL, above, and Chapter 7). Not surprisingly in the light of these investigations, the RHL Project leader of Bulungan during the course of my fieldwork showed not only caution in implementing the Project, but also a reluctance to take on the responsibility of being the RHL Project leader (Chapter 7).

The opportunity for the abuse of the DAK-DR Fund

Despite the control and supervisory responsibility of the Provincial Forestry Service, once these funds are transferred into the districts’ accounts, their actual use is entirely under the control of district governments. The Ministry of Forestry and provincial forestry officials have expressed the suspicion that the DAK-DR had been used for purposes other than reforestation activities and/or abused by district officials for personal gain. According to a senior forestry official of Kutai Barat, abuse of the Fund was possible because “while the administration of the Project, both in terms of the finances and the activities, is stringent, the implementation is lax.” (interview with K-G-3b)

Provincial control and supervision over the Project have been limited largely to administrative aspects. Any deviations in the actual implementation, however, are not easy to detect by merely evaluating the administrative aspects. In Bulungan, the RHL Project activities were often given to and carried out by contractors prior to the actual allocation of the DAK-DR monies from the Centre, or prior to the disbursement of the funds as part of the district’s expenditure in the district budget. This was done through the signing of undated contracts. In such cases, the contractors pre-funded the activities, or sought a third party, a backer, to fund them. In return, officials who had a role in the granting of the contracts obtained a “fee”. In Bulungan, such cases were often revealed when the activities were completed but the funding was not yet disbursed by the district government, for whatever reasons; the backers would then demand payment.

Other alleged abuses have included the mark-up of the costs of seedlings, planting, or maintenance. For instance, the price of seedlings was often inflated; they were actually procured for much less from the original farmers. The difference in price went to the contractor/the supplier of the seedlings, district officials who were influential in giving the contractor the

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253 Interviews with N-G-2, N-G-5, N-G-9, P-G-5, P-G-7, P-G-8a
254 Interviews with B-L-1b; B-L-2
255 Interviews with B-L-1b; B-L-2; B-N-1a
256 The pre-funding of districts’ projects by a backer or a contractor has been common in both of the study districts, particularly in infrastructure development and the development of physical structures. This is commonly referred as voor financiering. In both districts voor financiering arrangements were made over very large sums of money (interviews with K-G-14b; B-L-1a); in Bulungan in 2004 the amount reached nearly half of the entire district budget (interview with B-L-1a). Formally, this was done to ensure continuing economic (that is, development) activities in the districts, however, informally, to secure projects for certain contractors, again, in return for a fee for relevant district officials.
257 Interviews with B-N-1a; K-L-1
Project, and other actors (such as middle-men and the pengurus of the Kelompok Tani). The main implication of the mark-up has been for the quality of the seedlings, which has been lower than the standard required for the quoted price.

Similarly, the quoted costs for planting and soil preparation were often inflated, and were higher than the money the farmers in the Kelompok Tani actually received, with the difference siphoned away through the chain of bureaucracy, contractors and the backers.268 Officials of both districts and members of Bulungan’s legislature admitted that there were higher powers in the district hierarchy above the Project leader, including within the legislature, who played a role (and presumably also benefited) from these deviations or were influential in the granting of contracts (section 7.2.4).259

More generally, the RHL and GNRHL Projects have ensured that the provision of seedlings for reforestation has become a big business.260 Companies supplying one of the popular exotic species in East Kalimantan, jati emas (Tectona sp), have allegedly used “incentives” to persuade District Forestry Service officials to use their seedlings in their respective districts.261

Given its rubric of community empowerment through the active participation of community members, the RHL Project has also been an easy target for abuse. Among those noted by interviewees in Bulungan was the abuse of the Partnership Agreement concerning regreening activities, between the district government and the Kelompok Tani (the SPK).262 The modus operandi has included the signing, supposedly by the representative of the Kelompok Tani, of an agreement which can then be manipulated: either a blank agreement, an agreement in which the area to be rehabilitated was not specified, an agreement without any specifications of the unit costs of tasks, or an undated agreement.263 Similar suspect agreements occurred in reboisasi.264 The terms of the agreements thus were easily orchestrated to allow for the mark-up of costs or other deviations, including imaginary activities. These sorts of abuses clearly prejudice the outcomes of the RHL Project in terms of each of its objectives – rehabilitation of forests, rehabilitation of lands, and community benefits from the Project.

Restrictive uses of the DAK-DR Fund versus districts’ needs

The districts’ other explanation for the difficulty of “using up” funds in time relates to the strict restrictions on the uses of the DAK-DR Fund allocated to regions. That is, it is restricted to actual rehabilitation activities and may not be used for support activities. It can only be used

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258 Interviews with B-L-1b; B-L-2; B-N-1a
259 Interview with B-L-1b; K-G-17b; B-G-21a; B-G-22b
260 Interviews with N-A-2
261 Interview with N-A-2
262 Interviews with B-L-1b; B-L-2; B-N-21
263 Interviews with B-L-1b; B-L-2
264 Interviews with B-L-1b; B-L-2
for planting activities, including the clearing and preparation of the land, provision of seedlings, planting, and fertilizers. It is not to be used for activities such as administration of the Project or physical structures, let alone for other, non-forestry development expenditure. For Kutai Barat, supporting activities consist of sosialisasi and prakondisi, the provision of technical guidance (bimbingan teknis), and evaluation and monitoring. However, as described in section 5.2.1, these supporting activities must be financed through the district budget from non DAK-DR sources.

District forestry officials argued that the restriction on RHL support activities being financed from the DAK-DR Fund was one of the main obstacles to carrying out Project activities. On the one hand, the amount of supporting funds allocated by both of the study districts was small compared to the amount of funds allocated for the core activities. Bulungan provided 3.6%, 6%, and 1.6% for 2002, 2003, and 2004 activities, respectively; Kutai Barat allocated 2% and 3.4% for 2003 and 2004 activities, respectively. Both the Governor and deputy Governor of East Kalimantan had several times instructed the Bupatis to increase the RHL supporting funds commensurate with the core DAK-DR Fund, but these directives had largely fallen on deaf ears. On the other hand, the nature of the Project which heavily emphasises the involvement and active participation of communities makes support processes such as sosialisasi and prakondisi to which the monies from the DAK-DR Fund are not to be channelled, critical to the success of the Project. Consequently, in Bulungan, sosialisasi and prakondisi of the Project was not only inadequate, as acknowledged by district officials, but in some villages, totally absent.

The limited supporting funds restricted the ability of district forestry officials to carry out sosialisasi and prakondisi activities appropriately, in particular in the more remote villages. In Bulungan, for activity year 2004 (the implementation of the 2003 DAK-DR allocation), the supporting funds were not allocated within the budget of the District Forestry Service as the Project’s implementing agency, but in that of the District Secretariat. This affected the implementation of the Project.

Although the separation of the repository of the supporting funds from the authority of the RHL Project can function as a control mechanism, district forestry officials claimed that the lack of authority of the implementing unit (the District Forestry Service) over these funds has complicated the operations of the Project. Lack of coordination between the two units has been blamed for causing delays in Project activities. For instance, according to district

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263 Interviews with B-G-21a; B-G-22
264 Interviews with P-G-6; P-G-8a
265 Interviews with B-G-21a; B-G-22
266 Interviews with B-C-4; B-C-9b
267 Bulungan’s budget, 2004
268 Interviews with B-G-21a; B-G-22
269 Interviews with B-G-21a; B-G-22
forestry officials, officials from the district secretariat would only disburse the funds if their “demands” that the latter take part in the sosialisasi and prakondisi visits to villages – although these visits were not included in their tasks – were met. Officials on business trips, such as these sosialisasi and prakondisi visits, are entitled to a travel allowance. Albeit not large, the travel allowance has provided district officials with a source of formal and thus legitimate, additional income.

This case highlights the issue of competition for authority over scarce district resources (that is, district’s funds outside the DAK-DR) between district units. In both districts, the District Forestry Service is often perceived as a “rich unit”, both formally and informally (see also section 6.3.2). This perception is associated with the characteristics of the “goods” under the unit’s responsibility: forestry is seen as a revenue and income generating sector, rather than a sector that largely incurs costs such as health and education (Appendix 1). Formally, as discussed in section 4.6, in terms of funding, the RHL Project has been one of the largest projects in the districts for three consecutive years. Informally, forestry provides many possibilities for rent-seeking and informal benefit capture through various types of abuses, in the administration and implementation of both the RHL Project and logging activities (section 6.3.2). The District Forestry Service is thus perceived as being capable of “seeking its own funding” (that is, informally) to support its activities. Because of the perception that the District Forestry Service is showered with both formal and informal funds, the general perception among other district units has been that the limited, but more flexible, balance of districts’ resources should be directed to other units.

In Kutai Barat, the trend had been the opposite of that of Bulungan with regard to the locus of the RHL supporting funds. In 2002 this fund was handled by the BAPPEDA (the district planning unit), while in 2003 and 2004 the supporting funds were handled directly by the forestry service. The change has speeded up the sosialisasi and prakondisi process. In 2004, the District Forestry Service established 15 teams, each consisting of 3-5 forestry officials, to carry out the sosialisasi and prakondisi process in all 15 sub-districts.

The general lack of supporting funds made available from the district budget outside the DAK-DR Fund has, however, critically affected the ways in which the rehabilitation activities were carried out. For instance, the capacity of the local governments to monitor the actual planting or maintenance of the activities is extremely limited, in particular in terms of the number of personnel and in the monies allocated to make field visits. To overcome this problem, Kutai Barat hired foremen (mandor), usually residing in the same village as the villagers forming the Kelompok Tani, to ensure that the latter carried out the activities. The

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212 Interview with Kutai Barat’s RHL project leader for 2003 and 2004, 26 July 2004, K-G.*
213 The district now has 21 sub-districts (section 1.5.4); some of the original sub-districts were partitioned into new sub-districts.
activities of the foremen are considered part of the core rehabilitation activities; thus, their fees are paid through the core RHL budget, rather than from the support funds.

Bulungan at one point approached the Ministry of Forestry and attempted, but failed, to negotiate the use of the DAK-DR Fund for other purposes. Senior district officials both in the office of the Bupati and in the District Forestry Service were adamant that they should have been given the autonomy to use the Fund as they saw fit, according to the needs of the district. In particular, senior district officials argued that, as it belongs to the districts, the use of the districts’ portion of the DAK-DR Fund should not have been limited to RHL activities, but could be used for infrastructure development. In both districts, infrastructure development has been high on the district governments’ priority list.

A senior official of Kutai Barat Finance Office vehemently denied the DAK-DR Fund had been used for (official) purposes other than RHL. He insisted that the DAK-DR Fund was put in an account specifically maintained for the Fund and, only used for RHL, and thus was not possible to be used for other development purposes. The actual use of money in the districts’ budget, however, is largely within the discretion of the district government, although the district government must be accountable to the legislature for their actions (Chapter 7). The possibility of using the DAK-DR Fund for other purposes was substantiated by a senior Bulungan official, who admitted that while the DAK-DR Fund is restricted for RHL, district government’s exclusive control over the use of its budget has meant that it can borrow the Fund for other purposes when needed. He did, however, emphasize that any use of the Fund other than for RHL would eventually have to be replaced.

Despite the Centre’s strict restrictions, however, Bulungan managed to use a significant portion of the DAK-DR Fund to finance the fencing structure around the 86-hectare town forest without any legal consequences. This use of DAK-DR Fund that deviated from the General Guidelines was endorsed by the DPRD (legislature), with the major purpose of preventing encroachment on the forest.

The Provincial Forestry Service has been assigned the responsibility of monitoring the districts’ overall implementation of the DAK-DR funded RHL Project, including the districts’ adherence to the requirement that the Fund be utilised strictly for activities directly associated with reforestation and rehabilitation. Despite higher-level government monitoring of the Project, Bulungan apparently got away with using the DAK-DR Fund to build a physical structure. Indeed, on one occasion, a senior Bulungan official played down the capacity of agencies at higher levels of government to enforce the Centre’s guidelines, pointing out that regardless of

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274 Interview with B-G-9d
275 Interviews with B-G-4a; B-G-23
276 Interview with B-G-9c
277 At least one district in East Kalimantan, the district of Kutai Timur, admitted that it used its DAK-DR monies for purposes other than forestry (Kalim Post, 30 October 2003e).
278 Interview with B-L-1b
how districts have fared in the implementation of the RHL Project, districts nevertheless continue, unhindered, to obtain their annual DAK-DR allocation.\footnote{interview with B-G-9c}

5.3 \textit{Conclusions}

Several issues characterize the first theme of this chapter, the allocation of the DAK-DR Fund, to timber producing districts. They include the significant role of the province, complicated procedures, and initiatives to ensure that a certain proportion of the Fund is allocated to districts with substantial degraded lands.

The method of allocation and disbursement of the DAK-DR Fund determined the relations between the districts and the province. As districts’ allocations were coordinated by the province, districts had to follow the due procedures and provincial implementation of national criteria. In this way, the provincial government continued to have some important leverage over district governments, under decentralisation.

As both case study districts are timber-producing districts, their Reforestation Fund contributions are substantial. The magnitude of their DR contribution in 2001-2003 was reflected in the proportion of the DAK-DR they received during the same period. However, as with other districts’ increased power under decentralisation (Chapter 3), the implementation of districts’ increased fiscal powers, specifically in terms of the allocation and disbursement of districts’ DAK-DR share, has not been particularly smooth and straightforward. Timber-producing districts had expected DAK-DR allocation according to their interpretation of the relevant legislation and implementing regulations, but in practice could receive lower than they expected. Lack of specificity of the wording of the relevant legal instruments has been a source of ambiguity over districts’ actual rights/allocations.

The inclusion of ecological criteria in the determination of the districts’ share of the DAK-DR ensured that a portion of the funds was secured for the purpose of improving degraded lands in the province. While the monies originated within the boundaries of the districts, it was meant to be used to improve degraded lands beyond the boundaries of the timber-producing districts, to other districts in the same province. While this method of allocation is tailored to benefit the forest and land resources, it can pose a disincentive for producing districts to ensure that the Reforestation Fund payments are met. Similarly, the criteria of the size of critical lands and the level of degradation of watershed in the allocation of DAK-DR to districts can also pose as a disincentive for districts to improve these degraded resources, and act as an incentive to retain their (degraded) condition.

The second topic of this chapter was the implementation of the RHL Project, the sole use of the DAK-DR Fund in the districts. Two major issues emerged: difficulties in placing the
three objectives of the RHL Project on an equal footing and the challenge to administer the large sums of money.

As the RHL Project has been a national initiative, districts have had to implement the rehabilitation activities according to national guidelines. While the details of its implementation varied, some common threads from the Project can be drawn from the two case study districts. They were in particular, the challenges in implementing the Project to achieve the aims of forests and lands rehabilitation and the empowerment of communities.

Between reforestation (reboisasi) and regreening (penghijauan), both districts focused more on the latter. Reboisasi has been both difficult and unattractive to carry out. It was difficult to identify an area in the category of Forest Estate that had not been allocated to concessionaires or that was clear of community claims. Communities’ lack of legal tenure over areas under the Forest Estate category and the uncertainty about who would be granted the rights over future harvests made the planting of timber species unattractive. On the other hand, penghijauan has been much more attractive because it is carried out on community lands. In addition, participating farmers can select the desired species from a wider range of options. Even in penghijauan, however, timber species have generally been less popular than other commodity species because of the insecurity of tenure, the frequent changes in government policy on commercial timber production, and the tedious administrative documentation necessary for the marketing of timber to be recognized as legal. Thus, both the minimal reboisasi and the replanting of timber species have had implications for the replenishment of the timber resource.

The objective of rehabilitating critical lands, however, in practice has not been high on the agenda of the districts, either. The criterion of size of critical lands was mainly used to obtain the districts’ DAK-DR allocation, but not in actually guiding RHL activities. Rather, more equitable community access to the DAK-DR Fund, community interests, and the probability of success have largely determined where RHL activities have been carried out.

The rehabilitation outcome itself has been a secondary consideration, both for the districts and for the communities. For communities, it has been a source of “free monies” from the Government. In essence, penghijauan has been the source of “government freebies” to improve both the ecological condition and the productivity of community lands. For the district governments, the emphasis of the Project has been on providing economic opportunities, thus activities have been oriented towards the “people” aspect, rather than towards the resource and the ecological aspects.

This does not mean that both Kutai Barat and Bulungan governments have completely succeeded in advancing the “people orientation” of the Project. Those with connections, capital or information were more likely to engage in the Project and benefit from it, particularly in its first years. Obstacles to disseminating information and the requirements of the Project were part of the problem, but the opportunity for abuse of power to allocate contracts or determine which farmer groups participated, also contributed significantly to the problem.
The Project has involved a large sum of money and managing it appropriately has been a particular challenge for both districts. Various forms of abuse of the Project’s monies for personal benefit have allegedly occurred; some have been proven in court (Bulungan). Other alleged forms of abuse of the Fund (one of which was admitted in Bulungan – on the use of the Fund for fencing structures) have been in the deviations of the use of the Fund for purposes other than reforestation and rehabilitation activities as specified by national regulations and guidelines. The stepping up of enforcement to prevent the abuse of the Fund for personal benefit has prompted district government officials to be more cautious in implementing RHL, but this has also resulted in districts’ leaving large sums of DAK-DR money lying idle in their bank accounts, but drawing large interest.

Supervision and monitoring of the Project have been very limited. Accountability mechanisms have largely also been ineffective (Chapter 7); only financial accountability has been implemented. While this is important, other aspects of the Project are no less important in improving its effectiveness. For instance, there is a need to ensure that rehabilitation activities are carried out in areas that need to be rehabilitated, rather than in forests with natural secondary growth already well underway or in community gardens that are already “green” and require no further regreening. In addition, there is a need to ensure that once the seedlings are planted, they are tended, with or without subsequent injection of government “freebies”. These largely non-administrative aspects are more difficult to enforce, other than raising awareness of the importance of the Project in the long term, both in terms of the resource, the ecology, and the livelihoods.

The chapter has shown clearly that there are immense obstacles to achieving the objectives of the Project. The earlier quote from Bulungan’s government official: “... plants merely showing signs of growth are already called a success” reflects the real difficulties facing district governments. Among the difficulties are the appeal of and opportunity for the abuse of the large amounts of money in the Fund. As the quote of the Ministry of Forestry Official in the beginning of the chapter aptly described, district governments often have to make choices between green land cruisers or regreening critical lands.

These choices illustrate the challenges that district governments face in their forestry decision-making. The next chapter observes the dynamics of forestry decision-making in the study districts, particularly through the interactions of various actors operating in the districts with district governments, as well as among themselves.
Chapter 6: Juggling the Acts: the Dynamics of District Decision-making under Decentralisation

Chapters three and four analysed the vertical power relations component of the research framework (Chapter 2), and confirmed that vertical governmental relations (Figure 2.1) are an important component in local government decision-making under Indonesia’s decentralized regime. This chapter focuses on the second component of the research framework described in Chapter two: the interactions of district governments – as the loci of decentralized power – with other actors at the district level. The “horizontal relationship” between district governments and other actors in the district is illustrated in the schematic diagram of the research framework (Figure 2.2).

This chapter describes how the decision-making powers formally acquired by district governments were actually played out at the district level in the period under study, particularly 1999-2004. Power relations between actors have been suggested as one of the decisive factors in understanding the local decision-making arena (Chapter 2 and Appendix 2). Therefore, this chapter analyzes the interactions of the primary set of actors, district officials, with other, non-state, sets of actors operating at the district level. It looks at the roles these non-state actors have played, and the extent to which they have influenced district decision-making.

The thesis concentrates its analysis on specific, predetermined sets of actors that have been suggested as significant in district decision-making in the natural resource realm under decentralized contexts (Chapter 2). These sets of actors are 1) international agencies, civil society groups (NGOs), and academics; 2) district communities at the village level or masyarakat; 3) the forestry business community; and 4) a specific group identified as particularly relevant in the case of Kutai Barat – gangsters or preman. The media and the district legislative body (DPRD) are directly relevant to the discussion on accountability and are therefore described in the next chapter. Other important actors, including the military and police, are described in the context of the relations between the district governments and the major actors specified above.

6.1 International organisations, NGOs, and academics in district forestry decisions

Reformasi and then decentralisation have provided the opportunity for these actors to work closely with local governments. All of these three types of actors have had or have been involved in forestry-related activities in both of the study districts during the period of study.

NGOs here and throughout the thesis refer to domestic NGOs.
The number of these three sets of actors, types, as well as the extent and emphasis of their involvement in the two case study districts, varies. The section begins with a discussion about the role of these organisations in Kutai Barat forestry decision-making.

6.1.1 Kutai Barat District

Numerous international organisations, NGOs, and academics have worked in Kutai Barat.

International organisations

International organisations supporting Kutai Barat have included the USAID-NRMP, the Ford Foundation, CIFOR, DFID, ICRAF, IGES, BMZ, and GTZ. Other development-oriented organisations, such as IFAD, have also carried out activities in the district.

The USAID-NRMP provided financial and technical assistance for the development of Kutai Barat’s Forest Management Program. As a newly established district with new decentralized authority, and recognizing the complexities inherent in forest management, the district government was anxious to determine the direction of forest management in the district. In 2000, in a bid to improve forest management, the district government established the Local Forestry Program Working Group or Kelompok Kerja Program Kehutanan Daerah (KKPKD). The USAID-NRMP facilitated the establishment of KKPKD and supported its operations. Members of this working group comprise a diversity of local forest-sector stakeholders including local government officials, customary (adat) leaders, community representatives, NGOs, academics, and the private sector.

The main task of this working group was to identify forest management issues in the district and then to develop a realistic forest management plan. With the financial and technical assistance of the USAID-NRMP, at the end of 2001, after a year-long and financially draining process of policy-making through a multi stakeholder approach which had involved workshops, seminar, and public consultations, KKPKD completed the identification of forest management issues in the district. This included the documentation of escalating conflicts associated with the district’s small-scale logging licenses. The outputs were two reports on the district forestry portrait and the district forest management. KKPKD was also the major actor in the formulation of the district’s comprehensive pro-community and pro-adat regulation on forestry (PERDA 18 of 2002, section 3.3), signed by the Bupati and endorsed by the DPRD in 2002.

One year later, also through multi-stakeholder processes, Kutai Barat began to pass a series of policies to implement Community Forestry Program or Kehutanan Masyarakat (KHM). These included a District Regulation on KHM (PERDA 12 of 2003), a Bupati Decree, and technical guidelines for the implementation of KHM. These processes were supported by the Ford Foundation.

Other international institutions provided assistance with the more technical aspects of forestry. These institutions included CIFOR, which assisted the District Forestry Service in the establishment of its Geographic Information System (GIS). CIFOR, in partnership with the
Samarinda-based, Mulawarman University, also conducted research on non-timber forest products and marketing, on modelling livelihood-forest interactions, and with the Ministry of Forestry, on forest rehabilitation in the district. More recently, CIFOR and BMZ have conducted research focusing on the linkages between poverty and forests. ICRAF focused on research into the empowerment of adat communities. GTZ was active in the formation of village-level fire control groups in twenty villages, as well as in a local government capacity building project. DFID supported Sistim Hutan Kerakyatan (SHK), an East Kalimantan-based NGO which was active in promoting a community-based eco-forestry approach in a pilot village in the district. IGES, in collaboration with academics at Mulawarman University, developed guidelines for improving the role and participation of communities in forest management.

The presence of the wide range of international agencies in Kutai Barat was partly attributed to the personal network and the background of the individuals running the district. For instance, the Bupati leading the district in 1999-2004 had worked for the Provincial Planning Agency (BAPPEDA) prior to becoming Bupati. In his prior position, he had been involved in a GTZ project, and had nurtured a close personal relationship with the Head of the GTZ project based in Jakarta. Upon the establishment of the district and the subsequent appointment of the caretaker Bupati in 1999 (and his subsequent election in 2001 as the definitive Bupati), this relationship led to GTZ’s assistance to the district government.

Both the head of the Kutai Barat Forestry Service in the 2001-2004 and 2004-present were researchers in Mulawarman University; the previous official trained in Japan and the current one trained in Germany. Both officials therefore had built networks with Japanese and German-based institutions. Furthermore, prior to his appointment, the head of the District Forestry Service was involved in CIFOR’s research and thus had built close ties with this organisation.

The previously established network opened the door for the above international organisations to assist the district when these individuals became district decision-makers. These organisations were thus able to actively participate in the formal district forestry policy development.

**Academics**

Several academics from the Mulawarman University were involved in the forestry policy processes of Kutai Barat. These academics were mostly based in the Center for Social Forestry of the University. One academic served as a forestry expert in the KKPKD. Another respected academic in the field of social forestry was the key expert in the formulation of the series of district decisions on Community Forestry (KHM). The involvement of these academics influenced the thrusts of both the District Regulation on Forestry, PERDA 18 of 2002 (section 3.3) and the District Regulation on KHM, PERDA 12 of 2003, which were heavily oriented towards adat (customary) communities and community-based forestry.

The appointment of two Mulawarman University researchers consecutively as heads of the District Forestry Service shows that academics have not only participated in district forestry
decision-making externally, but more importantly, have also been directly and internally involved in district forestry by becoming key district decision-makers.

In addition to these regionally-based academics, Kutai Barat's government has also used the expertise of a team of academics from Gadjahmada University based in Yogyakarta, Central Java, to assist the district government in identifying and addressing development issues in the district. Led by an economist who was well known for promoting people-based economy (ekonomi kerakyatan), the team also examined the effects of small-scale district logging licenses on the income and livelihood of the communities. The appointment of a team with such an orientation to assist the district is an example of Kutai Barat administrators' efforts to highlight their approach as one that benefits local communities.

NGOs

Non Governmental Organisations have also become increasingly important in local government decision-making. Many environmental and development-oriented NGOs based in Samarinda worked or are working in Kutai Barat. They are not new actors in the district and were already active in the localities prior to decentralisation. For instance, NGOs which are currently active in the district include Lembaga Benua Puti Jaji, a legal and human rights NGO whose work has focused on the legal empowerment of communities; SHK Kaltim, active in promoting community based forest management systems including in the marketing of rattan from community gardens; Bioma, whose work has emphasized biophysical aspects of research of forestry. Because they have been active for some time, they are known to the public and have gained trust from communities.

During the first few years of Kutai Barat’s establishment, it was reported that the Bupati, at the time a caretaker, was more “down to earth” in terms of interactions with the population. In particular, the Bupati was very accessible to NGOs (Casson, 2001a), which was highly uncommon prior to reformasi. The head of the District Forestry Service who led the unit between 2001 and July 2004 was also known for his closeness and openness with NGOs.

By 2004, however, forestry was clearly a complex issue (Chapter 3) for the district, and district officials placed a higher expectation on their role. By this time, the Bupati’s perception of the usefulness of NGOs appeared to have shifted. In particular, while acknowledging NGOs’ active role in the formulation of district forestry regulations, he wanted more meaningful and concrete actions to assist the district in addressing forestry issues. The Bupati pointed out, for example, that NGOs’ enthusiasms were confined to the level of abstractions, limited to discussions in workshops and seminars, but fell short of concrete solutions to the practical problems encountered in the forestry sector. Similarly, the new head of the District Forestry

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281 Interview with the Bupati of Kutai Barat, K-G.
Service (July 2004 to date) was perceived to be more reticent towards NGOs.\textsuperscript{282} A district official involved in the RHL Project (Chapter 5) lamented these NGOs' emphasis on advocacy, saying they only scrutinized and pointed out the faults or shortcomings of district projects. He insisted that the district required assistance from NGOs that focus more on facilitation, rather than on advocacy.\textsuperscript{283}

Other actors interviewed, however, were much more sceptical with respect to the role of NGOs in the district. For instance, a local entrepreneur complained:

"There are many NGOs in this district, but they are now contaminated with financial needs. Nobody is willing to be a hero here." (interview with K-P-1)

### 6.1.2 Bulungan District

In contrast to Kutai Barat, a more limited number of international organisations and NGOs have worked or are working in Bulungan. Of those which had worked in Bulungan, some had moved to the newly-partitioned districts, and only a few remained working in the original Bulungan, the study district.

**International organisations**

While Kutai Barat is a newly established district (Chapter 2), the area of what is known as Bulungan District today encompasses the remaining "mother" or original district from which three other districts were partitioned (section 2.4.2). Before decentralisation, two international institutions working on forestry had a major presence in the original district: WWF in the area of conservation, and CIFOR, emphasizing social, economic, and biophysical research. After the partitioning of the district, the area in which these two international organisations were engaged became Malinau District. Subsequently, only one international organisation, CIFOR, has had a major forest-related activity there. The activities were conducted in partnership with Pionir, a locally-based NGO. The emphasis of the activities was on research, none of which involved the direct participation of the local government.

**Academics**

The influence of academics in Bulungan's forestry decision-making appears to have been much less significant than in Kutai Barat. In contrast to Kutai Barat, district forestry decision-makers had no previous history of working in an academic environment. Similarly, the district did not involve academics in the formulation of district forestry or forestry-related policies. The

\footnotesize{\textsuperscript{282} Interview with an East Kalimantan NGO member, P-I/N-3
\textsuperscript{283} Interview with a district official involved in the DAK-DR RHL Project Kutai Barat, K-G-17}
DPRD, however, did outsource a study to the Samarinda-based University of Mulawarman and a locally-based NGO.

**NGOs**

As in Kutai Barat, the activities of NGOs in Bulungan have also become increasingly visible. However, the types and characteristics of the environmental and development NGOs working in this district are different in some respects to those working in Kutai Barat. The NGOs working in Bulungan are more local in character and operate with more limited funding and personnel.

In contrast to the NGOs focusing on environment and natural resource issues operating in Kutai Barat, which are Samarinda-based (but have offices or major activities in the district), NGOs in Bulungan are based in the district.

There is only one NGO, Pionir, which specifically focuses on environmental issues in the district. Pionir is one of the more “established” NGOs compared to other NGOs operating in the district, in the sense that Pionir is reasonably secure in terms of financial resources with which it operates, compared to other NGOs who are essentially operating “with difficulties” (see below). In contrast to NGOs working in Kutai Barat, up to the time of fieldwork in 2004, Pionir had mainly focused on forestry-related research with the results intended to support district policies, rather than emphasizing advocacy or community empowerment. Even though it was the relatively “established” NGO in the district, Pionir was small; at the time of the major fieldwork in 2004, it was operating with only four staff. This included the director, the only individual with the capacity to do research independently, while the remaining three were support staff.

Bulungan’s local government is now giving more attention to NGOs, for what appear to be at least three distinct reasons. The first motive is associated with external funding agencies’ requirement to include NGO participation in externally-funded government projects. For instance, in mid 2004, Pionir was contracted to carry out a socio-economic study on fishery communities as part of a national fishery project undertaken by the District Fishery Service. The involvement of NGOs was one of the requirements imposed by the funding agency. Second, the local government is overwhelmed with the complexities of forestry issues and felt that societal actors such as NGOs, who often work at the grass root level, could assist them. For instance, NGOs could assist the local government in inter and intra-community conflicts as the unintended consequences of the issuance of district’s small-scale licenses (section 6.2), which were absorbing the district government’s resources and energy. Deviations surrounding the RHL Project also emerge as an important issue (Chapter 5). NGOs are thus recognized to be potential facilitators and watchdogs in these issues. The third reason has to do with the district

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284 Interview with a BAPPEDA official, B-G-11a
285 For instance, interviews B-G-9a, B-G-9b, and B-G-4a
286 Interview with a BAPPEDA official, B-G-11a
government’s realization that NGOs, in this particular case Pionir, can assist the local government in “bridging” the gap between the district government and external institutions.\textsuperscript{287} This gap has arisen partly as a consequence of the current trend in most parts of the world, including Indonesia, of international donors focusing on environmental issues increasingly preferring to work directly with NGOs, rather than with governmental actors.

The DPRD had also made use of the expertise of Pionir and academics from Mulawarman University, by contracting out a study on district small-scale logging licenses to these parties (section 7.2.3).

Although the local government appears to have shown some appreciation of the role of NGOs, there are still stumbling blocks to their engagement and influence. Bulungan government’s commitment to NGO participation in district decision-making still shows a degree of rhetoric. NGOs’ presence or participation is solicited out of necessity, such as either to satisfy a certain requirement or public expectation. This is illustrated through the following examples.

In late 2003, Pionir initiated the establishment of a Working Group on Forest and Land Rehabilitation or \textit{Kelompok Kerja Rehabilitasi Lahan dan Hutan} (KKRHL) with the objective of formulating a long-term plan for the management of Bulungan’s forests. The group comprises various stakeholders in the district, including civil society organisations, the district forestry, mining, and agricultural units, and community representatives. As with KKPKD in Kutai Barat, KKRHL had the formal support of and was financially supported by the district government.\textsuperscript{288} As of July 2004, the district government’s financing of KKRHL had not materialized.\textsuperscript{289} As of October 2005, the working group was at a standstill and could not carry out significant activities due to the lack of support from the local government and its agencies (\textit{Kaltim Post}, 23 October, 2005f).

Another example was demonstrated during a spatial planning consultation process of four sub-districts in which I was able to participate directly. The consultation process was attended by various representatives of district agencies, a DPRD member, a team of Samarinda-based consultants responsible for the spatial planning study, two NGOs (including Pionir), and the District Planning Office (BAPPEDA) as the unit in charge of the project. At the time, seemingly useful comments and critiques were put forward by participants, including the NGOs present. However, a DPRD member later explained that the consultation process was merely “window dressing”. The spatial plan had actually already been drawn up and decided by the district government and the consultants without sufficient field checks, and inputs were only requested to justify the process, to qualify it as a “participatory” process through public consultations.\textsuperscript{290}

\textsuperscript{287} For instance, interview with B-G-9d.

\textsuperscript{288} Decree of the Bupati of Bulungan 386 of 2003 on the Establishment of the Working Group on the Forest and Land Rehabilitation in Bulungan, issued August 5, 2003

\textsuperscript{289} Interview with B-L/(N)-4a

\textsuperscript{290} Interview with B-L-1a
The "window dressing" process above reflected not only the limited role and influence of NGOs in the actual formal district decision-making processes, but also the limited role of other participants more generally. Instead of utilizing NGOs to improve district decisions or policies, Bulungan government "used" the "participation" of NGOs to legitimize the process of district decision-making.

In addition to the "window dressing" issue, one serious issue associated with the role of NGOs in district forestry has been the lack of funding. After reformasi, restrictions on the media and freedom of association were relaxed, resulting in the mushrooming of new NGOs. In this district, most if not all of these NGOs are young, founded after the onset of reformasi, and without established networks or support.

In terms of funding, NGOs working in Bulungan are less secure compared to their counterparts in Kutai Barat. The Samarinda-based NGOs working in Kutai Barat were mostly established in the mid or late 1990s. The advent of reformasi saw international donor funds pouring into domestic NGOs, and these Samarinda-based NGOs were among those able to capitalize on their established networks to gain financial support. Many NGOs in Bulungan, on the other hand, are newly established and did not have the channels to tap into this source. Pionir, founded in 2001, had survived financially through partnership arrangements with CIFOR and Conservation International (the latter worked in the neighbouring district of Berau), and had also worked on local government and DPRD projects. Unlike other NGOs working in Bulungan, Pionir has a network in Samarinda and among international organisations because its founders were previously students at Mulawarman University and were also activists in the Samarinda circle.

Thus, in terms of funding sources, most of the NGOs in Bulungan operate "with difficulties". As in other countries, funding has been a serious and very real constraint for local NGOs to carry out their activities. In general these NGOs did not have a continuous and guaranteed source of funding, and therefore are often dependent on district government's assistance (bantuan), even to cover the basic expenses in their activities such as transportation costs. This constraint could easily compromise the objectivity of their actions.

While most NGOs were established with the noble objective to serve the public, at least one NGO operating in Bulungan was openly accused – by district state actors and fellow NGOs – of having compromised its objectives due to the lack of secure funding. NGOs of this type would identify irregularities or breaches of regulations by certain actors, and would threaten to report the deviations to the authorities, unless they were given some form of "compensation". In an interview, a member of the "accused" NGO, which focuses on advocacy of development

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291 See for instance, Schwartz (2004) for a discussion on the limitations of funding availability with respect to environmental NGOs in China.
292 Interviews with B-N-5, B-N-1d, and B-N-6
293 Interview with B-N-
issues, revealed that his NGO had just been offered a bribe to not report illegal logging activities it had pursued earlier. This NGO was offered “the fruits” or “the tree”: “fruits” referred to cash, while “the tree” referred to timber, meaning that the NGO was offered cash or timber as payment in kind, if it were to keep quiet over its findings.294 He did not disclose how the NGO responded to the offer.

A member of the NGO in question admitted bluntly that his organisation was a “grey” NGO. Because funding was a real problem for this NGO, as it did not have any particular or continuous funding sources, it had to find other means to finance its operations. These “ways” have included extortion from companies who flout regulations, making noises only when the companies do not give in to the NGO’s demands. He asserted, however, that in the pursuit of securing funds through “non-traditional means”, his organisation would never harm or take advantage of communities (masyarakat).295 Other NGOs confirmed the ways in which this particular NGO has operated and adamantly claimed that they have not operated in the same way (tidak sekiblat).296

Apparently, despite some NGOs’ ambitious objectives, the difficulties of remaining in operation and the lure of other available and more attractive opportunities, have attracted members of NGOs to remove their NGO attributes. Two of the founders of Pionir have now detached themselves from the day-to-day activities of the organisation and have each jumped ship to other important organisations in the district. One joined the District Forestry Service and has since become the confidante of its head. The other founder became one of the 20 DPRD members for 2005-2009. These two individuals therefore have now penetrated the formal decision-making circle itself.

By January 2006, substantial changes had occurred in the district with regard to the activities of Pionir. These changes were particularly related to the different types and increasing number of activities undertaken by Pionir and its members. Since 2005, the director of Pionir has become directly involved in politics. In 2005, an election year for the new Bupati, the director of Pionir became a member of the “success” team for the then candidate Bupati. This candidate won the election and formally took office as Bupati in September 2005. As a result, Pionir now has direct access to the new Bupati. Within a few months in office, the Bupati had already granted Pionir, through the District Forestry Service, a conservation project in the district. Pionir was confident that now it has more opportunities to influence the Bupati’s environmental policies.297

By early 2006, Pionir members were involved in activities or projects that often had nothing to do with the main objectives of the organisation, that is, to monitor and provide inputs

294 Interview with a member of the NGO, B-N- *
295 Interview with a member of the NGO, B-N- *
296 Interviews with two other NGOs, B-N- * and B-N- *
297 Interview with B-N-1g
for the local governments’ environmental decisions. For instance, the director and key member of Pionir joined a political organisation, the National Indonesian Youth Committee (Komite Nasional Pemuda Indonesia, KNPI). The director of Pionir also became one of the administrators of a Cooperative focusing on borrowing and lending activities. As of September 2006, the director and members of Pionir were actively seeking other opportunities to meet personal financial needs. As a result, less time was committed to carrying out the core environmental-related tasks of the organisation. Although the director of Pionir remained as the coordinator of the KKRHL, it is becoming increasingly clear that these other activities could easily compromise Pionir’s core tasks in one way or another.

Although the level of involvement of NGOs in formal district decision-making processes pertaining to forestry appears to be growing, more so in Kutai Barat than in Bulungan, NGOs still have a long way to go in influencing actual forestry activities in districts. Even in the case of Kutai Barat, where the three types of actors (international organisations, NGOs, and academics) were active in influencing district forestry decision-making processes, district regulations produced from such processes were non-implementable, not followed, or not optimal in their implementation. The incoherence between district policies and the actual forestry operations were attributed to both conflict between district policies and the policies of higher level of governments (Chapter 3) and the reality of power dynamics in the district. It is to the latter issue that this chapter now turns.

6.2 Local people in district forestry: “bringing the government closer to the people”? 

This section centres on local communities. Communities are the local people, referred to as masyarakat in Indonesian, living within the jurisdiction of the district, usually at the village level (Chapter 2).

“...The source of district’s policies is the direct aspirations of masyarakat. Masyarakat come to see me, and as much as possible I also visit masyarakat. I am also masyarakat. I also reflect on my own situation, I reflect on what I have experienced. And only upon reflection I consult with competent parties, or the potential beneficiaries.” (interview with the Bupati of Kutai Barat, K-G.*)

This quote from the Bupati of Kutai Barat aptly illustrates the four themes constituting the central role of communities in district forestry decision-making: community – policymakers interactions, community participation, community influence, and community benefits.

298 Interviews with members of Pionir, B-N-1g B-N-6
299 Personal communication with SM, a member of Pionir, 19 September 2006
6.2.1 Direct interactions between local communities and district functionaries

In theory, decentralisation should “bring the state closer to the people” (World Bank, 1997:110). However, the following analysis suggests that in the two districts studied, this assumption, even in its simplest form and in the actual meaning of the words, has not been easy to realize. There are practical and cultural issues even in the simplest manifestation of “bringing government closer to the people”, that is, in the direct physical interactions between the masyarakat and district functionaries.

The most notable trend in the two districts post reformasi, and different from the past, is the opening of the Bupatis’ office regularly to the local population, allowing for direct interactions between the community members and the person at the highest level of district leadership. However, there are practical as well as social and cultural hurdles that prevent the system from working effectively.

Commoners face practical challenges if they wish to interact with district government officials in the district capital. Material and physical obstacles are associated with the districts’ large area of jurisdiction, and the dispersed as well as remote nature of some villages. For most villagers, getting to the district capital is not easy and is expensive, making a trip to the office of the Bupati not a feasible option for many community members.\textsuperscript{xx} Like in other “undeveloped” Outer Island areas, fuel prices and consequently transportation costs are much higher than in Java. For instance, in October 2005, the retail price for gasoline in the sub-district closest to Samarinda was 5,050 rupiah per litre. But in the most remote sub-district of Long Apari, farthest from Samarinda and closest to the border with Malaysia, the cost of gasoline was 7,000 per litre (Kaltim Post, 11 October 2005c) or 1.5 times the price of gasoline in Jakarta.\textsuperscript{xx} The cost to get to one of the villages visited during fieldwork in Bulungan from the district capital, which had involved a boat ride to the nearby island municipality, Tarakan, and continued with an outboard motor boat inland along one of the major rivers, was about 50 USD per person. This sum is well beyond the spending capability of most ordinary villagers. This difficulty is made worse by the rudimentary infrastructure, in particular roads, which forces a continuing reliance on the river systems as the major, and for some villages, the only mode of transportation. Consequently, only the better-off community members can make visits to the district capital.

When one finally reaches the Bupati’s office, there are other deterrents that render this system of direct communication with the Bupati ineffective. There are protocols and long queues, and the time slot devoted to this purpose is limited. Often because of the Bupati’s busy

\textsuperscript{xx} Interviews with villagers of Bulungan, B-C-5a; B-C-5b; villagers of Kutai Barat, K-C-1, K-C-2, and K-C-5

\textsuperscript{xx} As of October 1, 2005, the Government increased the price of gasoline from 2,400 to 4,500 per litre.
schedule, this slot is not always open for its stated purpose, and when it is, the queue is not always followed in order: guests are essentially “filtered” by his assistants. Ultimately, these “layers” of individuals between the Bupati and community members determine whether one can actually meet with the Bupati or is rejected. One’s chances of meeting the Bupati are higher if s/he can persuade these “guards” or “gatekeepers” to let her/him in. This seemingly simple matter thus sidelines commoners without the right network, position, or influence.

There are also cultural impediments to commoners having their voices heard on district decisions. Access to the Bupati’s office and to meet the Bupati personally – something that was rare prior to reformasi – gives masyarakat a sense of pride. However, out of respect towards an authority or leader, people are often hesitant, as they were in the New Order period, to openly criticize local governments.302 Under the New Order, most wong cilik (literally, “little people”) had been, out of respect, obedient and accepting of established local and national leaders (Liddle, 1996).

To enhance interactions, officials and the legislature of both districts now make visits to villages. Visits are made for a variety of purposes, including dissemination of district decisions and projects, project surveys, inspection of projects, and ceremonies.

A research survey (2005) documented the Bupati of Kutai Barat’s visits to have included some of the most remote and inaccessible parts in the district, and which were consequently difficult to reach.303 In addition to these documented visits, the local media reported the failure of the Bupati’s visits to some areas due to the difficult route, which forced the Bupati to return to the district capital (Kaltim Post, 4 April 2005a). This shows the Bupati’s effort to reach his constituents even under the most difficult circumstances.

In addition to fulfilling their responsibilities, district functionaries also gain material benefits, albeit not substantial, from conducting visits to villages. Duty travel, particularly those involving overnight trips also means some – not substantial, but useful – formal extra income, in the form of travel allowance, SPJ (Surat Perintah Jalan – literally, “letter of assignment to travel”).

Senior officials of both districts believed that regional autonomy has enabled a more effective bottom-up process of decision making.304 During an interview, the Bupati of Kutai Barat confided that his background – coming from a poor family in the district – has helped him understand the needs and desires of the people by positioning himself as one of the poor community members in the district. This understanding was then built into his consideration when formulating district policies. Mastery of the local language – a skill that most non-local,

302 Interview with a senior official of Kutai Barat, K-G-5
303 Center for International Forestry Research, 2005, unpublished data
304 For instance, Interviews with senior officials of Bulungan and Kutai Barat B-G-4a, B-G-9a, K-G-2b
centrally-installed Bupatis during the New Order Period had lacked – was also identified as an important tool in enabling effective communication with community members.

One of the most common issues observed under regional autonomy across Indonesia was the prevalence of a strong feeling towards putera daerah or “local sons”, whereby key positions in the districts all the way up to the Bupati were filled by indigenous people of that district (Usman, 2002; Turner and Podger, 2003). The potential disadvantage of this tendency includes the exclusion of non-indigenous people from the district bureaucracy, resulting in the placement of some officials with limited or inadequate capacity in certain positions. Despite these potential shortcomings, in the case of Kutai Barat, at least with respect to the Bupati and the Deputy Bupati, the election of “local sons” has tended to show potential benefits: as indigenous district leaders, they were knowledgeable of local conditions and were able to communicate more effectively with the local population in the local language.

A different situation occurred in Bulungan with regard to the issue of putera daerah. In this district, the Bupati who led the district during 1999-2005 had his roots in one of the three indigenous groups in Bulungan. He was perceived to have less support for the majority of the population, the indigenous Dayaks, to take up a position in the district’s office. This was reflected in the transfer of many of the Dayaks holding positions in the original Bulungan offices to the new districts, like Malinau, upon partitioning in 1999. To gain support from the majority of the population, however, the Deputy Bupati was a Dayak.

The interactions between forestry officials and the public in general appear to be significantly determined by the personalities holding positions in the District Forestry Services. My observations suggest that the former head of the District Forestry Service of Kutai Barat (who held the position between 2001 and July 2004), for instance, was very accessible to the public. His replacement, however, was less accessible. The head of the District Forestry Service of Bulungan was also not as accessible as the previous head of the District Forestry Service of Kutai Barat.

6.2.2 Community participation in district forestry-related decision-making

In terms of the process, the level of involvement of community or community representatives in the districts’ decision-making has tended to be mixed. Both district governments have made efforts to include some involvement by communities in formal

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305 Interview with a senior official at the Ministry of Home Affairs, N-G-9a
306 This Bupati of Bulungan was half Tidung, one of the three indigenous ethnic groups in the district, and half Banjarese, an ethnic group originally from South Kalimantan. The Banjarese, though they do not comprise a large proportion of the population of Bulungan, dominate the bureaucracy. This Bupati was replaced by a new Bupati in 2005, who is Tidung. The Bupati of Kutai Barat during 1999-2001 and 2001-2006, was Dayak. His successor (from 2006 to date) is also Dayak.
307 Interview with B-N-1h
forestry-related district decision-making processes. Communities, represented by village heads and customary leaders, took part in the consultative processes of the formulation of Kutai Barat's PERDA 18 of 2002 and PERDA 12 of 2003 (section 6.1.1). Bulungan had initially invited village representatives to sit in on its spatial planning meetings, but later abandoned this initiative because it perceived the effort as fruitless.

There are clearly obstacles to involving representatives of local communities directly in the process. One difficulty concerns districts' limited resources including funds and human resources, and the mere fact that consultative processes are necessarily time-consuming. To include the participation of a wide range of stakeholders, the formulation of both Kutai Barat's PERDA 18 of 2002 and PERDA 12 of 2003 involved a long process, a lot of money, and substantial external support. Kutai Barat government was only able to do this with the financial support of international projects, the facilitative support of East-Kalimantan and Jakarta-based NGOs, and the expert assistance of Samarinda-based academics. For instance, the formulation of PERDA 18 of 2002 took almost 2 years to complete and cost about 200 thousand USD. Hence, without external interest and support, Kutai Barat government may not have been able to do this. Similarly, the promulgation of Kutai Barat's set of regulations on KHM, including its technical guidelines, took more than one year, and was also actively supported by donors, NGOs, and academics (section 6.1.1).

While the process of the formulation of Kutai Barat's forestry regulations has involved community and village level representatives, it does not obscure the fact that those sitting in the process as community representatives may not actually or fully represent the particular communities represented. This problem is recognized as a common and important issue (for instance, Agrawal and Gibson, 1999); however, it is outside the scope of this study and is not pursued further.

A more serious and "rooted" impediment to communities' involvement in district decision-making was local governments' perception of community representatives' as lacking capacity; this was often used as a justification for not involving community representatives meaningfully in district decision-making processes. This is illustrated in the spatial planning process of Bulungan District.

Bulungan government had initially invited village heads to sit in on the consultation processes of the sub-district spatial plan. However, according to the BAPPEDA official involved in the process, the level of participation of village leaders had been disappointing. In one of the first of a series of "consultation" meetings, these representatives were inactive; they did not provide inputs and remained quiet. This district official subsequently discontinued his efforts to include village representatives in the "consultation" meetings that followed and maintained that he had no plans to involve them in the future. Justifying his perspective on the issue:
"In a consultation meeting to identify issues relevant to sub-district Tanjung Palas Timur spatial planning, we invited village heads and adat leaders. But they did not give any inputs. Community representatives do not understand and do not know what they want either." [my emphasis] (interview with B-G-11a)

The absence of village-level representatives in Bulungan’s subsequent spatial planning processes was confirmed during a consultation meeting of Bulungan’s spatial planning presentation of three sub-districts which I attended. In this process, not a single village representative was present. The sub-district heads (camat), however, did participate in the meeting. This was despite the fact that two of the sub-districts being discussed were those located closest to the district capital, thereby eliminating transportation costs as the likely reason for the absence of village representatives.

The denial of any meaningful village-level participation in Bulungan’s spatial planning exercises was also shown by the ways in which the consultants in charge of the project carried out the work. Bulungan’s sub-district spatial planning was contracted out to Jakarta and Samarinda-based consultant companies. In a four month-long project, the team of consultants hired to develop the spatial planning of three sub-districts (kecamatan) which encompassed 18 villages and over 350,000 hectares, spent only a total of 10 days in the area. Rather than soliciting and verifying data and information at the village level, the team had instead relied on information provided by sub-district heads (camat). No effort was made to solicit inputs or views from villagers or even village heads. This approach was adopted despite the fact that under regional autonomy, the authority of sub-district heads had been substantially reduced to a mere coordinating role of villages. Village heads now no longer formally report to sub-district heads as they did in the past. The team of consultants, however, simply assumed that all the relevant data could be provided by the camats, and accordingly, could adequately capture the aspirations of communities in the subdistricts within these camats’ jurisdiction. Omitting village-level inputs from the process of data collection was a conscious and deliberate decision based on considerations of time and cost.

Bulungan’s spatial planning exercises therefore clearly did not involve any meaningful community participation. The process, as in the past, remained largely top-down and without effective public consultation. As in the past, the process was essentially done “backwards”. The output was largely decided in the district government’s and the consultants’ offices at the outset (see also section 6.1.2). On-the-ground checks with regard to the physical and social aspects (conditions) of the area to complete the process were done superficially and sparingly, and after the spatial plans had been drawn up. Furthermore, the use of external consultants unfamiliar

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xv Interview with a Bulungan BAPPEDA official involved in the sub-district spatial planning process, B-G-11a
xvi Interview with the consultants for the district spatial planning, B-P-3, B-P-4
with the area increased the potential of a district spatial plan to be irrelevant to the communities’ needs and incompatible with the physical conditions of the area.

It was also revealed that the consultancy company appointed to carry out the spatial plan of the three sub-districts above had had a previous close relationship with a senior official in the BAPPEDA. The BAPPEDA, the planning agency of the district, is the unit responsible for the compilation of the district spatial plan. In the 1980s, this senior BAPPEDA official had worked for this consultancy company. This raises questions about the nature of the relationship between the company and the BAPPEDA official; it also increases the potential for informal transactions taking place, and for compromising the integrity of the plan.

Thus, Bulungan’s government made little effort to involve local people in the processes of decisions on a matter that was key – if not crucial – to people’s lives. Because most of Bulungan’s population are farmers in the forest frontiers (section 1.5.4), how the lands and forests and their uses are determined (through the district’s spatial plan) have significant implications for the lives of most people in the district.

Figure 6.1 Livelihood dependence on forests
A Dayak woman returning home from her swidden (ladang) on the forest frontier of Bulungan. Photo by Ida Aju Pradnja Resosudarmo, 2004

The district spatial plan shows that a significant proportion of the district area was allocated for plantation development (section 3.4). Bulungan’s major motivation, to pursue economic development and improve people’s livelihoods through plantation-based agriculture (mainly oil palm plantations – section 3.4), was not accompanied by significant efforts to

\[\text{Interview with the consultants, B-P-3 and B-P-4}\]
involve and seek peoples' perspectives on the planned development. Moreover, the district
government washed its hands of the responsibility for ensuring that these developments would
not engender future conflicts (section 6.2.3).

One observation with regard to Kutai Barat government's effort to include local
communities in district decisions, however, suggests that, in some circumstances, direct
participation was not what local communities wanted. One of my visits to a remote village
coincided with a sosialisasi visit by two officials handling Kutai Barat's plan to partition the
village from the existing sub-district into a new sub-district. Meetings were held to hear what
the villagers had to say about the district's plan of the partitioning. There had been and still
were serious disagreements among the community members with regard to the issue. While in
that particular instance no agreement was reached on the matter, ordinary villagers made their
preferences known to the officials. At the time, even though this case had involved an extended
process, the resolution of the disagreement was not imminent. Many of the attendees showed
frustration and insisted that, rather than attempting to find a resolution through a participatory
process, the district government should decide for them. 311

The partitioning of this village may seem irrelevant to forestry decision-making. On the
contrary, however, as in other villages, it cuts right to the heart of forestry issues. Many
conflicts surrounding logging operations under district licenses were among communities
associated with conflict over villages’ jurisdiction and consequently, village boundaries. 312 As
timber fees or compensation were paid for timber extraction or development activities
pertaining to village or community lands or forests, the issue of village boundaries became
increasingly important. This is discussed further in section 6.2.3.

6.2.3 Local people's increasing influence on district forestry
operations

Under reformasi and through regional autonomy, local communities in the two districts
were able to exert influence in forestry operations through the increasing number of land claims,
negotiations with companies, and demands for compensation.

During the New Order, forestry maps (Tata Guna Hutan Kesepakatan, TGHK – Forest
Land Use by Consensus) were drawn in Jakarta largely without consideration of the community
territories that had been recognized in localities. 313 As a result, in many cases these maps were

311 Observation in a village meeting with two Kutai Barat officials handling administrative affairs,
Village L, 22 February 2004. For a discussion on village boundary disputes as a consequence of
district small-scale logging licenses, see Rujehan et al. (2004).
312 Interviews with a senior official of the Community Empowerment Office of Kutai Barat, K-G-
10; with a native of the area and a logging entrepreneur, K-P-2; with an NGO activist and
indigenous Dayak from Kutai Barat, K-Nl-3; with a native of village SB of Bulungan and a
development NGO activist, B-N-5. For a study on similar community conflicts in Bulungan’s
neighbouring district of Malinau, see Rhee (2003)
313 For instance, see Peluso (1995) and McCarthy (2006)
superimposed on community lands to make way for a national policy that promoted large-scale forest exploitation. In this period, many communities' or adat lands were appropriated and distributed to large-scale concessionaires by the Central State (for instance, Potter 1991; Appendix 2).

The post New Order period has been characterized by freedom of speech, freedom of association, and in general, a less powerful state. These features have also penetrated to the local level, and the two districts studied were no exception. In these districts, as in others, this freedom was marked by communities' resurgence in asserting their rights.314 In the Outer Islands and in particular in Kalimantan, the assertion of community rights has taken the form of increasing claims over land or forest area as their adat territories. Under the New Order period these had been controlled by the State over which centrally-licensed HPH concessions had been issued. In some cases, claims were also made over areas where state structures had been established.315

While claims of rights to land and forests did occur sporadically in localized areas of the Outer Islands during the New Order, reformasi saw a significant increase in their frequency, scope and intensity.316 In some cases, communities have resorted to violence that has taken various forms, ranging from demonstrations, to blockades of logging operations, to the taking over of logging equipment, or the burning of logging camps.

To a significant extent, the opportunity to assert communities' rights over local lands due to the weakening of state control and the generally freer environment was amplified by economic motivations. The first economic motive was associated with district logging licenses (Chapter 3). Claims over a particular forest area either as a community, adat or village territory would enable the relevant community to apply for a district license over the area. Communities could then negotiate with potential partners and/or capital providers for an agreed compensation package in return for the right to harvest timber in the area.

A second economic motive was provoked by provincial government policy sympathetic to communities. In June 2000, the Governor of East Kalimantan issued a decree requiring all forest concessions to compensate communities living in and around the concession areas.317 The decision was applied retroactively: timber concessions were required to compensate the affected communities for timber produced from 1 April 1995; until the date of writing, this decision was

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314 Interviews with villagers, village heads, district government officials, NGOs, and timber company staff. For documentation of communities insurgence in asserting their rights to land or forest areas associated with reformasi in various areas in, see Nanang and Devung (2004). Pionir et al. (2001) reported the increasing community claims in Bulungan District.
315 For example, six communities of Kutai Barat have made claims to an air force facility.
316 For instance, in 1992, facilitated by a Samarinda-based NGO, Puti Jaji, the people of village M in Kutai Barat began to assert their rights over their adat forest which had earlier been specified as a HPH concession area (see Imang et al. 2004a).
still in effect. Referring to the Governor’s Decree, the Bupati of Kutai Barat subsequently issued a decision specifying which villages within and around HPH timber concessions were eligible for compensation. These policies thus entitled successful claimants of a particular area affected by the operations of a timber concession to compensation payments.

The Governor’s Decree specified the rate of compensation as 1,500 rupiahs per cubic meter of timber for those harvested prior to 2000, and 3,000 rupiahs per cubic meter of timber for those harvested from 2000 onwards. However, the rate of compensation applied in districts was much higher than the amount specified in the Governor’s Decree. This shows the level of influence of communities on HPH-based timber operations as well as the desperation of timber companies to remain in operation.

Communities’ economic motives to claim lands and/or forests were also bolstered by Bulungan’s and Kutai Barat’s Bupatis’ Decrees on the rate of compensation to be paid for trees and plants on community land affected by a particular development activity.

Forestry businesses and other investors operating in the two districts could now only carry out their activities with the consent of communities. Their consent was not only necessary for centrally-licensed HPH companies, but also for logging operators under district licenses and for investors in other sectors. For instance, operating without the communities’ endorsement often resulted in the companies having to face communities’ open protests or blockades. In September 2005, some 200 Kutai Barat villagers carried out a demonstration demanding compensation for the use of their lands by two coal mining companies, threatening to block the companies’ road if their demands were not fulfilled (Kaltim Post, 23 September 2005d). Communities’ increased power necessitated continuous negotiations between the private sector and community representatives.

Referring to communities’ claims that “these forests are ours”, district officials and HPH timber operators considered that communities’ exercise of power at the operational level was often excessive and inappropriate. Bulungan officials were frustrated with communities’ increasing claims over lands and/or forests, pointing out that these claims were

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318 Bupati of Kutai Barat’s decree 283 of 2000 specifying which villages within and around HPH areas in the jurisdiction of Kutai Barat were eligible for compensation from forestry companies
319 Interviews with B-G-8a and P-B-1
320 Bupati of Kutai Barat’s Decree 590/K.43/2003 on the base prices for land and plants in the jurisdiction of Kutai Barat District; Bupati of Bulungan’s Decree 430 of 2003 on the Compensation Rates for Plants (tanam tumbuh). Potter (1991) reported of instances where HPH concessionaires paid compensation to villagers whose tree crops had to make way for logging roads or camp construction areas during the New Order period. It was not explained, however, whether this compensation was formally institutionalized into a district’s policy or merely based on informal tokens.
321 For example, interviews with a senior official of the Bulungan District Forestry Service, B-G-16; and staff of PT Ik, a HPH operating in Bulungan, B-P-7
322 Interviews with member of Pionir, B-N-1a; a timber operator in Bulungan, B-P-6; a villager and NGO activist, B-N-5
323 “Hutan ini hutan kami” (interviews with various actors in Bulungan and Kutai Barat Districts).
counterproductive to the district government’s efforts to attract investors to the area. As explained by a senior BAPPEDA official of Bulungan:

“As soon as news of the arrival of a potential investor broke, immediately communities would make a claim over the area in question.” (interview with B-G-9a)

District logging licenses (when they were in operation), coupled with increasing interest in developing plantations (Bulungan) and in coal mining (Kutai Barat) have raised the value of lands that had not been actively utilised by communities in the past. One way to assert a claim over a piece of land or forest is to demonstrate evidence of agricultural activities or cultivation on that area. For instance, during the 1997-1998 economic crises, planting tree crops was not only attractive due to favourable prices and exchange rates, but because it would strengthen claims over tenurial rights (Sunderlin et al., 2000). District policy requiring compensation for agricultural crops or timber trees on areas affected by a development project, has added to communities’ incentives to plant up previously idle or seemingly idle lands. However, because community claims surfaced with each investment plan, some district officials believed that the crops were planted only after masyarakat found out that the area was going to be developed. In such cases, they suspected that planting was done primarily for the purpose of claiming compensation. District government officials, however, suggested that in some cases agents provocateurs had influenced communities in their actions.

District officials thus perceived achieving a balance between responding to the communities’ desires and the development objectives of the district as a whole, as an enormous challenge. As elaborated by the BAPPEDA official quoted above:

“On the one hand, we need to ask the people what they desire, but on the other hand, they should not obstruct development either. The challenge is how to make the people feel that they have ownership of a project, as owned by the entire district community, not only owned by the Dayak adat community, not only owned by a community comprising of a particular ethnic group, but owned by the entire district community.” (interview with B-G-9a)

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324 A district official with the Bulungan Revenue Office, however, also pointed out that lack of infrastructure and a variety of district taxes have also deterred investors away from the district, B-G-23.

325 Because communities’ swidden agricultural system necessarily involved several years of fallow, some areas at times appeared idle.

326 For instance, interview with a senior official in the economic unit of Bulungan, B-G-17
Similarly, reflecting on his experience of communities blockading the operations of a HPH, a senior UPTD official pointed out the difficulties that can arise when state actors have to face communities. As he explained:

"Even the police do not dare to go against communities, let alone UPTD staff. These situations are often made worse when they involve provocateurs.” (interview with B-G-15)

Consequently, preventing dissatisfactions that would potentially lead to unrest to maintain security and peace has been one of local governments’ priorities in implementing forestry decisions. This was consistent with local governments’ argument about continuing to provide services associated with district logging permits, at least for some time, despite the withdrawal of the districts’ authority by the Central Government (Chapter 3). Although district governments clearly had other motives for prolonging logging operations under district licenses (including formal forestry revenue for district coffers and informal revenue accruing to district officials and organisations – see section 6.3 and Chapter 7), the fact that district governments were taking note of communities’ actions if logging operations under district licenses were to be abruptly halted shows communities’ leverage at the timber activity level. A senior Bulungan official in the office of the Bupati explained that the district’s effort to accommodate communities’ demands as long as they could, despite circumstances such as pressure from the Centre, had led to a positive outcome:

"Fortunately, the local government has been able thus far to maintain security, so that the district is still conducive”.327 (interview with B-G-17)

District government officials and timber companies often referred to the involvement of “provocateurs” in community actions. The use of the word “provocateurs” in these contexts, however, is sometimes blurred: there is often a thin line between “provoking” and “facilitating” or “empowering” communities. Several local NGOs in Bulungan, in describing their involvement in community-related incidences called themselves “provocateurs”, but in fact were actually referring to their actions of facilitating and supporting communities to stand up for their rights in claiming compensation for the use and exploitation – without their consent – of what communities perceived as their lands or forests, by other parties.328 Since 1990s, NGOs in Kutai Barat in particular have played an important role in raising awareness of communities’ rights and in the empowerment of some communities.

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327 From the Indonesian use of the word kondusif, conducive used in this way refers to providing an enabling environment.
328 Interviews with NGO activists, B-N-5, B-N-2b, B-N-2c
Working in an environment with multiple and often conflicting local interests has led the district government to hedge its bets and try to satisfy all parties, or at the very least, not to stand in the way of potentially conflicting parties. In the granting of district oil palm plantation licenses (Chapter 3), for instance, rather than making sure that affected communities were happy with a potential plantation development, Bulungan’s government placed the responsibility for obtaining communities’ consent for the development on the company/investor developing the plantation. This would safely allow the district to issue plantation licenses to investors, but would also allow the district to appear favourable in the eyes of the communities. In addition, the district government would not need to take responsibility over any emerging conflicts, an issue that both district governments inevitably had to address during the bonanza of district logging licenses. 329

Centrally-licensed timber companies also perceived that communities often made inappropriate or extended claims over certain areas only to demand compensation from these companies. As timber operators saw it, the boundaries of areas claimed by communities virtually “followed” the activities or the operations of HPH, although their villages were located far from the area claimed. 330

The strategy adopted by some communities, “moving and adjusting of community boundaries” to exert land claims, is confirmed by a community mapping study in East Kalimantan, where boundaries can be seen as “contemporary responses to outside pressures...These ‘boundaries’ were sometimes manifested physically on the landscape, for example by the clearing and cultivation of land, the blockading of logging roads, or flagging of trees” (Gibson, 2004:3).

The UPTD official in charge of administering HPHs echoed this perception held by a HPH concession personnel:

“The boundaries of communities’ lands follow the operations of HPH companies. Their demands are unreasonable, they even ask for dust money.” [my emphasis]. (interview with B-G-15)

A HPH employee affirmed this trend of “dust compensation” demanded by communities, which was rife post reformasi. “Dust compensation” (uang debu) refers to the payments that timber operators had to make, to compensate villagers for the “dust” associated with their timber activities, dust that their trucks and other heavy logging-related equipment produced when passing through villages. The amount was usually equivalent to petty cash, between 1000 and 2000 rupiah per cubic meter. A truck of 50 cubic meters, which was considered a big load, had to pay between 50 thousand and 100 thousand rupiah. A small truck load, about 25 cubic

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329 Interview with a BAPPEDA official of Bulungan, B-G-10
330 Interview with staff of PT I1, a HPH operating in Bulungan, B-P-2
meter, had to pay 25 thousand to 50 thousand rupiah. However, in Kutai Barat, in one particular village, a one-off “dust compensation” amounting to 10 million rupiah (1000 USD) was documented. In this particular case, the HPH subsequently had to pay compensation regularly to the village. These HPHs were willing to accommodate the demands of communities because it was the only way to continue their operations.

Other operational difficulties facing HPHs with regard to communities’ actions have included communities conducting logging themselves in HPH concession areas (Chapter 3), which, from the perspective of HPH holders, is an illegal act. To overcome this problem, however, HPHs usually turned a blind eye to such activities. As a staff member of a HPH operating in Kutai Barat revealed:

“As long as it does not disturb us too much, we let them, so we can each continue doing what we do”. [my emphasis] (interview with K-P-3)

With the shift towards increased local community power, and at the same time, the reduced power of the organs of the state to protect HPH interests – the Ministry of forestry losing control at the local level and the reduced power of the Central apparatus like the police – HPH companies had to change their approach towards communities. HPH companies that during the New Order had mostly excluded local interests and ignored communities’ activities or rights (for instance, Potter 1991), were now working their way with relevant communities and accommodating their interests – but were still able to benefit – by taking account of their wishes and paying more respect to their customary rights.

District governments, begrudging the existence of centrally-licensed HPHs in their jurisdiction over which they had no control – in particular when compared to logging operators under district licenses – did not put much effort into protecting the interests of these HPH companies vis-à-vis those of the communities. During the period when district had the authority to issue logging licenses, districts had little incentive to maintain the operations of HPH companies. Because districts could legally issue logging licenses, they had every incentive to replace HPHs with district-licensed companies. For instance, Bulungan officials repeatedly mentioned their wish that the Ministry of Forestry would hand over the area under a state-owned HPH operating in Bulungan’s jurisdiction, PT II, to the district. This would have removed the district’s major obstacle to issuing its own logging licenses over the area. Even

531 Interview with staff of PT Ik, a HPH operating in Bulungan, B-P-7
532 For details, see Nanang and Devung (2004)
533 Interviews with staff of PT Ik, a HPH in Bulungan, B-P-7 and with a senior forestry official of Bulungan, B-G-8a
534 “... supaya bisa jalan sama-sama.”
535 Interview with staff of PT Ik, B-P-7. Similarly, Imang et.al. (2004a), show a similar example of this shift in Kutai Barat.
under PT II’s status at the time, as an active HPH concession, Bulungan had deliberately issued small-scale logging licenses over the HPH area (Chapter 3).

During the bonanza of district licenses, the Bupati of Kutai Barat specifically issued letters to centrally-licensed HPHs “requesting” that they give their consent to communities to apply for a district license within these HPH concession areas. Because the administration of forestry services in this district (Chapter 3) were exclusively handled by the District Forestry Service – in contrast to Bulungan which had a UPTD whereby dual forestry administration prevailed – the district could effectively apply pressure on HPHs to make way for communities’ logging licenses within their concessions (see also section 6.3).

To some extent, the shift in community power was reflected in the Bupatis’ decision to issue district logging licenses in the first place. In some cases, communities used physical means to assert their demands to district functionaries. According to an adat leader in Bulungan, a district decision to issue logging licenses at the onset of reformasi was influenced by the action of communities. His community had mounted demonstrations and demanded from the DPRD that if masyarakat were not allowed to menggesek (fell timber), then the government should provide them money to buy rice. According to this adat leader, the government began to be more accommodating after this incident and similar incidents across the district; as a result, cooperation between the government and communities has since improved.

During a short period in 2001, the Bupati of Bulungan temporarily halted the issuance of IPPK logging licenses due to the burgeoning land conflicts and the overlap between KBK and KBNK (Chapter 3). Many communities, however, forcefully protested and demanded that the district continue to issue these licenses. In one instance, communities made their demands by “occupying” the home of (at the time the District Forestry Service had not been established) the head of the Provincial Branch Forestry Service in Bulungan. Despite the fact that licenses were issued by the Bupati’s office, masyarakat regarded the forestry unit as the most relevant agency because it was the unit handling forestry matters. Responding to these demands, the Bupati began to issue licenses, as well as extensions and revisions, again in 2002.

The increasing assertiveness of villagers with regard to claims over lands and their rights in general was affirmed by village heads and adat leaders. Villagers have become more critical and courageous (lebih berani) in articulating their demands, including through

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336 For instance, letter from the Bupati of Kutai Barat to HPH HNI, 10 October 2001 and to TWB, 30 January 2003; interview with a senior official in the unit handling socio-economic affairs at the office of the Bupati of Kutai Barat, K-G-7
337 Interview with an adat leader of Bulungan, B-C-8
338 Note that this adat leader did not differentiate between district government and the Central government. To many communities, they did neither perceived nor cared that it made a difference.
339 Interview with B-N-1d
demonstrations. According to a village head, they were influenced and encouraged by demonstrations held in Jakarta that were aired in TV programs. Compared to the pre-reformasi period, villagers increasingly demand transparency in village-level decisions and management, including in the distribution and allocation of forestry fees or compensation and in the RHL Project. Consequently, in the eyes of these village figures, their people have increasingly become difficult to "handle".

The discussion above illustrates the changing power relationships between communities and the district government, between villagers and business actors, and between ordinary villagers and village functionaries. But did this shift affect the distribution of benefits at the community level? This issue will be discussed in the next section.

6.2.4 The benefits of forestry activities to local people

Since 1999, local communities in the two districts have been able to benefit directly from forestry activities. Communities benefited from both district forestry initiatives (small-scale logging - Chapter 3) and centrally-imposed activities (RHL Project, Chapter 5).

**Direct benefits to communities: “previously we received only droplets of forestry benefits, now it is better”**

All types of actors interviewed – from district government officials, villagers, village heads and adat leaders, the legislature, staff of forestry businesses, and NGOs – were in agreement that one important consideration in the issuance of district small-scale logging licenses was communities’ demands to have access to the benefit of commercial forestry activities. The argument “for communities” or “for the benefit of communities” was emphasized in local officials’ arguments with respect to district decisions to revise and extend these permits, as well as to apply the SO strategy, to allow logging activities to continue beyond their legal period (Chapter 3).

The range of district-level actors interviewed also gave a similar explanation that district logging licenses provided a much better opportunity to locals, compared to centrally-licensed HPH concessions. Masyarakat were adamant that they received more benefit from district logging licenses than from HPHs.

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340 Interviews with village heads of Bulungan, B-C-4, B-C-7
341 Interview with head of village A of Bulungan, B-C-7
342 Interviews with village heads of SB and A in Bulungan, B-C-4, B-C-7, and adat leader of village A of Bulungan, B-C-6
343 While district small-scale logging activities had subsided by the end of 2004, the Forest and Land Rehabilitation Project has continued to date.
344 “Dulu daerah hanya menetes, sekarang sudah lebih menikmati” as stated by a senior official of Bulungan Forestry Service, B-G-16
345 See Barr et al. (2001), Limberg et al. (2004), and Engel and Palmer (2006) for discussions on the benefits of small-scale logging operations for communities in East Kalimantan.
HPHs were and are required (by the Central Government) to support communities in their concession areas through community empowerment programs known as *Bina Desa* which was later renamed as *Pembinaan Masyarakat Desa Hutan* (PMDH). Under these programs, companies typically provided material support for villages, such as building village halls or religious structures, providing farming equipment, and pesticides. The level of assistance, however, was mostly at the companies' discretion; forestry officials were hardly involved in the ways individual programs developed. As a consequence, although villagers did acknowledge HPHs' contributions, the general view was that communities received very limited benefits, negligible in comparison to the proceeds of the companies' timber operations. District government officials also were highly critical of the actual implementation of PMDH. A senior official of Bulungan, for instance, was cynical about HPHs' seriousness in implementing PMDH, and suspected that they carried the program merely to satisfy the requirement to obtain their Annual Working Plan (RKT).

Typically, logging operations under a district license were carried out through a partnership arrangement (*kemitraan*) between the community and a timber company and/or capital provider (see also Chapter 3). Communities provided forest areas for logging, whereas other parties, often local entrepreneurs, became the license holders. The license holder either became the contractor or merely acted as a broker, in which case he had to find another party to carry out the logging operations. The contractor financed the logging operations himself, if he had the capital, or was financed by capital providers, locally referred to as investors, who were often based in Tarakan, Samarinda, Jakarta, or Malaysia. In return for the right to harvest timber in the area under the license, the company (the contractor or the capital provider), would agree to compensate the community. The compensation varied in degree and form, ranging from timber fees, assistance for village physical development (including the building of religious structures, village halls, and local roads), work opportunity, and at least on paper, the establishment of community gardens/plantations. The last one failed to happen, however, prompting many communities to renegotiate their agreements.

Timber fees varied from place to place and depended on who did what. In Bulungan, the fee ranged from 20,000 to 45,000 rupiah for a cubic meter of timber harvested. In Kutai Barat, the level of fees was higher: up to 65,000 to 75,000 rupiah a cubic meter was recorded in the villages of M and BM, respectively. The fees in Kutai Barat were higher than in Bulungan

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346 For instance, according to an interview with a staff member of PT Ik, the company allocated 1,000 per cubic meter for PMDH; the money was used to build village structures and to provide villages with generators (Interview with B-P-7).

347 Interview with a senior Bulungan official, B-G-3

348 Interviews with an ex-NGO turned district forestry official, B-G-8a; with the Deputy Bupati of Bulungan, B-G-8; with a member of Pionir, B-N-1c

349 The magnitude of the fees pertaining to Bulungan was obtained from Pionir, a local NGO. Pionir was hired by a foreign researcher to conduct a survey and interviews on the operations of
because the communities themselves were often involved in the process of obtaining the license. In Bulungan, the partner timber company or contractor (mitra) was typically responsible for obtaining the license, thus resulting in lower compensation fees.

The accumulated material benefit in the form of immediate cash associated with district logging licenses cannot be underestimated. In village A, of Bulungan, the total fees accumulated by the village community between 2000 and 2004 were estimated to exceed 2 billion rupiah (about 220 thousand USD). To put this in perspective, this sum was much higher than the annual Development Fund allocation to the village. Each sub-district was allocated a Development Fund of 1 billion rupiah or 110 thousand USD per year. Being one of the seven villages in the sub-district of Tanjung Palas, this means that the village received roughly 15,000 USD of Development Fund per year. Thus, on average, between 2000 and 2004, the village received three times the amount of Development Fund from timber fees annually. This highlights the level of significance of timber fees derived from the operations of district logging licenses to the village as a whole.

The fees that had accrued to communities, although significant by the communities' standard, were only a proportion of a far larger amount. A local entrepreneur, whose company held the district license over the adat forest in village A above, and who was also an adat leader (Box 6.1) estimated that fees received by the communities comprised only about 20% of the total proceeds of the timber. The remaining 80% went to the capital providers who had financially supported the logging operations; those who acted as capital providers in Bulungan, as in Kutai Barat, were Malaysian or Samarinda or Jakarta-based investors (see also Chapter 3).

Forestry activities, when they lasted, did provide economic improvements for villagers. In village A of Bulungan where both district-licensed logging activities and the RHL Project took place, the economic benefits could be observed readily. A household-goods shop owner in that village, a long-time inhabitant of the village, for instance, pointed out villagers' renovated houses and the six newly opened shops that he now had to compete with, as a direct result of kerja kayu (timber activities) and the RHL Project. He explained how timber activities now differed from those of the past:

district small-scale logging licenses. Data pertaining to Kutai Barat were obtained from Imang et al. (2004a) and Imang et al. (2004b).

350 Interviews with a member of Pionir, B-N-1c
351 Interview with the head of village A of Bulungan, B-C-7
352 Dana Pembangunan Wilayah Kecamatan (PWK)
353 Interview with an adat leader and a local entrepreneur of Bulungan, B-P-8
354 Interview with a villager and shop owner selling household necessities in village A, Bulungan, B-C-2. Kerja kayu literally means "wood working", referring to felling timber and activities associated with timber harvesting and transportation.
"These were a result of increased opportunities from the timber sector. Now people can cut timber in forest areas previously protected and forbidden by forestry officials." (interview with B-C-2)

During fieldwork in 2004, the peak of district logging licenses had largely passed. However, villagers in both districts expressed their wishes that districts continue to allow district-based logging operations. These preferences thus affirmed the communities’ perceptions of the (short term) economic benefits of district logging licenses.355

In Kutai Barat, the benefits felt by communities were reflected by demands to continue district-based logging activities. In 2003 the district passed PERDA 12 of 2003 on Community Forestry or Kehutanan Masyarakat (KHM) and subsequently its administrative and technical guidelines (section 6.1.1). Although KHM encompassed various aspects of community-based forest management, the emphasis thus far has been on the aspect of timber harvesting. The demise of districts’ authority to issue logging licenses on the one hand, and communities’ demands to continue with timber activities on the other, led the Bupati to push towards issuing community-based forestry management licenses or Ijin Usaha Kehutanan Masyarakat (IUKHM). According to a district official, the Bupati had an interest in pushing for the issuance of IUKHM because at the time he had two years remaining in office before the upcoming 2006 election and needed to demonstrate his favourable policies and tangible results to his constituents.356

This initiative had stumbled, however, for several reasons. First, the IUKHM were to be granted over community or adat-managed lands, while the determination of the status and functions of the Forest Estate lies with the Ministry of Forestry. Secondly, the right to issue logging licenses had already been taken back by the Centre. By July 2004, there were already some forty applications for IUKHM, all of which emphasised on logging activities. However, district forestry officials suspected that IUKHM would only resemble the previous district small-scale logging licenses, in the disguise of community forestry.357 In May 2005, the Bupati finally did issue 11 agroforestry-based IUKHMs, reportedly in KBNK areas. As of January 2007, however, only one has been able to actually start felling timber under the Ijin Pemanfaatan Kayu (IPK) – Timber Utilization License, which is a permit to clear-cut forests in a KBNK or forests targeted for conversion, ostensibly to open up agroforestry gardens.358 The actual implementation of IUKHM is not as easy as the previous district licenses, as the authority to issue IPK licenses lies with the Governor.

355 For instance, focus group discussion and interviews with community members of village LM, Kutai Barat, K-C-1; interview with villagers of SB of Bulungan, B-C-14, B-C-15; interview with an adat leader of Bulungan, B-C-8
356 Interview with a senior official of Kutai Barat Forestry Service, K-G-21
357 Interviews with senior forestry officials of Kutai Barat, K-G-3A and K-G-20
358 Personal communication with FS, official of Kutai Barat Forestry Service, 16 January 2007
Communities had also gained intangible benefits from district licenses. One important benefit was communities’ empowerment through negotiation processes with powerful actors. District logging licenses had necessitated that communities or community representatives negotiate directly with timber operators and/or capital providers to reach an agreement that provided better terms for the community. Although in some cases logging operators had failed to meet the terms of the agreement, these direct negotiation processes nevertheless provided communities with a positive learning experience.

One other intangible benefit that has not received much attention has been the improvement of demographic data collection and maintenance system at the village level. The timber compensation fees within a village were typically distributed according to individual family circumstances, for example, the number of individuals in a household, age, and occupation. It was the responsibility of the ketua RT (head of the Community Neighbourhood Group, Rukun Tetangga) to maintain data on his/her group and to request a commensurate distribution of the timber fees from village functionaries in charge of administering them. To prevent internal conflict, data at the Community Neighbourhood (RT) level, and subsequently compiled as village-level data, had to be recorded more accurately, in the monografi desa.

No longer providing a legal income source for communities, the fading and subsequent demise of formal district-licensed timber operations had made the DAK-DR Forest RHL Project increasingly attractive as a new alternative. Although far fewer community members are participating in the Project and with a lower income accruing to individual members (Chapter 5), this Project, if it were carried out appropriately, could provide a steady benefit stream in the longer term through future harvesting of timber trees and other crops (rattan in Kutai Barat and fruit trees in Bulungan).

The strengthening of village-level elites

Both case study districts have experienced a shift in community power versus other actors’ power in terms of their increased influence in forestry operations. Communities’ actions have significantly determined the ways in which timber operations are carried out on the ground and the attractiveness of other development initiatives. Villagers’ sometimes violent actions have also increasingly become an important consideration for district governments’ decisions over forestry to deviate from Central Government directives. This was one of the district governments’ considerations in continuing as long as possible with district timber licenses, despite the withdrawal of districts’ licensing authority (Chapter 5).

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59 For similar observations in the neighbouring district of Malinau, see Rhee (2001) and Wollenberg et al. (2006) and Palmer and Engel (2006)
60 Interview with B-N-1b
Within village management, villagers now articulate issues or problems that concern them to village leaders more overtly and expect increasing transparency in village decisions. Village heads complained that it was now much more difficult to “rule” compared with the New Order period. In the past, communities mostly showed acceptance and bowed to whatever was directed from “above”, including decisions made by the village head, but now it was no longer the case.

However, privileges of access to information and of networks have largely maintained the power of village elites, relative to ordinary villagers, allowing the former to benefit. Therefore, within communities, a larger part of the opportunities and the associated benefits presented by forestry activities have accrued to the village/community elite.

By default, the position of village heads as the lowest level of formally institutionalized “administrator” has increased their power. As in the past, at the community level, village heads were the first to know about a government decision. Government information is formally distributed down the administrative chain: from the district level to sub-district heads (camat) to village heads and adat leaders, to hamlet heads (kepala dusun) and the head of the Community Neighbourhood Group (Rukan Tetangga or RT), and then conveyed to villagers. In the two districts, the informal position of adat leader was strong, and in some cases, also identical to village head. Consequently, in this respect, in terms of formal access to government decisions and projects, regional autonomy has not brought any significant change to ordinary villagers.

Village leaders or community figures also commonly have established networks in the district capital that allow them to access information or enjoy privileges available only in the district capital. These networks include family ties with individuals physically located in the district capital, individuals with positions in the local government or DPRD, or established relationships with district functionaries.

Members of the elite can thus use such opportunities better than ordinary community members. For instance, it was not unusual that district logging licenses were held by members of community elite such as the adat leader (Box 6.1), the sub-district head, or a DPRD member. As in the case of local people’s direct interactions with the Bupati, obtaining information in the district capital is largely restricted to those who are wealthier and can afford the trip to the district capital. Commoners thus would have to depend on information dissemination through district officials’ visits to the villages or through district circulars.

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361 Interviews with head of village SB, B-C-4 and head of village A, B-C-7, of Bulungan
362 Interview with head of village A of Bulungan, B-C-7
363 Interview with one of village A’s functionaries, Bulungan, B-C-1
364 For a detailed documentation of similar issues in the district of Malinau, see Wollenberg et al. (2006).
365 For instance, interviews with a villagers from sub-district S, B-C-3: with member of an NGO, B-N-2a; with an adat leader and entrepreneur of village A, B-P-8; with DPRD members of Bulungan, B-L-1b and B-L-2
The direction of information flow, its distribution, and dissemination, determined who could use the opportunity to benefit from government projects. For example, the head of village A of Bulungan, being the first among villagers to learn of a clean water project in the village and having an adequate network of financial support, ended up carrying out the project under the banner of a small business company he had set up. Similar cases abound in relation to the RHL Project.

The village head of SB of Bulungan, for instance, affirmed that information about projects, such as the RHL Project, must be sought actively. Information included the existence of the Project itself, what the Project entailed, and the requirements for participation in the Project. He said that he sought information on projects like this out of pity for the people of his village who lacked the access and means to seek such information, and because many of the villagers complained of the limited opportunities for cash income when the inflow of the small-scale logging fees largely dried up. This particular village head had a nephew, the head of a local NGO, who resided in the district capital. The latter was also a member of a Sub-district Development Monitoring Program (Program Pengawasan Kecamatan), who also had a close personal and working relationship with Pionir, the local environmental NGO working on forestry issues (section 6.1). This nephew was therefore an effective source of information about development projects being carried out at the district level, including the RHL Project, for the village head. The village head was also a teacher (and a civil servant) in the local school, showing both his intellectual capacity and position relative to other villagers.

The capacity to obtain certain information, particularly about projects, allowed the village elite a greater chance to benefit from them. The farmer group leaders participating in the RHL Project in the village of SB above, for instance, turned out to be either relatives of or have some sort of family ties with the village head. In addition, those in charge of providing seedlings and administering planting were also the village head's family members or relatives (Chapter 5). Similarly, in PS, another village of Bulungan, those participating in the RHL Project were families or relatives of the village head. In Kutai Barat, the head of one farmer group participating in the RHL Project was a community figure who had just returned from residence in Java and had gained business experience. Village figures (for instance, the ketua RTs) chose the members of the farmer groups participating in the RHL Project.

Members of the village elite, however, insisted that they had to arbitrarily choose members of farmer groups because in the beginning it was not easy to get villagers to participate in the Project; villagers showed little interest. Only when the funds were actually distributed did they

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366 Interview with an official of village A, B-C-1
367 Interview with head of village SB, Bulungan, B-C-4
368 Interview with B-N-1a
369 Interview with a community figure and entrepreneur in village MB, Kutai Barat, K-C-10
370 Interview with an official of village A, Bulungan, B-C-1
begin to show enthusiasm and express an interest in participating in the Project.\textsuperscript{371} The quota for each area, determined for each sub-district, and therefore also for each village, was limited (section 5.2.2). Therefore, to reduce the feeling of unfair treatment among villagers, village figures usually promised participation in the next year for those who could not be accommodated in the Project in the current year.\textsuperscript{372}

\textsuperscript{371} Interview with head of village SB, Bulungan, B-C-4 and adat leader and entrepreneur of village A, Bulungan, B-P-8
\textsuperscript{372} Interviews with an administrator of village A, Bulungan, B-C-1 and the secretary of Village SP, Bulungan, B-C-11
Box 6.1 Case study: the “double identity” of an adat leader in Bulungan

MM is an example of someone from the village-level elite in Bulungan District who was able to use the opportunities engendered by decentralization not only for his personal benefit but for his community. A 47 year old Dayak Kenyah adat leader, he represented one of the three ethnic groups in his village. Besides being an adat leader, MM was also a local businessman, who had collected and traded gaharu (aloeswood) resin, *Aquilaria malaccensis*, in the 1980s and had travelled extensively and worked in Sabah, Malaysia. These activities enabled him to establish a network with Malaysian investors. In 1997 he became a local contractor, among others for forestry projects.

MM’s company, CV GA, was granted a district logging license (IPPK) in 2002 over an area of 400 hectares of adat land – that is, communal land – of village A. The license covering 200 hectares was extended in 2003. A Malaysian investor supplied the capital for the logging operations.

From the point of view of the district government and local communities, the granting of the IPPK license to MM’s company was an act of legitimation of district policies in favour of local communities. Because MM was the community’s adat leader and therefore a legitimate representative of the community, the granting of a district license over the community’s land to CV GA was seen as a way for communities to benefit directly from the forests. During the period when district logging licenses were being issued (Chapter 5), the position of adat leaders was particularly important, as in this case, because the forest area covered under these licenses typically encompassed an adat territory.

Unlike in other villages where IPPK licenses often led to internal conflicts associated with fees received, the community, including the adat leaders from the other two ethnic groups, respected MM and were satisfied with the negotiations led by MM in the name of the community with the partner investor. Neither the agreement reached with regard to the compensation – fees, contributions in kind – nor its implementation provoked conflict.

MM was also actively engaged in the DAK-DR RHL Project as a contractor. Typically, a capital provider funded the Project prior to the actual disbursement of the funds (Chapter 7) because the funds were often transferred late in the year (Chapter 6). As a contractor, MM identified and recruited farmers, not only from his village but also from other villages, to join Farmer Groups and to participate in the Project.

MM’s experience in and observations of the implementation of the DAK-DR RHL Project led him to believe that the small-scale approach through the involvement of individual member farmers within Farmer Groups provided one major explanation for why the Project had largely failed. He argued that the Project would have a greater chance of success if it were conducted in a large-scale, plantation mode, and referred specifically to oil palm or vanilla. MM’s earlier experience in Malaysia had convinced him that the Malaysian success with oil palm development could be applied in the district and that these developments would benefit the community. At the time of the interview, he specifically had in mind developing a plantation in a HPH concession area. It was in this context that, in his role as a local businessman, he introduced prospective investors to the office of the *Bupati* and to the DPRD. He thus enjoyed a level of access to the *Bupati* that was denied most community members.

MM’s plan was congruent with the district’s overall plan to attract investors into the district, and was particularly in accord with the district’s major economic-driven goal to develop plantations (Chapter 3). MM has since been working closely with the head of the economic unit of the *Bupati*’s office.

MM had also sought the support of the DPRD in his effort to establish a plantation in an area of what (at the time of the interview) was a large-scale HPH concession. If this were to happen, it would only be legally possible in areas specified for non-forest uses (that is, an area that has been released from the Forest Estate). Only then, could a district permit for the plantation be issued over the area. In areas that were still under the category of forest uses, this would involve a decision to convert to non-forest uses by the Ministry.
of Forestry, which could be initiated by the recommendation or application of district governments. In this respect, as an adat leader, and one residing in the district capital, MM had access both physically and personally to members of the DPRD. He admitted that he had financially supported a new member of the DPRD, who was elected in 2004.

This case demonstrates how an individual from village-level elite has not only been able to use the opportunity arising from district policies but also influence them. The "double identity", being an adat leader and at the same time also a businessman, with the right connections and adequate physical means, has helped paved the way for this particular village elite member to utilize the opportunity brought by decentralization through the district's forestry policies and projects. In the case of the IPPPK license, the benefit, albeit short-term, had accrued to both this individual personally and his communities.

From the perspective of this individual, his "double identity", supported by an established networking capacity in the district government domain and as importantly, in the investors' circle, had substantially affected the ways in which he could influence district forestry-related decisions to his own benefit and that of his community. From the perspective of the district government and communities, giving him this opportunity is an act of legitimation for policies favorable to communities.

Source: Interviews with MM; administrator of village A, B-C-1; adat leader of a different ethnic group in village A, B-C-8; with an NGO activist, B-N-1f, and district documents

In both Kutai Barat and Bulungan Districts, internal conflicts within a community around the small-scale logging operations and the RHL Project often involve a non-transparent and skewed distribution of fees or monies associated with these activities. In these cases, community or farmer groups’ members claimed that those in charge – often members of the village-level elite – had usually seized the greater part of the monies.275

In logging operations under district logging licenses, partner timber companies usually negotiated with village heads, adat leaders and other community representatives (such as the ketua RT) over compensation arrangements in exchange for the rights to harvest logs in the area under community licenses. In this task, they were often referred as the pengurus (literally "the ones who administered something"). The pengurus usually got a certain predetermined portion of the fees negotiated with the company. For instance, the two companies working in the area of village SB negotiated with a pengurus that consisted of 6 village representatives. For every 35,000 rupiah fee for every cubic meter of timber harvested, the outcome of negotiations between the pengurus and the timber company over village compensation, 5,000 rupiah went to the pengurus. The remainder was distributed as contribution to the village treasury, the building of the village hall, individual villagers’ allocations, and to village-level military (babinsa) and police (polsek) personnel.276 In this particular case, the village head received a monthly fee from the company, the size of which was not disclosed. In the case of village A, the village administration consisting of the village head, the secretary of the village, and three other

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275 Interview with member of Pionir, B-N-1b; with a senior official of Kutai Barat’s BAPPEDA, K-G-2b
276 Interviews with a villager and the village head of village SB, Bulungan, B-C-5a and B-C-4, respectively
administrative heads (Kaur) received 1 million rupiah per month from the timber company operating in the village. The village head determined the amount to be allocated to each of the four members of the village administration.375

Horizontal conflicts surrounding the operations of district logging licenses often occurred because in most cases both the deal with the partner company and the flow of money coming in from the partner company were not transparent. Unless a village community was very small, only the pengurus negotiated and directly communicated with representatives of the partner company.376 Village heads or adat leaders played a significant role in this because the negotiations pertained to timber operations on village, adat or community lands.377 In particular, companies typically approached these influential figures personally to pave the way, to ensure that logging could occur. Suspicions often arose within the community over the amount of fees actually received from partner companies and the amount that was actually passed on to members of the community.378

For instance, during 2001-2002, the logging activities of an IPPK (district small-scale license) operator in a protected community forest in the village of SB of Bulungan had sparked a violent protest within the community involving the seizure of the operators’ logging equipment. Apparently, the IPPK operator had earlier approached an adat figure and made an agreement with the latter without involving or informing the community. A local NGO member from the village had played a critical role in this community’s protest and uprising. The subsequent negotiations between the community and the IPPK operator ended with an agreement in which the latter agreed to compensate the community for the loss associated with the timber harvested. This agreement was reached, among others, to prevent the case being brought to court.

In Kutai Barat, remote villagers took the trouble to visit the District Forestry Service and complained about DAK-DR monies allegedly embezzled by the head of the farmer group, who herself was a camat (see also Chapter 7).379

6.3 District government and forestry business relations

One of the key types of actors in district forestry has been forestry companies, both centrally-licensed HPHs and local or regional companies that acted as partners/contractors for district-licensed holders and as contractors for HPHs. This category of actors is particularly important in light of the districts’ forestry activities which have emphasized forest extraction.

375 Interview with an administrator of village A, Bulungan, B-C-1
376 Interview with member of Pionir, B-N-1b
377 For instance, interview with a timber operator in Bulungan, B-P-6
378 Interviews with among others, member of Pionir, B-N-1b; with a BAPPEDA official of Bulungan, B-G-11b; DPRD members of Bulungan, B-L-1b and B-L-2. See Nanang and Devung (2004) for cases in Kutai Barat. For a similar pattern in Malinau District, see Limberg et al. (2004).
379 Interviews with villagers of TI, Kutai Barat, K-C-5, K-C-6, K-C-7
6.3.1 The erosion of HPH’s power in district forestry

The previous section discussed how district governments have treated HPH companies compared with communities under decentralisation. By siding with the latter, district governments not only expected to increase their chances of receiving a good “report card” in the eyes of communities but were also able to maintain peace, thus keep up a “conducive” environment in the district. Securing communities’ support is particularly important because under regional autonomy Bupatis are in effect no longer appointed by the Centre, but are elected by the DPRD (prior to 2004) or directly by their constituents in the districts (2004 onwards) (Chapter 7).

Under regional autonomy, district governments’ increased formal power in general and in the issuance of district licenses in particular have indirectly increased their leverage over these companies. District governments have applied pressure, directly and indirectly, on HPH companies to allow for timber operations under district licenses to be carried out in HPH concession areas. Kutai Barat explicitly “requested” HPHs to allow communities to apply for district licenses in forest areas within their concessions (see also section 6.2.3). Bulungan indirectly pressured HPHs by issuing district licenses on their concession areas without the HPHs’ knowledge or consent (see also Chapter 3). The district subsequently put the responsibility to coordinate with an affected HPH on the (district) license holders, after the licenses were issued.

However, HPH companies were also pressured by higher levels of government in the other direction. For instance, exercising its function as the arm of the Central Government, the Provincial Forestry Service warned PT II, a state-owned HPH operating in Bulungan, to uphold its obligation to protect its concession area from the encroachment of district-licensed logging operations. PT II was also prohibited from consenting to or from recommending the issuance of such licenses within its concession area.380

Pressures from PT II and higher levels of government, however, only resulted in the temporary suspension of the issuance of Bulungan’s IPPK licenses in 2001. The district subsequently continued with the issuance of logging licenses in 2002 and revised the areas of district licenses which had overlapped with PT II. However, the declining capacity of the HPH holder to defend its area and the lack of monitoring efforts on the part of district government hardly guaranteed that logging under district licenses did not encroach into the HPH’s area.

In an environment in which the communities’ position has become stronger, coupled with the district governments’ unsupportive actions, HPHs have been forced to change the ways in which they operate. They have sought ways to cope, but at the same time, benefit, from the situation. In Kutai Barat, HPHs chose to work with communities. Rather than foregoing the

380 Letter from the head of the East Kalimantan Provincial Forestry Service 522.101/214/DK-II/2001, dated June 21 2001, to PT II, the parastatal HPH operating in the province
opportunity altogether by releasing their area and letting it be harvested by communities’ (potential) partner companies, the HPHs instead became the communities’ partners themselves. During the era of the small-scale district licenses, therefore, HPHs often became both the capital provider and the operator of timber harvesting activities under district licenses. This arrangement allowed HPHs to benefit in two ways. By acting as the communities’ partner, HPHs not only averted potential conflicts with affected communities, but at the same time also obtained timber more cheaply than if the harvest had been carried out through normal HPH operations. Because technical obligations under district small-scale licenses were far less stringent than those under HPH licenses, the administrative and operational costs of harvesting under the former were lower than those under the latter. For instance, timber operations under small-scale district licenses were not required to adopt the selective felling method and did not have to go through the processes of obtaining an approved RKT prior to timber felling, as has been and continues to be imposed on timber operations under HPHs. An official from APHI affiliated with a HPH operating in Kutai Barat explained:

"Because the logging is going to take place in our backyard anyway, better that we do it ourselves." (interview with P-B-1)

The same individual however, defended HPHs’ action arguing that a HPH partnership was better than a non-HPH partnership because the former harvested within the area under the license, while other partner companies often felled in areas outside those specified under the license. With District Forestry Service’s lack of monitoring efforts, however, the ways in which HPHs harvesting operations were either different from or similar to the ways in which other partner companies operated would be difficult to substantiate.381

HPHs in Bulungan applied a different strategy by working with local and regional operators. Because their concession areas were claimed by communities, HPHs had to negotiate with affected communities through their adat leaders and settled the compensation rate for harvesting in their claimed area. However, the logging operations were sub-contracted to local or regionally-based companies that are preferred and accepted by local communities.382 This sub-contracting arrangement continues to date. As a consequence of this new arrangement, however, these HPHs have had to lay off many of their employees.383

381 Obidzinski (2005) and Obidzinski and Andrianto (2005) reported the involvement of HPHs in illegal timber harvesting activities in Berau and Kutai Timur Districts, also in East Kalimantan, under the decentralisation period. These illegal activities included cutting outside HPHs’ authorized blocks and overcutting.
382 The practice of sub-contracting of logging operations was also common under the New Order period (see for instance, Resosudarmo 2002), but for different reasons.
383 Interviews with staff of PT lk of Bulungan, B-P-1; with staff of PT I1 of Bulungan, B-P-2
Bulungan has seen the rise of regional and/or local entrepreneurs/companies that were already operating in the forestry sector prior to reformasi, but have grown much stronger post-reformasi and under decentralisation.\(^{384}\) They are regional in terms of where they are based and in terms of the reach of their operations. They are local in the sense that the owners, although of Chinese descent, had been living in the original Bulungan District. Depending on the type of these companies, their operations extend from Bulungan to the neighbouring districts and to Papua. They control their operations from the neighbouring municipality of Tarakan.

There are two types of these companies. The first type consists of companies that are financially very strong and have extensive network. Two companies of this type have or had operations in Bulungan. One is owned by JL, but within a larger group of an umbrella company, owned by G. This group’s operation includes a HPH with activities in Papua, and therefore is not only financially very strong but also politically, and is said to have a strong network all the way to Jakarta. The second company, which is JL’s competitor, belongs to an entrepreneur K. K works alone and is also strong in the construction and coal mining sectors. The other type includes smaller companies in terms of their financial base, but their operations also encompass neighbouring districts. These entrepreneurs were the ones who usually acted as brokers for community licenses; many of the communities’ licenses were held under a smaller company’s name, but the contractors or the capital providers were Malaysian or larger companies, including those from the first, larger type of regional companies above.

These local and regional companies have the support of the affected district governments, including Bulungan and the neighbouring district of Malinau, which was part of the original Bulungan District prior to its partitioning. According to informants, these companies had financed or supported the election of the Bupati of Bulungan and Malinau. Bulungan government, therefore, has been supportive of these companies in their position as the communities’ partners in district IPPK licenses. Communities have also preferred these companies over HPHs, because they were seen as assisting communities to benefit more from forest operations directly for the first time since the New Order.\(^{385}\) Communities’ acceptance of these local and regional actors is reflected in JL, a man of Chinese descent, being awarded an adat name and status in the village of P, something that is a great honour.\(^{386}\) This has made local and regionally-based companies not only become even more financially sound, but also more

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\(^{384}\) The following accounts of these regional and local companies are based on interviews with an NGO activist turned a senior district forestry official, B-G-8a; an NGO activist turned DPRD member, B-L-4a, B-L-4b; member of an NGO of Bulungan, B-N-2a; B-N-2b; staff of PT lk of Bulungan, B-P-7; a BAPPEDA official of Bulungan, B-G-11a; member of Pionir, B-N-1h; villager of village SB, B-C-5a; timber buyer for one of company, B-P-5; adat leader and local entrepreneur, B-P-8; various district and other documents.

\(^{385}\) Interview with a senior official of Bulungan Forestry Service, B-G-8a

\(^{386}\) Can be seen as analogous to the granting of the “Sir” status by the British monarchy, albeit at the local level.
powerful vis-à-vis HPHs. The same local and regional companies were granted oil-palm plantation licenses by Bulungan's government (section 3.4).

The presence of these local and regional companies and their capacity to finance or attract financial sources to carry out forestry activities in the district has made the presence of HPH in the district even less attractive. The district government prefers local and regional operators over HPH companies because of a higher level of “mutual symbiosis” with the former. For instance, Bulungan facilitated the contracting agreement (Kerja Sama Operasi) of the state-owned HPH PT II with the regionally-based timber company owned by JL, above. 337

More importantly, however, district governments prefer local and regionally-based timber companies not because they are local or regional, but because it allows them to exert more influence over these local or regional entrepreneurs compared to HPHs. 338 In Kutai Barat, district licenses were held by local entrepreneurs or communities, but the investors who provided capital or operators were Samarinda and some even Jakarta-based. 339 This shows that the district government does not have a strong preference over who has activities and who can benefit from their decisions. What matters most to district government is who they can control, a question closely associated with the district government’s authority over the issuance of licenses. As long as they are not centrally-licensed HPHs, that is, as long as district governments were the ones issuing the license, they can control the grantee. This consistently came up in the interviews and in the actions of the districts in the tug of war over the issuance of logging licenses between levels of government. Whoever has the power to issue logging licenses controls access to resources, and consequently, the associated rents. As explained by a senior official of Bulungan’s economic unit:

"It is difficult to go after HPHs, because they belong to the Centre. IPPK is easy to go after because they are owned locally." (interview with B-G-17)

District governments, however, because of their increased powers in general under decentralisation, do have some limited influence over HPHs. Whenever possible, districts seek other ways to extract formal direct benefit from HPHs operating in their jurisdiction. Districts have exerted such efforts despite the fact that districts in timber producing areas are allocated a significant forestry revenue share from the Central Government (Chapter 4). For instance, the Bupati of Kutai Barat at one point gathered HPH representatives and pressured them openly to contribute to the district's road development. 340 After bitter negotiations, in 2003 the district

337 Interview with a senior official of Bulungan Forestry Service, B-G-8a
338 For instance, interviews with a BAPPEDA official of Bulungan, B-G-10; a senior official in the economic unit of Bulungan, B-G-4b
339 Interview with a senior official of Kutai Barat Forestry Service, K-G-1f
government successfully persuaded two HPHs to contribute an amount equivalent to 95,000 USD to the district’s budget.\textsuperscript{391} Kutai Barat was also able to pressure a foreign mining company operating in the district to contribute substantially to its budget (section 4.5).\textsuperscript{392} Bulungan, however, was apparently unable to apply pressure on HPHs operating in its jurisdiction in the same way. It had attempted to apply volume-based local charges (retribusi) to HPHs, but this charge was strongly rejected by HPHs.\textsuperscript{393} In the case of Bulungan, the presence of the UPTD handling HPH administrative affairs, has significantly limited the district’s manoeuvres on HPHs in the area. Thus, the instability of the social and business environment in localities since reformasi has caused problems to HPHs and their downstream industry.

In addition to compensation for communities, the volatile social and political situation under reformasi and in the early period of regional autonomy has increased the security costs of HPHs.\textsuperscript{394} During the heyday of district logging licenses, these centrally-licensed timber companies were forced to employ a higher number of security personnel, who were usually members of the police or military. This was necessary for the HPHs to demonstrate force to assert their legal rights over their concessions.\textsuperscript{395} Because it is now more difficult to maintain order and security, the remuneration associated with the hiring of security personnel has increased. For instance, at one point, PT IK had to request police personnel from the national headquarters in Jakarta to protect their operations. Since the demise of district licenses, communities have continued to assert claims to HPHs, albeit over smaller matters. These have included, for instance, compensation for areas used as log yards.

The instability at the beginning of reformasi and decentralisation that arose from acts rooted in local abhorrence of HPHs clearly impacted greatly on their operations. The effects were so great that in 2000-2001, APHI needed to conduct a roadshow in forest-rich regions. The roadshow was aimed to show HPHs’ good intentions of contributing to communities, but at the same time to show that they expect their operations to be “protected” from communities. The roadshow did not achieve its objective; on the contrary, the HPHs were accused of requesting Bupatis to take sides over communities.\textsuperscript{396}

The HPHs’ main objective to date has been merely to survive. In East Kalimantan, the local media frequently report the closing of timber industries and the laying off of their
thousands of workers. HPHs operating in Bulungan, for instance, have slowly but surely reduced the number of their employees in stages. In general, at the time of fieldwork, the aim of HPHs in the districts was to maintain enough cash flow to allow them to remain in operation, to work in parallel accommodating communities and other actors who could influence their operations, while at the same time hoping that both national and local policies would shift in a more favourable direction.

Notably, however, the HPH-based timber industry’s difficulties have led to its involvement in the current web of illegal logging. Illegal logging for the purpose of this thesis is defined as logging activities that contravene or are in breach of state and local regulations or local government decisions. Under this definition, HPHs were known to have been involved in illegal logging activities even under the New Order (for instance, Resosudarmo 2002; Obidzinski 2004). A HPH representative however, has argued that HPH involvement in the current web of illegal logging has been limited only to the purchase of illegal logs. By purchasing timber produced illegally, the timber industry (that is, the HPH and its downstream industry) achieves three simultaneous objectives: the fulfilment of the supplies of raw material for the downstream industry, obtaining logs at a cheaper price, and avoiding risks involved in conducting illegal harvest themselves.

Illegal logging is a conspicuous characteristic of forestry activities in the two districts, as in other localities and regions across the country. Although illegal logging is not the focus of this thesis, its prevalence and the effect it has had on district forestry decisions and on forestry actors at the district level have made this issue relevant to the thesis. On the one hand, by omitting discussion of this issue, the thesis would only capture an incomplete if not a distorted picture of district forestry decision-making dynamics. On the other hand, however, dedicating two sections on this intertwining and highly complex activity would not do justice to the issue. The discussion of illegal logging in the remainder of this section and in the section to follow, therefore, takes an approach consistent with the research framework presented in Chapter 2: the emphasis is put on the actor dimension and the relations between and among the actors involved. Illegal logging is discussed when and where it concerns the actors being discussed.

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397 Kompas, 1 July 2004c; Kaltim Post, 3 Desember 2005i; Purnomo (2006)
398 Interviews with staff of PT Ik of Bulungan, B-P-1 and staff of PT II of Bulungan, B-P-2
399 Interview with a APHI senior official affiliated with a HPH operating in Kutai Barat, P-B-1
400 Interview with a APHI senior official affiliated with a HPH operating in Kutai Barat, P-B-1
401 Interview with a timber buyer of illegal logs for a downstream timber industry in Tarakan, through which most of Bulungan's logs must pass, B-P-5
402 For documentation of illegal logging in Indonesia, see among others, Casson and Obidzinski (2002); Smith et al. (2003), Tacconi et al. (2004), Obidzinski (2004, 2005); EIA/Telapak (2004), Tacconi (2007),
6.3.2 Money talks: the forestry business community’s influence on district decision-making through extra-legal exchanges with local state actors

The mutual symbiosis between Bulungan government and locally and regionally-based timber companies has shown that there are other factors not readily observable at play in district forestry decision-making. The dynamics that have shaped district decision-making therefore are often subtle and not explicitly revealed by an examination of local actors’ formal powers obtained from the decentralisation process. Thus, looking at these decentralized powers and how they formally manifest themselves at the district level is inadequate to explain and understand how certain district decisions are shaped and how they and their implementation may affect the management of forests. The powers at play in the decision making processes are much more subtle and covert, and thus much more difficult to observe and penetrate.

Around business actors, district forestry decision-making appears to have involved informal or extra-legal financial transactions of various magnitudes. Robbins (2000) asserts that, both in developing and developed countries, processes involving extra-legal exchanges allowing access to natural resources are common and often the rule rather than the exception.

One of the most important series of district forestry decisions under Indonesia’s decentralization has been associated with logging. Under regional autonomy, district decision making in forestry has covered the entire spectrum of the administration of logging activities: the issuance of the licenses, the technical monitoring of logging operations, and, in Kutai Barat, the provision of administrative documents required for transporting timber out of the district.

A business actor applying for a district logging license had to follow a certain process, necessitating him/her to interact with at least three different district offices. The first required set of documentation was the recommendation letter issued by the District Forestry Service. This set of documents provided the technical considerations for the proposed area of logging. These technical considerations were based on an assessment of the area, which included maps, the classification of the area (that is, state forest designated for production, private or community forests), and an assessment of the timber potential. The next step was to submit the proposal for a permit, now completed by the set of technical documents provided by the Forestry Service, to the social economic unit of the Bupati’s office. The social economic unit then assessed the application, and forwarded it to the Bupati for “a permit in principle” or ijin prinsip. For areas over 5,000 ha, the license was not yet legal at this stage, and had to go through another step, an environmental impact assessment which was undertaken by the District Environment Office. The process was completed with the Bupati issuing the license through a Bupati Decree.

The formal process of obtaining a district logging license highlights important nodes of powerful functions at various district offices. Significantly, the process shows that power over the forestry business community was not exclusive to forestry officials. Other officials, notably
in the office of the Bupati, due to their positions and associated tasks, were also essentially influential in terms of how their decisions affected the forestry business community.

Interviews suggested that, in addition to the required official costs associated with these processes, “informal transactions” were not uncommon in each step of the process for obtaining a district license, in the day-to-day forestry administrative processes and at the field level. These “informal transactions” take various forms and names, depending on when they happened in relation to a process and the direct purpose of the transaction. There are exchanges of uang pelicin (literally means “grease money”) with the intention of assisting in “lubricating” an administrative process, including in the process of the issuance of district logging licenses, obtaining the approval of an RKT for medium to large-scale licenses, or the issuance of SKSHH documents. These are usually made during the process to be affected. There is also uang terimakasih (literally means “thank you money”). This is a thank you gesture as a token of appreciation for the assistance given by bureaucrats to business operators, in the hope that there will be another future opportunity or that the next process will be made easier.

For instance, a local businessman holding a IUPHHK (Chapter 3) in Kutai Barat revealed that the total amount of administrative costs incurred to process his license, covering an area of 16,000 ha, reached 1.2 billion rupiah (130,000 USD). While he denied that there were any “invisible costs” associated with the process of obtaining his license, the details of the specific categories of costs associated with obtaining the license suggest that a high proportion of the cost was used to cover “other expenses”. Out of the total 1.2 billion total cost incurred, the cost covering the technical/forestry aspects at the Forestry Service, including boundary checking, inventory, and maps, amounted to 150 million rupiah (17,000 USD), while the cost for environmental impact assessment at the District Environment Office was about 100 million rupiah (11,000 USD). Because of the technical nature involved, the process to obtain the technical recommendations from these two district units should have incurred the biggest expenses, compared to the remaining administrative processes. However, the breakdown suggests that some 950 million rupiah (100,000 USD) or 80 percent of the total costs are left unaccounted for. After these technical recommendations, the process had to go through one more stage, the scrutiny of the socio-economic unit in the office of the Bupati, prior to the signing of the license. The discrepancy suggests that some of this money must have been “lost” in this stage of the process.

Several interviews confirmed the common and consistent perceptions that the office of the Bupati, notably but not limited to the socio-economic unit, was involved in informal transactions. People in both districts pointed out that the lifestyles of certain individuals in the

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43 For a detailed documentation on various forms of bribes provided by the business community to public officials in East Java under regional autonomy, see Pramusinto (2005).
4 Interview with an IUPHHK holder of Kutai Barat, K-P-2
socio-economic unit were out of the ordinary and would cost much more than someone on a normal official salary.

The same businessman particularly wanted to emphasize, however, that there were no pressures whatsoever (that is, pressures "to give") during the process of the issuance of his license. However, he admitted that he "gave" some undisclosed amount of money after the license was issued to the office of the Bupati, as a "thank you gesture", asserting that such a "thank you" payment (uang terimakasih) was common and appropriate. He did not disclose however, to which officials or units the uang terimakasih was distributed.

One local businessman of Bulungan, however, referring to the informal costs associated with the issuance of logging licenses, suggested that uang pelicin to smoothen the process of the issuance of district licenses was common. He admitted:

"Grease money? That is customary...those sitting in those seats sit there because they want something...As long as it is not excessive, it's all right..." (interview with B-P-8).

The above statement not only substantiates the prevalence of extra-legal transactions, but also shows that they are widely known and accepted as the norm, rather than the exception.

In addition to "informal costs" associated with the process of issuing logging licenses, there were similar costs associated with the provision of the required administrative services, with the safety or sustenance of the logging operations, or the transport of logs. Companies often refer to these costs as "Special Costs" or Biaya Khusus, often referred to simply as “BK”. At the district level, according to how often they were made, there were two types of "BK", referred as either routine “BKs" or temporary “BKs”. Included as temporary “BKs” were the payments made to the District Forestry Service, to smoothen the process of issuing the district recommendation necessary to obtain an approved RKT at the Provincial Forestry Service (section 3.5.2). In Bulungan, routine “BKs” have included payments made every 15 days to the UPTD to assist in the process of obtaining Temporary Timber Production Report, ULHP (Usulan Laporan Hasil Produksi), and in the final Timber Production Report, LHP (Laporan Hasil Produksi), which determined the amount of forestry royalties due (Chapter 4). Monthly payments made to the local military and police offices, Koramil and Polsek, respectively, were also categorized as routine “BKs”. This was ostensibly to help both secure the timber

405 The military's territorial commands duplicate government hierarchy. These are the military headquarters at the central level, followed by Kodam (regional military command) in the provinces, Korem (resort military command) and Kodim (district military command) in districts and municipalities; Koramil (Rayon Military Command) in subdistricts and Bintara Pembina Desa (Babinsa or Village Military Supervision) at the village level. The police line of hierarchy consists of the police headquarters (Mabes Polri), provincial office (Polri), district office (Polres), subdistrict office (Polsek) and police posts (Pospol) as the smallest unit.

406 Interview with staff of PT Ik, a HPH timber company operating in Bulungan, B-P-7.
harvesting operations and the transportation of timber. In the case of Kutai Barat, however, these security guards have been co-opted by more powerful forces, so the hiring of military and police personnel by timber companies to secure timber operations and transportation did not entirely achieve its purpose (section 6.4).

In order to obtain the required log transportation document, SKSHH, a certain amount, referred to as “coffee money” was paid to the forestry unit to lubricate the process. In Bulungan this would be the UPTD. As described in Chapters 3 and 4, the SKSHH is a critical document required to legally transport timber from its place of origin in a particular administrative jurisdiction to its destination, usually in another jurisdiction.

The amount of these payments was determined by the volume of timber involved: the higher the volume the greater the payment. “Coffee money” literally means money for the officials to buy coffee, implying they are not of great magnitude. However, they turned out to be not insignificant: they were seven, eight, and ten million rupiah (800, 900, and 1100 USD) for timber loads of 2000, 3000, and 4000 cubic meters, respectively. Pointing out that both the forestry units, the UPTD and the Bulungan Forestry Service, had the worst office buildings in the district, despite the common perception that they were considered the “richest offices” in the district, an entrepreneur interviewed suspected that much of the money flowing in must have been used for other, individual purposes, rather than for official needs.

The informal payment associated with SKSHH is not limited to the time of its issuance. Similar to the beginning of the life cycle of the document, informal payments are associated with the end of its life (section 3.5.2) – that is, to smooth the process of its invalidity. A timber business figure disclosed that it was always necessary to provide an “envelope” containing at least 2.5 million rupiah (270 USD) to lubricate the process of SKSHH invalidation. As SKSHH invalidation is done at the destination of the timber which is usually outside the district, this admission indicates that “informal” transactions are not limited within the district but also occur in other jurisdictions, demonstrating the level of pervasiveness of such transactions.

The multitude of forms and the extent of “extortions” by the district offices were confirmed by officials at the District Forestry Service of Kutai Barat. However, they rejected the notion that these forms of payments had compromised their decisions or actions. For instance, while admitting that he accepted money for himself, a senior district forestry official claimed that it did not influence his decisions:

“I can say I am 90% clean, the remaining 10% ... I will accept... but only after I signed the document. And this is if they offered it to me, I do not make such requests.” [my emphasis] (interview with K-G-21)

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497 Interview with a local businessman and adat leader of Bulungan, B-P-8
498 Interview with B-P-8
499 Interview with P-B-1
However, the motivation for such transactions is quite clear: timber operators were aware that they were not strictly following certain rules, regulations, or other requirements, and wanted to get away with it. A holder of a district logging license of Bulungan revealed that logging outside the areas specified in the license was common:

“All forestry operations here ... violate ... the areas being logged are wrong.”  
(interview with B-P-8)

Thus, rather than taking necessary actions to uphold the regulations, district officials instead take advantage of the fact that operators were flouting the regulations. As a senior Kutai Barat forestry official admitted:

“Because, from my perspective, not a single contractor who works in those forests does his work appropriately. There are always violations and deliberate mistakes. That is why forestry officials can choke them, they can extort them, and they can meddle in their operations. In the forests they must make some errors. Any contractors, big and small, even HPHs. No one actually maintains or sticks to their cutting blocks, their logging roads, their allowable cut. No one follows the rules 100%. There must be mistakes. Even the smallest mistakes... if forestry officials want to make a big thing out of them, they can become big.”  
(interview with K-G-1d)

A senior district forestry official of Kutai Barat admitted that at one point he had requested a “thank you gesture” from a district license holder.410 This was associated with the technical recommendation that the District Forestry Service had issued earlier in the process of the license application. The entrepreneur responded by giving him a large sum of money.411

Because in recent years the Government has stepped up efforts to bring public officials to court for corruption (Chapter 7), the ways in which such transactions are carried out have changed somewhat. According to this forestry official, these monies are no longer transferred to a specified bank account of the receiver, but payments are now usually made in cash, in simple, non-obvious plastic shopping bags, as was applied in his case. This method of payment in cash, even up to billions of rupiahs, to prevent any evidence of illegal behaviour, was also substantiated by a timber business figure.412 Recently, substantial sums of cash found in the

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410 Interview with a senior official of the District Forestry Service (name and date of interview remain with the researcher)
411 The amount of money was not disclosed.
412 Interview with a senior APHI figure affiliated with a HPH operating in Kutai Barat, P-B-1
home of an allegedly corrupt high official of the Logistics Office in Jakarta suggest that this new "method" has not been limited to under-the-table transactions in the timber sector.\textsuperscript{413}

In terms of purpose, informal payments made by the private sector are of three kinds: 1) payments that accrue to individuals as just discussed; 2) payments that are used to support the operational needs of the forestry unit, often referred as "tactical funds" or 	extit{dana takitis}; and 3) payments actually requested for specific needs or events held in the district.

The second type of informal payments, that is, payments used as "tactical funds", are collected to cover the District Forestry Service's budget constraints and are used to support the day-to-day operations of the office. As common in many developing countries, the budget is always limited, across sectors and at all levels of governments. Forestry and other district officials in both districts maintained that there were widespread perceptions within the bureaucracy that the forestry sector was considered a "rich" sector. This common perception has been based on the assumption that activities in the forestry sector can generate informal funds. Consequently, the District Forestry Service has always been given a particularly small operational budget compared to other sectors (section 5.2.2). Such a limited budget significantly affects the way these offices operate.

To carry out activities under these budget constraints, in addition to prudent (and frugal) budget management, Kutai Barat Forestry Service has adopted a number of strategies. The first has been to seek contributions from or through partnership arrangements with donor agencies. In Kutai Barat these types of support were used to finance activities such as the multi stakeholder consultation processes in the formulation of district forestry regulations (section 6.1.1). The Forestry Service would then only incur a relatively small cost compared to the magnitude of its activities. Donor funds were even used to support the office's telephone and fax bills.\textsuperscript{414}

The second and third strategies relate to the business sector directly. The second strategy has been to extract small "contributions" from the business sector.\textsuperscript{415} These are used for office improvements, to buy equipment for the office, such as air conditioning units and computers, and to cover other operational costs.

In addition to payments collected for operational needs of the forestry unit itself, the Forestry Service also collects funds for the district's off-budget needs (as oppose to the needs of the Forestry Service). One example given was the funds collected from forestry companies to cover the cost of Independence Day celebrations in the district. The amount, surprisingly, was not insignificant. Over the course of four years (2001-2004) a senior official of Kutai Barat Forestry Service claimed to have generated about 2 billion rupiah (220,000 USD) for such

\textsuperscript{413} Pikiran Rakyat, 25 March, 2007
\textsuperscript{414} Interview with a senior official of Kutai Barat Forestry Service, K-G-1d
\textsuperscript{415} Interview with a senior official of Kutai Barat Forestry Service, K-G-1d, and Baskoro et al., 2007.
purposes. Even so, according to this official, the Bupati was not satisfied with this amount, and conveyed his suspicions that the senior official had accumulated significantly more for himself. While it is impossible to know whether the estimate was roughly accurate or highly inflated, it does show that the Forestry Service, a perceived “rich” district unit, has been expected to serve as the “ATM”, the Automated Teller Machine, for the district.

The “ATM” to a significant extent appears to be the underlying motivation of local governments determining forest resource governance under decentralisation. This term was used by a district government official to denote “money-making machines”, articulating in two words how the forestry sector has been regarded. The “ATM factor” may take any of three forms: district government revenue (Chapters 3 and 4), income for the local population (Chapter 3 and section 6.2.4), or informal incomes for local government actors and organisations.

The third strategy has been to use the equipment or transport vehicles and other facilities belonging to forestry operators to support the Forestry Service’s operations. This was unavoidable, as the office has only a limited number of vehicles, yet has a vast area to cover under its responsibility. They include field vehicles and speed-boats needed to carry out field-related tasks associated with logging and reforestation activities. This last strategy in particular has direct implications for how forestry activities are carried out, since it restricts the capability of the office to monitor activities in the field objectively.

The District Forestry Service is responsible for the day-to-day monitoring and in the case of Kutai Barat, also the provision of the administrative services supporting logging operations. However, the capacity of this office to enforce the rules and regulations at the operational level, even with good intent, is low. As described in Chapter 4, the two case study districts invested very little in forestry initiatives. This lack of attention included limited budget for the districts’ Forestry Services to support their operations. Consequently, at the operational field level – both in logging and RHL activities – forestry officials were very dependent on the very same companies or actors being monitored. Forestry officials relied on the companies to provide them with transportation and other facilities to reach the areas where the activities were carried out. The timing of inspections often coincided with when the vehicles were made available for use by the officials. In addition, it was not unusual that the companies were more familiar with the area or in possession of more accurate data of the area, than the District Forestry Service. Thus, they were able to be fully “prepared” when the inspection was carried out – rendering it ineffective. Senior forestry officials, both in Kutai Barat and Bulungan districts, rarely made field checks on these companies. Consequently, in the actual timber operations there are many opportunities for violations of rules and regulations, including the various forms of illegal logging.

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416 Interview with a senior official of Kutai Barat Forestry Service, K-G-1d
417 Interview with an official of Kutai Barat Forestry Service, K-G-19
418 Interviews with K-G-1d and B-N-5
Illegal logging activities in the two districts take various forms. One form involves logging outside the area specified for harvest, that is, outside the approved RKT for medium and large scale-licenses or in the case of small-scale licenses, outside the area specified in the licenses. Another form involves deviations in the data reported in the set of SKSHH documents. This includes the underreporting of the volume of timber, the inaccurate reporting of the types of timber, and the incorrect origin as well as the destination of timber. A third form of illegal logging activities involves the multiple uses of the same set of SKSHH documents for different loads of timber, the use of the “flying SKSHH” (SKSHH terbang), or the use of “original but fake” SKSHHs (SKSHH aspal or asli tapi palsu). The former refers to the presentation of these documents only when the timber reaches the point of destination. In this case, the transportation documents “fly” after the timber is being transported, meaning that it is able to avoid any inspections or monitoring of the legality or the circumstances of the timber during transport. At the destination, the SKSHH document is necessary because that is the point where the timber is marketed, and will be harder to sell if it does not appear legal. The SKSHH aspal refers to non-authentic SKSHH, but is used, illegally, as a legal SKSHH.

6.4 “Premanism” in district forestry: from gangsters to the legislature

In addition to the types of actors described in the preceding sections that have exerted influence, to varying degrees, in shaping forestry decisions and their implementation at the district level, in Kutai Barat there is one other – perhaps less expected – type of actor that has “over-powered” the local government all the way up to the Bupati. This set of actors is made up of preman or gangsters, and in this case, members of the Pancasila Patriot Party (PPP).

Patriot Pancasila Party (PPP), one of the 24 parties contesting the 2004 election, was established in July 2001. The birth of this party was initiated by the cadres of a political organisation, Pancasila Youth. Although Patriot Pancasila Party (PPP) and Pancasila Youth should be seen as two separate and independent organisations, the leadership of both organisations is held by the same individuals. This is because many members of Pancasila Youth became members of PPP.

Pancasila Youth has attracted a reputation as an association of thugs and petty criminals who did the dirty work for the New Order Regime, including attacks on pro-democracy activists and workers’ rights groups. As an organisation that had supported Golkar, the ruling party during the New Order, they were known for provoking violence, have been closely linked to activities such as racketeering and extortion, and reportedly have close ties with the military and
the police (for instance, Randall, 1998; Ryter, 1998). Members of this organisation are often referred to as preman, Indonesian for gangsters, hoodlums, or thugs.419

Under regional autonomy, these same actors have not only survived, but have prospered through strengthening their power base, particularly in certain provinces.420 In East Kalimantan, this group, in its reincarnation as a new political party, has become a powerful organisation. Moreover, relevant to this thesis, its power base has been built primarily from inappropriate or illegal timber-related activities.421

The explanation given by a police officer in Kutai Barat summed up the role of preman, gangsters organized as members of PPP, in district forestry:

"In this district, Pancasila Patriot Party is powerful. In East Kalimantan, this party is the most powerful. They go to villages and communities and seek timber. They obtain their money from timber." [my emphasis] (interview with K-V-2).

In Kutai Barat, the Pancasila Patriot Party is led by SM, nicknamed Od, who originated from the district but is of Arabic descent. Therefore, ethnic-wise, he does not represent the majority of the district population, who are Dayak (section 1.5.4). PPP has also built support consisting largely of non-indigenous or migrant constituents. The leader of the PPP in East Kalimantan province, SA, is also Arabic and has a close relationship with Od. This relationship links Od to a powerful network in East Kalimantan. As discussed later in this section, at the point where conflicts associated with the actions of this preman group reached its climax, the ethnicity of this preman leader and the non-indigenous base of his constituents have affected the ways in which the district government had chosen to act.

The role and power of preman and their activities in the forestry sector in Kutai Barat were consistently emphasized in many conversations and interviews with informants. Almost all the people in the district involved in discussions or interviews alluded to the fact that the major issue of forestry in this district has been illegal logging which has been inextricably linked to the preman.

Prior to regional autonomy, Od was already involved in acts of extortion of timber companies, but such activities were then limited and did not seem to have been regarded as a

419 Originally, preman (from the Dutch vrijman, or free man) had meant off-duty officers or those in civilian dress. However, by 1980s, the word has acquired a double meaning, to include people associated with criminal acts and violence (see Randall, 1998; Ryter, 2005).
421 Various interviews with Kutai Barat informants
422 Intensive logging activities have been taking place in this sub-district
particularly big problem by other district actors. HPHs at the time had powerful backing and networks that extended all the way to the Centre.

Under decentralisation, “premanism” in Kutai Barat has taken a range of forms. It included intimidation or threats to parties obstructing or opposing the preman’s activities; physical assault or force on those who stood against their activities; illegal logging; extortion of timber businesses; timber theft; and manipulation of the communities’ share of timber fees.

One form of the preman’s involvement in the timber sector in Kutai Barat was as a broker between communities or segments of communities, who had claimed the rights to the forest area specified in the district license, and the contractors or capital providers who acted as the timber operators. The preman acted on behalf of communities in identifying and securing investors who carried out the logging operations. Fees due to the communities were usually also paid through the preman, as the middleman.

These arrangements resulted in the amount received by communities often being less than had been agreed. At times no payments were made at all, as if the preman were the party that had rights over the forests/lands. Sometimes payments only reached a certain segment or individuals of the affected communities, usually those who dealt directly with the preman; this has often led to internal conflicts within a community. These activities subsequently led to community demands for the full payment of the fees and conflicts between the community and the preman.

Od and the PPP were also behind the operation of a HPH highly contested by the community. The concession license was given to a cooperative in 2000, by the Minister Muslimin Nasution, over 21,000 hectares that encompasses the area of four villages. From the beginning when the plan for this HPH to enter the area was made known to the communities (2001), the affected communities were against this exploitation, but it nevertheless began its operations without the communities’ consent (2003). The affected communities then had to attempt to obtain the appropriate compensation for the timber harvested. However, no agreement was reached regarding the volume of the timber harvested and the compensation. The subsequent effort undertaken by the District Forestry Service to clarify the volume of timber harvested was also unsatisfactory to the communities, which resulted in the communities staging a four-day protest at the office of the Bupati. After the Bupati finally became involved, an agreement was reached in which Od was willing to pay a significantly less amount compared to the amount demanded by communities. However, in the end, the communities obtained even less than the agreed amount.

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4 Interview with a senior official of Kutai Barat Forestry Service, K-G-1f
5 The issuance of logging licenses to cooperatives in the beginning of reformasi was Minister Nasution’s policy, ostensibly a policy favouring masyarakat (section 3.2.1).
So powerful has this group been in this district, that timber operators have had no choice but to cooperate with them. As one entrepreneur explained:

“The only way to participate in the timber business in this area is if one is willing to follow the preman way of doing things. This ensures that licenses that can not be used, can be used. Business actors join hands with preman. Who wants to die? Better turn a blind eye and share the fortunes.” (interview with K-P-1)

This statement carries the message that the preman’s ways of doing things have made district licenses that were otherwise not operable for legal reasons, become operable. This was achieved by using expired licenses, logging in an area outside the licenses, and using expired SOs (see section 3.2.3 and below).

It also illustrates the level of pressure that these preman were able to exert on timber operators, including HPHs and other operators who were not associated directly with the preman. Timber operators whose activities were not linked directly to these gangsters’ activities were also affected. To get their timber out safely, operators often had to pay certain fees to these gangsters, ostensibly as “security fees” or uang keamanan. This has included making payments to the preman and allowed the preman and their associated timber operators to log in the former’s concession areas. If the timber operators who were not associated with the preman had refused to pay, they would be intimidated and threatened, and would risk losing their logs during transport through theft or coercive measures. According to a Kutai Barat forestry official, at least one entrepreneur was forced to quit the district because of pressures applied by the preman and because that particular entrepreneur did not want to accede to the terms set by the former.

In East Kalimantan, the river system is the major means of transporting logs. Most logs in the district are harvested in the hinterland upstream and transported downstream to Samarinda via the river. Timber species that usually sink are transported on barges, while species that float are usually tied together as rafts and floated downstream (Figure 6.2). One of the preman’s modes of operations has included the dismantling of the rafts by slashing the ropes tying the logs together, while they are being floated downstream. The logs stolen from the dismantled rafts are then collected and given the “legal” transport document, the SKSHH, by the District Forestry Service (see below), prior to their transportation and sale in the Samarinda timber market.

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425 Interviews with a senior APHI official affiliated with a HPH operating in Kutai Barat, P-B-1, and with a senior official of Kutai Barat District Forestry Service, K-G-1d
426 Interview with a senior APHI official affiliated with a HPH operating in Kutai Barat, P-B-1
427 Interview with a senior official of Kutai Barat District Forestry Service, K-G-1d
Figure 6.2 Semblance of legality
Logs-rafs floating down the Mahakam River, Kutai Barat. The preman was known to have slashed the ropes tying the logs, reconstituted them and acquired new documents, before selling them in the market as legal timber. Photo by Ida Aju Pradnya Resosudarmo, 2004

PPP’s role and activities in the forestry sector in the district have not been limited to being brokers between communities holding district logging licenses and their commercial partners who actually carried out the logging, or as actors in timber theft of logs harvested legally by logging companies, but most critically, as key actors in illegal logging activities.

The following case presents an example illustrating the actions of PPP preman in Kutai Barat. It illuminates the power of preman in relation to other actors in the district and the complexities of illegal logging.

Community members of Klw and LD villages holding a number of district IPHHK licenses, twenty five and eighteen licenses, respectively, were lured to authorize Od, the chairman of the PPP in Kutai Barat, to administer and make all the necessary arrangements for logging operations, including identifying partners or contractors to do the job.92 In this particular case, a company called PT ABU carried out the operations. It was agreed that villagers would receive a fee of 52,000 rupiah for every cubic meter of logs harvested.

92 The following accounts of the case were drawn from district documents, through interviews, observations of actual events and actions occurring during fieldwork and complemented by media reports.
92 Od and PPP commonly obtained communities’ authorization to administer their lands for logging operations through either sugary promises, through “divide et impera” tactics among members of the community (which had occurred in another village), or through forms of intimidation and coercion.
Each of these licenses was issued by the office of the Bupati in December 2001, and each had a target production of around 5,000 cubic meters of timber. These licenses were only valid for one year, thus should have expired by the end of 2002. However, at the end of the year or towards the end of the expiry date of the licenses, the District Forestry Service conducted a stock inventory of logs (Stock Opname or SO), to assess how much timber had already been felled but had not been taken out of the area, or which remained stacked up at the log pond (section 3.2.3). For district small-scale logging permits with a duration of one year, the understanding of stocks included timber already cut, but not yet transported out of the area by the end of the year or at the time the license expired. As long as the logs were cut within or during the period covered in the license and in areas covered by the permit, these logs would be considered legal and should be provided with legal SKSHH documents by the District Forestry Service. According to available documents, the Stock Opname for the entire amount of logs cut under the 43 licenses owned by the two communities was carried out in February 2003. Thus presumably, these logs were legally cut during the period covered by the licenses (January to December 2002) and their provisions of SKSHH documents should be considered legal.

While the processes surrounding SO at first glance seem merely technical, they have actually shaped the ways in which forest activities have been carried out in Kutai Barat. The SO documents enabled the provision of SKSHH documents after the expiry date of the logging license, but should be limited to logs already felled during the life of that license (section 3.2.3). In practice, the SO concept has been abused, to include logs harvested after the license reached its expiry date as well as logs felled in areas outside the area covered under the license. This occurred particularly in the period after district authority to grant logging licenses was revoked by the Central Government, in pursuit of a way to allow logging activities to continue (section 3.2.3). This was however, at least officially, a policy of the District Forestry Service, rather than the office of the Bupati.

Disputes began when the two communities suspected discrepancies in the data of timber produced by Od's group with the communities' records, and which resulted in the discrepancies between the fees that should have been paid with the actual payments reaching the communities. Furthermore, while these licenses had expired by end of 2002, the communities reported that logging activities continued at least up until mid-2004. Neither Od nor his group responded to the communities' demands, prompting the communities to turn to the district government and the DPRD to facilitate a resolution. On June 22, 2004 community representatives began to stage a protest and erected a tent in front of the Bupati's office; this demonstration lasted for a month. They demanded that the alleged data manipulation be investigated, and that the district

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It is also widely known that the provisions of logging licenses were often abused, both by timber operators linked to Od and PPP, and by those who were not.
government, in particular the District Forestry Service, stop all of Od's activities and to discontinue issuing SKSHH documents to the *preman*.

On July 9, 2004, the DPRD met with the representatives of the two villages, which resulted in the communities submitting a formal letter to the district government requesting data from the District Forestry Service. The District Forestry Service then provided the communities with their data on log production and logs that had been issued SKSHH. According to the available documents, there were discrepancies in the data for logs produced and transported out under the 43 licenses recorded by the District Forestry Service and the figures supplied by Od. The proceeds from 63 thousand cubic meters, equivalent to 3.2 billion rupiah (350,000 USD) of fees, had not been paid by Od to the communities holding the licenses.

Through a formal letter dated 12 July 2004, the two communities demanded that the DPRD take the following actions: 1) admonish the district government, in particular the Forestry Service as the technical unit responsible for forestry affairs, for their slow response in addressing the issue, and for the impression that they wanted to wash their hands of the matter; 2) request the district government to revoke all logging licenses and not provide any timber produced in forests within these villages' jurisdiction with the legal transport documents; 3) request the police and the judiciary to investigate the data manipulation and breach of the period of the licenses; and 4) coordinate the reorganisation of logging licenses in the district for the benefit of the community.

This episode occurred at a time when all district small-scale logging licenses had expired and districts no longer had the authority to issue any commercial logging licenses of any scale. As described in Chapter 3, a June 2002 Government Regulation had decisively withdrawn districts' authority to issue commercial logging licenses. As district small-scale logging licenses had the duration of 1 year, these communities' protest affirmed that timber operations under district licenses had continued to operate far beyond the date of the expiry of district timber licenses.

Meanwhile, in the midst of these commotions, on July 8, 2004, the head of the District Forestry Service was sacked by the Bupati. The relationship between these two individuals, revealed in the interviews with both of them and also reported in the local daily, had not been at its best for some time. The issues surrounding the RHL Project and the prevalence of illegal logging and the resulting excesses made the already deteriorating relationship reach its climax. The local newspaper reported the Bupati's admission that the reason for his decision to replace

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41 Although this case was not merely a case of conflict between communities and Od or PPP, but was also a case of illegal logging activities, district forestry officials at first appeared to be unconcerned and relaxed about the case. Arguing that this case was about conflict between the communities as the license holders and their broker and business partner, district officials felt that it was not their responsibility because they had not been involved in the agreement between the two parties in the first place.

42 Kaltim Post, 10 March, 2004b and Kaltim Post, 11 September, 2004e
the head of the District Forestry Service was because the Bupati had perceived the latter to have failed to address illegal logging effectively (Kaltim Post, 11 September, 2004e).

On July 19, 2004 following an urgent instruction from the Bupati’s office, the District Forestry Service sent a team to carry out field checks on the alleged sites within the two villages. According to district documents, they found active forest exploitation activities, without any supporting legal licenses and found more than 5,000 cubic meters of timber as evidence. The documents also stated that these activities were conducted by PT ABU under the coordination of Od.

On July 23, 2004, the Bupati wrote a letter to the National Police chief and the Attorney General in Jakarta, reporting the widespread incidence of illegal logging activities carried out through “premanism” practices in the district. It presented the case of Klw and LD villagers versus Od above as one specific example, outlining the chronology of events beginning from the communities staging a protest at the Bupati’s office through the Forestry Service’s findings in the field, and explicitly mentioned Od as the primary culprit. It further explained that the situation had been occurring for sometime, and the tension and frustration had now accumulated to the extent that if no further action was taken the issue could get out of hand and could lead to unrest. The letter also included the Bupati’s admission that the Kutai Barat government was not capable of taking further action on its own without the commitment and support of the law enforcement agencies. It requested that the National Police Chief and the Attorney General take further action as soon as possible.

This letter was copied to the Ministry of Forestry, the chairman of the national legislative body (DPR), the Regional Military Commander or Panglima Komando District Militer (PANGDAM) responsible for the jurisdiction of Kutai Barat, the Governor of East Kalimantan, and the chairpersons of the provincial and district DPRD. A separate report on the findings in Klw and LD villages of illegal logging activities was simultaneously made to the Kapolda, the sub-district police chief whose jurisdiction include the two villages.

The ultimate action taken by the Bupati to handle the issue, in this particular case, reflected the power of the Bupati vis-à-vis the power of the actor or set of actors that were involved. It is particularly striking that the Bupati did not report or take the case to the police chief at the next level, the Kapolda in charge of policing in the East Kalimantan province, and the district attorney (jaksa) in the district. Instead, the Bupati went straight all the way up to the police headquarters and the Attorney General in Jakarta. One of the reasons might have been that raids on illegal logging activities have usually been carried out under the direct coordination of the national police headquarters. However, based on confidential interviews, a more plausible explanation for the direct report and request for assistance to the top executive of these enforcement agencies was the fact that these preman have a strong network further up the ladder
and chain of command in this enforcement agency. A district forestry official revealed that the particular case was reported directly to Jakarta, precisely because the Bupati was aware that Od and PPP had a strong network, a network that included the Kapolda.433

Barker (1999) described the relationship of the preman and the arm of the state that formed the basis of their operation. This relationship was based on a system of reciprocity, by which the preman, having extracted tribute from citizens, in turn had to submit rents (setoran) to state actors, often members of the Armed Forces, in return for the right to operate. In a similar vein, confidential interviews suggested that Od had the support of the district attorney, which was established based on “informal transactions”. However, staff at the District Attorney Office defended his boss, explaining that the district attorney had received death threats from this group of preman, and he was simply not powerful enough to face the group.4

The (by then) former head of the District Forestry Service acknowledged that the SO documents were abused by a number of people, citing Od and his accomplices in particular. While according to this official, SOs are completely legal, he acknowledged that SO documents should not be used for timber stock still standing. Od and company, he admitted, not only used SOs for timber left standing, but also used his SOs to cut timber outside the area covered by the license.435 Thus, the highest level of district official in charge of forestry admitted that these activities were illegal, and that he knew about it, but could not stop it. This admission was given in an interview after he was sacked by the Bupati.

Earlier in the year, however, the same district forestry official had defended his action in continuing to provide administrative services (among the most important, the granting of SKSHH documents) also for timber from SOs associated with stocks left standing, in the name of communities (section 6.2.4). District governments’ upholding pro-community policies, on the one hand, and their rent-seeking activities as well their succumbing to premanism on the other, show the multiple forces at the district level that motivate district government forestry decisions.

In early 2004, Od and his group had requested, from the District Forestry Service, SKSHH documents based on expired SOs. However, following the specific instructions of the Bupati to be more restrictive in the issuance of SOs, the District Forestry Service was not willing to process this request, and insisted that a new Stock Opname process be carried out in order to issue a valid SO. His power challenged, on March 17, 2004, Od brought PPP followers en

433 Along the same lines, the local daily Kaltim Post reported that the Bupati claimed that he had no choice but to report illegal logging directly to the police headquarters in Jakarta and the Attorney General because the response of enforcement agencies at the provincial level was minimal. “We hope that enforcement agencies will give more attention to these cases if we report them directly to the top. The enforcement agencies here already knew about these illegal logging activities anyway, but did nothing.” (Kaltim Post, 11 September 2004e).
4 Interview with staff of the District Attorney Office of Kutai Barat, K-V-1
45 Interview with the former head of Kutai Barat Forestry Service, K-G.*
masse and intimidated the head of the District Forestry Service at his office. While the thugs vandalized the forestry office, Od and two other members of PPP, who apparently had never encountered significant problems in obtaining “illegal” SKSHH documents before, physically threatened the head of the Forestry Service with a pistol.\(^{36}\)

That evening, a crowd of around 1000 members of a Dayak youth organisation, the Sendawar Sakti, who were “supporters” of the head of the Forestry Service, gathered at the police station. The intention was a show of force against Od and his PPP supporters. The Bupati was in Jakarta, and according to the head of the District Forestry Service, when notified of the incident, had asked him to calm down his supporters and to maintain peace in the district. It was very important to control the situation, because the PPP basically comprises Pancasila Youth members, who are gangsters. In addition, many of the members were outsiders and did not originate from the district and Od himself, although born in the district, is, not an indigenous Dayak. The Bupati was very aware of the potential for the conflict to escalate into unrest and serious ethnic violence, similar to that occurring in West and Central Kalimantan.\(^{37}\) The head of the District Forestry Service followed his advice and the situation was brought under control.

The fear of inter-ethnic violence was an important consideration for the district government in addressing the continuing conflict between communities and the preman. Communities had threatened that there could be “Sampit number 2”, if they were pushed further without any resolution to the problem.\(^{38}\)

The head of the District Forestry Service reported the incident to the police headquarters located in the neighbouring district of Kutai Kertanegara. At the time Kutai Barat did not have its own district-level police unit (Polres).\(^{40}\) Sometime in July 2004, Od was prosecuted and was given a lenient one month sentence. Lenient as it was, Od was not pleased with the verdict, and reportedly threatened the district attorney and the Deputy Attorney General for Special Criminal Actions (jampidsus) responsible for the case. The provincial level district attorney and the Attorney General in Jakarta were informed of the situation, and Jakarta dispatched an officer from the elite military unit (Kopassus) to protect the district attorney.\(^{42}\) The Office of the Attorney General in Jakarta also promised to the District Attorney Office in Kutai Barat that it

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\(^{36}\) Interview with the former head of Kutai Barat Forestry Service, K-G.* and various interviews with other Kutai Barat forestry officials; KomIt Post 18 March 2004d; Kompas, 19 March 2004a

\(^{37}\) In 1998 and 2001, two violent ethnic incidences occurred in West Kalimantan and Central Kalimantan, respectively. These incidences resulted in casualties and instability in the respective areas and have had a long term effect of distrust and hatred among the two ethnic groups. For instance, the head of one farmer group participating in the RHL Project in Kutai Barat, a Dayak, had to return to the district from his previous residence in Java, because Madurese were still avenging Dayaks in areas where the numbers of the latter ethnic group were fewer (interview with K-C-10).

\(^{38}\) The inter-ethnic violence in Central Kalimantan occurred in Sampit.

\(^{40}\) In October 2004, a Polres was established in Kutai Barat.

\(^{42}\) Interview with staff of the district attorney of Kutai Barat, K-V-1
was committed to protecting its staff in the district, and would immediately take action against Od and his gang if the latter laid a hand on any District Attorney Office staff in the district.

In the months following the incident, to continue with his day-to-day office tasks, the head of the District Forestry Service had to seek protection by hiring police personnel.

The head of the District Forestry Service admitted that, prior to the March incident, he had "assisted" Od with documents because he had had no choice. This clearly has meant that on previous occasions the District Forestry Service, apparently under a great deal of pressure, had provided Od with forestry documents for logs harvested or obtained illegally. This "assistance" was confirmed by an APHI official associated with a HPH timber company operating in Kutai Barat, who stated that the District Forestry Service did provide SKSHH documents to timber snatched by Od and his gang from timber companies.41

Nowhere near on the same level of the playing field with Od and his gang, the head of the District Forestry Service apparently had earlier hoped that when all the target production of the licenses associated with Od had been met, he would not have to issue any more SOs for him, and that Od's logging activities would then naturally subside. He argued that leading the district forestry unit under these circumstances was a very hard task (berat) and that implementing a near-perfect and healthy forest administration in the district was virtually a "mission impossible".42

Forestry staff often work in difficult, often threatening, situations. A senior forestry official confided:

"If we carry out field checks, especially when it has to do with Od's company or activities, we could be attacked. The police guarding the logging operations are owned by him, the military are owned by him." [my emphasis] (interview with K-G-1d).43

The same official further explained the role of the police and the military in Od and PPP's activities:

"And other companies... the police and the military supposedly guarding the timber and logging operations of these companies are his. Even though they have nothing to do whatsoever with Od or his activities, these timber operators are forced to make payments to Od. These fees are ostensibly so called security payments." (interview with K-G-1d)

41 Interview with P-B-1
42 Interview with the head of Kutai Barat Forestry Service, K-G-
43 These difficulties were confirmed by other district forestry officials. For instance, a senior district forestry official told of one occasion where he and his family had to leave his house and seek refuge because their lives were being threatened by illegal loggers (interview with K-G-3a).
The above description suggests that the police, all the way from the lowest rank in the villages up to, at least, the top position at the provincial capital, were part of the network. It also indicates the weakness of the police, the very institution that, when necessary, should have been able to act against this set of actors, instead of supporting it. During the New Order, many reports have emphasized the role of the military in forestry businesses (Barber, 1994; Ross, 2001). However, the military here did not distinguish between the army – those in “green uniforms” and the police – those in “brown uniforms”. During this period, the Indonesian police force was part of the military (Tentara National Indonesia or TNI). After the 1998 reforms, the police force was separated from the military and has since become more powerful than before.

In the current situation, in Kutai Barat and up the chain of command in the hierarchy, the police appear to be playing an increasingly powerful role in forestry businesses. The role of the military – those that people refer to as “in green uniforms” – also appears to have changed in this context. During fieldwork, both in Bulungan and Kutai Barat Districts, it was the chief of the provincial-level police unit, the Kapolda, who was often rumoured to be the “protector” of the various timber barons operating in the districts, rather than the Regional Military Commander (PANGDAM). The Kapolda, for instance, was described as having been backing the network of the regionally-based timber barons of JL in the timber group owned by G (section 6.3.1). It was the Kapolda who had made calls to forestry offices that resulted in the “flying SKSHHs” (section 6.3.2). However, according to a confidential interview with a timber business figure, these networks do not end at the provincial level, but extend well into Jakarta. Rather than the “green uniforms” – as was the case during the New Order period – it appears that now it is the “brown uniforms” that deal directly with forestry businesses.

The power of regional timber groups in this area that extends to Bulungan perhaps explains why PPP, unlike in Kutai Barat, has not been dominant in timber operations there. Pancasila Youth, however, has been perceived as more arrogant than other political organisations operating in the district and has also used its bravado to exert influence in the district. Although much lower in intensity and smaller in scope than what PPP was able to do in Kutai Barat, Pancasila Youth in Bulungan was nevertheless able to extract dues from timber companies.

Thus it seems that the power of the military in the timber sector, at least in the two case study districts and in the province of East Kalimantan, has somewhat receded, while the power of the police has amplified. Comparing the power of these actors in the forestry business, an entrepreneur operating at the district provided an analogy:

Note that the Bupati of Kutai Barat did not address the illegal logging report to the Kapolda, but did copy it to the PANGDAM.
Interview with a timber buyer, B-P-4
Interview with a staff of PT lk, a HPH operating in Bulungan, B-P-7

Interview with B-G-8a, B-N-2b, K-P-1
Interview with B-N-2b
“TNI is still considered by business actors. However, if the TNI now are represented by two fingers, the police are now represented by five fingers.”

[my emphasis]. (interview with K-P-1)

Despite the competition from the increasingly powerful “brown uniforms”, those in “green uniforms” however, continue to depend on forestry operations for their income. A district military commander (Dandim) overseeing a district in East Kalimantan, for instance, was estimated to have accumulated 200 million per month from “protecting” timber operations.9

Within the military, informal forestry benefits have also been more distributed. Under the New Order, it was the higher ranks of the armed forces in Samarinda and Jakarta that had gained the greater portion of the rents (for instance Ross, 2001). Now these “green and brown uniforms” not only continued to be involved in the “protection” of forestry operations, but those at the operational/ground level have been more active and have been able to extract rents themselves.45

In the meantime, during the same period when the conflict between the Klw and LD communities and Od reached its peak, PPP won 12% of the DPRD seats. As a result, Od, along with two other PPP members, was successfully elected as one of the 25 new DPRD members of Kutai Barat for the 2004-2009 period. They formally took oath of office in October 2004.46 Od in particular, did not stop there: he was also elected, by members of the DPRD, as one of the two vice-chairmen of the DPRD. Therefore, these gangsters not only have “de facto” power, in most cases wielded in the form of physical force, which was applied, maintained, and protected through their extensive and powerful network, but have also penetrated into the formal institution that characterizes and constitutes the symbol of democratic governance. Through their seats in the DPRD, not only has their power been formally institutionalized, but Od and two other members of this gangsters’ party now supposedly act as the representatives of the population. This highlights the issue of accountable representation in democratic decentralisation, as suggested by Ribot (2002, 2004, 2005, Appendix 2).

It is also important to note that funds secured from the forestry sector, much of it through illegal means, have played a significant part in the PPP’s success in the DPRD election.452

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46 Initial of the informant and the date of interview remain with the author.
49 Interview with a senior forestry official of Bulungan, B-G-8a and an academic of Mulawarman University, P-A-1
61 Kutai Barat’s results on the election of legislative members was determined by early May 2004, but the inauguration of the new members did not take place until Oct 8, 2004. The formality was reportedly delayed because two members of the newly elected DPRD, one of whom was Od, allegedly falsified his secondary education certificate. One of the requirements to be a candidate for the legislature was a highschool (year 12) diploma.
42 The details in the way in which Od and PPP could win sufficient number of votes, despite their actions, is outside the scope of this study. Interviews with district actors, however, suggest that money politics occurred, where people were given money to elect the party. A more
With only a few district logging licenses in operation (that is, the remainder of Kutai Barat’s IUPHHK not withdrawn by the Ministry of Forestry or the Bupati himself – section 3.2.4), PPP has now shifted its financial sourcing to another natural resource sector currently flourishing in the district: coal mining.  

### 6.5 Conclusions

The chapter observes how actors have influenced forestry at the district level. Each category of district actor influences district forestry policies, forestry decisions, and forestry or forestry-related operations in different ways: directly through direct interactions with district government officials or indirectly through interactions with other district actors.

#### 6.5.1 The role of international organisations, NGOs and academics in district forestry: limits and potential

In both study districts, international organisations, academics, and NGOs have taken part in district forestry decision-making. The level of their participation, how they attempted to influence district decisions, and the extent to which these actors could influence decisions in each of the two districts, however, have varied. In Kutai Barat, the three types of actors participated actively in the formulation of the district’s forestry policies. The substance of the two Kutai Barat’s regulations on forestry and on community forestry, which are heavily adat- and community-oriented, suggests that their influence has been strong.

In Bulungan, the involvement of international organisations and academics in formal forestry-related policies/decisions has been at best, limited and indirect. Their lack of direct participation, including in the financing of district policy processes, did not allow them to use the opportunity to influence district formal policies relevant to forestry. The direct impact of the research activities conducted by these two types of actors – in partnership with an environmental NGO – on district policies was not clear and decisive for the district.

International organisations and academics have had some indirect and longer term effects on the capacity of the District Forestry Service and NGOs. For instance, Kutai Barat Forestry Service now has the capability to run a GIS unit on its own. In Bulungan, research partnership with a local environmental NGO who lacks the capacity – in terms of human and funding resources – to critically assess district’s policies, gave the NGO exposure to research methodologies and information that otherwise would have been beyond their reach. In turn, such increase exposure can lead to increased effectiveness in influencing district forestry decisions.

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obvious observation made during fieldwork was PPP’s offer of free painting of vehicles in the period close to election.

"Interview with a senior district official of Kutai Barat, K-G-1f"
The effectiveness of NGOs in their role of providing checks and balances in the implementation of district forestry decisions, even within one district, is more difficult to generalize. At least one particular environmental NGO in Bulungan, despite its continuing serious limitations, has shown an increasingly important role in district forestry activities. However, there are serious questions with the ways in which other NGOs have operated in the district, which are associated with funding inadequacy, and consequently, the effectiveness of their role in providing checks in district forestry decisions and implementation. These NGOs' objectivity towards district government's policies may have been easily compromised because their operations were aided by the district government. In this case it shows the leverage of the district government over NGOs.

Lack of funding and its consequences also raise the issue of NGOs' accountability. In the Philippines, the opportunities to benefit from financial windfall have generated an industry of rent-seeking forest conservation NGOs (Contreras, 2003). By contrast, lack of funds has led to at least one NGO in Bulungan extracting tributes from forestry companies. These practices of extracting dues from forestry companies flouting rules and regulations in return for keeping quiet about illegal actions brings the question of NGOs' downward accountability to their beneficiaries (Kilby, 2006). Notably, such practices may jeopardize the credibility, and thus the effectiveness, of other NGOs who do not operate in this way and who are truly committed to their cause (see Chapter 7).

The disjunct between district forestry policies that these types of actors were able to influence and the actual forestry operations under decentralisation suggests that the influence of these actors was mostly limited to the level of abstraction. NGOs that have concentrated their work on the empowerment of communities and awareness raising, however, have had some indirect influence on forestry operations at the district level through facilitating the increasing capacity of communities to claim their rights.

6.5.2 Increasing community influence in district forestry and its pitfalls

The section focusing on communities shows the changing dynamics of local people's (masyarakat) involvement in district forestry under decentralisation, as well as the dynamics that have largely continued to operate in the same ways as in the past. During the New Order period, forestry decisions had been largely imposed by the Centre, with very little involvement of the local population. Similarly, forestry benefits had disproportionately accrued to the Centre and actors politically close to the Centre, while local communities only enjoyed "droplets" of benefits.

The discussion has examined both the changing and continuing dynamics in the light of the principal assumptions of decentralisation measures. These are that the rationales for decentralisation were not only built around the assumption that greater participation in public
decision-making might produce better governance and natural resource management outcomes, but that increased participation is "a positive good in itself" (Agrawal and Ribot 1999: 475).

Local people's direct participation in district decision-making in both of the case study districts has varied in both form and degree. They have ranged from the simplest form of direct interaction with the highest level of decision-makers in the districts, the Bupati, to more complex types of formal participation in public consultation about district policies, informally and indirectly influencing district decisions, and determining the ways in which district decisions have shaped and have been implemented at the operational level.

The opportunities for direct interactions between the local community and the Bupati and other district functionaries have increased under decentralisation. The Bupatis of both districts have provided direct access for commoners to meet with them personally. Despite the practical challenges and social as well as cultural barriers to effective communications between district functionaries and commoners, these efforts nevertheless represent a major departure from past practice. By being a putera daerah and proficient in the local language, the Bupatis and other officials, more so in Kutai Barat than in Bulungan, have aided communication between these two parties. The Bupati and many other district functionaries are thus "one of us and vice versa". Even though these qualities do not guarantee that district policies would be responsive to the communities' desires, such qualities are useful aids to district decision-makers in formulating potentially responsive decisions.

District governments' commitment to formal forms of participation of community representatives through their inclusion in public consultations has been rather tokenistic. While both districts made some gestures towards local people's participation, the districts put different degrees of effort into embracing community representatives in their decision-making processes. Kutai Barat has been more accommodating of the inclusion of community representatives in its public consultation processes compared to Bulungan. Authorities in many developing country circumstances often used the argument of communities' lack of capacity to exclude them from local public decision-making (for example, Ribot 2005). The very same argument was used by Bulungan's bureaucrats in abandoning their initial efforts to include the direct participation of community representatives in the district's spatial planning processes.

In certain circumstances, as shown by a case in Kutai Barat, participatory decision-making may not be desired by some communities. Such situations arose when a quick outcome was required, while the issue in question was difficult and contested within the community. This suggests that the concept of accountable representation may be relevant here (Ribot, 2002, 2004, 2005). However, for the two case study districts, the cases of pengurus (community representatives) making their own deals and conducting non-transparent negotiations with partner logging companies, and of village leaders "monopolizing" district projects for their own benefit, suggest that there are challenges in the application of this concept.

In general, however, communities have exerted increasing influence in forestry and other forest-related developments at the operational level. Through increasing numbers of land
claims, negotiations, and forms of grievances that sometimes led to violence, communities now have more power to determine whether forestry operations and other developments can proceed in their areas, and to some extent, on what terms. This has been a very significant change from the New Order period. During this period, some communities in forest areas, in particular where state presence and authority were weak, had been able to adopt strategies to maximize their benefit or minimize their loss from the imposition of Central policies at the local level (Obidzinski, 2004; McCarthy 2006). Decentralisation on the other hand, has seen the advent of progress in terms of the role of communities: the increasing power of communities has shaped whether and how state policies, both central and local, can actually be implemented.

This increased power of masyarakat, more as a result of reformasi in general and not so much attributed to regional autonomy per se, has shifted the power relations between actors at the ground level. Communities in the two districts no longer acquiesce to interventions by outsiders, but have instead challenged the latter by various means. Communities have forced other actors, in particular forestry companies and other investors, to take account of their presence and demands. In this regard, the powers of actors who had been normally strong and unchallenged began to erode and destabilize, to some extent.

Communities’ emerging power at the ground level has made it imprudent for the district governments to ignore the consequences of their decisions about communities or to ignore the reactions of communities. On the one hand, communities demanded that the district government continue with district logging licenses, but on the other hand, district governments were pressured by the Ministry of Forestry to halt this practice. Because they sit in the middle between the two sets of actors, pressures from both sides have prompted district governments to allow timber operations of district logging licenses to continue for as long as they could. Balancing the two objectives of pursuing district economic development on the one hand, and maintaining policies supportive of communities on the other, Bulungan government sought ways to allow for the inflow of external investments but at the same time keep up favourable appearances to communities. As a consequence, the Bulungan government has been promoting oil palm plantation development, but requiring these companies to settle the land-related issues with the communities.

Under decentralisation, a more direct flow of forestry benefits has accrued to local communities. Compared to the New Order period, local people are now able to enjoy significant material and tangible benefits both at the individual and at the community/village scale. These benefits, however, have been largely transitory and short term. Longer term benefits have been largely absent; in fact, there may be significant longer term costs as a result of the rush to exploit natural resources. There have been some systemic benefits, however, in the form of communities’ increasing negotiation skills in determining the terms of the uses of their lands and/or forests and in more attention being paid to the maintenance and accuracy of local data.

Although local people did benefit from forestry activities, the proportion accruing to them was trivial compared to what others were able to capture. The benefits from forestry activities
were disproportionately distributed: those with financial power, comprising investors or capital providers, locally, regionally, Jakarta, or Malaysia-based, have largely reaped a bigger share of the benefits, compared with communities.

Moreover, particular individuals within communities have been able to substantially capitalize on the opportunities presented by decentralisation much better than other members. The former include village and adat leaders and other members of the village-level elite. This observation of local elite capture is consistent with one of the potential shortcomings identified in the transfer of power to the local level (Carney, 1995).

Under decentralisation, more actors have been able to enjoy the proceeds of forestry activities compared to the New Order period. Remote elites in Jakarta, to whom the benefits have largely accrued under the New Order, now, to some extent, have to share the pie with emerging local elites.

6.5.3 The repositioning of the powers of timber companies and rent-seeking activities in district forestry

The social and political changes under reformasi and decentralisation have to a certain extent destabilized the previously largely unchallenged power of HPHs at the district level and consequently the ways in which they operate. These centrally-licensed, large-scale concessionaries have been caught between other actors in the district: communities, district government, higher levels of governments, local and regional forestry companies, and another specific category of actors called preman. In order to remain in operation, HPHs have had to reposition themselves among these actors.

HPHs have had to accommodate communities’ demands, in particular their land claims over HPH concession areas, because all local and regional actors who previously had to accept and work with them, have turned away from HPHs to other more acceptable, and thus beneficial, timber players at the district level. Their “protector”, the Ministry of Forestry, is too far away physically and has no direct reporting units at that level. The arm of the Provincial Forestry Service placed at the district level (in the case of Bulungan) has no powers to intervene. Higher levels of government, themselves experiencing an erosion of power at the district level, have increasingly relied on HPHs to protect their concession areas. However, HPHs’ own protection means has not been effective either, as the past practices of repressive methods by the instruments of the state to enforce HPHs’ de facto rights over state forests are no longer legitimate. Enforcement agencies (the police or military) that used to carry out the protection for these HPHs, while still being employed by HPHs, are now looking to other actors who are promising new sources of rents (that is, local and regional companies). District governments are more favourable or, at the very least, have to appear favourable, to communities, and therefore have no incentives to protect the interests of HPHs.

The rise and the strengthening of a competitor in timber activities, the local and regional timber entrepreneurs, have in particular played a role in the waning of HPHs’ influence. Their
local or regional characteristics have promoted more interactions with and acceptance from the local people and local government actors. Local communities prefer these local and regional companies because they see them as an alternative to the HPHs that had disappointed them in the past; in particular, the involvement of local and regional companies is perceived as benefiting the communities. The locality of these companies has enabled them to actively take part in the political dynamics of the district — a role that was not taken by HPHs — promoting local governments’ greater degree of acceptance towards these companies than to HPHs.

District governments’ increasing attention to local and regional companies, however, has been motivated by their own interests, rather than by the objectives of advancing local actors per se. This is evident in the involvement of Jakarta-based businesses in Kutai Barat, and in both districts, Malaysian capital providers. What matters most to district governments has been whether they have had control over these businesses. This control has been directly and closely linked to their authority, or lack of authority, of issuing licenses. Because district governments were not the ones who had issued the HPH licenses, they have little control over the HPHs. By contrast, because district governments were the ones who had given the right to harvest timber to non-HPH companies — albeit in the name of communities — the former had greater control over the latter. In turn, control is associated with district governments’ ability to extract rents from these companies.

Districts did not have many formal powers over HPHs, particularly with respect to formal access to forest areas under HPHs. District governments could not tinker with areas of the Forest Estate that had been allocated by the Centre to these HPHs. This is demonstrated by the Centre’s revoking Kutai Barat’s license that overlapped with a HPH, and by Bulungan having to revised its licenses that overlapped with a HPH (Chapter 3). However, districts’ increased power in other areas under decentralisation has given them some limited influence over HPHs. Bulungan played a role in the operational working arrangement between HPHs and a regional timber company. Kutai Barat could impose a substantial official “contribution” from HPHs.

Thus, under decentralisation, the unsettling of HPHs’ powers — the actor who had a strong influence pre-decentralisation — was associated not only with increased formal forestry powers of district governments over HPHs, but indirectly through district governments’ increased non-forestry powers and through the increasing influence of other actors.

The business community now has to adapt to the situation and has to take into account the new power of local governments (in contrast with pre-reforms where it was the Central Government that they had to establish a strong relationship with) to begin or continue operating within the districts’ jurisdictions.

Within the case study context, the devolution of authority to district governments has apparently provided the condition for kickbacks, in various forms and magnitudes, to flourish. The relationship between local government and the business community is characterized, to a certain extent, by informal transactions in exchange for favours related to certain decisions or actions. Local government decisions can be influenced or easily compromised through a pattern
of relationships based on these informal or extra-legal exchanges (that is, rent-seeking type of activities as the foundation of the relationship) between the local government and the business community.

Literature on political, administrative, and fiscal decentralisation initiatives features arguments for both increased and reduced incidence or opportunity for local corruption. Those arguing that decentralisation brings down corruption—based on decentralisation’s increased accountability, responsiveness, or transparency—include Bardhan and Mookherjee (2000), Crook and Manor (2000) and Gurgur and Shah (2005). Those perceiving that decentralisation increases local corruption—based on arguments of greater influence of interest groups or increased personal interactions between local officials and citizens—include Prud’homme (1995) and Tanzi (1995). This chapter shows that decentralized governance as it has shaped in the two districts has provided the opportunity for increased local corruption in the forestry sector. This observation is the opposite of Henderson and Kuncoro (2006)’s findings, based on quantitative analyses of firm behaviour in districts across Java. They cautiously concluded that the first three years of local democratization in Indonesia (2001-2004) reduced the level of corruption at the district level. Observation of the two case study districts, however, is consistent with the finding reported by Pramusinto (2005), who found in his study of the business sector in the district of Sidoarjo, Java, that Indonesia’s current decentralisation has not reduced the level of local corruption.

The capacity of local governments in terms of operational resources is a very real issue, presenting a real constraint to any effective monitoring of timber operations. This is not to say that a guaranteed availability of resources will be adequate for effective monitoring, as it will only be effective if there is also sufficient will and commitment; it is more to highlight that the availability of one without the other will make it unlikely to work.

In this case, the lack of resources has been exacerbated by a general lack of political will and commitment in all levels of the bureaucracy at the district level to monitor and enforce appropriate harvesting procedures. On the contrary, the tendency has been to use violations of legal requirements and technical procedures in timber operations to extract rents.

The overall common attitudes of actors—district governments, forestry businesses, communities—towards district forests has been to utilize district forests as the “ATM” for the district. Every actor has specific interests and has been using the forests to achieve their objectives.

Thus, the influence of the business community, coupled with the local governments’ lack of capacity and will to apply control over forest activities and to enforce regulations, have

"" See Gurgur and Shah (2005) and Fjeldstad (2004) for two reviews of the literature on decentralisation and corruption.
created the opportunity for unrestrained forest exploitation. From this perspective, the resulting situation is not conducive to improved NRM.

6.5.4 The rise of “premanism” and the fragility of district government’s power

The section on “premanism” shows the strengthening of a particular set of actors operating at the district level whose power base was built from the district’s timber resources. Not only have they been able to gain power from timber, but they have done so through largely illegal means, and got away with it.

The methods employed in their operations, including intimidation, terror, and coercion, have forced other forestry actors to abide by the unspoken rules laid down by this actor. Timber operators either had to work with them under the latter’s terms, pay the money demanded or risk losing their timber, or, if unwilling to choose between these options, to exit from the district. The district government chose to play it safe by ignoring the actor’s activities and staying out of their way, as well as “assisting” in the provision of their timber documents. By providing timber documents, however, the district government in effect “legalized” the activities of this actor and its timber. This actor has also clearly flouted district forestry decisions.

The true power of the preman, however, does not lie in this actor’s bravado, but in being effectively “untouchable” by legal sanctions (see also Lindsey 2001). This immunity is associated with the ability of the preman to secure political backing from higher authorities. Their link with the “remnants” of the constellation of power under the New Order has enabled this local actor to penetrate into levels and institutions with which its “mother” organisation (that is, Pancasila Youth) had close association during that period. This has provided the actor with extensive networks that have included those with key positions in the enforcement agencies positioned above the district level. Consequently, it has been able to co-opt enforcement agencies, such as the police and the military.

The true power of the preman has made the district government, as the formal holder of power and authority, virtually powerless vis-à-vis this actor. This power has been manifested in the preman’s ability to effectively impose “premanism” in district forestry. Importantly, this has also suggested that under decentralisation, the “remnants” of the constellation of power under the New Order has not only remained entrenched and strong, but has also percolated into the local arena, and most notably, in rural areas and in the forestry sector.45

While other actors have chosen to avoid direct confrontation with this actor, the district government allowed their activities to continue unhindered and forestry companies bowed to their terms. It has been communities on the other hand, who have attempted to challenge the

45 Lindsey (2001) noted that under the New Order, premanism was largely an urban phenomenon.
preman, albeit indirectly. This is a notable phenomenon, since communities are often considered as one group of "weak" actors. Among the three actors — forestry companies, district government, and communities — the last has been the one that stands to lose the most. Forestry companies can always find another area in which to do their business and district officials would stand to lose if they were prosecuted for allowing illegal logging to continue, which is unlikely. Communities however, stand to lose their major asset, their forests, without receiving a commensurate level of benefit. In at least some of these cases, communities' actions have been facilitated by NGOs, showing that perhaps this is the main route through which NGOs can influence forestry.

6.5.5 The effectiveness of district decision-making powers under decentralisation: the four powers of decision-making and local power relations

This section revisits the framework of the four types of broad decision-making powers as proposed by Agrawal and Ribot: the power to make new rules or modify old rules; the power to make decisions regarding resource use; the power to implement those decisions; and the power to adjudicate problems arising from the decisions. The central actor to whom formal powers were transferred under Indonesia's decentralisation was the district governments. How have district governments articulated their powers under decentralisation, in relations to actors operating at the district level? How have these formal powers been manifested in the local arena?

Pre-reformasi, powers centered around two actors, the HPHs and arms of the state, the latter notably forestry units performing the Ministry of Forestry's delegated functions at the local level. During this period, the influence of other actors in forestry, including district governments, communities, and local entrepreneurs, was peripheral. This does not mean that these other actors had no space to manoeuvre to advance their interests, as far as possible, within limitations. Even under the New Order, the Central State was not able to wield "absolute" power at the local level (Hidayat, 2005; McCarthy, 2006).

During reformasi, the transition period, and continuing into the first few years of regional autonomy, the power balance at the district level was volatile and unstable. During this period, district governments assumed a central significance. Gaining political, administrative, and fiscal powers, they also established significant authority in forestry. District governments articulated their interests by exercising their newly found powers which resulted in communities increased engagement in forestry through district logging licenses. This occurred in conjunction with the rise and the increasing role of local entrepreneurs and regional timber operators, as well as central and Malaysian financing. During this period, centrally-licensed HPH companies were

"Hence, "Weapons of the Weak" (Scott, 1985).
co-opted to follow the districts' pattern of forestry operations. District governments could effectively articulate their powers of rule-making, their powers to make decisions on resource use, and implementing their forestry decisions. Communities had also put district governments' powers to the test to adjudicate conflicts arising from the implementation of their decisions.

By mid 2002, formal powers had swung back to the Centre. By the end of 2004, reassertion of Central authority began to reach a new equilibrium of power relations at the district level. The Ministry of Forestry and HPHIs regained their firm influence in district forestry decisions. The revised decentralisation laws also shifted some of district governments' powers to the provincial level. District governments, however, devised strategies and managed *de facto* to hang on to their powers until about mid 2004. By the end of 2004, district governments were now exercising their powers in other natural resource sectors, sectors which also have enormous implications for forests. Meanwhile, communities continued to assert their influence in district development initiatives associated with local lands. Local and regional timber companies that gained acceptance and preference from both local governments and communities continued their operations in other, non-forestry, but still forestry-related or forestry-affecting, investments.

In one district, however, a particular set of actors, the *preman*, has over-shadowed powers of all other actors - the district government, local and non-local timber companies, communities, and Central state apparatus. Here lies a niche for NGOs to play a behind-the-scenes role by facilitating and "provoking" communities to stand up for their rights against this actor, as has appeared to occur in some of the cases that were pursued by the communities. The new equilibrium of power relations has also affected the *preman*. They have been able to penetrate the formal institutions that are supposed to represent the local population and have shifted to other natural resource sectors to continue extracting dues from district-level activities.

The chapter affirms that local power relations are critical under decentralized governance of natural resources (Larson, 2003b, Chapter 2 and Appendix 1). It shows that district decisions are not only determined by district governments' formal authority as a result of decentralisation, but also by the power relationship between local state actors and other actors. Power relations between and among actors are complicated and in most cases, subtle. While the ultimate formal power in decision-making lies with the *Bupati*, the actual implementation of district policies and decisions with regards forestry are often negotiated, challenged, compromised, and abused by other actors. As a consequence, there is a disjuncture between formal forestry decisions and how they are actually implemented. District governments often have no power to enforce their decisions, and have no control over actors with the authority responsible for enforcement. Moreover, enforcement agencies are co-opted by business interests. The resulting situation provides an enabling environment for corruption to flourish unchecked and a disabling environment for improved NRM.

This chapter concludes with the case of the *preman* who had been able to wield virtually unchallenged *de facto* power in timber operations. They could overtly encroach on legal
boundaries with impunity, and have been able to walk away untouched by the existing legal system. The judiciary at the district level has also been weak in its actions taken against this actor, thereby compromising formal accountability mechanisms. The next theme and the third dimension in the research framework, accountability, is addressed in the next chapter.
Chapter 7: Holding Accountability to Account: Accountability Relations Relevant to Bulungan and Kutai Barat Districts

Empirical observations of the dynamics of decentralisation in the forestry sector in the two study districts discussed in Chapters 3 to 6 reveal a serious disjuncture between the stated aims of decentralisation and what has occurred in practice. The four chapters delineate a consistent and distinct pattern of forestry decisions and operations that have disregarded the sustainability of forests or downgraded the importance of the resource in favour of financial gains, rents, or political powers accruing from their exploitation. The sustainability of the resource has not been the central consideration in forestry governance in the two districts, or in the tug-of-war between and among levels of government. All actors involved have contributed to this trend, or at the very least, failed to halt it.

As discussed in Chapter 2, Agrawal and Ribot (1999) propose that the effectiveness of decentralisation – improved forest resource management – rests on accountability. Accountability is exercised as a countervailing power, that is, any power that puts a check on the power of other power holders (Agrawal and Ribot 1999; Ribot 2005).

Their framework observes the relational nature of accountability and the mechanisms by which actors holding powers are held accountable. Specifically, the framework underlines the importance to their constituencies of the accountability of public actors to whom powers are devolved. This "downward accountability" (Chapter 2 and Appendix 1) is central to decentralized governance as it hinges on the underlying rationale of decentralisation, that is, greater participation in public decision making (Agrawal and Ribot, 1999).

7.1 The approach to analyzing accountability relations and mechanisms in the context of the two study districts

This chapter presents empirical evidence of the structures of accountability as they are manifested in the study districts. As discussed briefly in Chapter 2 and comprehensively in Appendix 1, there are different perspectives on the concept of accountability relevant to this thesis, involving either state-sanctioned accountability mechanisms or social institutions. Depending on the criteria used, there are also various perspectives on the types of accountability. In some cases, analysts refer to a particular type of accountability but relate it to a very different meaning in terms of the agent being held accountable (the accountor), the principal (the account holder), or the issue being checked. For instance, horizontal accountability can refer to intrastate relations, but can also include other actors outside the state. To avoid confusion, this chapter discusses accountability relations and mechanisms through
four sets of questions: who is accountable, to whom, for what, and how? Where relevant, it also refers, in parallel, to the types of accountability suggested by analysts (Appendix 1).

As discussed in Chapter 1, this thesis focuses on district government decision-making within the context of the processes of devolution of decision-making authority from the Central Government. Thus, the analysis in this chapter focuses on district governments as the actors who are being called and held to account for their exercise of power.

Rather than limiting the analysis to the accountability relations between the district government (the accountor) and district citizens (the account-holder), which Agrawal and Ribot (1999) refer to as downward accountability, this chapter examines other relations of accountability, particularly between the district government and the Central Government or its vertical agencies. Because Indonesia’s decentralisation is part of an early phase of a democratization process, the concept of downward accountability as adopted by Agrawal and Ribot’s framework is likely to be in a parallel, early stage. In this context of an early phase of democratization, this chapter explores the potential usefulness of an analysis of other accountability relations.

Actors could be individual district public officials responsible for a specific task, acting on behalf of a district unit or organisation, or an entire organisation. The same applies to other actors, including actors at other levels of government or other organisational or social actors outside governments. As described in Chapter 2, this method of analyzing the dynamics at both the micro and systemic levels is possible through the adoption and application of Layder’s research methodology (1998).

The types of accountability discussed are those which relate to district governments, in the form of elected or appointed officials’ performance, or in terms of finances, decisions, and compliance with rules and regulations, in the forestry context.

To simplify the discussion, two types of accountability are recognized. The first pertains to state mechanisms, which I refer to as formal accountability mechanisms. These include processes of formal accountability involving the legislative body and legal proceedings by the judiciary. The second involves non-state actors or social institutions, which I refer to as informal accountability mechanisms. These include monitoring by citizens, NGOs, and the media.

The chapter begins with a discussion of formal accountability processes. This section first discusses the formal accountability processes at the district level, and then examines how these processes have actually been manifested in practice; it also analyses the factors that have affected how these processes have shaped up. The section then discusses formal accountability processes involving vertical government agencies (the judiciary) and other levels of government, and the implications of these processes for district decisions or district governments’ accountability to their constituents. The next section focuses on informal accountability relations and mechanisms, involving social institutions, notably communities,
NGOs, and in particular, the media. The last section draws the implications of these accountability processes for the districts' forestry regimes.

7.2 Formal accountability structures and processes

Although experiences pre-decentralisation showed that legal and formal requirements were often not strictly followed, were carried out merely to satisfy formal requirements, or remained largely rhetorical (Bell, 2001), this section nevertheless evaluates what accountability processes should have officially entailed (section 7.2.1) and what they have actually entailed in practice (section 7.2.2). This is done in light of recent trends across Indonesia where legal proceedings have increasingly gained more prominence.\(^5\)

The following examines the legal-regulatory framework by which local authorities gained their formal power (and responsibilities), as well as the ways in which their powers are circumscribed or denied, and by which the local legislative body (the DPRD) gained its "countervailing powers".

7.2.1 Legal-regulatory framework for accountability relations at the district level

Law 22 of 1999 surrendered the Central Government's previous right to choose district heads, or Bupati, and mayors (Appendix 2). With the exception of a very short period in the late 1950s, these officials were effectively appointed by Jakarta; they had served as the Central Government's local representatives, and therefore were primarily accountable to the Central Government. With the passage of the 1999 decentralisation law, local chief executives were no longer civil servants accountable to the national government, but local politicians answerable to the local legislature (DPRD) and the electorates they represent.

As described in Appendix 2, this decentralisation law outlined the duties of the DPRD, which included: 1) to elect the Bupati and the deputy Bupati; 2) to propose the appointment and dismissal of the Bupati and deputy Bupati; 3) together with the Bupati, stipulate district regulations and determine the district budget; and 4) to facilitate and follow up the aspirations of localities and communities. In addition, the DPRD had supervisory tasks and responsibilities over the following matters: 1) the implementation of local regulations and other laws and regulations; 2) the implementation of the decisions of the Bupatis; and 3) the implementation of the district budget and district policies. Under the provisions of this law, in terms of accountability relations with the district executive, the DPRD was entitled to hold the Bupati accountable, to request information, to conduct investigations, to make amendments to drafts of district regulations, to express opinions, and to submit drafts of district regulations.

\(^5\) Court cases involving alleged corruption of public officials are now reported almost everyday in national and local newspapers. As of July 2007, the Governor of East Kalimantan is being detained for alleged corruption in the issuance of an IPK logging permit.
Among the duties of the DPRD set out above, the revision of Law 22 of 1999, Law 32 of 2004 (see Appendix 5: Postscript) only changed the first of those outlined: the Bupati and the deputy Bupati are now elected directly by citizens. The DPRD’s other responsibilities remain the same.

Table 7.1 Changes in the Instalment Processes of the Chief Executive and the Legislative Members at the District Level over Time

<table>
<thead>
<tr>
<th>Institution</th>
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<tbody>
<tr>
<td><strong>Bupati</strong> as the chief executive/district head</td>
</tr>
<tr>
<td>New Order Period</td>
</tr>
<tr>
<td>Appointed by the Central Government</td>
</tr>
<tr>
<td><strong>DPRD</strong> as the legislative body</td>
</tr>
<tr>
<td>The population elected 1 out of 3 parties; seats allocated based on proportional representation</td>
</tr>
</tbody>
</table>


In the context of this study, Agrawal and Ribot’s (1999) perspective of downward accountability focuses on the relations between the citizens of the district, as the account holder (the principal), and the district government, as the accountor (the agent). In principle, district governments are assumed to act in accordance with the preferences or interests of the citizens they represent. Thus, in these terms, the Bupati, as the head of the executive, is accountable to the DPRD, as the citizens’ representative and local legislative body; in turn, the DPRD, as the elected body under Law 22 of 1999, is accountable to the district population (Figure 2.2). The DPRD thus acts as the formal institution of accountability (Appendix 1).

The most common formal downward accountability mechanism is an election. Until 2004, district heads (Bupati) were elected by the local legislative body (DPRD). Subsequently, as shown in Table 7.1, the Bupati is now directly elected every five years. Other formal accountability processes exist between the Bupati and the DPRD. They take three forms: an annual accountability report in which the Bupati accounts for his performance in a specific year; an accountability report at the end of a Bupati’s term of office, in which he accounts for his performance during his term; and accountability for specific issues as required by the DPRD.

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*Law 32 of 2004 has changed the election process of the Bupati to direct election by citizens. The residents of Bulungan directly elected their new Bupati in mid 2005; Kutai Barat in 2006.*
Unless requested by the DPRD, there are no formal accountability processes in place specifically on forestry-related matters. Districts' programs and governance in forestry are formally accounted for only as part of the annual accountability process that takes place at the beginning of each year, a process through which the Bupati, as the chief executive, is held accountable for the district government's overall performance in the preceding year. The emphasis of the annual accountability process is on the spending of the district budget and the implementation of the district's programs. This process takes place through the submission of an Annual Accountability Report from the Bupati to the DPRD.

7.2.2 The execution of the Bupatis' formal accountability process

This section focuses on the actual processes of the first and third forms of formal accountability mechanisms identified above: the Bupati's annual accountability report and accountability pertaining to specific issues to the DPRD.  

The Bupati's annual accountability process

The Bupati's annual accountability process consists of a series of four plenary meetings between the Bupati and all the DPRD members; the meetings take place several days apart and are not open to the general public. Invitees include district government officials, subdistrict and village heads, customary (adat) leaders, representatives of community organisations, as well as the media. In the first meeting the Bupati reads his accountability report to the DPRD; in the second meeting all the factions address the Bupati's report, providing comments and questions on the report. In the third meeting the Bupati gives his responses to the factions' comments and questions. The fourth meeting is "judgment day" when it is determined whether the Bupati's accountability report is formally accepted or rejected.

The process of Kutai Barat's Bupati's accountability report in early 2004 (for governing year 2003) was smooth and straightforward. Most inquiries centred on issues related to the implementation of development programs and public services, and only a few questions arose on forestry-related matters. Issues raised to do with forestry were district forestry income, illegal logging, and the implementation of the RHL Project (Chapter 5).

Although these questions were related to serious issues, the Bupati had no trouble responding to the satisfaction of the DPRD members. The Bupati did not specifically respond to the issue of forestry income, which the DPRD perceived as being lower than it should have

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499 The second form of the accountability process, the Bupati's accountability report at the end of his term, is outside the scope of this research because these reports were not delivered until after major fieldwork was completed, in mid 2005 in Bulungan and early 2006 in Kutai Barat.
500 I was allowed to follow three of the four meetings as a guest of the head of the Forestry Service who had been invited.
Inquiries to do with illegal logging activities pointed to the fact that the Forestry Service continued to provide administrative services associated with logs felled under district logging licenses that had expired (and were therefore illegal) and the provision of their transport documents, SKSHH (Chapters 3 and 6). The Bupati responded that out of all illegal logging cases in East Kalimantan for 2003, no further action was taken on any of the cases in Kutai Barat, so none had reached the stage of investigation (penyidikan). He merely stated that illegal logging should be recognized as a complex social and cultural issue that requires concerted action by government, businesses, enforcement officers, and masyarakat.

The DPRD also voiced concerns over the implementation of the RHL Project and its outcome. Questions were raised about the Project activities’ low success rate, about the perception that these rehabilitation activities have not brought as much benefit as expected to communities, and on why these activities have not effectively reduced the extent of critical lands in the district. There was also an inquiry into a reportedly “problematic” reforestation activity in a particular village.

On the first point, the low success rate of the Project, the Bupati responded by merely quoting the findings of the inspection team that had earlier investigated the implementation of the Project. This team consisted of the Inspectorate General of the Ministry of Forestry, the Agency for the Monitoring of Finances and Development (BPKP), the Provincial Monitoring Agency (Bawasprop), the Provincial Forestry Service, and BPDAS (the arm of the Ministry of Forestry in charge of watershed management in the province). They found that the success rate of the RHL Project activities in the district was above the general determined standard of 55%. The rate of success in Kutai Barat based on this assessment was reported to be 60-70%. This was explained as being based on the percentage of seedlings successfully planted (that is, growing), although it is not clear how these figures were actually determined. In addressing the other two issues, the Bupati simply responded that the district should expect a lag between the implementation of the Project and its benefits.

The responses to the forestry questions were prepared by the District Forestry Service. Immediately after the second plenary session during which factions had conveyed their

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"The usual processes of alleged cases involve two stages of investigations. The first stage involves initial investigation or penyelidikan, whether there is sufficient evidence to make a case. When there is sufficient evidence to make a case, the investigation becomes penyidikan; this stage is the beginning of a legal proceeding. If there is no sufficient evidence, the case is dropped.


"Interview with a senior official of Kutai Barat District Forestry Service, K-G-1b, and Kalim Post, 25 August 2003."
questions and comments to the Bupati, the head of the Forestry Service and the RHL project leader made a visit to the location which earlier had been pointed out as problematic by the DPRD factions. In this particular case, the village in question was conveniently located close to the capital of the district, making it possible for the District Forestry Service to carry out an immediate field check, and to prepare a response to the Bupati within the short period. It is not known if the matter would be treated differently had the village in question had been located in a more remote location from the district capital, as are many of the villages of Kutai Barat, or whether it would be ground-truthed at all to support the Bupati's response to satisfy the DPRD members.

Similarly, the annual accountability processes of the Bupati of Kutai Barat in the previous year, to account for the 2002 fiscal year, showed that the RHL Project had been considered problematic and contained irregularities. Factions highlighted these issues mostly based on communities' reports (Bupati's Annual Accountability Report 2003; Kaltim Post 20 April 2003a). For example, there were reports of fictitious reforestation activities, while funds allocated for those activities were used up elsewhere. The Bupati’s responses, however, satisfied the DPRD members. The accountability reports for both the 2002 and 2003 budget years were accepted unanimously without serious objections.

Similarly to the case of Kutai Barat, the 2004 Annual Accountability Report of the Bupati of Bulungan (to account for the Bupati’s performance in 2003) was unanimously accepted by the DPRD. With respect to forestry issues, one faction merely noted that the implementation of the RHL Project should be improved (Kaltim Post, 11 March 2004c).

Within an analysis of accountability using the metaphor of spatial direction, the above processes would be classified as formal processes of downward accountability. However, following Schedler (1999), Mulgan (2003), and Grant and Keohane (2005), they are incomplete accountability processes, as they lack an enforcement or rectification component. In addition, these accountability processes focused more on results or outcomes, which can be considered as performance accountability. With respect to the allegation of inappropriate uses of the Reforestation Fund in the RHL Project, the case referred to above would also be classified as financial accountability.

**Accountability processes for specific issues**

In Bulungan during the Bupati’s term in office, no accountability processes were ever held that specifically addressed forestry issues. In the case of Kutai Barat, the head of the District Forestry Service recalled, during his three year appointment (2001-2004), only two instances

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Interviews with DPRD members of Bulungan, B-L-1b and B-L-2. The term of office of the Bupati of both districts during which the first and second field work was conducted ended as of March 2005 (Bulungan) and June 2006 (Kutai Barat). The districts were led by interim Bupatis appointed by the Ministry of Home Affairs until a new Bupati was elected.
when he was asked to attend a hearing session with the DPRD. These sessions were held to respond to inquiries about a) a conflict over an area for which a logging license had been granted; b) the administration of SKSHH documents, and c) illegal logging activities. These inquiries were largely instigated by newspaper reports and were mainly held to clarify the reports. Apparently satisfied with the District Forestry Service’s explanations, there were no follow-ups or further steps undertaken through these accountability processes. Thus, these inquiries were limited to the information and verification aspects of the accountability dimensions. According to the head of the District Forestry Service, the hearings took place merely to “set matters right”.

Despite forestry problems in both study districts, problems which were clearly and readily recognized by district functionaries (the executive and legislative) during the interviews, the DPRD of both districts smoothly accepted the Bupati’s annual accountability reports. The DPRD of Bulungan never called the Bupati to account specifically in forestry issues. The only two instances of hearings between the DPRD and the Kutai Barat Forestry Service went easily and without requiring further actions for improvement. Thus, there is a disjuncture between the actual district governments’ performance and the formal accountability processes. This indicates that the DPRD has not been able to carry out its functions, providing checks on forestry implementation in the districts, effectively. The following sub-section discusses some of the factors that have contributed to the DPRD’s ineffectiveness.

7.2.3 Limitations of the DPRD

Observations and interviews point to serious obstacles preventing the DPRD in both study districts, as the representative of districts’ constituents, from functioning according to its mandate as specified by Law 22 of 1999. In holding the Bupati or district officials to account, the DPRD faces obstacles associated with 1) its lack of financial independence; 2) difficulties in obtaining information; 3) low capacity of its members; 4) strictures associated with the DPRD’s internal processes; 5) accusations of bureaucratic arrogance; and 6) conflicts of interest.

One serious issue affecting the accountability relations between the Bupati and the DPRD has been the latter’s lack of independence from the Bupati’s office in terms of its budget allocation. The DPRD’s budget is part of the district’s budget, and its size is determined through negotiations with the Bupati. At the same time, the district budget has to be agreed and endorsed by the DPRD. District officials noted that the latter is in fact DPRD’s leverage in negotiating its own budget. The disbursement of the DPRD’s budget, however, once it is

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66 “Hanya untuk meluruskan persepsi”, personal communication with the former head of Kutai Barat District Forestry Service, 19 May 2005.
67 Interviews with a senior official of the finance unit of Kutai Barat District, K-G-9; a senior BAPPEDA official of Kutai Barat, K-G-2a; with a senior forestry official of Bulungan District Forestry Service, B-G-8a; with a senior BAPPEDA official of Bulungan, B-G-9b
determined, is under the authority of the Bupati. Moreover, unlike public servants who are financed through routine expenditures largely sourced from Central transfers, the burden of the DPRD members' salaries is placed on PAD (Locally Generated Revenue, Chapter 4). As a greater proportion of the district's PAD is raised from natural resource sectors like forests (Chapter 4), the DPRD has an incentive not only to keep quiet with regard to district policies that emphasize resource extraction, but also to encourage them. Thus, the DPRD's financial dependence on the executive and the institution's financial interests in forestry activities have undermined the DPRD's objectivity in its assessment of the district's forestry policies.

Moreover, the DPRD has often found it difficult to obtain the information necessary to assess the district government's performance. Any data that would provide evidence of deviations within a certain project or other issues are retained by the district government office(s). For instance, the DPRD of Bulungan did not even have data on the number of district licenses that had been issued by the Bupati; it had instead obtained the information from other parties. The inaccessibility of the district government's data was perceived as a deliberate intent on the part of the district government. As a DPRD member explains:

"So there is definitely a barrier here. Of course they hide what they do ... meanwhile we look for them. Obtaining these data becomes difficult."
(interview with B-L-Lb)

Another issue hindering district government's accountability processes has been the lack of a direct and formal accountability relationship between the DPRD and the district bureaucracy. One of the DPRD's roles is to provide checks on the exercise of authority of the district's officials in carrying out forestry programmes or projects. These checks have involved the DPRD calling upon the bureaucracy to inquire into the running of the projects. District officials however, are responsible to the Bupati and not to the DPRD. The head of the District Forestry Service, therefore, works under the direction of the Bupati; he is directly ("upwardly") accountable only to his superior, the Bupati, and not to the DPRD. Law 22 of 1999 gave the right to the DPRD to call the bureaucracy to account, that is, to provide explanation for an issue. Nevertheless, this bureaucratic structure in practice has been perceived as one of the obstacles undermining the DPRD's power to call district officials to account.

The internal organisational structure of the DPRD and the way it operates also present obstacles to findings and reports getting out (and being subsequently followed up by the

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68 Interview with a member of the DPRD of Bulungan, B-L-Lb
69 Interview with members of DPRD of Bulungan, B-L-Lb and B-L-L2
70 The data were obtained from the results of research contracted out to Mulawarman University and an NGO, see Chapter 6; interview with member of the DPRD of Bulungan, B-L-Lb.
71 Article 20
72 Interview with a DPRD member of Kutai Barat in charge of forestry affairs, K-L-L
The adoption of a majority-based decision process effectively filters the issues conveyed to the executive for follow-up. DPRD members in charge of forestry affairs, for instance, believed that their tasks were limited to merely monitoring district forestry policies and their implementation. However, it is not up to them whether these findings and reports are followed up. Findings and reports are conveyed to the chairman of the DPRD, and decisions on how and what should be followed up to the executive are not primarily up to the individual member who reported the findings but are decided on a majority vote in a forum, or decided by the chairman of the DPRD. In this way, commissions in charge of other affairs (that is, non-forestry affairs) can interfere with forestry assessments which may undermine the effectiveness of the original assessments. A DPRD member explains:

“I often disagree with other members over many issues. I am often vocal. But my voice is only heard within these walls. Like it or not, I have to accept majority decisions.” (interview with B-L-1b)

The filtering of issues for subsequent follow up has undermined the commitment of DPRD members who were otherwise genuinely concerned about certain issues. Moreover, members periodically rotate responsibilities (in terms of sectors they handle) during the course of the DPRD’s five-year term. This rotation results in virtually no one following any particular sector continuously; thus, no one is specifically knowledgeable about or remains attentive to any particular sector, including forestry, during the course of the five year period.

In addition to the DPRD’s inability to maintain continuity in monitoring the district’s forestry programs, the capacity of the DPRD in terms of human resources has been generally lower than that of the executive. This incapacity has been associated with, firstly, the formal educational requirement for a DPRD member, which has been low (minimum junior high school graduate for 1999-2004 and subsequently raised to senior high school graduate for 2004-2009). Secondly, the DPRD members were elected following a party list system. Thus, DPRD members were elected based more on the party’s commitment or promises; those who made it on the party list to finally take the seats may not be those with the most ability. In contrast, it is more likely that the Bupati is supported by staff whose appointments are based, or ostensibly so, on their capability to fulfil their positions.

Another issue affecting the accountability relations between the executive and the legislative relate to the latter’s interest and motivations. Individual members of the DPRD, parties represented in the institution, or the DPRD as an institution itself, often have hidden
interests or objectives associated with the issues over which the performance of the local government is being assessed. Some DPRD members, for instance, had a specific interest in district-initiated logging activities and the RHL Project. A DPRD member admitted that a mutual relationship existed between the DPRD and timber businesses. For example, DRPD members often “assisted” timber entrepreneurs by facilitating the process of obtaining the latter’s logging licenses, in return for dues to support the running of their party’s branch (Dewan Pengurus Cabang). Another DPRD member explained that certain “negotiations” with timber companies were only done by “higher levels”, implying that these levels include the Bupati, the deputy Bupati, the chairman and vice-chairmen of the DPRD. The details of these negotiations were not entirely clear; however, they have been suggested to entail personal and/or organisational exchanges.

Certain DPRD members were also directly associated with or had a stake in district logging licenses and in district projects themselves, including the RHL Project. Some DPRD members were referred to by fellow members as oknum (rogue district functionaries). Rather than acting in the interests of the masyarakat, these oknum act in the interests of timber operators. A DPRD member of Bulungan, however, insisted that the prevalence of oknum within the institution should not be overstated, as it was not a general trend and was only limited to a few individuals. In contrast, an entrepreneur in Kutai Barat perceived that this practice was pervasive, and DPRD members who had been vocal at first in voicing forestry issues were later “muted” by timber interests.

DPRD members – at least some of them – were not only associated with timber interests once they had become members of the legislature, but had already been supported financially by timber interests during the process of their election. A timber entrepreneur in Bulungan, for instance, revealed that he supported a (then) newly elected DPRD member (for the 2004-2009 period), who was previously an NGO activist in the district (Box 6.1). Upon obtaining a seat in the DPRD, this kind of support could easily jeopardize the particular DPRD member’s objectivity in assessing issues associated with the timber sector or issues that affect the entrepreneur providing support.

Immediately after winning a seat in the DPRD, even prior to his official inauguration, this individual who as an NGO had been previously vocal in raising forestry issues, already showed hesitation when challenged by a fellow activist to change the ways the DPRD had handled issues. The fellow activist requested that the Bupati’s annual accountability report be published in the media, rather than only made available in a series of closed deliberations, as

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476 Interview with a DPRD member of Kutai Barat, K-L-1
477 Confidential interviews, names of interviewees and dates of interviews remain with the researcher
478 Interview with a DPRD member of Bulungan, B-L-1b
479 Interview with an entrepreneur in Kutai Barat, K-P-1
480 Observation in a discussion between a new DPRD member and a NGO activist, 15 July 2004
has been common practice. The new DPRD member rejected this suggestion arguing that it would be too difficult to change this process, and was sure that he would be recalled if he were to suggest it.

In a more pugnacious and direct manner, the Patriot Pancasila Party utilized timber resources to support the election of their party members to the DPRD of Kutai Barat. It was obvious that the Patriot Pancasila Party had used timber-derived money to establish a constituency in the district (section 6.4), and hence secure their three seats in the DPRD for 2004-2009 period. The preman – who had been openly involved in violence and illegal logging – became DPRD members, supposedly representing the people in the district. The election of the preman to the DPRD thus raised very serious questions about whether or not formal accountability mechanisms through this institution would work at all in the district’s decentralized regime, and particularly, in the context of the district’s natural resource management.

Just prior to the election of a new Bupati of Kutai Barat in mid 2006, the Bupati issued an IPK (license to clear-cut forests), ostensibly to make way for a road in one of the most remote, and heavily forested, sub-districts (Kaltim Post, 1 April 2006a). Thus, forests have not only been used to generate revenue for the local government, income for masyarakat, and informal income for district functionaries, but also to support candidates, directly and indirectly, in the local election processes.

**Power imbalances between the Bupati and the DPRD**

Although the legal framework for decentralisation granted the executive and the legislative body parallel powers in the governing of districts, the Bupatis in both districts appear to be more powerful than the DPRD. This actual imbalance of power affects their accountability relations. Members of the forestry commission of Bulungan’s DPRD revealed that the DPRD would not interfere with the Bupati’s policies unless there were grave concerns from the communities. Only when people formally lodge grievances, or convey their concerns to the DPRD regarding a Bupati’s policy or its implementation, would the DPRD accommodate these concerns and make inquiries or follow up. As a DPRD member explained:

> “Unless there are reactions from the masyarakat, we would not dare to directly interfere with the Bupati’s policies. No matter what, these are his policies.” [my emphasis] (interview with B-L-1b)

The above statement provides insights into the actual power relations between the Bupati and the DPRD. The latter’s reluctance to question district policies, unless it is faced with strong

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81 For instance, interview with a senior forestry official of Bulungan, B-G-8a, and an entrepreneur in Kutai Barat, K-P-1
demands from communities, influences the ways in which the DPRD carries out its responsibility to provide checks on district policies, as outlined in Law 22 of 1999 (and its amended version, Appendix 5: Postscript). The imbalance in the actual power relations between the Bupati and the DPRD of Bulungan was revealed through the DPRD's failed attempt to initiate an accountability process specifically in forestry associated with district small-scale logging licenses, the IPPKs. At first, the legal instrument providing the basis for the issuance of the IPPK licenses was, rather than a District Regulation (PERDA), a Bupati's Decree. A PERDA has higher legal standing than a Bupati's Decree, and district governments have perceived PERDAs to have a higher legal standing than a Ministerial Decree (Chapter 3).

Realizing that there were problems in the implementation of these licenses and the legal instrument on which their issuance was based, in 2000-2001 the DPRD contracted a study on IPPKs to assess their social and environmental implications. The purpose of the study, contracted out to Mulawarman University and a local environmental NGO (section 6.1.2), was to assist the DPRD in evaluating this district policy and in providing recommendations for further actions to resolve the issue. The results were intended to back up the Bupati's policy by upgrading the legal instrument on which the policy was based, into a form that had a higher legal standing than a Bupati's Decree, and as perceived by district functionaries, had a higher legal standing than a Ministerial Decree. From the perspective of the Bulungan Government, this meant that once the district passed a PERDA authorizing the Bupati to issue logging licenses, the authority could not be overridden by a Ministerial Decree.

However, the Bupati was not happy with this research, accusing the DPRD of carrying out the project, rather, to scrutinize the Bupati's policy and to pinpoint wrongdoing on the part of the Bupati. The research report was completed but there was no further action or follow-up, on the part of the DPRD, as was initially intended. Towards the end of 2000, however, Bulungan did pass a PERDA officially specifying district charges on small-scale logging licenses. This PERDA did not strengthen the legal instrument on which the issuance of district logging licenses was based, as the DPRD had intended. The PERDA, however, did provide a strong legal basis for the application of district charges associated with timber operations under district licenses, and therefore further encouraged district-licensed logging operations.

The DPRD might have had other, covert objectives behind its intention to formulate a PERDA legalizing the Bupati's authority in the issuance of district licenses. In contrast to a Bupati's Decree, a PERDA required the formal endorsement of the DPRD. However, the case nevertheless illustrates the obstacles facing the DPRD in its attempt to utilise legitimate third-party assessments to gain more objective and substantive perspectives over a district's policy. The DPRD's failure to continue with its attempt to modify the Bupati's policies or the legal

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[239] Interviews with DPRD members of Bulungan, B-L-1b and B-L-2

basis on which the Bupati’s policies were made, reveals the power relation between the Bupati and the DPRD.

Obstacles to the effective use of the DPRD’s increased formal power vis-à-vis the executive are not only true with respect to the DPRD’s monitoring tasks over district policies and their implementation, but also in its authority to jointly prepare PERDAs with the Bupati. The DPRD’s involvement in the formulation of PERDAs has been mostly limited to providing input into the consultation processes, if and when members were invited to be involved in the process. The DPRD’s involvement in the preparation of PERDA was more meaningful once the draft PERDA reached the DPRD office for deliberation. DPRD members interviewed acknowledged that they lack the capacity to formulate and/or assess PERDAs. For instance, a PERDA is a legal instrument, whereas DPRD personnel with a law background were few in number. Furthermore, those with formal training in law may not necessarily be involved in the working groups discussing the draft of the PERDA.

In contrast to mandates given to the DPRD by Law 22 of 1999, all of the above constraints have rendered the DPRD less powerful in its relationship with the Bupati. This has resulted not only in the ineffectiveness of the formal accountability processes, but also in the abuse of the DPRD’s formal powers. For instance, the executive and the legislature often enter into negotiations and reach back-room deals prior to DPRD’s formal endorsement of the district’s budget and projects. The DPRD’s reluctance to exercise its powers to put a check on the districts’ inappropriate policies, that is, not doing something when it is supposed to, in effect is a form of abuse of its law-mandated powers.

7.2.4 Other relations or types of accountability affecting district forestry

The ineffectiveness of formal downward accountability mechanisms (that is, between the Bupati and the DPRD) within the district suggests the need for other accountability mechanisms. The following discusses accountability processes where state actors at other levels of government have called and held district officials to account for their performance.

**Accountability of district officials to state-actors at other levels of government**

Other accountability processes were applied to public officials in districts. This was illustrated by the RHL Project cases. Irregularities in the implementation of the RHL Project, though they did not result in the enforcement or rectification in terms of the formal accountability of the Bupati to his constituencies (that is, in the Bupati’s Annual Accountability

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43 Interview with DPRD members of Bulungan, B-L1b and B-L-2
44 Interview with a DPRD member of Bulungan, B-L-1b
45 Confidential interview with a senior official of Kutai Barat
Report to the DPRD, the latter as the citizens’ representatives), did result in judicial processes. Both Kutai Barat and Bulungan’s RHL Project leaders utilizing the 2001 DAK-DR Fund (for implementation in 2002) were investigated by the District Attorney’s Office. The investigation resulted in Bulungan’s Project leader spending a term in a local jail. By January 2006, the individual was out of jail; he returned to the civil service but was demoted.

Investigations carried out by the judiciary were based on findings made by a team consisting of the Provincial Monitoring Agency (Bawasprop), the Agency for the Monitoring of Finances and Development (BP KP), the Inspectorate General of the Ministry of Forestry, the District Attorney Office and the Provincial Forestry Service. Both Project leaders were investigated for embezzlement of the DAK-DR Fund. This type of accountability can also be classified as financial, legal or horizontal accountability. It can be classified as horizontal accountability as it involved the court, an independent agency within the state, which called and held these Project leaders to account (Appendix 1).

During 2004-2005, five out of the 13 districts and municipalities of East Kalimantan were being or had been investigated by the judiciary on the alleged inappropriate use of the DAK-DR Fund. The irregularities concerning the use of the DAK-DR Fund and cases being investigated suggest that bureaucratic control and supervision have not been effective. The governor is responsible for monitoring the implementation of the RHL Project carried out by district/municipality governments in the province, while each Bupati/mayor is fully responsible for the Project’s implementation in their respective jurisdictions.

Several issues associated with this provincial supervision or monitoring have been identified. One issue has been associated with provincial government’s financial capacity to carry out its supervisory role. Until 2003, the East Kalimantan Provincial Forestry Service was not allocated financial support to carry out its responsibility from the DAK-DR Fund, as all the DAK-DR funds distributed to the province (from the Centre) were allocated to the districts or municipalities within the province (section 5.1.1). Beginning with the 2003 allocation, the East Kalimantan Provincial Government decided to set aside some of the DAK-DR money allocated to the districts/municipalities within the province for supervisory activities (section 5.1.1).

Another issue has been the absence of a link between the performance of the districts in conducting RHL activities (what is termed “success” rate) and reward or punishment. The province-wide average performance was assessed as between 30-40%. Despite low performance in the rehabilitation activities and the mismanagement of the Fund (see below), districts continued to receive DAK-DR monies. A senior district official stated that, although Bulungan did not submit any reports on the implementation of the RHL Project to the provincial government or the Ministry of Forestry, the district nevertheless continued to receive the DAK-
Kutai Barat submitted reports to the provincial government but not to the Ministry of Forestry, yet also continued to receive their allocation of DAK-DR from the Centre. The lack of a formal performance accountability process linking the inflow of DAK-DR funds with the districts' implementation of the RHL Project acts as a disincentive for district governments to implement the Project appropriately.

Fear of scrutiny and sanctions as part of the accountability processes applied to previous RHL Project leaders, however, appears to have affected the way the Project was being managed post-sanctions in both study districts. The Project leader responsible for Kutai Barat's RHL at the time of fieldwork emphasized that he needed to be extra careful in managing the Project and in addressing RHL related matters, including conflicts within communities. This Project involved a lot of money (for instance, 4% of Kutai Barat District's 2003 entire budget – section 5.1.1), thus was often subject to intervention by those higher in the hierarchy (see below) and drew public attention and scrutiny. The responsibility and the judicial processes surrounding the previous Project leader have compelled him to withdraw from the Project leader position. Unfortunately, no one else in the District Forestry Service was willing to take over the task and as of January 2006 he remained the Project leader.

In Bulungan, the Project leader responsible for the 2003 DAK-DR funded RHL (implementation year 2004) was clearly very uncomfortable with his position. In the interview, he left many questions unanswered and kept referring to his colleagues or superior to answer questions. By early September 2004, he withdrew from the Project leader position. He was replaced by an environmental NGO activist-turned district forestry official, who continues to have strong ties with and influence in the NGO.

After the change in Project leadership, however, issues similar to those found in the past were encountered. By 2006 the RHL Project continues to involve a significant amount of money and continues to be utilised as a source of personal enrichment. Among the notable issues was the involvement of district officials close to the Project leader, in the Project, arousing jealousy on the part of those who did not “participate”. This forestry official was perceived to “have used the opportunities arising from the Project mostly for himself”.

According to Mulgan (2003), where accountability can be seen to influence the future as much as judge the past, the prospect of sanctions has an important deterrent effect on those held accountable. For Kutai Barat, the prospect of sanctions for the misuse of the DAK-DR Fund in the management of the RHL Project has turned out to be an effective form of control mechanism. Similar outcome has also initially been demonstrated for Bulungan.

In the case of the RHL Project, formal performance accountability to higher levels of government appears to be non-existent. Legal/financial/horizontal accountability (see Appendix

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47 Interview with a senior BAPPEDA official of Bulungan, B-G-9c
48 “Proyek dimakan sendiri” (literally “he himself eats the Project”); interview with B-N-1h
has been more effective in efforts to improve the performance of the Project. In the case of Bulungan, however, the effects appear to be temporary.

The improvement of the RHL Project performance was demanded by citizens, articulated formally by the DPRD (as the citizens’ representatives) during the formal annual accountability process of the Bupatis of Bulungan and Kutai Barat (that is, downward accountability). Thus, legal/financial/horizontal accountability – depending on how one calls it (Appendix 1) – has had an indirect effect on downward accountability (between the Bupati and district citizens).

**Accountability of district governments to the Ministry of Forestry**

The accountability relations between district governments and the Central Government in the context of forestry decisions are not straightforward. According to Law 22 of 1999, district governments report to the Ministry of Home Affairs. There is no specific hierarchical relationship between the district government and the Ministry of Forestry. To complicate matters, Law 41 of 1999 on Forestry contradicts Law 22 of 1999 in terms of the authority over forestry; the former basically stipulates that authority of forestry affairs reside with the Ministry of Forestry, the latter assigns the authority to district governments (Appendix 2).

As a consequence, to hold district governments accountable for their forestry policies, the Ministry of Forestry has to rely on the Ministry of Home Affairs. For instance, the Ministry of Forestry requested that the Ministry of Home Affairs take action against Kutai Barat’s controversial PERDA on forestry, as the stipulations in this district regulation contravene those of the Ministry of Forestry and the forestry law (section 3.3). However, the Ministry of Home Affairs took no further action, since they based their considerations on Law 22 of 1999, which is basically their own product (because the law was initiated and submitted to the national legislature by this ministry). As long as the district regulation did not contravene Law 22 of 1999, the district was told to go ahead (section 3.3).

In reality, however, the Bupati of Kutai Barat was cautious in making policies in forestry for fear of legal consequences. Because some Bupatis did not heed the Ministry of Forestry’s directions in making or implementing their decisions, the Ministry of Forestry has begun to build legal cases against them. The Ministry of Forestry, through its Inspectorate General, did this by coordinating with various government agencies, notably the office of the District Attorney General, to scrutinize the local governments’ actions. The Bupatis of Bulungan and Kutai Barat, for instance, eventually had to halt the issuance of district logging permits, therefore legally bowing to national regulations (Chapter 3).

The Ministry of Forestry, therefore, held district governments to account for their policies and decisions mostly through legal accountability mechanisms, by attempting to ensure that legal rules were observed. The Inspectorate General of Forestry was a key official in the

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"" Interview with K-G-1a
investigations of the two districts' RHL Project leaders over corruption and the inappropriate use of the DAK-DR Fund. The Bupati of Berau, another district in East Kalimantan, was investigated for retention of forestry fees and Reforestation Fund. These fees were supposed to be transferred directly to the Central Government's account. Again, the Inspectorate General of Forestry played a critical role in this legal accountability process.

Thus, the fear for legal sanctions has been particularly prominent and effective. This is consistent with Schedler (1999), who argues that:

Exercises of accountability that expose misdeeds but do not impose material consequences will usually appear as weak, diminished forms of accountability, and regarded as acts or window dressing rather than real restraints on power. (Schedler, 1999: 15-16).

Accountability of district officials to the Bupati and to high-level district functionaries

The Bupati of Kutai Barat was dissatisfied with the ways in which the RHL Project was implemented and had on several occasions instructed the Forestry Service to improve its performance. These directives, along with fear of scrutiny and sanctions for inappropriate financial management, have brought about positive changes in the way the Project is managed in the district. The head of the District Forestry Service admitted that there were many deficiencies and shortcomings during the first years of the RHL Project implementation and the Project is a continuous learning curve for his office. For instance, the process of the distribution of the funds has been continuously improved to minimize the prospect of the funds not reaching the relevant farmers, the intended recipients. In addition, the requirement for participation by farmer groups has been tightened to ensure that the money is actually used for rehabilitation activities on their lands.

The Bupati calling forestry officials to account for the implementation of the RHL Project, and the investigation of the ex-Project leader by the judiciary, have led to efforts for better management of the Project. This thus responds to the demands of district citizens for the appropriate management of the Project and fulfilling the public trust (Appendix I)

The illustration above has shown that financial accountability was demanded from the previous Project leaders who had led the implementation of the RHL Project. Interviews and observations in Kutai Barat suggested, however, that there were many “interventions” by higher level district functionaries (that is, district officials and DPRD members) that influenced decisions in the implementation of the Project. For instance, it was often the case that “memos” from higher-ranking district officials were attached to a proposal requesting participation in the

""" Interview with the Bupati of Kutai Barat (K-G-*)
Project. The wording of these memos ranged from polite and subtle requests such as “please assist and process according to the rules and regulations or normal procedures” to strong directives such as “carry out!” These memos usually requested the Project leader to “assist” the proposal/proposing party in the process of the selection of Project participants. Although the Project leader insisted that all proposals were processed according to rules and regulations, he nevertheless acknowledged the “pressures” that these memos exert on his decision-making. Similarly, a senior official in Bulungan District Forestry Service admitted that “it is not easy to be a Project leader as there are pressures from all sides.”

District forestry officials admitted that pressures from higher ranking district functionaries were not confined to the RHL Project, but were also frequently felt in the processes associated with the issuance of district logging licenses and timber administration. These pressures were applied in various ways and on officials of various levels in the District Forestry Service, from relatively junior officials to the head of the Forestry Service. Although district forestry officials often acted in their own interests (section 6.3), pressures from higher levels in the district hierarchy have meant that they also had to accommodate the interests of their superiors. For instance, it was often “suggested” that district forestry officials smoothen the process of administrative requirements of timber operators associated with senior district functionaries.

Besides direct and overt pressures, loyalty to one’s superiors has been a factor shaping bureaucratic accountability. This was illustrated in the case of district logging licenses. One of the district governments’ arguments for allowing district-licensed timber operations to continue for a prolonged period despite the Centre’s warnings (Chapter 3), was the fear that the Bupati or the district government would be taken to an administrative court – by entrepreneurs or community partners’ holding the licenses or obtaining the right to log – for cancelling district licenses or terminating their operations prior to expiry date or exhausted quota. As one district forestry official explained:

“Basically, we want to protect our superiors, because we are afraid that the issue will be taken to the administrative court. Sometimes we have to be loyal, we have to protect the leadership, even if this means over our idealism, and we ourselves become frustrated.” (interview with K-G-24)

The Bupati of Kutai Barat was unhappy with the performance of the Forestry Service in the RHL Project and considered that the District Forestry Service had failed to curb illegal logging activities (section 6.4). The Bupati accused the head of the District Forestry Service of issuing forestry documents based on inappropriate SOs and stated that the latter was “too close

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43 Interview with a senior official of Bulungan Forestry Service, B-G-21b
44 Confidential interviews with various district forestry officials.
45 Interview with an official of Kutai Barat Forestry Service, K-G-24
46 Interview with the Bupati and Kaltim Post, 10 March 2004b
to timber interests”. After a period of disharmony between the Bupati and the head of the Forestry Service, in July 2004, the Bupati sacked the latter (section 6.4). This classifies as performance and bureaucratic accountability (Appendix 1).

The head of the District Forestry Service had his own explanation for his sacking, including accusing the Bupati of being unhappy with him not letting the District Forestry Service serve as the “ATM” for the Bupati, despite pressure to do so. Although the details remained vague and hard evidence was hard to come by, these open accusations from both sides and “memos” from powerful district functionaries show the interest of key district actors in the informal funds generated by the forestry sector.

Informal revenues extracted from timber interests were commonly shared among district officials and with junior officials who payed “tributes” to more senior officials or their superiors. These chains of “tributes” occur up the ladder, in all sizes, to the highest in the hierarchy. In such situations where corruption is pervasive, the usefulness of district-level bureaucratic accountability (that is, accountability to superiors) is questionable.

After only two weeks in the job, the new head of Kutai Barat District Forestry Service already admitted that district functionaries high in the hierarchy were pressuring him to follow through with timber administration involving a particular timber company, despite the fact that this collided with the Centre’s directives. After a serious discussion with three of his senior officials, the head of the Forestry Service decided to go ahead with the processing of that timber company’s administration. As he explained:

“This is not our fault. We are only following instructions, although this is against our conscience. This is but one example, whoever is sitting in this seat can not remain idealistic, cannot be rational, because of politics. I am like ... one foot in hot cinders, the other in hot charcoal.” (interview with K-G-*)

The dilemma confronting this senior district official provides a good illustration of Schedler’s statement (1999:20):

Accountability concerns agents not subjects. It concerns who exercise power, not those who are subordinate to it. More precisely, it concerns subjects only as far as we ascribe some degree of freedom to them. In an analogous way, it concerns public employees only as far as we envision administrative organisation not as mechanical conveyor belts of decisions from top to bottom, but rather as loci of decision-making at all hierarchical levels.

Confidential interview with a senior district official of Kutai Barat, who admitted he accepted small “tributes” from his subordinate, but was also expected to pay “tributes” to his superior. He also suggested the pervasiveness of such actions among his peers.
Linking to Schedler’s statement, although the RHL Project leader and the head of the District Forestry Service are treated as the loci of decision-making in the implementation of the RHL Project and district forestry decisions, respectively, their decision making-powers are, in practice, limited and often easily compromised. The RHL Project leader is still subordinate to higher ranks in the district government. Similarly, the head of the District Forestry Service is subordinate to the Bupati. Yet, although the ultimate responsibility lies with the Bupati, the Project leader is the one who would be held directly accountable if things went wrong. Similarly, the head of the District Forestry Service was held responsible (by the Bupati) for the proliferation of illegal logging in the district. The Bupatis of both districts, on the other hand, have not been implicated in either the alleged (Kutai Barat) or proven (Bulungan) mismanagement of the RHL Project monies and neither has been scrutinized for the prevalence of illegal logging in the districts.

Intervention from higher ranks in the district has meant the imposition of the interest of these higher-positioned officials on lower-level district officials’ decisions. According to Schedler:

Without power, without the capacity to make decisions and the corresponding capacity to attribute decisions, it does not make any sense to talk about accountability. Nobody can hold anybody accountable for the things beyond that person’s control. (Schedler, 1999:18-19)

In the study districts, however, bureaucrats were held accountable for decisions that were often made because of pressures on them beyond their control.

Both districts installed a unit called the Bawaskab (Badan Pengawas Kabupaten), which is the district office in charge of monitoring the implementation of district projects, policies, or programs. The head of the Bawaskab reports directly to the Bupati and is positioned at the same level as the heads of other district offices in the district administrative structure. The Bawaskab, similar to other district units, also faces operational budget limitations to carry out its tasks, including the monitoring of forestry operations on the ground. Because the Bawaskab is responsible to the Bupati, and due to its limited operational capacity, it can not provide unbiased perspectives on bureaucratic accountability processes. For instance, in cases of bureaucratic accountability involving the Bupati and his subordinates, such as the sacking of the head of the District Forestry Service of Kutai Barat, or in cases where a district official is made to account for decisions that were actually imposed by the official’s superior, the Bawaskab could not provide independent inputs into the process, or provide relevant hard evidence.

7.3 Informal accountability mechanisms

Section 7.2 has shown that the formal accountability mechanisms at the district level involving the DPRD as the representative of the citizens have not been effective. It shows, however, in some cases, the effectiveness of accountability processes where district officials are
called and held to account by vertical or Central Government agencies (upward or horizontal accountability, Appendix 1). Having discussed the severe limitations in the implementation of formal accountability mechanisms in both districts, the chapter now turns to the broadened concept of accountability (Peters, 1984; Agrawal and Ribot, 1999) involving social institutions. The kinds of informal accountability mechanisms are discussed, and whether or not they have been effective.

7.3.1 The community demanding district government’s accountability

Despite the limitations of the DPRD in terms of providing institutionalized checks and balances over district policies and decisions, citizens have certain expectations of the DPRD as their representative, in particular as a formal channel through which to convey their concerns or grievances. The DPRD members notably raised issues about district forestry activities based on citizens’ demands or reports. Community representatives convey their concerns or grievances by writing formal letters, by requesting formal meetings with the DPRD, by approaching individual DPRD members, and by staging demonstrations at the DPRD’s or the Bupati’s offices. DPRD members also make limited visits to some areas and communities (section 6.2.1).

In this sense, communities (citizens) understand that they have representatives sitting in the DPRD through whom they may articulate their demands and concerns. With regard to forestry-related issues, communities have often communicated their concerns to the Forestry Service, to the Bupati, to the DPRD, and to the media. The most common concerns have involved 1) activities that have trespassed or encroached onto the community’s forest lands; 2) the harvesting of timber by parties who communities’ perceive to lack rights over the lands; 3) conflicts within and between communities over the distribution of fees associated with district-licensed small-scale logging activities; 4) conflicts among communities associated with the RHL Project activities; as well as 5) the perceived inappropriate implementation of the RHL Project.

The various concerns conveyed through these channels were both direct and indirect results of district government decisions. In the case of small-scale logging licenses, concerns were related to the perceived unfair and non-transparent distribution of fees by community leaders or representatives (pengurus), and disputes over village boundaries. These boundaries determine who holds rights over specific forest areas, over which district small-scale logging permits were granted. Negotiations over fees and partnership arrangements with timber operators were, however, largely carried out independent of the district government. Such

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"*Interviews with various people in the district and researcher's observations at the offices of the Bupati, the media representative, and the District Forestry Service on several different occasions."
horizontal conflicts therefore were the indirect results of the local governments’ decision to issue these licenses.

Concerns about the implementation of RHL Project included horizontal conflicts within farmer groups (*Kelompok Tani*) and allegations that the activities were managed by external parties outside the communities (in other words, other parties other than the relevant communities had benefited), although the Project was supposed to be carried out by a particular group of communities in the area (Chapter 5).

Even if the conflicts did not emerge as a direct consequence of a local government’s decision, however, communities nevertheless would turn to the district government, the DPRD, or the media in their efforts to resolve them. District officials, notably the *Bupati* and his office and the DPRD often had no choice but to facilitate or adjudicate these conflicts. These undertakings were mainly invoked by fear of open conflict and social unrest. In the conflict between communities and the *preman* (section 6.4), the *Bupati* and the DPRD were drawn in to mediate, not only to prevent social unrest, but also to avert ethnic conflict.

Because many of these issues involved internal conflicts within communities or conflicts between communities and their partner timber operators, the DPRD and district officials often regarded their resolution as being outside their responsibility. A Bulungan DPRD member, for instance, explained that he was willing to negotiate in these conflicts, but emphasized that the communities in conflict needed to understand that a DPRD member had no legal authority to decide on the issue. Communities, however, perceived that the DPRD members were their representatives, and thus continued to resort to them. However, instances where *oknum* (rogue district functionaries) within the institution have sided on timber interests have nevertheless begun to erode communities’ trust towards the DPRD.

One of the most overt examples of people’s demanding district government accountability has been surrounding the implementation of the RHL Project. Throughout the year, in between formal accountability processes, citizens convey their dissatisfaction and complaints regarding the Project, requiring other avenues for resolution and accountability. As described in sections 5.2.2 and 6.2.4, similar to the case of small-scale logging related activities which had spurred conflicts with regard to the distribution of fees, the money allocated for activities associated with the Project have often incited conflicts among members of communities. These included allegations that the funds disbursed by the District Forestry Service were swindled by the leader or the *pengurus* of the recipient farmer group (and therefore did not reach its members) and manipulations in the rehabilitation activities (section 6.2.4).

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497 Interview with a Kutai Barat DPRD member, K-L-1
498 For instance, interviews with Bulungan DPRD members, B-L-1b, B-L-1a and with a senior official of Kutai Barat, K-G-8
499 Interviews with a Bulungan DPRD member, B-L-1b, and a DPRD member of Kutai Barat, K-L-1
500 Interviews with a Bulungan DPRD member, B-L-1b, and an NGO activist of Bulungan, B-N-5
In some cases, community reports of alleged inappropriate implementation or misuse of the DAK-DR monies in the RHL Project, have been facilitated by NGOs and the media. NGOs have also raised these issues themselves. However, as discussed in section 6.1.2, there are severe limitations on the ways in which some NGOs work or are perceived to work, undermining those NGOs with untainted commitments and methods.

7.3.2 The Media

As with NGOs, the media has played a critical role as a means of informal check and balance mechanisms, but has its own limitations. Communities have increasingly resorted to the media to convey their concerns. However, the media itself is not without problems in terms of reach and what gets printed. At the time of fieldwork, only one Samarinda-based daily newspaper, *Kalim Post*, had distribution in the capital of Kutai Barat. The distribution of this paper in the district was limited. The daily has a small branch office and one journalist as its representative based in the district capital. The Kutai Barat government, similar to the other districts in the province, pays a substantial amount of annual fees to reserve columns dedicated for stories about the district. This would have been useful if the articles were of the type that could assist in promoting the district to attract investors or to disseminate information about the district’s programs. Unfortunately, stories have often tended to cover ceremonial events rather than substantive issues. In terms of reach, the dispersed geographic distribution of villages, remoteness, the vastness of the area and the rudimentary infrastructure to most of these villages have prevented the paper from reaching the population evenly. Consequently, as of 2004, the distribution of this paper was limited in four out of the 21 subdistricts. However, although the reach of the daily newspaper in terms of its actual distribution to the population may be low, the close-knit informal means of verbal communication among members of the communities who have similar interests, eventually help these issues reach a greater number of the population.

The remoteness and the dispersed population over such a vast area also contribute to the lack of ground-truth checking and investigation on issues. Because the entire area of Kutai Barat is covered only by one journalist (the district is about the size of Belgium or the state of Maryland in the United States), and further aggravated by the lack of adequate infrastructure, the chances for an issue or story to get printed relies more on communities finding the journalist rather than the other way around. The fact that many communities go out of their way to report issues and concerns so that they can be printed means that either there is a perception that the media is an effective means to convey people’s concerns or demands, or that other means such as reporting through the people’s representatives sitting in the DPRD as less effective or inadequate.

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50 Interview with the representative of *Kalim Post* based in Kutai Barat, K-M-1. Due to high costs involved, distribution proves to be one of the major challenges for the print media to reach the population.
502 Interview with a *Kalim Post* representative in Kutai Barat District, K-M-1
Similarly, in Bulungan, up to at the time of the major fieldwork (2004), only one local daily, Radar Tarakan, had an office located in the district. This newspaper is based in Tarakan, the nearest municipality to Tanjung Selor, the capital of Bulungan district. With its size about half that of Kutai Barat, lack of infrastructure, dispersed population, and, as of January 2006, only two journalists covering the entire district, Radar Tarakan has faced similar issues in terms of how news gets printed and in terms of its reach in the district. As in Kutai Barat, the Bulungan government also “buys space” in the paper, utilising it as a means for public relations and to some extent determining what actually gets printed. Consequently, news from Bulungan published in Radar Tarakan, like that of Kutai Barat in Kaltim Post, often tends to be about ceremonies.

The activist who had suggested to a newly elected DPRD member that the Bupati’s Annual Accountability report be published in Radar Tarakan (section 7.2.3) recognized that this suggestion, even if it were followed, may not have been effective because the district government has some control over what gets printed through the district’s “purchase” of space in this daily.

Although there are limitations on what gets printed and who reads it, the media has in some cases been influential in pressuring the district government to handle forestry issues. However, Kutai Barat District Forestry Service has not been appreciative of the fact. A news article titled “Reforestation Fund Project Deviates. The Forestry Service wants People not to Report Directly to the Media” (Kaltim Post, 29 September, 2003d) cited the head of Kutai Barat Forestry Service’s expectation that allegations of violations/deviations be reported to the Project leader first instead of directly to the media. The issue then would be investigated by a team of district officials consisting of the District Forestry Service, the Bawaskab, and BAPPEDA. The case not only reflects the ineffectiveness of direct communication mechanisms between the masyarakat and the District Forestry Service, but also the preference of the District Forestry Service to handle matters internally before any allegations of deviations become public knowledge. Public knowledge appears to have created pressures on the District Forestry Service.

The media has not only been useful in disseminating local forestry issues, albeit its limitations, but itself has become involved in some of the issues more deeply. In one observation at the office of the Kaltim Post branch, the reporter who committed to publishing information on the alleged illegal logging in a village as reported by two community representatives, also “advised” these community representatives to follow up the issue directly.

Interviews with Radar Tarakan representatives in Bulungan District, B-M-1 and B-M-2, and an NGO activist, B-N-1a

The issue of highlighting mostly ceremonial events was also criticized by the members of the Bulungan District DPRD, B-L-1b and B-L-2, but they have done nothing about it,

Interview with an NGO activist, B-N-3
to the Kapotres, head of district-level police unit. The community representatives did follow this suggestion, and the story was published the following day. A senior District Forestry Service official insisted that this particular media representative was often out of line: rather than restricting himself to journalism, he was seen as provoking communities to pursue an issue.

As of March 2006, according to an informant, Kutai Barat District terminated its cooperation with Kaltim Post, and instead made a new arrangement with another daily, Tribun Kaltim, also based in Samarinda. Apparently, the Bupati perceived that Kalim Post had printed an unbalanced coverage about the district and did not appreciate it.

Both Kaltim Post and Radar Tarakan are regional dailies and are part of the Jawa Pos News Network, one of the nations' largest media networks in terms of the number of copies printed and the area of distribution. Kaltim Post and Radar Tarakan are regional media, but have local reach and cover local news; their operations are run and managed in Samarinda and Tarakan, respectively. News about Bulungan printed in Radar Tarakan is also printed in the Kaltim Post.

An effort to establish a local, district-based media in Kutai Barat has faced challenges. Beginning 2001, as requested by the Bupati, a Dayak native of the district who had previously migrated to Java and had media-related experience, returned to the district and established a weekly, Sendawar Pos. Soon however, the weekly faced operational difficulties: the low buying power among communities and little commercial interests in the paper on the one hand, and lack of capital, high printing costs and operational costs of maintaining an adequate number of journalists, on the other. The low buying power of the population forced the publisher to maintain a low price for the weekly, but as a consequence the cost of its distribution to each sub-district had to be subsidized. Local businesses did not show much interest in placing advertisements in the weekly. Lack of capital and equipment resulted in the printing of the paper in Banjarmasin, the capital of the neighbouring province of South Kalimantan, thus inflating its costs. Placing at least one correspondent in each of the 21 sub-districts to obtain a balanced coverage in terms of area or locality, also proved to be costly. Although the district government financially supported it, this district-based media could not continue to operate due to unmet costs. By 2004 it had ceased operation. This case shows the challenges in establishing a local, district-based media striving to operate with idealistic conditions where it emphasized reliability and balanced coverage of stories in terms of locations/sites in the district. By mid July 2004, the individual who had established this weekly had become a DPRD member.

\[\text{At the time, the nearby Polres was located in the neighbouring district of Kutai Kertanegara. A Polres based in Kutai Barat was established in October 2004.}\]
\[\text{Interview with K-G-1b}\]
\[\text{Personal communication with EM, an NGO activist working in Kutai Barat, 8 March 2006}\]
The increasing role of the local media, however, is tainted with the mushrooming of the so-called "journalists" who are making use of the freedom of the press post-reformasi to extract rents from district officials. These individuals, who hold a press ID, make visits to district functionaries and follow their activities by claiming to represent a particular media organisation. However, their interviews or coverage are never actually published. Under the pretext of covering or publicizing an issue, their motivations are to secure dues from district officials. These so-called "journalists" are referred to as "journalists without a newspaper" (Wartawan Tanpa Suratkabar), Wartawan Bodrex or Wartawan Amplop (envelope journalists). They are called Wartawan Bodrex because they often operate in a group to "attack" officials demanding money; they are referred as Wartawan Amplop because their presence is synonymous with demanding an envelope of money. Officials in both study districts, including the Bupati of Kutai Barat who often became the target of these types of journalists, have not only expressed their concern towards this trend but have also feared that these actions were eroding their trust towards the media in general.

The advantage of the existence of established regional newspapers publishing local news is not only their reach downwards to the local level, but also their potential reach "upwards". Because of their availability through the web, they allow the Provincial Forestry Service and the Ministry of Forestry to conveniently obtain secondary information on districts' forestry activities. For instance, a senior Ministry of Forestry official acknowledged that under regional autonomy his department cannot depend on districts to report their forestry activities, such as the promulgation of district PERDAs, and is forced to find ways to obtain information, including through media reports.

While in the past, radios have been used to disseminate government information to otherwise inaccessible areas, in the study districts radio programs appear to have not been particularly utilised for disseminating district government information on forestry. Radios are mostly used for entertainment purposes, rather than more serious issues.

7.3.3 Direct citizen action

Some citizens, at least, have evidently seen the accountability mechanisms at the district level, both formal and informal, as inadequate or ineffective in some cases, leading them to report their concerns to a higher level. For instance, district government’s slow response to

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9 The guestbook in the UPTD office of Bulungan, for instance, was filled with numerous visits of these types of reporters.
10 A 1970s TV advertisement of a type of aspirin called Bodrex showed the aspirin attacking the source of headache, thus Wartawan Bodrex is an analogy of several individuals “attacking” officials at the same time.
11 For instance, interviews with DPRD members of Bulungan, B-L-1b and B-L-2 and interview with the Bupati of Kutai Barat, K-G-*)
12 Interview with a senior official of the Ministry of Forestry, N-G-9
13 Interview with a senior district forestry official, K-G-1c; personal communication with NL, an indigenous forester residing in the district, 21 May 2007
citizens’ reports on an allegedly manipulated RHL activity led a concerned citizen to inform the provincial district attorney directly and request that the issue be investigated (Kaltim Post, 21 May, 2003b).

However, the extent to which this has taken place appears to vary between districts as well as between individuals:

"The people of Kutai Barat tend to speak out more than the people of Kutai Kertanegara, where everyone just keeps quiet." (interview with K-G-17b)

Such cases were atypical during the New Order period; thus the freer environment to express opinions and aspirations\(^{14}\) post-reformasi has clearly reached the regions. While Kutai Barat may be more open than some of the other districts in East Kalimantan\(^{15}\), which is at least partly influenced by the character of the district’s leadership, the relatively more established NGO activities and the “extended” role of the media, similar trends of reporting to higher level authorities are also reported nation-wide in the media.

### 7.4 Conclusions

Several major conclusions can be drawn from this chapter. First, the legal-regulatory framework does provide for formal and institutionalized district-level downward accountability mechanisms, that is, for constituencies to directly and indirectly (the latter through the DPRD) place a check on the powers of district governments. The fact that they exist, however, does not by any means guarantee that they are effective. There are clearly institutional, practical, as well as behavioural problems associated with the institution of accountability, in this case, the DPRD. Second, other forms of formal accountability involving vertical state actors (judiciary, national agencies) have proven to be not only relevant to but also useful in affecting the accountability of public actors in the districts. The fear of legal sanctions is of utmost importance. Third, the ways in which bureaucratic accountability has been applied over the districts’ leaders and public officials in the two district regimes have raised issues of both effectiveness and fairness. Fourth, the flourishing of civil society has allowed for its increasing role in providing informal mechanisms of accountability. Although accountability avenues through this group show some promise, however, the limitations associated with this group are an important issue.

\(^{14}\) The Indonesian word is aspirasi, meaning political and social desires.

\(^{15}\) As reflected in the frank interview with the Bupati. This openness was also suggested by the district government building an area, in the government precinct, specifically for the population to stage protests and demonstrations.
7.4.1 Formal downward accountability mechanisms, implemented but ineffective

Both districts demonstrated formal downward accountability processes; for example, the Bupati called to account by the DPRD, the latter as the citizens’ representatives. According to Mulgan (2003), Schedler (1999), and Grant and Keohane (2005)’s definition, however, they are incomplete accountability processes. They do not consist of all of the accountability elements, but are mostly limited to the answerability dimensions and lacking the enforcement or rectification dimensions.

These formal accountability processes appear to be weak and constrained, and held mostly to satisfy formal requirements, rather than to rectify substantive issues. Although forestry is important to both study districts and is associated with many problems, the Bupatis’ performance with respect to forestry was accepted by the DPRDs without difficulty.

Thus, mechanisms of formal downward accountability exist but are not effective. They are ineffective due to various problems. These have included the imbalance of actual power relations between the executive and the legislative; DPRD’s lack of capacity; and DPRD’s own interests and motivations that override the interests of the public.

Besides election every five years, there are no other formal accountability mechanisms to hold the institution of accountability, the DPRD, accountable themselves. There are no other mechanisms that can hold the DPRD accountable, either for their ineffectiveness or abuse of power (in this case by not exercising power when it was supposed to be exercised). There are no formal mechanisms for second-order accountability (Schedler, 1999, Appendix 1). This is particularly important because the DPRD, as the citizens’ representatives, in turn should be accountable to the population. In this regard, Ribot (2002, 2004, and 2005) suggested the importance of the concept of accountable representation as a sustainable and institutionalized form of public participation in decision making, and thus it is critical for the effectiveness of democratic decentralisation.

7.4.2 Other formal accountability mechanisms effective in certain issues, but not in others

Other accountability processes, viz. the calling and holding of district officials to account by vertical and/or independent government agencies, the judiciary (thus horizontal accountability) or the Ministry of Forestry for the use of public funds (financial accountability), and for failures of legal compliance to laws and national policies (legal accountability), were also applied. These types of accountability were relevant in affecting, to some extent, certain forestry decisions and their implementation at the district level. Notably, they were effective, though in Bulungan only temporarily, in terms of district governments’ increased attention to the appropriate uses of the DAK-DR Reforestation Fund through the RHL Project. These forms of accountability had clear criteria both on which the accountor was assessed (deviations in the use of the funds) and on the sanctions (taken to court and jailed if found guilty). At the current
stage of Indonesia's decentralisation and democratization, these types of formal accountability processes appear to be more effective, and thus more relevant, than the existing formal downward accountability mechanisms. Accountability on issues with less straightforward criteria, however, such as districts' allowing illegal logging to proceed unchecked, is more difficult to realize through similar institutional avenues.

District governments and officials have paid increased attention to respecting and following the national legal-regulatory framework. Their behaviour was notably influenced not only by accountability processes involving vertical agencies that were applied to them, but by processes applied to other districts. This was clear in the interviews with the Bupati of Kutai Barat and district officials. Therefore, these types of accountability mechanisms are advantageous in terms of their snowball effects; their effects have not been limited within the district(s), in contrast to accountability processes within a district whose effects are confined to that particular district.

7.4.3 Bureaucratic accountability: issues of ineffectiveness and unfairness

The ways in which bureaucratic accountability was applied to the leadership of the districts and to district officials were not only limited in terms of their effectiveness in improving forestry outcomes, but also in allowing the processes of accountability to go unexamined.

In the two case study districts these state-sanctioned types of accountability processes were only applied to district officials, who reported directly to the Bupati. Although the ultimate responsibility for the implementation of the RHL Project rests with the Bupatis, both of the Bupatis were untouched. When formal downward accountability mechanisms within the districts are ineffective, how can the Bupatis, through formal institutional avenues, be made accountable, other than through elections held every five years, for their lack of performance in the RHL Project? The Bupati administratively reports to the Ministry of Home Affairs, but the Project is within the Ministry of Forestry's regime. The not-so-amicable working relationship between the two ministries (Chapter 3), was complicated further by the difficulties in determining the criteria for the Bupatis' performance. Such problems signalled the difficulties in the application of bureaucratic accountability between the Bupati and the Minister of Home Affairs and were therefore unlikely to occur.

Bureaucratic (and performance) accountability of district officials to the Bupati in Kutai Barat resulted in mixed outcomes. In one case, it led to efforts for improved implementation of the district's RHL Project. In another case, the sacking of a senior forestry official, which ostensibly was associated with his poor performance in curbing illegal logging, did not affect its incidence; illegal logging continued relatively unchecked in the district.

Importantly, within a decision-making sphere in which officials work under frequent interventions from higher-level district functionaries, bureaucratic accountability is not likely to correctly identify the actors actually responsible for the decisions. Worse yet, bureaucratic
accountability was demanded by officials at the higher level in the district hierarchy, and
therefore by those who often intervened in the decisions of district officials being held
accountable.

Moreover, the lack of independence of the district unit responsible for monitoring the
implementation of district projects or policies carried out by district units, the Bawaskab, due to
its limited operational capacity and its position in the districts' hierarchical structure, allow for
bureaucratic accountability processes within the districts to go unexamined both in terms of the
issue and in terms of who is really accountable for a decision. With the exception of
administrative courts, there are no other grievance procedures for district officials who are being
held accountable, let alone procedures that guarantee independence from those demanding
bureaucratic accountability. Thus, in the context of the two study districts, this type of
accountability relation raises the questions of impartiality and due process.

7.4.4 Informal accountability mechanisms potentially promising, but with serious caveats

By contrast, informal grass-root driven mechanisms of downward accountability, including
citizens' protests and reports channelled through the media and NGOs, are potentially
promising, and especially in consideration of the challenges that render formal downward
mechanisms within the district, ineffective. Citizens' reports to the DPRD, made either directly
or indirectly through the media, instigated hearings between the DPRD and district forestry
officials in Kutai Barat District. Communities' expectations that the DPRD mediate in
burgeoning conflicts associated with timber fees helped the DPRD members recognize the
social implications of district logging licenses. In Bulungan District these conflicts led to the
DPRD initiating an assessment on the Bupati's policy on district logging licenses. Although the
hearings between the DPRD and district officials were limited both in frequency and in
outcome, and the DPRD's initiative to assess the district policy on logging licenses was opposed
by the Bupati, rendering it ineffective, these processes nevertheless show the DPRD's attempts
to call the executive and its units to account. Similarly, community demonstrations and protests
staged at the Bupati's office, community reports to the DPRD, and simultaneous media reports
of the conflicts between the premans and communities (Chapter 6) forced the district government
to take action, albeit only those within its powers. Thus, social institutions or civil society have
played an indirect role in pushing for downward accountability processes.

Citizens' reports - directly and/or facilitated by NGOs - to the provincial district attorney
or the police as well as media reports were sources of valuable initial information in
investigations on allegations of financial deviations of the RHL Project. To the extent that this
initial information did lead to actual investigations into the implementation of the Project, civil
society also played an indirect role in pushing for district forestry officials' accountability to the
Ministry of Forestry through judicial processes.
Although these informal forces show potential in pushing for both downward and upward accountability, there are serious pitfalls. These have notably included the "co-optation" of the media by district governments through the purchase of space in the media that enabled district governments to bolster their PR campaigns; the high cost of gathering stories through true and balanced fact-finding that results in the publishing of stories without adequate checks; and the extended role of the media beyond responsible journalism in instances of the media's provocative acts over an issue. Furthermore, the opportunistic behaviour of certain media personnel and NGOs (section 6.1.2), ultimately may erode the public trust towards their role. District government officials and the public alike are already showing some disregard of some of these actors.

7.4.5 The realities of accountability in the case study districts under decentralisation

With all the impediments to the implementation of accountability mechanisms within the district and in holding the Bupati to account to vertical state agencies, accountability as a concept critical in democratic decentralisation remains quite remote and highly limited in the context of Indonesia's decentralisation. The only realm of activity where accountability is really being applied and effective is associated with financial accountability, where deviations in the use of project monies are scrutinized and have resulted in legal proceedings. Financial issues, however, are only part of a much larger suite of responsibilities in forestry. Although financial accountability does have some relevance to performance and political accountability (demonstrated in the RHL Project of Kutai Barat, where the prospect of sanctions led to efforts for improved management) (Brinkerhoff, 2001), those entrusted with the management or the administration (directly or indirectly) of forests have not been held accountable in any sense that addresses the breadth of understanding and in particular, the assumed usefulness of downward accountability discussed in Chapter 2 and Appendix 1.

While it is not possible to compare this study's results directly with the processes of accountability prior to decentralisation, it is nevertheless clear that accountability – let alone downward accountability critical in democratic decentralisation – has not been a strong feature of decentralisation as it has played out in the two case study districts. No one is actually being held responsible for forestry policies or decisions, or for the implementation of these decisions. No one is actually being held responsible for the continuing and unchecked exploitation of forests for short term gain. The outcome is precisely the continuing and unchecked exploitation of forests for short term gain.

There are many actors involved in one way or another in forest exploitation – and enjoying its benefits – from community level to district officials to the Bupati to the DPRD, police, judiciary and others described in Chapter 6. In particular, because the institutions of accountability, both formal (DPRD, police, judiciary) and informal (NGOs, media), have serious limitations in the form of "rogue" involvement, it is almost virtually impossible to
implement the concept of accountability, making it almost irrelevant in this kind of situation. This research therefore raises the fundamental question of whether accountability can be held “to account” in this context.
Chapter 8: Conclusions

The Indonesian economic and political turmoil in 1997-98 led to reformasi and subsequently the promulgation of a multitude of policies and laws. Among those that had wide-ranging implications were the two decentralisation laws, Law 22 of 1999 on Local Governance and Law 25 of 1999 on Fiscal Balancing between the Centre and the Regions. The provisions of these laws were not only in stark contrast to the legal-regulatory framework under the New Order, but the sweeping changes were also to be applied immediately, within two years after their promulgation. The scale and the abruptness of that change are reflected in the term given to Indonesia’s approach to decentralisation, “Big Bang Decentralisation” (Hofman and Kaiser, 2002:1).

The two laws transferred authority in many sectors to district governments and boosted their fiscal capacity. The extensive transfer of powers also encompassed the natural resource sector, including forestry. These far-reaching institutional changes have had an enormous effect on the dynamics of forest governance at the district level. Initially, as in other areas, high hopes and expectations were placed on decentralisation reforms in the forestry sector. However, prior to their officially effective implementation, changing local dynamics on the one hand, and national dynamics, on the other, were already at play. It soon became clear that decentralisation in Indonesia’s forestry sector was not as straightforward and clear-cut as its theoretical underpinnings.

8.1 What the thesis set out to do, and how

The main aim of this thesis was to understand Indonesia’s decentralisation in the forestry context. It set out to answer the core research question: has Indonesia’s decentralisation led to improved forestry governance at the district level? To answer this research question, three research sub-questions were addressed:

1. What is the extent and nature of Indonesia’s decentralisation in the forestry sector, formally and in practice?

2. How have district decisions that affect forest use and management been shaped in the context of decentralisation?

3. What have been the principal consequences of Indonesia’s decentralisation, and of decision-making about forests at the district level under that decentralisation, for patterns of forest use and management?

The approach which this research adopted in addressing these questions was introduced in Chapter 1 and explored in detail in Chapter 2. It is based on the framework suggested by Agrawal and Ribot (1999) utilizing the analytical dimensions of actors, powers and accountability, adapted to accommodate both Manor’s (1999) focus on institutional analysis and that of Larson (1999) on power relations. This chapter summarises the results of the research, showing the dynamics of forestry politics in the two study districts under Indonesia’s
decentralization, the utility of the research framework, and identifies areas for further investigation.

**8.2 Principal research findings**

The first objective of the research, to understand the extent and nature of Indonesia’s decentralisation in the forestry context, is addressed through investigating which and how various powers have been devolved to district governments. Significant forestry powers—in the beginning of the decentralisation initiative—were devolved to district governments. These were the authority to issue district licenses and to apply district-level forestry charges. Districts immediately applied their new powers to create district forestry regimes.

Although districts’ new powers were significant, they were nevertheless partial; the legal-regulatory framework did not provide a comprehensive devolution of powers in forestry, but allowed for a balance of powers among levels of government to be maintained. The major powers, relating to the designation and use of forest lands, continued to be under Central control. This is consistent with the theoretical emphasis on the need to maintain the balance of power among levels of authority, as unlimited powers over natural resources may lead to excessive exploitation of the resource (Appendix I).

However, for at least some elements of the Centre, the devolution of forestry powers has been largely a reluctant process. This is reflected in the inconsistent and contradictory provisions between the decentralisation legal-regulatory framework and the forestry-specific legal-regulatory framework. While the decentralisation law has provided for the extensive transfer of powers, including forestry, to districts, the forestry law has limited the transfer of forestry powers to districts. Not only were those forestry powers that were specifically devolved through the forestry legal-regulatory framework limited, but the means by which the powers were transferred were also insecure, as they were specified by a weak form of legal instrument. The ambiguities of the position of district legal instruments vis-à-vis the Centre’s legal instruments in the legal hierarchy contributed to the complications.

The consequence was a bitter powers struggle between the Centre—the actor relinquishing powers—and the district governments—the locus of decentralized powers—and the wielding of de facto powers at the district level. The struggle resulted in the Centre clawing back powers. However, for a period, districts had been able to put in place coping strategies to continue to benefit from decentralisation in forestry. Moreover, districts’ authority in other sectors—which remains in place—continue to enable them to make decisions that significantly affect forests.

The second objective of the research, to understand how district decisions that affect forest use and management have been shaped, was investigated in the context of the nature and extent of the decentralisation of forestry powers that have actually taken place. Notably, district forestry decisions have been significantly determined by the interplay of the legal regulatory framework (Figures 2.1 and 2.2), the power relations between the Centre and the district
governments (vertical relations) (illustrated in Figure 2.1) and by the power relations at the
district level (horizontal relations) (shown in Figure 2.2).

The perception of the insecurity of forestry powers transferred to the district level has
significantly determined the trajectory of district forestry. The reluctance on the part of (some)
Central actors to transfer formal forestry authority to districts has affirmed local governments’
distrust of the intentions of the Centre to relinquish powers. At the community level, the past
experience of forest exploitation that marginalized the local population had already sown the
seeds of distrust among the local population towards the existing forestry policies, and fostered
an attitude of “getting the benefits from our forests while we can”. District-level forestry-decisions have been strongly motivated by the related goals of boosting district development
and of ensuring that the benefits of forest exploitation should accrue more to the district
population than to those in more distant areas. Hence, district governments have implemented
strategies to filter national policies, selecting those they could use to their advantage and
ignoring those that were not advantageous, and have manoeuvred to achieve these objectives.

Besides these organisational objectives, however, personal interests have also been at play
in district forestry decision-making. Decentralisation has resulted in the redistribution of powers
at the district level. District governments have gained authority and local non-state actors have
assumed the positions of centrally-connected actors previously powerful in district forestry
operations. Thus, personal as well as organisational interests have largely determined the actual
power relations between and among district actors, which in turn have affected district forestry
decision-making.

Power relations have affected the distribution of benefits to the local level. While
communities have benefited from decentralization, other more powerful actors have been able
to reap a larger proportion of the benefits.

The legal-regulatory framework set up formal accountability mechanisms, but it is clear
that the practice of the democratization process illustrated by the two case study districts is still
in its infancy. Serious limitations have constrained the accountability relations and processes in
Indonesia’s forestry sector. This ineffectiveness is inherent in the formal institutional
mechanisms of accountability, in the actual power relations between those accountable and the
formal institutions of accountability, and the power relations between those held accountable
and those who were and should be actually accountable.

Informal accountability mechanisms have increasingly played a greater role in the checks
on districts’ powers. However, they too have serious pitfalls associated with the advancing of
personal interests over organisational objectives.

These findings inform the third research objective, viz. the principal consequences of these
decentralization dynamics for patterns of forest use and management. The short-term economic
focus of the major actors – at least in the first few years of decentralisation – has resulted in the
continuing (perhaps accelerated) exploitation of forests in the case study districts.
8.3 Detailed findings

The details of the principal findings above are elaborated in the following sections.

8.3.1 Findings related to the first research sub-question

The first two research sub-questions posed in Chapter 2, and repeated below, are interconnected. Therefore, it is not possible to discuss the findings of each of the research questions in isolation; the main findings related to each sub-question, and elements common to each, will be discussed.

The first research sub-question, “What is the extent and nature of Indonesia’s decentralisation in the forestry sector, formally and in practice?”, has been answered by examining the legal-regulatory framework underpinning the decentralisation process, and how the process has actually been manifested in practice.

The legal-regulatory framework for decentralisation in forestry

The legal-regulatory framework for Indonesia’s extensive decentralisation underpins all three major types of decentralisation: political or democratic decentralisation, fiscal decentralisation, and administrative decentralisation. Law 22 of 1999 specified the election of a Bupati by the district legislative body (DPRD), whose members in turn were elected by the citizens of the district. Subsequently, the superseding decentralisation law (Law 32 of 2004) provided for the direct election of Bupatis. Law 25 of 1999 and its superseding version, Law 33 of 2004, gave a much greater authority over fiscal expenditures to district governments, as well as the opportunity but at the same time, the responsibility, to generate their own revenues. Higher percentages of revenues derived from natural resources, including forestry, are now enjoyed by district governments. In terms of administrative decentralisation, Law 22 of 1999 transferred the authority over many services, including education, health, and infrastructure from the Centre to districts. Forestry administration, according to one provision in Law 22 of 1999, with the exception of conservation areas, was also handed over to districts. However, there was one provision within the very same law that could make the interpretation of the locus of forestry authority somewhat ambiguous. As in other Indonesian laws, the provisions of Law 22 of 1999 were general: their specifics and implementation were determined through government regulations and other lower regulatory instruments.

Within Agrawal and Ribot’s framework of actors, powers, and accountability (Chapter 2), Indonesia’s legal-administrative arrangement for decentralisation has given district governments, as the locus of decentralisation, broad decision-making powers in forestry and has instituted formal downward accountability relations and mechanisms. District governments were explicitly authorized to formulate district regulations (PERDA) while their forestry authority implied that they, with the exception of conservation areas, could make and enforce forestry decisions. Out of the four types of decision-making powers set out in Agrawal and Ribot’s framework (that is, the powers to make rules, to make decisions, to implement and
enforce decisions, and to adjudicate issues arising from decisions), the power of adjudication was the only one not transferred to district governments, but remained with the judiciary, a responsibility of the Centre. There are no other formal mechanisms for adjudication at the district level. The election of Bupatis and the DPRD, as well as the periodical and issue-specific formal accountability processes of the Bupatis to the DPRD provided for the institutionalisation of downward accountability mechanisms. The analysis of Indonesia’s legal-administrative decentralisation framework around the dimensions of actors, power, and accountability as adopted in this thesis, therefore, suggests that the Indonesian case in the context of forestry conforms to democratic decentralisation.

However, forestry decentralisation has followed a path that has been significantly determined not only by the legal-administrative arrangement of decentralisation, but also by the legal-regulatory underpinnings in the forestry sector. The districts’ authority in forestry administration as specified by Law 22 of 1999 was complicated by the provisions of the 1999 forestry law (both laws have the same status in the legal hierarchy) which affirmed the Centre’s authority over forests and forest administration. Because Law 22 of 1999 was the product of the Ministry of Home Affairs, while the Forestry Law was the Ministry of Forestry’s, these inconsistencies have not only shaped the trajectory of decentralisation in forestry, but have also shown the relevance of power relations between sectoral interests.

The extent and nature of forestry decentralisation in practice

From the very beginning, two opposing “forces” have determined how forestry decentralisation has actually played out in practice. One is the transfer of power away from the Centre to districts; the other is that of reaffirming power at the Centre. The results have been a struggle for power between district governments and the Centre, the pendulum of power swinging back to the Centre, and districts manoeuvring over the clawing back of power until it was no longer possible to find room for further manoeuvres. There are various motivations underlying the struggle over forestry powers. The districts’ diminishing power in forestry, however, does not mean that districts no longer adopt policies that affect forestry. On the contrary, other broader decentralized forces allow district governments to make forestry-related decisions that may have major implications for forests.

Power struggle between those relinquishing powers and those receiving powers

Decentralisation in forestry has been imbued with tension between the district government and the Centre’s unit responsible for forestry, the Ministry of Forestry. Interpreting the decentralisation law to their own advantage, district governments established district legal-regulatory frameworks and/or made decisions that conflicted with the new forestry law. Districts did obtain authority to issue small-scale logging licenses immediately prior to the promulgation of the decentralisation laws, which was part of a series of the Ministry of Forestry’s policies to appear in a favourable light to localities and communities. With decentralisation, districts’ power was now boosted beyond control. With the euphoria of
reformasi still in full swing at the time, and pressured by the broader decentralisation exercise, the Ministry of Forestry initially had to jump on the bandwagon. Through a ministerial decree, the Ministry first devolved one of its most important and sought-after authority: logging licensing. Although this authority may seem insignificant in comparison with the breadth of forestry administration, its implications have been, on the contrary, enormous. This was the first time district governments had gained the authority to issue logging licenses encompassing the entire range of licensing scales, from small to large-scale licenses. The district governments, however, now empowered by the decentralisation law, not infrequently abused their authority. They issued numerous licenses, sometimes deliberately in areas with active centrally-licensed rights when they were not supposed to, ignoring technical and ecological requirements, or turning a blind eye to operational violations.

The Ministry of Forestry took steps to halt the exercise of the districts’ perceived or actual (depending on whose interpretations) authority. Both study districts, however, continued to issue licenses despite the Centre’s directives to stop them. Districts thus used national policies that were advantageous to them, but ignored those that were not. The lack of explicit elucidation of the status of ministerial decrees or directives vis-à-vis PERDAs in the legal hierarchy provided the district governments with the justification to interpret their authority in ways tailored to their own needs. Kutai Barat, for example, promulgated a comprehensive PERDA on forestry which resembles the forestry law in text, except that the authority and powers of forests and forest administration were placed in the district’s hands, rather than in the Centre’s. Struggles over powers between district governments and the Ministry of Forestry were thus unavoidable.

The clawing back of powers and districts’ coping strategies

The struggle over powers resulted in the withdrawal of districts’ logging licensing authority through a national regulatory instrument which held a higher status in the legal hierarchy than a PERDA (Chapter 3). Despite its revocation by a much stronger and thus uncontested national regulatory instrument, this clawing back of authority was nevertheless contested by those losing powers. District governments sought strategies to continue district-sanctioned timber operations. Two years after the withdrawal of this authority, the two study districts could still manage to find ways to evade the restrictions imposed by the Centre and district governments continued to provide administrative services for district-induced timber operations.

The struggle over powers was also evident between the district and the provincial governments. By 2007, the powers of the provinces have been somewhat augmented (through the superseding decentralisation laws), and the Ministry of Forestry retains its firm grip on forestry powers (see Appendix 5: Postscript). This reaffirms the Ministry of Forestry’s intention to retain control over forestry.
Partial forestry decentralisation and districts’ broader powers of decentralisation

In summary, while decentralisation of significant powers did take place in the forestry sector, the ceding of forestry powers has only ever been partial (Appendix 2). This situation is consistent with that promoted by advocates of decentralisation who assert that effective decentralized NRM requires the balance of powers between authorities. However, after only a few years, the formal authority that had been devolved was withdrawn (Chapter 3).

In addition to the decentralized powers in forestry administration per se, when they were devolved, the districts’ increased powers in the fiscal domain were a critical driving force in district forestry policies or decisions. The opportunity and responsibility which districts received to secure their own funding to finance their development, as well as their increased share of forest revenue transfers, only reinforced districts’ motivation and raised their incentives to exploit forests to fill their coffers. Although the districts’ forestry authority in logging licensing had already been revoked, they continued to be responsible for and authorized to raise Locally Generated Revenues (PAD). District governments continue to augment revenues as much as they possibly can, often from activities that directly or indirectly affect forests. Because districts now concentrate on activities outside the forestry sector in pursuit of PAD, the Ministry of Forestry now has more difficulty in controlling strategies that can affect forests, such as setting up plantations and carrying out mining, because they are officially beyond the forestry sector.

Therefore, decentralized authority in other sectors and in the fiscal arena has given and continues to give district governments powers that affect forests. Despite the withdrawal of their authority over forestry, the districts’ broader decentralized powers in other land-related sectors, and their continued authority over and pursuit of PAD, have meant that their powers over the fate of forests within their jurisdiction are far from diminished. On the contrary, the effects of decentralisation on forests are now more difficult to curtail, because no particular actor or organisation is specifically responsible to oversee extra-sectoral pressures on forests.

In this regard, although the district governments have lost the battle over the control of forest administration, they have not lost the war. These findings partially answer the first research sub-question.

8.3.2 Findings related to the second research sub-question

The findings that specifically relate to the second research sub-question, “How have district decisions affecting forest use and management been shaped in the context of decentralisation?”, revolve around the dynamics of horizontal relations between and among actors operating in the districts (Figure 2.2). These findings centre on the types of actors who have emerged and/or were able to capitalize on the opportunities presented by decentralisation, the dynamics of the power relations between and among district actors in the two districts, and the flow of benefits from decentralization in the forestry sector.
External actors, donor and development agencies, academics, and NGOs to a certain extent, have been able to influence both policy processes and their substance. However, there has been notable incoherence between the district forestry policies that these actors were able to influence and the actual forestry practice in the districts.

The *de facto* powers wielded by the districts, through their ability to manoeuvre around the national legal-regulatory framework, show the importance of power relations between district governments and the Centre, affirming their significance in the vertical interactions of actors (Figure 2.1). Thus, the district governments' increased formal authority in forestry and their general broader authority under decentralisation were not the only factors determining forestry decisions and operations in the districts. This research also shows that horizontal power relations, that is, the power relations between and among actors at the district level (Figure 2.2), also significantly influence the ways in which district forestry decisions have actually been implemented or manifested. Power relations in the districts are complicated and, in some cases, subtle. The implementation of district policies or decisions over forestry were often negotiated, challenged, compromised, and abused by other actors.

**Power redistribution and the shift of power concentration**

Under decentralisation, there has been a shift in the power holders among non-state actors. Prior to decentralisation, power was centred on one major actor, the HPHs; decentralisation has not only shifted the locus of power but has also distributed it among other actors.

*The emergence of local and regional actors*

Decentralisation has thrown into prominence the emergence of powerful local or regional timber actors. These actors were not new in the districts, but during the New Order period, they had been overshadowed by HPHs. A similar pattern is evident in both case study districts: these local or regional timber actors now have exerted more influence on districts' forestry decisions and/or operations vis-à-vis other actors. The local and regional entrepreneurs have won the support of both the district governments and the local people because of their local roots and local orientation.

*Shift of the concentration of power*

The new actors in the timber arena have not only flourished under decentralisation, but have taken over the roles of the centrally-linked actors, the HPHs, that were influential in the past. Both district governments and the local people preferred local and regional entrepreneurs because they provided an alternative to forestry entities with central links. In an environment where HPHs were being perceived as "villains", any other alternatives were seen as preferable. From the perspective of district governments, local and regional businesses were more useful than centrally-licensed HPHs because of their "contributions" (Chapter 6) to district political processes. District governments, either directly or indirectly, pressured HPHs to make way for the operation of district licenses.
In Kutai Barat, one actor in particular, the *preman*, gained influence and power in forestry. This actor obtained this overt power through conniving operations and force, or coercion. However, the *preman’s* true and covert power was obtained from its links with and support from powerful state-actors who were actually supposed to be responsible for ensuring that the actor’s operations did not transgress legal boundaries.

**Distant actors at play**

Although decentralisation has seen the rise of local and regional timber actors, this does not, however, eliminate the participation of other external and new actors. Notably, Malaysian and Jakarta-based investors had provided the capital, technical expertise, and marketing networks for the operations of district licenses. District governments’ preference for district-licensed operators over centrally-licensed HPH operators appears to have not been due to the HPH operators being an external actor per se, but has been associated with the extent of control that can be exercised over them. Because HPH holders were operating in the districts through central licenses, district governments had less control over them compared to over any other timber operators whose licenses were issued by the district governments. Thus, in addition to the timber operator’s ability to provide capital, technical expertise, and marketing networks, district governments’ major considerations for involving a particular timber operator has been the level of control they can exert on the timber operator, rather than its local or regional features.

**The strengthening of local elites**

Decentralisation as it has progressed in the two districts has seen the strengthening of local elites. The elites that could capitalize on the opportunities presented by decentralisation were not only limited to local entrepreneurs, but also extended to district functionaries (that is, the executives and legislature). It was not uncommon that district functionaries themselves held a district logging license or were closely associated with timber operations under district licenses. At the community level, sub-district or village functionaries and *adat* leaders led negotiations with timber interests representing their communities and often abused their function for personal gains. District information about projects passing through sub-district and village officials, rather than being disseminated to villagers, was not infrequently kept from villagers so that these officials could take advantage of the projects themselves.

**The increasing influence of communities**

Although the local people prefer local or regional actors compared to HPHs, this did not necessarily mean that they bowed to timber interests operating in their areas, as they had to in the past. Communities were now more confident in articulating and defending their demands. Development initiatives or establishments that impacted on lands were now often challenged if they did not secure the consent of affected communities. These concerted actions were often facilitated by NGOs. Whether communities’ consent was ultimately reached through fair or
manipulative negotiation processes is outside the scope of this research and requires further examination. However, the findings of this research do imply that communities were gaining increasing influence in forestry operations and land-related developments vis-à-vis other actors.

The strength of communities’ influence in district decisions was tested in a case involving the preman. The communities’ action was the driving force that led the Bupati to act on the district’s behalf against this powerful actor. The communities’ extended demonstration at the Bupati’s office in protest against the force of the preman ultimately compelled the Bupati to take action, after a period of premanism in the district, by reporting the preman to higher authorities in Jakarta.

This is one arena in which decentralisation in Indonesia differs from the decentralisation experiences of other countries. Under Indonesia’s decentralisation, two forces have been at work in parallel, those of reformasi and decentralisation. Villagers and district officials, when referring to communities’ actions like demonstrations or articulating their demands, referred to reformasi; but in the context of districts’ authority, they referred to regional autonomy (that is, decentralisation in the Indonesian context). Thus, it is difficult to separate the forces of reformasi from those of decentralisation in the dynamics of power relations in the district.

Horizontal power relations (Figure 2.2) thus critically determined districts’ decision-making. This finding has partially answered the second research sub-question.

The flow of benefits

The involvement of Malaysian and Jakarta-based investors and local and regional elites in district logging regimes brings the issue of the distribution of benefits to the fore: whether or not a decentralized regime benefits local people, and how much? Decentralisation has been assumed to advantage local-level beneficiaries through increased local participation (Chapter 2 and Appendix 1).

In both the operations of district logging licenses and the implementation of the DAK-DR-Forest and Land Rehabilitation Project (RHL Project), district forestry policies that attempted to secure the flow of benefits from forestry for local communities were hindered by factors associated with the imbalance of power relations among the relevant actors. In addition to the lack of and access to capital and the lack of technical capacity, communities also lacked the networks to obtain information and to carry out timber marketing. Thus, although licenses were targeted to benefit communities, many of them were ultimately actually issued to companies bearing the name of local entrepreneurs. Local entrepreneurs often acted as brokers or contractors, who later worked in partnership with regional, Jakarta-based or Malaysian investors. The benefits from timber exploitation were thus distributed along a chain of actors, communities, brokers and contractors, and capital holders.

Studies that have specifically investigated the flow of benefits of district-induced logging operations at the district level in East Kalimantan have come to a similar conclusion, viz. that communities were not the group of actors who had received the largest share of the benefit
The findings of this research support the results of these studies. It is very important to note, however, that local communities in the case study districts nevertheless did benefit directly more from forest sector activities under decentralisation compared to those in the New Order period.

On the state side, forestry rents have also been redistributed—they now accrue formally to the district as PAD (locally generated revenues), as increased shared revenues, and as informal dues to district officials. The case studies demonstrate that the actual process of allocation and distribution of shared revenues can be as important as the size of the allocation itself. In this regard, certain officials in the central agencies that determined the actual process of allocation and distribution of districts’ share of forestry-derived revenues have also benefited informally.

Similarly, the imbalance of power relations within communities has concentrated the benefits of the RHL Project around village elites. At least in the first few years of decentralisation, village elites often used their position or authority to capitalize on the opportunity to reap benefits for themselves. Although the magnitude of the DAK-DR (the Reforestation Fund allocated to districts) was extremely significant, there was nevertheless not enough money for everybody to share. This prevented the participation of the entire rural-agriculturalist population; only a limited number of farmer groups participated within one community in any given year. Information on the Project was disseminated through sub-district or village heads, enabling the withholding of the information from villagers. Furthermore, village elites had other advantages: in the case of penghijauan (regreening/afforestation), relatively more access to capital to start up a project; in the case of reboisasi (reforestation), a wider network which made them more “visible” to the contractors. Thus, the first years of the Project saw more participants with family ties to village elites. Moreover, the disbursement of funds through representatives of the farmer groups (pengurus) was often non-transparent and often led to the embezzlement of funds.

8.3.3 Findings related to both the first and second research sub-questions

Four of the major findings of this thesis are intricately connected and relate to both the first and second research sub-questions. These are: the underlying motivations for control over forest resources and district decisions; accountability; vertical power relations; and the issue of trust.

**Motivations for control over forestry administration and for district forestry decisions**

One broad emerging theme in both the implementation of decentralisation and in the dynamics of district decision-making within that decentralisation has been control over the administration of forests. “Struggles over resources lie at the centre of struggles over power” (Peets and Watts, 2004: xiv). Many of the tussles over the authority of forest administration have been essentially a struggle over control of the resource and the associated formal and
informal benefits. State actors, at the district, provincial, and national levels, carry their own organisational and individual interests and motivations.

Local nuance of motivations: district development and local beneficiaries

District governments’ struggle to maintain their forestry authority as well as their motivations in making forestry decisions were addressed in this thesis in the context of district governments’ organisational objectives or motivations as well as those of the individual state actors. At the organisational level, first and foremost, the ultimate objective of district governments’ policies and decisions has been and still is local development. Both districts, as most districts in the Outer Islands, were and are struggling with the lack of even the most basic infrastructure and services, hence districts’ focus on development. Within this overarching objective of district development, district governments’ have sought to manage their natural resource endowment to (1) use the resources for financing district development, and 2) to ensure that the benefits from their utilization accrue to districts’ citizens or communities, rather than to external actors. Gaining and maintaining forestry authority would allow districts to adopt and implement policies that support these goals.

The research conducted for this thesis finds consistency in these motivations through observations that districts consciously exerted extra efforts to ensure that they received their rightful share of forestry revenues as determined by the fiscal decentralisation legal-regulatory framework. Tensions between district authorities as the loci of decentralisation and Central Ministries as the actors relinquishing power have also occurred in the fiscal arena.

Corruption

At the level of individuals, districts’ gaining authority over forestry administration opened up avenues for district officials to pursue their personal interests. It also meant that district officials accrued more powers in determining the ways in which their personal interests were articulated. For instance, the authority to issue district logging licenses opened up opportunities to extract rent over the entire process of their issuance. Districts’ responsibility to administer logging operations provided them with the powers to determine the “under-the-table” terms that affect whether their administration would be followed through smoothly or hindered.

Similar lines of argument, embodying personal interests as one of the underlying motivations of the struggle over forestry powers, are also legitimate at other levels of government. They are not meant to downplay the genuine concerns of individuals at all levels of government over the sustainability of the forests, as there are clearly officials that are strongly committed to appropriate management and use of forests. However, the less well-intentioned motivations need to be recognised as they are relevant to understanding the extent and nature of Indonesia’s decentralisation in forestry and in district forestry-related decisions.

In addition to the objectives of local development and securing local benefits, officials in both districts underlined the importance of maintaining a “conducive” environment in the
districts, referring to a socially and politically stable environment. Community blockades and seizures of logging equipment in the earlier period of reformasi and regional autonomy, horizontal conflicts among and within communities associated with both the operations of district logging licenses and the RHL Project, and previous ethnic violence in West and Central Kalimantan, all have shown the potential for people’s power to “go bad” in terms of its effects on district development and the social cohesion of the district community.

The actions of district officials, however, through their opportunistic behaviour, were not infrequently contradictory in terms of this need of maintaining social order in the district. Forests were used not only as a cash cow for district development, but also as a source of informal rent. The issuance of district licenses and thus forest exploitation was, at least partly, a response to community desires to derive benefits from “their” forests. However, the excesses triggered by this policy, as well as district elites’ opportunistic rent-seeking behaviour, promoted horizontal conflicts and undermined social cohesion and social order.

Districts’ increased authority in forestry under decentralisation, through the issuance of logging licenses and in the implementation of the RHL Project, has increased the powers of district officials vis-à-vis other actors. Their formal powers have allowed them to determine the terms by which their exercise of powers affect the operations of timber interests. These terms have involved informal transactions between district officials and district-licensed as well as centrally-licensed timber operators.

Control over the resource thus has been intricately linked to the prevalence of informal exchanges between district officials, in return for administrative favours or the relaxing of technical or operational procedures. Patterns of reciprocity at the local level have been documented in other contexts, for instance, over logging access in the Solomon Islands (Bennet, 2001), in Sumatera’s forest frontier prior to decentralisation (McCarthy, 2006) and in other devolved forestry regimes (Robbins, 2000). A similar pattern is evident in the two study districts.

Local corruption has been prevalent under the decentralized regimes in both districts. It has not only been prevalent, involving many different actors, but has also become “acceptable” to local actors as, in terms of local development, the benefits were perceived to stay in the districts. The incidence of local corruption has been perceived as acceptable particularly when it is compared to the incidence and perceived magnitude of corruption over local resource benefits by distant (central) actors in the past. In this sense, corruption in the context of decentralisation, as it has progressed in the two case study districts, has become institutionalized (Robbins, 2000). However, in contrast to Robbins’ argument suggesting that local corruption may not necessarily affect SFM negatively, the findings in the case study districts suggest that it seriously limits the effectiveness of checks on the powers of district authorities, therefore limiting their accountability. Insofar as accountability is assumed to correlate positively with SFM, then local corruption hinders SFM.
Power relations between district governments and the Central Government in the fiscal domain have also led to corruption within some Central Government agencies. It has been argued elsewhere both that decentralisation increases local corruption, and that it decreases it (Appendix 1). This research shows that decentralisation has led to incidences of corruption involving state actors on both sides of the equation, as both the "giver" and the "receiver". In the case study districts in the context of decentralisation, corruption has occurred not only between non-state actors and state actors, but between state actors. Further, corruption has occurred not only at the local level, but also between state actors at the district level and with state actors at a higher level. Thus, this research provides no evidence that decentralisation necessarily reduces the level of corruption.

**Accountability**

The issues of decisions motivated by rent-seeking and the struggle for power over forest resources raise questions about the effectiveness of the transfer of powers to local authorities and whether the exercise of those powers can result in positive outcomes for NRM. The discussion now turns to accountability, a dimension assumed to be critical in the effectiveness of decentralisation and in achieving its assumed benefits. The discussion includes the formal accountability framework and its actual implementation.

**Formal accountability relations and mechanisms**

As discussed in Chapter 3, it is clear that significant forestry powers were, in practice as well as principle, devolved to districts under Indonesia's decentralisation. According to Agrawal and Ribot (1999), the effectiveness of democratic decentralisation is determined by downward accountability, that is, the accountability of those receiving powers (under decentralisation) to their constituencies. They proposed that downward accountability determines whether or not democratic decentralisation in the natural resource sector can achieve its stated aims in natural resource management. The issue of accountability is therefore relevant to both the first two research sub-questions.

Several major conclusions around the accountability dimension discussed in Chapter 7 can be drawn from the thesis. First, the legal-regulatory framework does provide for formal and institutionalized district-level downward accountability mechanisms, that is, for constituencies to directly and indirectly place a check on the powers of district governments. These mechanisms have included the election of the Bupati (prior to 2004, by the DPRD; from 2004, directly elected by district constituencies) and both periodic and issue-oriented accountability processes. The existence of these mechanisms, however, does not by any means guarantee that they are effective. Accountability processes outside elections so far have been largely ineffective. These processes were often merely window dressing and were held to satisfy legal-regulatory requirements, rather than to provide real checks on the exercise of power of elected and assigned public officials. There are institutional, practical, as well as behavioural problems associated with accountability processes that have prevented them from holding elected and
appointed district officials accountable for forestry decisions and for the implementation of these decisions. Among the limitations were imbalanced power relations between those being held accountable and the DPRD, which is the principal formal institution of accountability (section 7.4.1); these limitations were associated with the DPRD’s lack of capacity, with its lack of independence, and with its own interests that took precedence over the interests of the citizens that it represents.

Other forms of formal accountability involving vertical state actors (judiciary, national agencies), that is, upward or horizontal accountability, depending on which definition is followed, have proven both relevant to and effective in holding the accountability of public actors in the districts. However, there are at least two important constraints associated with these forms of accountability as applied in the two case study contexts. One is the limited breadth of the issues over which the accountor has been held to account. The issue for which the accountors were held accountable was only in the financial realm (that is, financial accountability), where the criteria by which the accountability was measured, were clear; the accountability process involved the judiciary (that is, legal accountability). The other involves the difficulty of conducting accountability processes that are based on a complete assessment of the situation. Accountability processes based on insufficient understanding and considerations of bureaucratic power relations in the districts may result in the erroneous identification of who should really be held to account for particular actions. In the two districts, bureaucratic power relations have often curtailed the discretion of public officials, through the interventions of district functionaries at higher levels in the hierarchy.

Fear of sanctions of legal proceedings did appear to act as a deterrent, at least temporarily, in the case study districts. District officials, recognizing that their actions were now more closely watched and scrutinized, put more effort into improving implementation of the Forest and Land Rehabilitation Project. However, the limiting factors inherent in district-level bureaucratic accountability relations (that is, appointed district officials being held accountable by higher ranks in the district who essentially appointed them), where dominant actors often intervene in and impose certain decisions, and where there are no impartial and independent means or institutions of second-order accountability mechanisms (Appendix 1), can result in misdirected accountability processes. Focusing accountability processes on the wrong target not only raises the issue of fairness, but is unlikely to support efforts for the improved management of natural resources.

Civil society and informal accountability mechanisms

With the limitations of the existing formal accountability mechanisms, informal accountability mechanisms can become more relevant. Informal accountability mechanisms involving civil society show potential, but there are also problems with them. Communities and ordinary citizens, directly and/or with NGOs, NGOs, and the media, have all taken part in informal accountability processes. Citizens’ demonstrations at the Bupatis’ and the DPRD’s
offices, reports to the Bupatis, the DPRD, or vertical state agencies (police, judiciary), and citizens making press releases, are all increasingly common in the districts. However, the opportunistic behaviour of certain segments of civil society (some NGO and media actors), the incidence of which has increased under decentralisation, has begun to erode the trust of district officials and the public in their role. This risks lowering the effectiveness of that segment of civil society that has been and/or is truly committed to the cause.

Despite the potential usefulness of informal accountability mechanisms, however, sanctions for the inappropriate exercise of forestry powers remain fundamental to the accountability of district officials. It was the legal sanctions that were ultimately most effective in the case studies.

**Vertical power relations between district governments and the Centre**

The fear of legal sanctions for breaching national legal-regulatory instruments, as in the case of sanctions for inappropriate behaviour or decisions, also to a large extent determined district decision-making. In the end, despite their strategies and manoeuvres, district governments had to largely bow to national directives and policies. Local power relations and other motivations did underlie district decisions. However, formal district decisions were ultimately determined by vertical power relations (Figure 2.1). For instance, although district forestry decisions were driven by the desire to advance district development and to favour local beneficiaries, district governments in the end had to officially stop issuing district licenses. This was largely caused by the fear of legal sanctions for breaching national legal instruments. The Ministry of Forestry took steps to ensure that districts’ powers were put in check by initiating processes that would bring defiant districts to court. This outcome was thus associated with the effectiveness of formal accountability mechanisms through the legal system.

**Trust**

The insecurity of their forestry powers drove district governments to rush to implement decisions which were indiscriminate in their impact on the forest resources. Districts’ authority in the issuance of logging licenses had been provided through a Ministerial Decree, which could be revoked at any time. Because there was no certainty or reasonable guarantee that this power would last, district governments made sure that they used that window of opportunity while it lasted. The issue of the security of the transfer of powers (Conyers, 1990, cited in Ribot, 2005; Appendix 1) has thus been relevant not only in the extent of decentralisation, but also in the implementation of forestry decisions under Indonesia’s decentralisation in the two districts studied.

However, the issue is not merely that of the level of certainty associated with the security of powers transferred. In the two case study districts, the issue has been much deeper: it has involved trust, or lack thereof. District governments did not trust the Centre’s intentions, particularly whether or not the Centre would continue to allow power over a lucrative resource
to be maintained at the local level. Those affected more directly, the local communities in and around forest areas, did not trust that the authorities would continue to allow them access to forest resources. The high level of distrust between actors has motivated both the district governments and local communities to either promote, be directly involved in, or at the very least be indifferent to, indiscriminate uses of forest resources. The subsequent withdrawal of districts’ powers over timber licensing, and the consequent diminished opportunities for communities to be more directly involved in commercial timber utilization, reinforced this distrust.

8.3.4 Findings related to the third research sub-question

The third research sub-question, “What have been the principal consequences of Indonesia’s decentralisation, and of decision-making about forests at the district level under that decentralisation, for patterns of forest use and management?”, is answered from a qualitative perspective, as noted in section 2.1.

Governments and individuals have chosen to battle each other for short-term economic gains from the forests because the longer term authority over them was not clear or uncertain. Thus, the ways in which decentralisation was implemented, and district governments’ and local peoples’ articulation of that decentralisation, resulted in the lack of attention to the state and sustainability of the resource. The focus on who should maintain control over the resource has diverted all levels of governments’ energy and resources, from looking after the forests and managing them appropriately to struggling over their control. Furthermore, district governments’ lack of attention and motivation to maintain the resource led to inadequate reinvestment of the proceeds from forest extraction into the resource, either for restoring the resource or for mitigating further degradation of the resource. As a consequence, patterns of resource use and management have continued to be unsustainable and unchecked.

In some ways, the districts’ emphasis on revenue generation and their limited commitment to reforestation resembles that of the Central Government’s forest management pre-decentralisation. The command and control under the New Order, the hierarchical administrative structure, and the relatively unambiguous Central authority, although in many ways not effective, were to a certain extent able to install and enforce national policies that were directed towards SFM. Under decentralisation, the breakdown of the forestry data collection system, the lack of effective connections in the administrative structure, and the failures of accountability and control mechanisms in decisions that affect forest exploitation – where other means of control such as command and control were also absent – have created a vacuum in forest management. As a result, while everybody wants to be in charge of this resource, no particular actor is effectively in charge of it.

The findings of this research highlight the continuing role of the Centre as an important player in local forestry governance under Indonesia’s decentralisation. The Centre, including relevant ministries and vertical agencies such as the judiciary, has an important role as the actor
who (1) relinquishes power – to whatever ultimate extent; 2) determines whether accountability
mechanisms could work; and 3) can initiate efforts to build the trust of local governments and
the local people. All of these, as they significantly shape decentralisation and its
implementation, ultimately determine the outcomes of decentralisation for forests. To date,
those outcomes in the two case study districts, have been almost completely adverse, in terms of
the management of the resource. An obvious question, as discussed further below, is the nature
of the outcomes from decentralisation as it matures beyond the early stages which this research
was able to examine.

8.4 The utility of the research framework and areas for
further research

The research framework developed here was a modified version of that put forward by
Agrawal and Ribot (1999) (Chapter 2) that emphasized the three dimensions of actors, powers,
and accountability. Agrawal and Ribot focused on four broad types of decision-making: the
powers to make rules, to make decisions, to enforce and implement those decisions, and to
adjudicate decisions. The research framework of this thesis, however, incorporated Manor’s
institutional approach (1999) of analysing the political, fiscal, and administrative transfer of
powers, and – in the analysis of the power dimension – Larson’s (1999) emphasis on power
relations between and among actors. While Agrawal and Ribot’s framework emphasized the
importance of downward accountability, this thesis also analysed other forms of accountability
relations (Figure 2.2).

8.4.1 Findings that relate to the research framework

The research framework developed here has proven useful in relation to the research
objectives of analysing decentralisation and the dynamics of local governance in the context of
that decentralisation. These are discussed below.

Forestry and extra-sectoral domains

With respect to the implications of decentralized powers for forest resources, in some cases
decentralized authority in other sectors or other domains, in addition to those in forestry, is as
important as decentralized authority in forestry. Because of the influences of these external
forces, focusing solely on powers transferred or not transferred in forestry will tend to be
misleading. Thus, observations of these other sectors and/or domains are essential, in order to
understand the full scope of Indonesia’s forestry in a decentralized context. The framework used
here followed Agrawal and Ribot’s approach in terms of also observing powers devolved in
other domains that affect the four broad types of districts’ forestry decision-making powers. The
findings of this research, for instance, specifically underlined the importance of fiscal powers
and the powers transferred in other land-based sectors, such as plantation and mining. In the
fiscal decentralisation domain, the ways in which the money is actually allocated and
transferred to local governments are as important as the amount of the transfer itself.
De facto versus de jure powers

The analysis of both de jure and de facto powers within the research framework adopted has proven valuable in analysing the dynamics of local government decision-making under decentralisation. Observing the legal-regulatory framework in terms of the de jure powers ceded to the locus of decentralized power is not adequate for achieving an understanding of the dynamics of decentralisation relevant to the study districts. De facto powers, in some circumstances to a significant extent, determined how decentralisation has played out at the local level vis-à-vis national directives. The tussle for power between levels of government, and districts’ ability to filter and manoeuvre around the national-regulatory framework in implementing their decisions, despite the withdrawal of districts’ authority, shows the extent of de facto powers at play. The wielding of de facto powers has been a notable feature in the two study districts in cases where de jure powers disadvantaged the districts, and to the extent that they could be manipulated or avoided. Thus, de facto powers can be as relevant as, if not more relevant than, the de jure powers specified in the legal-regulatory framework.

The relevance of de facto powers in district decision making needs to be emphasized in relation to Agrawal and Ribot’s framework, which did not explicitly distinguish between de facto and de jure powers of local authorities. This raises the question of whether the wielding of local authorities’ de facto powers to make decisions and enforce those decisions qualify, within a decentralisation context, as decentralisation, or whether it would be better characterised as another phenomenon. Manor (1999:8) refers to this phenomenon as “inadvertent decentralisation”, where the actual powers gained were greater than intended. It also raises the issue of whether the wielding of local authorities’ de facto powers hinders the effectiveness of decentralisation, in terms of local authorities’ accountability; this is discussed below.

Accountability

The research framework placed other accountability relations, in addition to downward accountability, at the centre of the accountability analysis; this has proven valuable in explaining the decentralisation dynamics at the local level. The two case study districts exemplify not only the ineffectiveness of formal downward accountability, but also the effectiveness, albeit in a limited fashion, of other accountability relations. This suggests the relevance of accountability relations in general, and not only downward accountability, in local authorities’ decision-making within the context of a decentralized regime.

However, the issues surrounding accountability relations in the study districts also raise other questions. First, in an early phase of democratization and where other forces are strong, is the concept useful in the context of natural resource decentralisation? The complexities of both forestry issues and intertwining interests make it impossible for accountability to be applied in a true (that is, not only rhetorical) and complete (including the sanction or rectification component) manner, and render the concept in its simplest sense not only ineffective, but often out of touch with reality. The misdirection of the forms of accountability that were effectively in
force, leading to "barking up the wrong tree", was prevalent in the case studies. This raises the question of the relevance, or the degree of usefulness, of the commonly-understood concept of accountability at this point in time and in these particular contexts.

Second, downward accountability of local authorities is often demanded for decisions that are not necessarily supportive of SFM. For instance, communities desired the extension of district logging licenses. The issue of trust, in the transfer of power and in the articulation of that power in terms of providing improved access to resources, is an important factor determining the kinds of forestry decisions communities expect from local authorities with decentralized powers. Thus, accountability criteria are not necessarily consistent with those related to the appropriateness of resource use.

The usefulness of the research framework

The findings of this research confirm that the research framework developed here is a useful refinement of those from which it draws, which better informs the dynamics of decentralisation and local decision-making in the forestry context.

First, it is clear that the power dimension needs to include de facto forms of power, in addition to de jure powers. What powers are manifested in practice can be very different from those for which the legal framework has provided. Second, a more specific focus on the financial powers of those receiving decentralized powers is essential, in particular in terms of the processes involved in financial transfers. Third, an analysis of decentralized powers in other land-based sectors can illuminate how they affect forestry governance. Fourth, the framework affirms the critical role of accountability relations beyond just downward accountability. Fifth, while power relations per se are an important element, the underlying motivations and factors behind the dynamics of power relations are critical in determining the trajectory of decentralisation and local decision-making. The analysis of power relations becomes more important in the light of the ineffectiveness of the accountability relations. These factors and motivations include organisational interests as well as personal interests associated with forestry rents, and trust. It would be informative to explore the utility of the framework developed here in other situations, which might also assist in further refining it.

8.4.2 Areas for further research

This research was conducted over a period that corresponds to the first six years of Indonesia's decentralisation. The most obvious question it raises is whether the outcomes and trends found here will continue as they have during this initial period, or whether they will change as the decentralisation process and associated institutions mature. This research suggests that this issue is particularly important for the case of accountability mechanisms, which were not particularly effective in linking local governance with more sustainable patterns of resource use and management. The work conducted for this study suggests that, as discussed above, further theoretical development, to better understand and assess the role of various forms
of accountability in explaining the direct causal-effect linkages between local-level governance and NRM, is particularly important. Refining and testing such an improved research framework over the next phase of Indonesia’s decentralisation, as well as investigating decentralisation elsewhere, would be very informative.

Even under the current situation where centralized forestry administration has been firmly reestablished (see Appendix 5: Postscript), and the roles of district-level institutions clarified, local forestry governance will remain crucial for the management of Indonesia’s forests. This research has identified the suite of reasons for the district- and community-level decisions which have continued the unsustainable management of the case study districts’ forests under the first several years of decentralisation. This understanding could inform future studies, which could thus focus on the incentives and motivations more likely to lead to district decision-making that would be more favourable for forest sustainability. Given the continuing pressures on Indonesia’s forests (due to, among others, the prevalence of illegal logging, section 6.4), and the high level of international interest in assisting Indonesia to address forest loss and degradation because of its global significance (for example, Australian Government, 2007), such research is both urgent and important.

The research suggested here would help underpin, for example, the development of effective arrangements for avoiding deforestation and enhancing carbon sequestration. Only with adequate understanding of the dynamics of decision-making at the local level, and their interactions with higher levels of governance, will initiatives intended to conserve and sustain Indonesia’s forests be successful.
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Appendix 1: Decentralisation: from development to NRM

The centralization of state power and centralized control over development activities have been notable features in most developing countries since the early 1950s (for instance, Rondinelli and Nellis, 1983; Mawhood, 1987; Slater, 1989; Manor, 1999). During this period, planning and administration were centralized to allow for coherent policies for the use of resources in the promotion of rapid industrial growth (Cheema and Rondinelli, 1983). The benefits of concentrated industrial investment in a few major metropolitan centres were expected to “trickle down” and spread throughout the nations’ economies, generating income and alleviating poverty (Cheema and Rondinelli, 1983). As many of these nations had then only recently gained their national independence, centralized control and planning were considered essential not only for their economic development but also for maintaining national unity (Rondinelli et al. 1983; Mawhood, 1987; Manor, 1999). Furthermore, leaders of the then new emerging Asian and African countries were considered heroic figures, which “translated into faith in the concentration of state power” (Manor, 1999:23). The already limited attempts of some form of decentralized systems in Asia and Africa in the 1950s and 1960s were overshadowed by the prominence of the development discourse that took on a centralized approach (Manor, 1999).

During the 1970s, the basic premises of centric-approaches came into question in terms of efficient and equitable development (Rondinelli et al., 1983). It was recognized that development requires a basic transformation of social, economic, and political structures that enables the poor to help themselves to increase their productivity and incomes. The 1970s and 1980s thus saw a shift in the directions and priorities of development; decentralisation became an important policy objective in developing countries’ pursuit of a more equitable economic growth and for meeting the basic needs of the poor. This period also saw a move in emphasis on public participation, local leadership, and decentralisation of administrative authority (Rondinelli et al.1983; Cohen and Peterson, 1996). Since the late 1980s, there has been a growing interest in political decentralisation, or devolution), reaching Southeast Asian governments in the 1990s (Schurman, 1997; Manor, 1999; Blair, 2000; Turner, 2006). Decentralisation has since been used as a means to promote both development and democratic objectives (Hutchcroft, 2001).

Mawhood (1987) points out that during this period, local governments were not forgotten altogether, although they did not have meaningful powers.

However, Slater (1989:518) contends that in third world countries, particularly African countries and others such as China and Cuba, central planning was not a feature. He emphasizes the need to avoid conflating central planning with the centralization of state power.
A1-1 The concept of decentralisation

The term decentralisation means different things to different people, and is often used in a number of different ways and in different contexts (Fesler, 1965; Conyers, 1984; Devas, 1997; Hutchcroft, 2001). Since this study is focused on decentralisation and local government decision-making in forestry in the context of a decentralized regime, it is necessary to understand the concept and the various ways in which the term is used.

In general, decentralisation refers to “the dispersal or transfer of decision-making power to individuals or parts of an organisation at lower levels in a hierarchy” (Frerks and Otto, 1996:9). Agrawal and Ribot (1999:475) define decentralisation as “any act by which a central government formally cedes powers to actors and institutions at lower levels in a political-administrative and territorial hierarchy.” It is a political phenomenon involving both administration and government. Decentralisation is also about “the redistribution of power, resources, and administrative capacities through different territorial units and across local groups” (Agrawal and Ostrom, 2001: 487). Other definitions of decentralisation have included privatization, that is, the transfer of authority to the private sector (Rondinelli and Nellis, 1986; Litvack and Seddon, 1999). The meaning of decentralisation includes the reversal of the concentration of administration at a single centre and the granting of powers to local government (Smith, 1985). Regardless of the recipients, however, all forms of decentralisation share one common feature: the shifting of power and resources away from the central government (Schneider, 2003). Accordingly, the concept of decentralisation is often discussed in terms of each of political, administrative, fiscal, and market (that is, privatization) decentralisation.

As this thesis is concerned with the dispersal of power and authority and the relinquishing of resources by the central government to sub-national governments, privatization is not discussed any further. Political decentralisation is often referred to as democratic decentralisation (Smith, 1985; Manor, 1999; Blair, 2000; Ribot, 2004) or devolution (Ribot, 2004); the thesis uses the term democratic decentralisation. This appendix focuses on the first three forms of decentralisation, democratic, administrative, and fiscal decentralisation, and their relationship to democratic decentralisation. Administrative, fiscal and democratic decentralisation are closely interconnected and should be present if democratic decentralisation is to succeed (for instance, Manor, 1999).

Democratic decentralisation (discussed in Chapter 2), involves “the transfer of resources and power and often, responsibilities, to lower level authorities which are largely or wholly autonomous, and which are democratic in some way and to some degree” (Manor, 1999:6). This

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Democratic decentralisation enables democratic local governance to occur (Blair, 2000) or local governments to operate in a more responsive, accountable, participatory, and effective manner (Center for Democracy and Governance, 2000).
definition thus includes several fundamental criteria. The first is that the territorial subdivisions of the state must have a measure of autonomy or self-governing capacity (Smith, 1985). The second is that the authorities with decentralized powers must be democratically recruited and make decisions according to democratic procedures (Smith, 1985). Here, the necessary elements accompanying the transfer of powers are financial resources and administrative capacity, and critically, accountability mechanisms (Crook and Manor, 1998; Manor, 1999; Blair, 2000).

Administrative decentralisation, also referred to as deconcentration (Parker, 1995; Ribot, 2004), occurs when powers are devolved to local branches of the central government, including local technical line units of central ministries or appointed administrative extensions of the central government (Smith, 1985; Parker, 1995; Manor, 1999). The transfer of powers is classified as administrative decentralisation when the actors to whom the powers are transferred are accountable to their superiors in a hierarchy (that is, upward accountability). Although they are primarily responsible to the central government, their functions may result in citizens demanding some accountability (that is, downward accountability).

Agrawal and Ribot (1999) treat accountability as a central dimension in distinguishing democratic from administrative decentralisation. The transfer of powers falls within democratic decentralisation when the actors receiving powers are accountable to their constituents (Agrawal and Ribot, 1999; also Ribot, 2004). This downward accountability is the critical element distinguishing democratic decentralisation from administrative decentralisation, although some upward accountability may remain. However, Hutchcroft (2001) asserts that there is always a complex interplay between administrative and democratic decentralisation. Thus, while the thesis does not focus specifically on administrative decentralisation, the discussion in most of the chapters includes it as a result of the new administrative responsibilities of sub-national governments and the changes in the administrative structure.

Fiscal decentralisation refers to the ceding of influence over budgets and financial decisions (World Bank, 1997), which include the transfer of authority to raise revenues and make expenditure decisions, from the central government to sub-national authorities (Parker, 1995; Manor, 1999). Fiscal capacity, on both the revenue-raising and the expenditure sides, is necessary for the effective implementation of decentralized functions (for instance, Manor, 1999). Revenues can be generated locally or obtained through the transfer of funds from central government. Local revenues can be raised through a number of ways, including the ability to tax, charge fees, or impose fines. The transfer of funds can be effected in block grants or through schemes of revenue sharing among levels of governments.

A1-2 The promises, challenges, and outcomes of decentralisation initiatives

The latest global wave of decentralisation is being carried out to achieve a multitude of objectives. Manor (1999:1) suggested these objectives are:
a means to shift power away from the commandist state which has resulted in rent seeking and corruption; a possible alternative to the failures of central government in addressing rural poverty; a means for the need to better utilize local knowledge at the grass roots; a way to deepen democracy where interest groups can organize, compete and assert themselves; a way to transfer expensive tasks to others lower down; a substitute for democratization at the national level and as a safe way to acquire legitimacy and grass-root support.

Other important objectives have been to maintain political stability associated with demands for local autonomy or to prevent national secession (Smith, 1985; World Bank, 2000), or as an ideological principle in itself (Rondinelli and Nellis, 1986).

Decentralisation has been justified on the grounds of greater efficiency, equity, participation and responsiveness of government to citizens (Parker, 1995; World Bank, 1997; Agrawal and Ribot, 1999; Blair, 2000; Smoke, 2003). These expectations have been based on the premise that decentralisation brings government closer to citizens, both spatially and institutionally (World Bank, 1997). By “bringing the state closer to the people”, that is, bringing popular voice through broad participation into policy-making, where individual citizens, private sector organisations and other groups in civil society have their say, decentralisation is believed to promote democracy (World Bank, 1997:110). Decentralisation is also believed to improve resource allocation, efficiency, accountability and equity by “linking costs and benefits of local public services more closely” (World Bank, 1988 cited in Larson, 2003b, 212). It is argued that local governments know the needs and desires of their constituents better than national-level authorities, and thus can be more responsive, while at the same time greater contact between citizens and local governments make it easier for constituents to hold local leaders accountable (Smith, 1985; World Bank, 2000). By building popular participation and accountability into local governance, government at the local level can be more responsive to citizens’ desires and more effective in service delivery (Piriou-Sall, 1998; Smoke, 1999; Blair, 2000).

However, evidence suggests that in many cases, decentralisation has fallen short of these assumed benefits, in terms of both development performance and governance (for instance, Azfar et al. 1999; Rowland, 2001; Conyers, 2003; Smoke; 2003). In a comprehensive review of the decentralisation literature, Frerks and Otto (1996) show that empirical evidence for the successes and failures of decentralisation in development has been at best ambivalent, suggesting that experiences of decentralisation on the whole are disappointing and fraught with problems. For instance, Crook and Manor (1998) found some promising improvements in development performance in India, but much less in Bangladesh or Ghana (Crook, 2003). Other positive reports tend to be based on instances of success that are largely anecdotal (Smoke, 2003); and Wunsch (1991:433) says, rather pessimistically:
With all the diverse efforts in diverse countries, and good theoretical reasons to expect improved performance through decentralisation, it is discouraging and more than a little perplexing that the results so far have been rather dismal... In general, decentralisation efforts have not significantly expanded participation, improved project effectiveness or efficiency, increased orientation to rural needs and wants, expanded financial support for local projects and services by rural dwellers, reduced central costs or redistributed wealth, status or power to the rural areas. Planning systems do not seem any more responsive to rural priorities, local institutions of governance any more viable, and projects any more likely to be sustained after donor and/or central state investments have been completed.

Rather than improving accountability, Hausman and Stein (1995, cited in Schneider, 2003), argue that decentralisation may result in less effective monitoring and accountability of government at the local level. They suggest that formal and informal institutions of accountability at the local level, from the legislature, judiciary, civil society organisations, and the media are smaller in scale and more recently established, compared to those at the national level. Thus, they are less likely to be as effective as those operating at the national level.

Critics emphasize the caveats of decentralisation, which include the ways in which it functions and its benefits are distributed. Among the most notable criticisms are: 1) the reluctance of central authorities to forgo power and resources; 2) the likelihood of decreasing quality of public services due to lack of capacity of local decision-makers; 3) an increased likelihood of elite domination; and 4) an increase in the incidence and distribution of local corruption.

Because it is about the relinquishing of power and resources, one of the most common problems in decentralisation initiatives has been the reluctance or resistance of central authorities to carry out the meaningful devolution of powers and distribution of resources (for instance, Ribot et al., 2006). Decentralisation initiatives often have little to do with the assumed long-term gains of decentralisation, but rather, with short-term calculation of political benefits. The Philippines and Argentina (Eaton, 2001) and some African countries (Olowu, 2003) provide ample examples of decentralisation initiatives that have subsequently resulted in the re-shifting of some of the decentralized power back to the Centre.

Local governments’ lack of capacity is one constraining factor that prevents decentralisation from achieving its desired results (for instance, Azfar et al., 1999). Local governments’ capacity, including human capital, that is, the quality of locally-based civil servants, and physical capital, such as technology and equipment used at the local level, are often much less established than those of their counterparts at the national level (Fitzbein, 1997). The argument over local-level lack of capacity has provided the justification for some

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59 Capacity refers to the "ability, competency, and efficiency of sub-national governments to plan, implement, manage and evaluate policies, strategies, or programs designed to impact on social conditions in the jurisdiction" (Shafritz, 1986 cited in Azfar et al., 1999)
countries not to devolve meaningful power and resources to the local level (for instance, Sandbukt, 1995; Ribot, 2004).

One of the perceived pitfalls of decentralisation is that it is prone to elite domination (for instance, World Bank, 1992 cited in Freerks and Otto, 1996:3-4; Olowu, 2003; Capistrano and Colfer, 2005). This includes dominance of elite groups, dominance of elites within groups, and dominance of elites within government, and is particularly an issue in the decentralisation of the natural resource sector (Carney, 1995; Kaimowitz et al., 1998). Although the power, knowledge, and networks of local elites are useful to sustain democratic decentralisation (Olowu, 2003), the problem of elite capture can disadvantage certain segments of the local population. Thus, it is those with power and wealth that is likely to take the most advantage of new opportunities arising from decentralisation, as in the case of the resource allocation of the Bolivian forestry sector (Kaimowitz et al., 1998; Pacheco, 2005).

Smith (1985) points out that local institutions are as susceptible to manipulation by elite groups as the central government, allowing clientelism to be maintained in local contexts (Bardhan and Mookherjee, 2002). However, Bardhan and Mookherjee (2002) assert that the relative capture of local and central governments are determined by a variety of factors that would need to be substantiated empirically. For instance, Crook (2003) reports that, in Ghana, the already limited level of participation and representation of the poor in public decision-making eventually faded and remained to benefit mostly the local elites.

Decentralisation has been associated with the increased distribution and incidence of corruption. While corruption is not the main focus of this thesis, the issue often emerged in the interviews and in media reports. For the purposes of this thesis, corruption is defined as "the use of public office for private gain" (Bardhan, 1996 cited in Goudie and Stasavage, 1998:115) or "the sale by government officials of government property for personal gain" (Shleifer and Vishny, 1993 cited in Goudie and Stasavage, 1998:115). Literature linking fiscal decentralisation and corruption mostly comprises economic models that use multi-country regression analysis or limited case studies of local authorities through a political science approach. In the former type of studies, the decentralisation of expenditure is linked with governance. Corruption is used as one of the various indicators of governance and measured through a corruption index (Transparency International, 2006). For instance, Huther and Shah (1998), based on a model using multi-country data, contend that greater fiscal decentralisation may enhance governance quality. Similarly, de Mello and Barenstein (2001), also based on cross-country data, find fiscal decentralisation to be associated with various indicators of

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f29 Elite capture, where "local-level elites tend to appropriate for themselves whatever portion of the resources that they need and to let the poor have the leftovers only" (Platteau and Gaspart, 2003:1688).
governance. Gulsun Arikan (2004), once more based on a multi-country analysis, suggested that fiscal decentralisation may lead to a lower level of corruption.

Other authors have focused on in-country studies of corruption, linking it with the level of authority. In a study of the United States, Dincer et al. (2006) found that the incidence of convicted corrupt state officials was lower in states with more powers over taxation and expenditure decisions. However, the findings of Fisman and Gatti’s research (2002), also in the United States, suggested that larger federal transfers were associated with higher rates of conviction for state-level corruption. Fjeldstad (2001) observed that increased discretionary fiscal (taxing) powers of local authorities have led to corrupt practices.

Studies linking corruption and Indonesia’s decentralisation have focused on the democratic and administrative aspects of decentralisation, rather than on fiscal decentralisation. Henderson and Kuncoro (2006)’s analysis, based on quantitative analyses of firm behaviour in districts across Java, cautiously concluded that the first three years of local democratization in Indonesia (2001-2004) reduced the level of corruption at the district level. In contrast, Pramusinto (2005), in his study of the business sector in the district of Sidoarjo, Java, maintained that Indonesia’s current decentralisation has not reduced the level of local corruption.

Irrespective of the outcomes of decentralisation initiatives, decentralisation continues to be on the agenda of many countries, not only because of political objectives (for instance, Conyers, 2003; Smoke, 2003) but because the alternative, centralization, is not attractive either (Rondinelli et al., 1984). However, there are exceptions; in her seminal work, Tendler (1997), in Good Government in the Tropics, using an example from Brazil to support her case, convincingly shows that central government’s role is indispensable in making decentralisation work. Thus, in contrast to decentralisation proponents who have “rolled back the role of the central state”, Tendler has instead argued to “put the central state back in”. Some analysts, such as Turner and Podger (2003:5) are more pragmatic, by simply arguing that decentralisation has been popular because “it is simply happening”.

A1-3 Decentralisation of Natural Resource Management

Decentralisation reforms have not only been promoted and implemented to achieve development and poverty alleviation objectives, but also to achieve better environmental and equity outcomes associated with the exploitation or management of natural resources.

A1-3-1 Justifications and assumptions for natural resource management decentralisation

The thinking and fashion in governance for decentralisation have also been applied to the natural resource sector.
The failure of state-centric approaches of natural resource management

Parallelling the nature of state control more generally, control over natural resources in developing countries since the colonial era that many experienced has tended to be vested in the central state (for instance, Repetto and Gillis, 1988; Carney and Farrington, 1998; Ascher, 2000). However, this does not mean that these states have been able to manage their resources effectively; rather, it means only that national governments have had the power to allocate use rights over natural resources according to their priorities and interests (Carney and Farrington, 1998; Ascher, 2000). For instance, in most developing countries, scarce resources makes it difficult for governments to monitor those who were given the rights to use these, often extensive resources, and to prevent distantly-located bureaucrats from abusing their positions (Carney and Farrington, 1998; Lowe, 2000).

State control over the use of renewable natural resources has had two main effects. It has tended to disenfranchise the traditional users of the resources, and not infrequently, has led to the destruction of existing local natural resource management regimes (Carney and Farrington, 1998). Second, state intervention has tended not to preserve the resource nor utilize it sustainably (Carney and Farrington, 1998). There is now a consensus among natural resource practitioners that state-centric approaches of natural resource management have largely failed or been inadequate (Repetto and Gillis, 1988; Dembner and Perlis, 1999; Ascher, 2000). The failure to manage natural resources sustainably, and/or the prevalence of natural resource abuses in many countries, has/have prompted scrutiny over not only how they have been managed, but by whom.

The shifting interest to local-level natural resource management

As in development thinking more generally, the perceived inadequacies of top-down, centralized approaches have created the impetus for the increasing popularity of decentralized governance of natural resources to local level actors or institutions. They have included the transfer of authority over the management of water resources (Vermillion, 1997; Brannstrom, 2005), wildlife (IUCN, 1997; Shackleton et al., 2002; Conyers, 2002; Conyers, 2003), pastures-lands (Mearns, 2005) and forests (for instance, Edmunds and Wollenberg, 2003; Resosudarmo, 2005; Colfer and Capistrano, 2005; Andersson et al. 2006; Sikor and Thanh, 2007).

The transfer of authority over forest management and/or use has followed two major approaches. The first devolves some types of property rights to local institutions, including local communities and individuals. The second involves the transfer of formal powers of government to sub-national levels (of government). Both of these approaches to natural resource management are championed based on the premise of the values of the "local" and of the compatibility of "local" features with the characteristics of natural resources. These are explained below.
The values of the “local” and natural resource management

Predominant approaches to the management and protection of natural resources have now embraced the centrality of the notion of local communities (for instance, Wyckoff-Baird et al., 2000; Edmunds and Wollenberg, 2003). The features often attached to local communities are believed to be “compatible” with the characteristics of natural resources such as forests, which are often locally specific and change over time (Ostrom, 1990; Carney, 1995; Baland and Platteau, 1996; Agrawal and Gibson, 1999; Larson, 2003, Persoon et al., 2005).

The core notion underlying the argument for the devolution of forest management to the local level is the assertion that local people as the users of forests are equipped with the time and specific knowledge, information, and incentives necessary for successful management of the forests on which they are dependent (Ostrom, 1990; Carney, 1995; Baland and Platteau, 1996; Agrawal and Gibson, 1999; Larson, 2003). Knowledge and information are gained from an extended and close relationship between the members of the community and the local (physical and social) environment (see reviews by Baland and Platteau, 1996; Ostrom, 1990). Communities’ dependence on these resources is believed to create incentives to maintain their sustainability (Ostrom, 1990). Because those most directly dependent on forests are local communities living in and around forest areas, the transfer of legal rights to local people is justified on the grounds that it will result in better and more equitable outcomes (see reviews by Baland and Platteau, 1996; Agrawal and Gibson, 1999; Edmunds and Wollenberg, 2003).

The ingredients of decentralisation (that is, efficiency, effectiveness, equity, and democracy), as set out earlier in this Appendix, are largely parallel with the aims of natural resource management that advocate the values of the “local”. Locally-based NRM decision-making is believed to speed up decision-making (Carney, 1995; Larson, 2003b), produce a greater sense of ownership and observance of rules and regulations (Carney, 1995; Agrawal, 2001; Larson, 2003b). Furthermore, it is argued that local people’s involvement in decision-making can provide a better chance to include marginalized groups in influencing natural resource management decisions (Agrawal and Ribot, 1999; Larson, 2003b), thereby enhancing equity.

A1-3-2 Participation, CBNRM, and democratic local governance

Agrawal and Ribot (1999) contend that the most fundamental objective of decentralisation is to achieve just political governance, that is, democratization, or the desire that each person

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52 See Persoon et al. (2005) for the differing perspectives on the definition of a community; Johnson and Forsyth (2002) define communities as groups whose solidarity and membership are based on face to face interaction.

52 Agrawal and Gibson (1999) and Agrawal (2000) point out, however, that positive representations of community obscure the divergent interests and processes within communities, and between communities and other actors. These can affect the outcomes of community based NRM.
should have a say in his or her own affairs (also Rondinelli et al., 1983; Turner, 1999). This has stemmed from one important rationale for decentralisation, that is, the assumption that greater participation in public decision making is a “positive good in itself” (Agrawal and Ribot, 1999: 475).

The basic underlying rationale often given for decentralisation to local government and for devolution to local communities is participation. Thus, although these processes are different in terms of who receives the power (the locus of power), they are not at odds with each other (Piriou-Sall, 1998). A functioning democratic local governance, of which one criterion is accountable representation (Ribot, 2005), should therefore represent citizens and communities and is an institutionalized form of “participation by proxy” (Piriou-Sall, 1998: 13).

Many decentralisation initiatives in forest resources thus have followed the rubric of community-based conservation, in which communities hold varying degrees of collective control over forests (Agrawal and Ostrom, 2001). Attention to community-based natural resource management (CBNRM) projects has been pushed to the fore by the twin factors of the perceived limits of the state in safeguarding natural resources and greater emphasis on popular participation (Agrawal and Gibson, 1999). Brandon and Wells (1992), after reviewing 23 conservation and development programs, asserted that the weaknesses of centralized state policies made CBNRM a better option than centralized, top-down approaches of forest management. CBNRM has been recognized as a way to support rural livelihoods dependent on natural resources while at the same time maintaining the sustainability of the resource on which they depend (for instance, Poffenberger, 1994; Lutz and Caldecott, 1996). However, many of these are small, isolated projects that have been driven by and implemented with external support (for instance, Ribot, 2002; Larson, 2003b; Persoon et al., 2005), raising questions about both their sustainability and generalizability.

Ribot (2002) suggested that claims of community participation be treated with caution, based on the following considerations. Firstly, cases of meaningful devolution, that is, the meaningful role of communities in forest resource decisions, are rare (Fisher, 2000). Secondly, as Little (1994) points out, the positive linkages between participation and environmental improvements, have not been clearly demonstrated. Enters and Anderson (1999) challenge the traditional assumptions of local community participation: whether local populations are actually interested in and able to maintain sustainable forest resource use and conservation; the fact that rural communities are in reality heterogeneous and often unstable (also Sihlongonyane, 2001); and whether local community-based tenurial, knowledge and management systems are uniquely

521 Others, however, such as Upreti and Shrestha (2000) and Lynch and Harwell (2002), contend that decentralisation can undermine community-based natural resource management regimes.

522 Wellstead et al. (2003), however, point out that most of the literature addressing relationships between representation and public participation in NRM use incomplete assumptions and therefore problematic.
suitable for forest conservation. Similarly, other observers point out that local participation is apparently not a necessary or sufficient condition for agricultural enhancement or better forest use (Uphoff and Esman, 1974, quoted in Ribot, 2002; Larson, 2003b).

Broad-based decision making, or what Ribot (2002) refers as "popular participation" is often hindered by the high differentiation within and among communities, such as by class, ethnicity, religion, gender, and vested interests. Agrawal and Gibson (1999), in their insightful investigation of the concept of community in the context of natural resource conservation and management, propose several ways in which to observe communities’ roles in NRM and development. These are the multiple interests and actors within communities, how these actors influence decision-making, and the internal and external institutions that shape the decision-making process.

To integrate and mediate these differences, Ribot (2001, 2002, 2004, 2005) emphasizes the importance of proper representation. He argues that the shift from a community-based participatory approach to local government approaches represents a shift "from ad hoc and experimental mobilization and inclusion techniques to more institutionalized, more easily replicable and potentially more sustainable forms of participation through local democracy" (Ribot, 2002:5.). He contends that the potential benefits of participation (that is, equity, efficiency, and environment and development benefits) will be only be achieved if and when decision-making powers and responsibilities are devolved to representative and accountable authorities or groups. “Representative local authorities are a means for establishing permanent – institutionalized and therefore sustainable – and large-scale – covering whole national territories – popular participation” (Ribot, 2004:17). This is where participation fits into the decentralisation picture. Democratic decentralisation or democratic local governance entails: (1) representative and downwardly accountable local authorities (or local governments); (2) who hold secure and autonomous discretionary decision making powers to enable their implementation (Agrawal and Ribot, 1999; Ribot, 2001, 2004).

Ribot (2004) uses the term "popular participation" to distinguish broad-based participation from stakeholder participatory approaches. Stakeholder participation, that is, the inclusion of interested parties in decision making, rather than all the citizens of a specific jurisdiction, is not considered a popular form of participation or representation. Stakeholder approaches, although they have been widely promoted and embraced by development agencies, at the same time have been also criticized for their shortcomings. Participatory approaches are typically applied to seek the inputs of local populations in a decision making process. Rather than empowering local communities by incorporating their voices and demands into local decisions, however, in practice these approaches are often manipulated and used to legitimize and impose external agendas. See in particular Cooke and Kothari (2001) for critiques of participatory approaches in development and natural resource management from various perspectives. Broad-based participation occurs when intended beneficiaries have a voice (Azfar, 1999).

Blair (2000) uses the term Democratic Local Governance (DLG) to mean democratic decentralisation.
A1-3-3 The potential and stakes of decentralisation of NRM

By definition, decentralisation initiatives are political as well as economic processes because they are about the redistribution of power and resources. Natural resources have specific characteristics that render them more political and economic in nature, compared to services and infrastructure, the two major sectors often targeted for decentralisation reforms (Kaimowitz and Ribot, 2002). These characteristics could enhance the promise of effective decentralisation, but at the same time could also heighten the challenges (Kaimowitz and Ribot, 2002; Larson, 2003b). Another specific feature of natural resources is, despite their local characteristics, their multiple-scale effects.

The political and economic nature of natural resources

For the most part, natural resources are sources of income and wealth for various segments of the populations and for states (for example, Repetto and Gillis, 1988; Ascher, 2000). These characteristics therefore can have direct implications for rural poverty, local development, and equity. Because natural resources are critical for rural livelihoods, their redistribution of control through decentralisation can provide greater opportunities for increasing equity and alleviating poverty (for instance, Larson, 2003b).

Transferring natural resource management responsibilities to lower level governments is believed to involve less cost compared to decentralisation of services and infrastructure because the revenue-generating properties of natural resources mean that their management could be self-financing (Kaimowitz and Ribot, 2002). Rather than being an expenditure, control over natural resource rights through regulation or taxation can be a significant source of revenue for local government coffers (for instance, Kaimowitz and Ribot, 2002; Resosudarmo et al., 2006). Decentralisation of control over natural resources, therefore, can be used to provide local development opportunities. Financial or economic considerations were observed as the most notable determinant of local governments' interests in forests in a number of countries (for instance, Kaimowitz et al., 2001; Toni, 2003).

Natural resources can also be used to establish a more expansive patronage network and provide greater economic opportunities compared to other sectors (Kaimowitz and Ribot, 2002). This was one of the distinct features of forestry in Indonesia during the New Order period (Barr, 1998, Ross, 2001; Resosudarmo, 2002).\footnote{In broad terms, patronage is the act of supporting or favouring some person, group, or institution. A patronage system has different characteristics depending on the area in which it is practised. Generally it can be described as a system where someone in a powerful position (the patron) offers handouts in return for support.} The productive nature of natural resources means that they can offer highly lucrative extractive opportunities. Access to the use of natural resources through concessions, from small to large-scale, constitutes an important base for economic and political power (Kaimowitz and Ribot, 2002). Decentralizing control over natural resources to
local governments, therefore, can determine how local power relations are played out, which in turn can influence equity outcomes (Larson, 2003).

The commercial value attached to natural resources makes them a potential source of rent. They consequently attract the interest of various actors to pursue their own objectives, in the forms of taxes, fees, or informal revenues (Kaimowitz and Ribot, 2002; McCarthy, 2002). This could lead to conflict between local governments and other levels of governments over who will capture the rents, as well as conflicts between local governments and other actors (Conyers, 2002).

According to Kaimowitz and Ribot (2002), the ability to allocate natural resources, resources which are tied intricately to local livelihoods and/or income and wealth, reflects the power of a particular actor. Thus, local governments’ authority over access to and use of forests obtained through decentralisation makes local governments politically, economically, and socially important to the local population (Kaimowitz and Ribot, 2002). As noted in section A1-2, a particularly important associated problem here is thus the issue of elite domination.

The issue of scale

Despite being locally specific, one feature that distinguishes the management of natural resources from other sectors such as services and infrastructure is their cross and multiple-scale effects. They include, for example, downstream effects of water use and deforestation, or national and global effects of deforestation and biodiversity loss (for instance, Thomson, 1994). The appropriate management scale therefore does not always coincide with predetermined political or administrative boundaries. The extent to which local populations’ interests diverge from the interests of the larger community adds another layer of complexities in the decentralisation of NRM.

This locally-specific yet multi-scale feature of forests raises the issue of subsidiarity. The principle of subsidiarity refers to the idea that decisions should be made at the lowest political-administrative level where competencies exist (Follesdal, 1998). Thus subsidiarity is the concept behind acts of decentralisation. To what level should authority over forest management be devolved? Or what kinds of authority should be devolved to whom? According to Anderson (2000), along with empowerment, pluralism, and social capital, subsidiarity is an important consideration in understanding decentralisation of forest management. Subsidiarity aims for the effective implementation of tasks within a given policy and a hierarchical level, which minimizes costs and maximizes social well-being. Thus, subsidiarity can be used as a tool to assess the options for decentralisation efforts; to assess the capacity of levels of authority or entities, and to provide a comparison of responsibilities and authority to the most appropriate entity (Anderson, 2000).

The principle of subsidiarity applies to decentralisation reforms in two ways. It relates both to the size of the jurisdiction over which powers are devolved and to the balance of powers among levels of authority. Studies have shown that there is an important correlation between the
sizes of the jurisdiction to which powers are devolved with the outcomes of decentralisation reforms (Agrawal, 2001a; Rowland, 2001). Similarly, the balance of powers among levels of authority has been a critical component in natural resource decentralisation. The importance of maintaining the balance of powers among various levels of authority is discussed in the next section.

**A1-3-4 Key elements affecting the outcomes of decentralized NRM**

As elaborated above, the two primary elements in democratic decentralisation are power and accountability. This section first elaborates the dimensions of power critical to democratic decentralisation, and then discusses the concept and application of accountability.

Within the power dimension, the following elements are believed to be critical in the implementation of democratic decentralisation process and outcome: the nature and types of powers devolved to lower-level authorities, the means for the transfer of power, the balance of powers among authorities of power, and power relations among and between actors.

**Discretionary powers of decision-making**

Decentralisation is hinged upon the transfer of meaningful discretionary powers to the local level (Agrawal and Ribot, 1999; Ribot, 2004, 2005). Ribot (2004) argues that discretion determines the effectiveness of decentralized natural resource governance, both on the basis of natural resources' particular characteristics and on the principles underlying democratic governance. The first major reasoning revolves around natural resources’ specific features discussed in section A1-3-3, above. Local discretion is required in NRM to tailor to natural resources’ spatial, temporal and social variations. Furthermore, discretion often has to be applied in determining the use and allocation of natural resources as they are associated with significant political and economic opportunities. The wealth-generating and livelihood opportunities associated with natural resources lead to a multitude of interested actors. Thus, discretion is often necessary in natural resource governance as it allows for flexible and informed negotiations among the multitude of actors claiming the resource.

The second major rationale for local discretionary powers revolves around the components of democratic public decision making. Local-level discretion is argued as critical in natural resource management in the ways in which it determines local governments’ responsiveness. Local governments’ discretionary powers allow them to make decisions and take actions that are responsive to the needs and demands of their citizens. Citizens then can respond to local governments’ decisions and actions. People and civil society are more likely to engage in activities that aim to influence local government decision-making if local governments are able to respond to their activities.

The kinds of discretionary powers devolved to the local level correspond to the powers in government. They are the power to make rules or modify existing rules (legislative), the power
to make decisions and implement or enforce those decisions (executive), and the power to adjudicate disputes arising from the new rules or decisions (judicial) (Agrawal and Ribot, 1999; Ribot, 2004). Each of these types of powers was discussed in Chapter 2, Research Framework (Box 2.2)

**Means of transfer**

Another element within the power dimension critical to decentralisation is the means of the transfer of power (Conyers, 1990 cited in Ribot, 2005). The means of power transfer can take different forms, ranging from the most secure form of constitutional transfers to the less secure form of laws, to the least secure in the form of ministerial decrees or administrative orders (Ribot, 2005). The means of transfer is insecure if it can be easily changed or revoked.

The security of the transfer of power can affect the outcomes of natural resource decentralisation. For instance, in Kumaon, India, the insecurity over the rights to fell timber resulted in a rush to exploit the resource and in over-cutting (Agrawal, 2001a). The perceived insecurity over the locus of power has led to the “get-it-while-you-can” attitude in timber exploitation in Indonesia (Resosudarmo, 2004).

As pointed out in section A1-2, one of the issues often observed in decentralisation reforms is the reluctance to relinquish powers. This is reflected in the transfer of powers as a mandate, rather than significant discretionary powers (therefore, largely administrative decentralisation, rather than democratic decentralisation). Thus, forms of incomplete or partial decentralisation, where powers are transferred only as a mandate or without relinquishing the accompanying resources, and the swinging of the pendulum back to the Centre, where decentralized powers and authority are taken back, are not uncommon (Ribot et al., 2006). The transfer of power through weak means, such as through ministerial decrees, makes it easier for national governments to subsequently withdraw powers devolved to local levels.

**Balance of powers**

The granting of unlimited powers to local authorities can result in the excessive exploitation of natural resources and in the disregard of the interests of the weaker segments of the community. This can occur even in cases where local authorities meet the criterion of (downwardly) accountable representation (Ribot, 2004). Larson (2003a:6) asserts that an ideal form of decentralisation comprising a “perfect combination of formal powers and downward accountability may never be achieved in practice, or at best, will only exist in a state of dynamic tension”. Again, the inherent revenue-generating feature of natural resources, compared to other sectors which mostly incur costs, by its very nature provides an incentive to exploit the resource. This is further exacerbated by the fact that externalities associated with the exploitation of natural resources are mostly borne by those largely outside the area where the resource is located, or by future generations. Thus, it is argued that to protect social and environmental values, not all powers should be devolved to lower levels (for instance, Ribot,
Rather, an appropriate balance of powers between and among levels of government is required (for instance, Piriou-Sall, 1998, Larson, 2003a; Larson, 2003b; Ribot, 2004, 2005). How powers and responsibility are shared between the Centre and local-level authorities is context-specific and should be determined on the basis of both local and broader public interests (Capistrano and Colfer, 2005).

Local power relations

The outcomes of decentralisation are believed to be determined by several factors. One of these is power relations among local actors (Larson, 2003b; Toni, 2003; Pacheco, 2005). Local governments’ decision making occurs within the realm of a complex arena of interacting local actors, and thus is subject to political pressure. The realities of local politics determine the outcomes of decentralisation of natural resources (Gibson and Lehoucq, 2003; Wardell and Lund, 2006). In addition, other factors, such as incentive structures (Kaimowitz et al., 1998; Larson, 2002, 2003a, 2003b; Andersson, 2003; Andersson et al., 2006), environmental and social ideologies (Larson, 2003b), and local government capacity (Larson, 2002), are also important.

Understanding power relations

Although the theories of power are not the focus of this thesis, to understand power relations it is necessary to briefly review the central concept of power.

The concept of power

There has been considerable debate about the definition of power among theorists, but the essential idea of power is “the ability to affect the actions or ideas of others, despite resistance” (Olsen and Marger, 1993:1). The actors exercising powers can be either individuals or groups or organisations (Barnes, 1988; Olsen and Marger, 1993). The usage of the term can be reduced to a single underlying concept and described as a generalized capacity to act (Hindess, 1996:1), as well as a capacity to control or influence others (Wrong, 1995:11). It refers to “a generalized capacity of an actor, in his relations with others, to reduce resistance to the course of action he prefers in a given field (i.e., in the ‘presence’ of other actors) about a set of matters over a period of time” (Etzioni, 1993:19).

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329 Thomson (1994) argues that the central government’s role in natural resource management should be limited to being a “passive referee”, comprising establishing enabling legislation, dispute resolution, information dissemination, co-financing of natural resource management initiatives, and in biodiversity conservation in cases where local regimes do not have the capacity or are not interested in doing so.


The term “political power” is used in the political context and has to do with questions of governance and the democratic nature of government. Bertrand de Jouvenal (1945 cited in Wartenberg, 1990) for instance, treats the term “power” as identical to “government”. Social power is a much broader phenomenon in society and extends beyond the governmental sphere (Wartenberg 1990).

Power, influence, and authority

Power and influence are often used synonymously. Etzioni (1993) distinguishes influence and power in terms of the preferences of the actor. When power is applied, it changes the actor’s situation, but not his preferences. The exercise of influence, on the other hand, results in an authentic change in the actor’s preferences.

Similarly, the terms power and authority are also often conflated. Politics includes a struggle for power (Wrong, 1995) and the exercise or use of power (Bratton, 1994), and also a struggle to limit, resist, and escape from power (Wrong, 1995). Authority is defined as legitimate power (Etzioni, 1993; Bratton, 1994) 531. Legitimate authority can rest on traditional values, beliefs, or norms, or on legal prerogatives, or special expertise or knowledge (Olsen, 1993).

Power implies a relationship between two actors. “Power relations are asymmetrical in that the power holder exercises greater control over the behaviour of the power subject than the reverse, but reciprocity of influence – the defining criterion of the social relation itself – is never entirely destroyed except in those forms of physical violence” (Wrong 1995:10). Power is employed when there is a difference of perspective, interest, or when there is conflict between actors. Thus, power implies a struggle, negotiation, and compromise (Villareal, 1992). Actors who are often considered weak, such as people in peasant societies and women, are often able to apply their own weapons to challenge those in power and find room to manoeuvre in everyday forms of resistance, including foot dragging and false compliance (Scott, 1985).

Local politics and power relations in natural resource use and management

Local-level power relations rather than legal or policy prescriptions often determine the actual access to or rights over natural resources. Sikor (2004) described the overt and successful resistance of villagers in Vietnam over state-imposed land allocation. In Ghana’s decentralisation, for example, supposedly illegal agricultural activities and illegal fishing were allowed to continue as officials wielded their powers through rent extraction (Wardell and Lund, 2006). Also in Ghana, local politics defined the actual effective rights of access to land use (Wardell and Lund, 2006).

531 See also Barnes (1988) discussion on influence and power
Increased powers of those often considered "weak" are often gained by forging alliances with other actors. For instance, Brown and Rosendo's (2000) study of Brazilian rubber tappers concluded that alliances at the local level between rubber tappers and environmental organisations have increased their influence in relation to other powerful actors, such as cattle ranchers and loggers, in national natural resource policy. Consequently, grassroots actors have gained increased political powers, although less so in terms of economic powers. Similarly, Peluso (1995) documented activists' support for community mapping to counter state claims over their areas and Johnson and Forsyth (2002) observed that assistance by NGOs and academics has led to some Thai communities gaining control over forest lands from the state.

A1-3-5 Accountability

The other core component of democratic decentralisation is accountability. Within the various forms of accountability, Agrawal and Ribot (1999), and others (for example, Larson, 2003b; Pacheco 2005), emphasize that downward accountability of local authorities with decentralized powers, that is their accountability to their constituencies, is the most critical form of accountability in the arena of natural resources (section A1- above). As accountability is one of the core dimensions applied in the research framework of the thesis (Chapter 2), this concept is discussed in some detail in the following section.

What is accountability

Accountability, just like decentralisation, is now also fashionable in government, development, and natural resource management discourses. Just like decentralisation, the term is often understood and used differently (Blair, 2000). It is also a complex, ambiguous, and contested concept (Sinclair, 1995; Schedler, 1999; Mulgan, 2003).

The term accountability is used to express the continuing concern for the need for checks, oversight, and institutional constraints on the exercise of power (Schedler, 1999). Mulgan (2003:1) refers to accountability as the "obligation to account, a method by which the public is kept informed and the powerful in check".

The need to keep the powerful in check is consistent with the recognition that "every type of power is subject to abuse" (Grant and Keohane 2005:41). The functions of accountability are thus primarily to expose and sanction two sorts of abuse: the unauthorized or illegitimate exercise of irresponsible or unjust power decisions (Grant and Keohane 2005). In addition to a means of controlling the potential abuse and misuse of public authority, Aucoin and Heintzman (2000) provided additional purposes of accountability: to assure the public of the proper use of public resources, adherence to the law, as well as a learning process for improved governance and public management.

Central to the discussion of decentralized natural resource governance is political accountability. Broadly defined, political accountability encompasses any acts of accountability addressed to public officials, including politicians, civil servants, judges, police officers,
military officers, and diplomats (Schedler, 1999). For instance, these officials can be assessed for the appropriateness of the policies and policymaking processes; the expediency or procedural correctness of bureaucratic acts; the use of public money (financial accountability); and the observance of legal rules.

Alternatively, political accountability has also been defined in terms of the level of uncertainty over which judgments are made, in contrast to the more straightforward issues associated with financial compliance or the performance of certain objectives or agreed-upon obligations. Political accountability can be described as: "oversight of public officials and agencies in terms of their responsiveness to political leaders and to citizens, and of fulfilment of the public trust" (Brinkerhoff, 2001:6) or "... has to do with institutions, procedures, and mechanisms that seek to ensure that government delivers on electoral promises, fulfils the public trust, aggregates and represents citizens' interests, and responds to ongoing and emerging societal needs and concerns" (Brinkerhoff 2001:8).

**Accountability and power**

Accountability is "defined, created and enforced by power" (Newell and Bellour 2002:23). The ability to demand and exercise accountability presupposes power, the right to demand and the willingness to respond to calls for accountability assumes relations of power (Schedler, 1999; Newell and Bellour, 2002; Grant and Keohane, 2005). According to Lonsdale (1986), the need for accountability emerges from the fact that power is unequally shared. If power were equally shared, that is, if nobody could command compliance or service from anybody, it would cease to exist and its accountability would not be a problem (Lonsdale, 1986). If "power is not to some extent shared, there can be no effective base from which it may be controlled, or any protected right to discuss its purposes" (Lonsdale 1986:128).

Schedler (1999) emphasizes that the idea of political accountability is to control political power, not to eliminate it. Accountability processes are carried out to restrain power, to limit its arbitrariness, and to prevent or redress the abuse of power to keep its exercise in line with pre-established rules and procedures.

The existence of power provides their very raison d'être. Without power, without the capacity to make decisions and the corresponding capacity to attribute decisions, it does not make any sense to talk about accountability. Nobody can hold anybody accountable for the things beyond that person’s control (Schedler, 1999:18-19).

Mulgan (2003) explains accountability using the principal-agent relationship. In the delegation of power, those who delegate (the principals or the account-holders) would need to check the actions of those to whom they delegate power (the agents or the accountors). Thus, accountability here is seen as one important means of protecting the interests of the principal,
manifested in the principal’s right to call an agent to account, to seek information, explanation, and justification.

Grant and Keohane (2005) propose two comprehensive models of accountability which are based on different conceptions of the legitimacy of political authority. Their models, called the “participation” and “delegation” models of accountability, are fundamentally different with regard to who is entitled to hold the powerful accountable. In the “participation” model, the performance of power-wielders is evaluated by those who are affected by their actions. In the “delegation” model, on the other hand, accountability is demanded by those entrusting them with powers. In addition, each model has two variants to distinguish the relation between the powerful and the publics they serve. Power-wielders are viewed either as agents of the public or as authorities with discretion.

The rationale for accountability is based on two broad types of justification. The first involves rights of prior authority or ownership. This links accountability and the principles of democracy, where government draws its authority from the people and thus is ultimately “owned” by the people (Day and Klein, 1987). The second involves the principle that a person whose rights or interests are unfavourably affected by the actions of another has a right to hold that person to account for the way he/she has been treated. Thus, citizens’ rights to hold the government to account are justified by both the principle of rights of ownership and affected rights and interests (Mulgan, 2003).

Accountability is viewed to consist of two principal dimensions: answerability and enforcement or rectification (Schedler, 1999; Brinkerhoff, 2001; Mulgan, 2003; Grant and Keohane, 2005). Accountability obliges power to be exercised in a transparent manner and to justify its actions. Accountability has informing and justification aspects. In terms of democratic governance, the informing aspect relates to transparency, while the justification aspect relates to government responsiveness and to the exercise of voice by citizens. Accountability thus contains elements of monitoring and oversight, as well as reasoning. Another defining element of accountability is the availability and application of sanctions for illegal or inappropriate actions and behaviour. According to this view, sanctions without enforcement significantly diminish accountability. Accountability is complete when the enforcement or rectification dimension is fulfilled: agents are not only called to account, rather they must also be held to account.

**Accountability versus responsibility, control, and responsiveness**

If we adhere to the core meanings of accountability described above (adopted by, among others, Schedler, Brinkerhoff, Mulgan, and Grant and Keohane), that is, in essence, calling and holding institutions or officials to account, Mulgan (2003) asserts that there is a need to
recognize the distinction between accountability and other types of related processes that are sometimes used interchangeably: responsibility, responsiveness, and control.\footnote{Accountability is often used interchangeably with the similar concepts of responsiveness, responsibility, and representation (see Przeworski, Stokes and Manin, 1999 in Newell and Bellour 2002) and transparency, as well as trust (see Cornwall, Lucas and Pasteur, 2000 in Newell and Bellour 2002).}

**Accountability versus responsibility**

One of the reasons why political accountability is a complicated concept to use is because of its ambiguity vis-à-vis other concepts. The concept of accountability is often conflated with that of responsibility. As Lonsdale (1986) explains, political accountability comprises a dual notion: it combines the ideas of responsibility and accountability. “Rulers claim to be responsible to their people; people try to hold them to account. Accountability is thus a measure of responsibility” (Lonsdale 1986:127).\footnote{Pellizoni (2004) proposes four dimensions of responsibility relevant in environmental governance: care, liability, accountability and responsiveness. Thus, according to Pellizoni, accountability is but one dimension of responsibility.}

Accountability implies a relationship between two parties, the account-holder (the principal) and the accountor (the agent). The accountor is subject to external scrutiny from the account-holder. Responsibility is associated with internally-driven action, that emerges from the capacity to act from free choice to fulfil certain tasks, whereas accountability involves scrutiny imposed by someone else (Mulgan, 2003). The two concepts are closely connected in that holding someone to account often implies that the individual being held to account is personally responsible for his or her actions (Mulgan, 2003). Accountability and responsibility, however, diverge in the case of collective actions. Blame, fault, or praise over the performance or process being scrutinized involving an organisation may not personally be attributed to the head of an organisation, although they are the ones being held accountable (Mulgan, 2003). They are accountable not because they are personally responsible for the case, but because of their role as the head of the organisation. Accountability in this case is attributed to their role (role responsibility), rather than personal responsibility (for instance, Schafer, 2000). Thus accountability presupposes personal or role responsibility (Schedler, 1999; Mulgan, 2003). Responsibility, on the other hand, does not always entail accountability: a person can act responsibly without being requested to justify his/her actions.

**Accountability and control**

Accountability is generally understood as involving inquiries after certain actions have occurred and imposing improvement or sanctions over these past, perceived unsatisfactory actions. Thus, accountability operates ex-post, and therefore is essentially backward-looking (Mulgan 2003; Grant and Keohane, 2005). However, the prospect of sanctions can have a
deterrent effect on those held accountable, which in turn influence future actions (Mulgan, 2003; Grant and Keohane, 2005).

The retrospective feature of accountability distinguishes it from the various forward-looking means of control, such as laws and regulations. Accountability only comes into play after procedures for enforcing the rules and guidelines are specified. Control implies “ex ante application in a decision, while accountability involves ex post oversight” (Scott 2000:38). According to Mulgan (2003), legal and administrative controls may result in public decisions that are more responsive to the interests of the public, but are not themselves mechanisms of accountability. The purpose for the enactment and the enforcement of most laws and regulations is to enable and control the actions of individuals or organisations, although some laws and regulations can directly concern accountability. Thus, accountability performs one aspect of legal and regulatory control that constitutes an essential part, but not the whole, of an effective system of institutional control (Mulgan 2003). Scott (2000) proposes that control and accountability be viewed as linked concepts that operate on a continuum. However, this would need more discussion.

Accountability and responsiveness

In addition to responsibility and control, accountability is often closely identified with responsiveness. For instance, one definition of accountability is: “the legal obligation to be responsive to the legitimate interests of those affected by decisions, program, and interventions” (Wilson, 1978 cited in Considine, 2002:22). A responsive government acts according to citizens’ preferences. One of the key aims of accountability processes is to ensure that the accountors are responsive to the interests and desires of their principals. Mulgan (2003) sees accountability as a means to achieve public officials’ responsiveness: “Responsiveness is an end to which accountability is a means” (Mulgan, 2003:21). However, accountability is not the only way to make governments responsive to citizens. There are other ways to secure responsiveness that do not involve scrutiny like accountability, such as enhancing corporate culture of public officials (Thomas 1998 cited in Mulgan, 2003; Considine, 2002).

Types and categories of accountability

Various typologies of accountability have been offered in the analysis of the public sector, yet none have been accepted unanimously. For instance, Day and Klein (1987), suggest two types of issue for which those being called to account are answerable: actions where the criteria of judgment are contestable (political accountability) and tasks conducted according to agreed criteria of performance (managerial accountability). Romzek and Dubnick (1987), apply two criteria, the externality or the internality of the source of demand for accountability and the extent of control. Four basic types are advanced based on these criteria: legal (external with

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534 Cohen and Peterson (1999), for example, includes laws as a means of accountability.
high control), political (external with low control), bureaucratic (internal with high control), and professional (internal with low control) accountability. Oliver (1991 cited in Mulgan, 2003) focuses more directly on different institutional directions of accountability: to ministers and parliament (political accountability), to courts (legal accountability), to non-parliamentary bodies such as ombudsmen (administrative accountability) and directly to the public (public or consumer accountability).

Deleon (1998) categorized different forms of accountability based on the degree of clarity or certainty of what the accountor is being asked to be accountable for, that is, either for results or processes. Based on these criteria, four types of accountability are established: bureaucratic, political, professional, and anarchic accountability. Bureaucratic accountability occurs when goals are clear and means are specified, and where the accountors can be held accountable for both results and processes. Political accountability occurs when goals are unclear or even conflicting, but where means to achieve the goal can be understood. In this case, accountability is demanded not for results but for processes. Professional accountability occurs when goals are clear but means are not, and focuses on results. Anarchic accountability refers to a situation where neither the goals nor the means are clear; demanding accountability for results or for processes is thus not justified. In this situation, Deleon suggests that the most appropriate mechanism for accountability would be the participation of those involved in the organisation.

Brinkerhoff (2001) suggests three typologies for accountability relevant to systems of democratic governance: democratic or political accountability, financial accountability, and performance accountability. Political accountability (defined above) reflects the quality of democracy. Financial accountability deals with the control and monitoring of financial resources used government administration. Performance accountability links resource use with achievement or results. Brinkerhoff asserts that these types of accountability are not stand alone processes; rather, they exist in complex interconnections.

Directional analysis of accountability includes vertical and horizontal accountability. However, analysts generally agree that there is not yet a clear consensus as to what each one means (Schedler, 1999; Scott, 2000; Mulgan, 2003).

Vertical accountability can be seen as corresponding to the normal exercise of power or “top-down” chains of control. Instances where individual officials are accountable to their superiors are referred to as upward accountability. Vertical accountability can also imply the inverse of the usual power relations, corresponding to “bottom-up” flow. Thus, downward accountability refers to instances where organisations or individuals are being held for judgment by those over whom they wield authority. The accountability relation between elected or appointed officials to citizens represents downward accountability. However, the relation

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328 International politics is Deleon’s example involving anarchic accountability.
between a superior with some degree of accountability to his/her subordinates also illustrates downward accountability. O’Donnell (1998; 1999), however, reserves vertical accountability to mean the ways in which citizens keep state power in check through elections or through other societal means.

The term horizontal accountability is also understood and used in different ways. In the literal sense, horizontal accountability refers to someone (or organisation) holding someone else (or another organisation) of roughly equal power accountable, such as among members of the executive, legislative, or judiciary. But because power is relational, it is difficult to measure. In particular, identifying instances of roughly equal political power in the real world of democratic politics is an impossible task (Schedler, 1999). Furthermore, for accountability to be effective, the accounting party should be more powerful than and not on equal footing with those being held accountable (Schedler, 1999). To overcome these difficulties, Schedler (1999) suggests that horizontality would be better defined in terms of autonomy, where the accountor and the accounting party do not stand in a relation of formal subordination or superiority to each other.

O’Donnell proposes horizontal accountability to refer exclusively to intra-state institutional oversight, checks and balances:

... the existence of state agencies that are legally enabled and empowered, and factually willing and able, to take actions that span from routine oversight to criminal sanctions or impeachment in relation to actions or omissions by other agents or agencies of the state that may be qualified as unlawful (O’Donnell, 1999:p.38)

While O’Donnell reserved the notion of horizontal accountability to intrastate relations, others (for instance, Sklar, 1999; Schmitter, 1999) suggest that it also includes actors outside the state, such as civil society, that hold state agents accountable.

Given the complexity of accountability structures, accountability specialists suggest that we look at four sets of accountability questions: who is accountable, to whom, for what, and how (Schedler 1999; Scott, 2000; Mulgan, 2003).

Who is accountable?

The person held accountable is the person who is responsible, that is, the person who can choose to act or not to act in the performance of certain duties and who is therefore liable for success or fault. This could be individual accountability and collective accountability. An individual accountability occurs when a single responsible person is held accountable; a collective accountability refers to that of an organisation, such as a government agency or a company. In addition to collective accountability of an organisation, members within that organisation are also individually accountable for performing their respective duties (individual or personal accountability).
To whom?

In the simplified model of accountability, there is a single account-holder, either an individual or a collectivity, that is seen as the owner or initiates the activity. Thus, in the case of government, the ultimate account-holder is the people or the citizen body. Government agencies are also accountable to the individual citizens whom they deal with directly. This function is usually delegated to specialized institutions which act as accountability agencies on the people’s behalf. These agencies include various courts and tribunals, together with the police and other enforcement agencies.

For what?

Accountability can be focused on the performance of the agent’s task, on the agent’s particular decision, and on compliance of rules and regulations. In the public sector, performance goals are often not easy to specify, where accountability usually revolves around process and procedures. Thus, some performance accountability are general in nature where the agent being held accountable is obliged to act according to the interests and preferences of the account holder (for example, voters).

How?

Mechanisms of accountability include both the processes or procedures and the different institutional structures or avenues through which officials and institutions are made accountable. Mulgan (2003) writes that these include the wide range of processes and procedures such as financial accounts and other written reports, formal investigation and questioning through public hearings in a court, open discussion in political debate, and private discussion and interrogation. The institutional avenues include review and audit agencies and directly to members of the public.

While Mulgan (2003) asserts that accountability should only be used to describe processes that involve external scrutiny and sanctions, others have often used the term to include the means of control of power even if they do not involve calling and holding anyone to account (for instance, Peters, 1984; Agrawal and Ribot, 1999; Blair, 2000; Smulovitz and Peruzzotti, 2000; Ribot, 2004). The latter typically include non-state institutions, such as civil society or interest groups, as instruments of accountability (Peters, 1984). This broadened concept of accountability, often referred to as societal accountability, is discussed next.

Societal accountability

The broadened concept of accountability adopts means of checks and balances by social institutions. Formal accountability mechanisms involving state institutions have certain limitations. For instance, elections, the most common mechanism of accountability, take place periodically, often within several years of spaced intervals and address only broad issues. Furthermore, elected representatives often fail to effectively hold civil servants to account for their performance or in accommodating citizens’ concern and preferences in their decisions.
(Goetz and Gaventa, 2001). This gap has led to initiatives for the involvement of civil society as mechanisms of accountability or in compelling accountability processes and increasing governments’ responsiveness. Societal accountability includes monitoring by third party such as the media and NGOs, political pressures, lobbying by associations, social movements or social mobilizations, and threats of social unrest and resistance (Peters 1984; Fox, 2000; Agrawal and Ribot 1999; Azfar et al., 1999; Blair, 2000; Goetz and Gaventa, 2001; Ribot, 2004). Of these, monitoring by a third party is the most critical, and is discussed here.

**Media**

One social accountability institution that can enhance the effectiveness of democratic decentralisation has been the involvement of the media (Agrawal and Ribot, 1999). Media contributes to state accountability, both by filling the gaps left by ineffective state institutions of accountability and by enhancing their effectiveness (Fox, 2000). Media can promote local governments’ transparency and accountability by disseminating information about local government decisions and actions. At the same time, it can also monitor and investigate local governments’ actions. Public exposure and humiliation of wrongdoers through the media can restrain politicians and bureaucrats from abusing their authority and power for personal gain.

However, there are issues with regard to the role of the media in societal accountability. One issue relates to the risks to maintaining individual rights (Smulovitz and Peruzzotti, 2000). The media’s effectiveness in exposing abuses of public positions is often derived from the media’s accusations of wrongdoings. Even if they were unsubstantiated, according to Smulovitz and Peruzzotti, coverage of such accusations leads to a perception of guilt. Thus, rather than the common rule of someone being “innocent until proven guilty”, effective media coverage often creates the perception that someone is “guilty until proven innocent” (Smulovitz and Peruzzotti, 2000:154).

Another problem has to do with the media’s own accountability (Fox, 2000; Muller, 2005). Fox (2000) points out that, in addition to being a societal actor, the media is also a market actor. Thus, the media are often accountable to market pressures and do not necessarily have strong incentives to contribute to improved governance. Like any other actor, both publishers and journalists are not free from institutional and personal interests; this can affect the information disseminated. For instance, in a comprehensive study on media accountability in Australia, Muller (2005: 261) finds:

> the system of media accountability is fragmented, lacking transparency in its operations, inherently biased towards the interests of journalists and publishers, and lacking credibility ... The mechanisms of media accountability are inadequate both in absolute terms and when compared with the standards of accountability demanded by the media of other institutions such as parliament, executive government and the judiciary.
The issues conveyed by Muller parallel the problem of second-order accountability pertaining to state institutions of accountability. As Schedler (1999) points out, institutions of accountability are also susceptible to the same inefficiency and abuse as any other locus of power.

**NGOs**

Both development and natural resource management discourses have promoted the role of NGOs through the strengthening of civil society and local governance. For instance, NGOs have helped empower villagers in asserting their rights over forest control in Thailand (Johnson and Forsyth, 2002). More recently, NGOs have also been active in institutionalized forest monitoring initiatives (Young, 2007). Krishna (2003) observed the mutually reinforcing partnership between local governments and NGOs. Larson (2002) found that the relationships between NGOs and local governments and with each other have determined the level of interest in local resource management.

In certain cases, however, the extent to which NGOs participate in local public decision-making arenas and their outcomes are dubious. In the Philippines' experience of decentralisation, the active participation of NGOs reportedly has had mixed outcomes. Despite their "active participation", in practice NGOs have had little power in policy planning and exercise in public service delivery sectors. Furthermore, their actual participation has been ambiguous, as some mayors have created rubber-stamp NGOs (Azfar et al., 2000).

To maintain their legitimacy and effectiveness to support their cause successfully, it is important that NGOs themselves be accountable (Edwards, 2004; Kilby, 2006). As Jepson (2005) argues, trust and accountability go together in public-NGO relations. Erosion of public trust will weaken the NGOs' capacity to deliver on their promises. In this regard, similar issues of accountability identified in the case of the media also prevail with NGOs. For instance, NGOs can be self serving and elitist; they may not necessarily serve local government policies (Smoke, 1999) and even engage in rent-seeking activities (Contreras, 2003). In addition to problems associated with NGOs' accountability, Newell and Bellour (2002) also point out issues associated with their representativeness. There is no clear path where NGOs can be held accountable by their constituencies whose interests they purportedly represent (Najam, 1996 cited in Kilby, 2006). Kilby (2006) finds that informal accountability processes are not effective in linking NGOs to their constituency or in community empowerment, and suggests that formal forms of accountability processes are required.

Thus, while decentralisation in both development and NRM arenas is advocated by analysts, practitioners, and donors alike as an alternative to a centralized mode of governance, it is not free from limitations. The challenges are potentially even more pronounced in NRM because of the specific nature and characteristics of natural resources.

The extent to which democratic decentralisation is able to deliver its promises in terms of improved NRM, as suggested by current theories and conceptions, is dependent on the
fulfilment of certain elements. Among the most important of these are discretionary decision-making powers, the means of transfer of powers, the balance of powers between levels of authority, and the power relations between and among relevant actors.

Accountability is a critical component for keeping the exercise of powers – by those to whom powers are granted – in check. Democratic decentralisation, which rests on the key principle of participation in decision-making and which underpins improved NRM, is perceived to hinge on downward accountability, that is, the accountability of those holding powers to their constituencies. The effectiveness of downward accountability relations is dependent on the workings of formal and societal (informal) accountability mechanisms.

The dissatisfaction over the highly centralized concentration of power and authority under the New Order period and the ways in which this power had been exercised drove Indonesia’s wide-ranging politico-socio and economic reforms, reformasi. Among the driving forces was regional dissatisfaction over the concentration of both control and beneficiaries of natural resources at the Centre. For instance, during the New Order period, the intensive exploitation of forests had only marginally benefited regions and localities where the resource was located. Consequently, a multitude of institutional reforms was put in place through a flurry of laws.

A set of landmark decisions paved the way for administrative, political, and fiscal reforms in May 1999: the promulgation of the decentralisation laws, Law 22 of 1999 on Regional Governance and Law 25 of 1999 on Fiscal Balancing between the Centre and the Regions.\(^5\) Consistent with the ways in which these two laws have been referred to in Indonesia, unless otherwise noted, the “decentralisation law” or the “regional autonomy law” refers to Law 22 of 1999 on Regional Governance; the “fiscal decentralisation law” refers to Law 25 of 1999. When the term “decentralisation laws” or “regional autonomy laws” are used, they refer to both Law 22 and Law 25 of 1999. In September of the same year, the Parliament also passed the new forestry law, Law 41 of 1999 on Forestry.

A2-1 Brief overview of forest administration and management of forests during the New Order period

Under Indonesia’s Constitution, the authority and responsibility over “branches of production which are important for the State and which affect the lives of most people” rest with the State “the soil, water and natural resources are controlled by the State and used for the people’s welfare”.\(^6\) Control over forests and their management during the entire New Order period was guided by the 1967 Basic Forestry Law, promulgated immediately after the New Order regime came into power. The law opened up the way for the Central Government to utilize the Outer Island forests as the “engine of development” by generating revenues much needed by the country (Resosudarmo, 2002:162-163).

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\(^{6}\) Articles 33(2) and 33 (3) of the Indonesian Constitution
A2-1-1 Basic Forestry Law (Law 5 of 1967 on Basic Forestry)

The Basic Forestry Law served two purposes: it provided the national government with *de jure* control over forests in the Outer Islands and provided the framework for the commercial exploitation of forests. Thus, it legally positioned the Central Government as the “stewards” of these forests and profoundly changed the ways in which outer island forests were managed, from being largely limited to local uses and manual harvest to large-scale mechanization for commercial purposes.

The Central Government’s authority over forests encompasses the protection, production, conservation of forests, forest inventory, research, and extension and training. Most importantly, the BFL allowed the Minister in charge of forestry to designate forest areas as Forest Estate (*Kawasan Hutan*) providing the areas with legal tenure as state controlled forest land (GOI/FAO, 1990). This authority was subsequently used to delineate forests into functional categories of protection forests, production forests, nature reserves and/or recreation forests. Various subsequent regulations and the TGHK (*Tata Guna Hutan Kesepakatan* or Forest Land-use Plan by Consensus) identified five functional categories of forests: Conservation Forests, Protection Forests, Production Forests (Production and Limited Production Forests), and Conversion Forests. The figure for the Forest Estate was then determined as 144 million hectares, although actual forested area in the Outer Islands as of 1982 was 112 million hectares and (GOI/FAO, 1990). The forested area of the Forest Estate has since declined (see Chapter 2 of the thesis).

The BFL also provided the legal framework for large-scale commercial timber production. Subsequent implementing Government Regulations provided specifically for the harvesting and management of production forests through the issuance of concession rights, Rights of Forest Exploitation (*Hak Pengusahaan Hutan*, HPH) or Rights of Forest Products Harvesting (*Hak Pemungutan Hasil Hutan*, HPHH). The HPH is a large-scale forest concession license granted to private or state-owned companies by the Central Government. The HPHH was issued for small-scale areas of up to 100 hectares by the Provincial Forest Service. In return for the rights to the timber resources (through HPH), concessionaires were (and are) obliged to pay license fees and royalties (Chapter 4).

A2-1-2 Central control, intensive logging, and deforestation

The BFL set off a logging boom in forest-rich areas of Sumatera and Kalimantan. For a short period from the late 1960s to the early 1970s, district governments in East Kalimantan...
could issue medium-scale licenses of up to 5000 hectares, and the Provincial Government up to 10,000 hectares (Manning, 1971; Magenda, 1991). However, the available literature only documents licenses over small areas (Magenda, 1991; Potter 1991). Furthermore, logging activities were carried out using traditional hand methods of extraction (Magenda, 1991; Potter, 1991). Logs were moved downstream through flooded rivers during the rainy seasons. This was known as the banjir kap phenomenon.

Large-scale commercialization of Indonesia’s national forests ended these operations. At the beginning of the 1970s the Central Government adopted a policy of large-scale timber concessions, with a minimum area of 50,000 hectares. These concessions were allocated exclusively by the Central Government.

The governments’ policy led to domestic and multinational companies seeking concession rights to exploit timber of high-value (mostly Dipterocarps). Large, foreign-owned concession holders replaced the earlier, smaller concession holders, and mechanization took over from manual felling. In the 1980s, large national companies took over. These logs were largely produced for export (Resosudarmo, 2002): export earnings from the forestry sector in 1971-1972 amounted to 170 million USD and increased to 2.1 billion USD in 1979-1980 (Gillis, 1988). More than 25 million cubic metres were cut in 1980 (Gillis, 1988; Potter, 1991). In practice, timber companies worked in partnership with the actual holders of the HPH, many of which were military officers or politico-bureaucrats (Potter, 1991; Ascher, 1998; Ross, 2001). Rights over lucrative forest resources were allocated based on patronage, to nurture and maintain loyalty to the regime in power (Ross, 2001). For a fee, the holders of these rights acted as “sleeping partners” (Resosudarmo, 2002:170). In terms of the resource, because the forestry agreement bound the holder of the rights, rather than the partner companies, this kind of partnership arrangement had discouraged responsible forest management (Resosudarmo, 2002).

In terms of benefit, this has meant that the riches of these forests became largely enjoyed by outsiders.

With this development, thousands of banjir kap producers lost their livelihoods (Potter, 1991). Provincial authorities could only issue a limited number of small-scale, 100 hectare HPHHs, allowing for limited continuation of non-mechanized logging for local use in some areas (Magenda, 1991; Potter, 1991). Traditional access to the forest was only marginally maintained by allowing the collection of firewood and harvest of timber for non-export use like ironwood (ulun or Eusideroxylon zwageri) (Potter, 1991). However, local people faced serious issues in marketing their timber, as they had to sell to the larger producers who set the price. Even this residual means of access to forest resources did not last: the provinces’ authority to issue HPHHs for small-scale areas of up to 100 hectares was revoked in January 1989 (GOL/FAO, 1990).

This forestry development focusing on export-oriented log production (1970-1980) subsequently entered a second phase, the development of the plywood industry (1980-1990) and then a third phase, the production of pulp and paper and timber plantations (1990s to the
present). All these activities have led to intensive and unsustainable extraction of the resource (for a review of Indonesia’s forestry policy over these three periods, see Resosudarmo, 2002). For instance, vertical integration between the plywood industry and HPH concessions resulted in both unsustainable methods and rate of harvest (Kartawinata and Vayda, 1984; Tarrant et al., 1987; Sagala, 1997) and poor efforts in reforestation (Pramono, 1992; Awang, 1993; Kartodihardjo, 1998). By 1995, the Central Government granted 62 million hectares of forest to 585 HPH concessionaires (Brown, 1999). The highest estimate of the deforestation rate reached 2,400,000 hectares per year in 1996 (Sunderlin and Resosudarmo, 1996). From 1996 to 2002, the deforestation continued of the order of 2 million hectares annually (FWI/GFW, 2002: xi).

Central policies during this period tended to neglect or inadequately consider local interests (for instance, Potter, 1991; Soetrisno, 1992; Sandbukt, 1995; Fay and Sirait, 2002). State appropriation of forest lands which local communities saw as their property displaced communities and deprived them of their traditional livelihoods (Barber et al., 1994; Fay and Sirait, 2002; Alhamid, 2004; Thorburn, 2006). Large-scale emphasis on forest exploitation and the patronage system largely left local people with residual economic opportunities such as low-paying labouring jobs (Gellert, 1995, cited in Maunati, 2005) while the larger portion of the benefit accrued to central or centrally-linked actors (Ascher, 1998; Barr, 1998; Ross, 2001). Regional governments, however, did (for instance, Gillis, 1988) and continue to receive a proportion of forestry-derived revenues (Chapter 4).

Thus, in summary, the BFL and its derivative legal instruments led to forestry development under the New Order period with two major consequences relevant to the discussion of the thesis. First, Central Government control over forests resulted in the unsustainable management of the resource. Second, the ways in which these forests were managed have largely resulted in a skewed distribution of benefits against forest-dependent communities. Instead, they have accrued to those at the Centre or those closely associated with the Centre.

Decentralisation was not only pushed, at least partly, as a reaction to perceived injustices with regard to who had benefited from the extraction of Outer Island natural resources, but was also expected to remedy the perceived injustices and improve the management of the resource. The decentralisation laws provided the legal framework for the increased power of local governments and the basis for democratic local governance intended to achieve, among others, these objectives.\footnote{\textsuperscript{54c} Interview with N-G-6a}

**A2-2 Law 22 of 1999 on Regional Governance**

Law 22 of 1999 on Regional Governance differed markedly from the previous decentralisation law, Law 5 of 1974 on the Principles of Governance in the Regions, in several ways. First, the 1999 law provided for the transfer of political power to regions, thereby
providing the legal framework for political or democratic decentralisation. It explicitly defined decentralisation as the transfer of authority to autonomous regions. In contrast to its 1974 predecessor, in which regional autonomy was laid out in terms of the regions’ responsibility to support national development, this law set out regional autonomy in terms of the regions’ rights to discretionary decision-making and responsibilities over their jurisdictions. The law denoted the term “regions” to mean provinces, districts, and municipalities.

**A2-2-1 Major stipulations of the law relevant to the thesis**

The major provisions of the law relevant to the discussion in this thesis included the locus of the broad decentralized power, the locus of authority over forest resources, and the strengthening of the legislative body as the representatives of district citizens and as the institutionalized body holding those with decentralized power accountable.

**Who received what power?**

Prior to the implementation of Law 22 of 1999, district governments, as the second level of sub-national governments, were subordinate to the provinces, as the first level of regional government. According to Law 5 of 1974, these administrative units were hierarchical, and all regional heads (that is, the governor of provinces and Bupatis of districts) were responsible to the Central Government following the hierarchical structure of the government. Under Law 22 of 1999, however, power was largely transferred to districts (kabupaten, for rural areas) and municipalities (kota, for urban areas), bypassing the provinces. The relationship between the two levels of autonomous governments, the provincial and the district/municipal governments, was thus no longer hierarchical. As discussed in Chapter 3, this provision was critical in shaping the relationship between districts and the province.

Law 22 of 1999 provided for the expanded role of regional governments. Article 7 stipulated that all authority with the exception of foreign relations, national defence and security, monetary and fiscal affairs, religion, and “other matters” were granted to regions. “Other matters” included macro policy on development planning, fiscal balancing fund, state administration and economic institutions, development and empowerment of human resources, the utilization of “strategic natural resources” and technology, conservation, and national standardization.

The increased powers of regional governments, as stated in Article 7 above, were granted to districts and municipalities, rather than to the provinces. As autonomous units, provinces were given the authority over cross-district matters or matters that districts/municipalities had

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50 Article 1 and its elucidation
51 In laws and legislation, “government” is defined as the Central Government, unless specified otherwise
52 Article 4(2)
53 Article 11 (1)
no capacity to handle. Law 22 of 1999 thus clearly circumscribed and shrank the authority of provinces. As administrative units, however, provinces performed deconcentration functions, where they could act or exercise authority on behalf of the Central Government.

**Ambiguities and inconsistencies in the decentralisation law**

With regard to the authority over natural resources, however, there were some ambiguities resulting from inconsistencies in the provisions of the law. Article 7 assigned the authority for utilization of “strategic natural resources” to the Central Government. Article 10 of the same law, however, empowered regions to manage “national resources” within their territories and at the same time assigned regions with the responsibility to maintain the environment. Despite the clarification of the meaning of “national resources” in the elucidation of the law, that is, as natural, man-made resources and human resources, the law did not elaborate, neither in the body of the law nor in its elucidation, what it meant by the term “strategic natural resources”. Did forests fall into the category of “national resources” or “strategic natural resources”? These ambiguous and inconsistent provisions led to different interpretations and became one source of conflict among levels of governments (Chapter 3).

**Regional legislative bodies strengthened**

Law 22 enhanced the powers of the regional legislative body, Dewan Perwakilan Rakyat Daerah or DPRD, at both the provincial and district levels. They were empowered to elect district heads (Bupati) and deputy district heads (Wakil Bupati) and to dismiss them if necessary. The DPRDs, together with the district head, were given the power to stipulate district regulations (Peraturan Daerah or PERDA) and draw up the district budget. The DPRD had supervisory responsibilities over the implementation of local and national regulations, the Bupati’s decisions, the district budget and district policies, and the responsibilities to facilitate and follow up the “aspirations” of localities and communities.547 According to Article 19, the DPRD had the right to hold the district head “accountable”, to request information, to conduct investigation, to make amendments on drafts of district regulations, to express opinion, and to submit drafts of district regulations.548

The DPRD nominating and electing the regional head (a governor for provinces or Bupati/Walikota for districts/municipalities) is in stark contrast to the New Order. During the New Order period, the candidates and election process conducted by the DPRD had only been a formality; in practice regional heads were effectively appointed by the Centre (Mokhsen, 2003).

547 Article 18; aspirations from the Indonesian word aspirasi, meaning political or social desires (Stevens and Schmidgall-Tellings, 2004).
548 Bennet (2002) found no original Indonesian word for the term accountability. The word often used that has the closest meaning is “responsibility” (tanggungjawab). In the past several years, both the words tanggunggugat or akuntabilitas have been used to mean accountability.
Article 43 defined the responsibilities of regional heads. They included maintaining the integration of the Republic, the Constitution, and the state’s ideology, enforcing laws and regulations, maintaining order, proposing regional regulations, and with the approval of the DPRD, promulgating regional regulations.

Regional heads were to be responsible to the DPRD in performing their duties and tasks. The accountability process involved three types of accountability reports. The first was a mandatory accountability report that must be submitted by regional heads at the end of each fiscal year. The second was an accountability report over specific issues, which would be submitted upon the DPRD's request. In addition, regional heads were required to submit reports, at least annually, on the implementation of local governance to the President through the Ministry of Home Affairs. District heads must also submit a copy of these annual reports to the Governor.

As common with Indonesian laws (Bell, 2001), and in accordance with the hierarchy of Indonesian legislation, the implementation of Law 22 of 1999 required further elaboration through implementing regulations (Figure A2.1). The implementing regulation for this law was Government Regulation 25 of 2000. The major relevant provisions of this Government Regulation pertaining to forestry are discussed next.
1945 Constitution
(Undang-undang Dasar)

Resolution of the People’s Consultative Assembly (Ketetapan MPR)

Law
(Undang-undang)

Government Regulation Substituting a Law (Peraturan Pemerintah Pengganti UU)

Government Regulations (Peraturan Pemerintah)

Presidential Decree/Presidential Regulation (Keputusan Presiden/Peraturan Presiden)

Regional Regulation (Peraturan Daerah: PERDA)

**Figure A2.1 Indonesia’s Hierarchy of Legislation**

Source: Resolution of the People’s Consultative Assembly of the Republic of Indonesia Number III Year 2000; Law 10 of 2004

In practice, there are other legal instruments in use. They include Presidential Instructions (Instruksi Presiden), Ministerial Decrees (Keputusan Menteri) and Circular Letters (Surat Edaran). These other forms of legal instruments are not explicitly included in the legal hierarchy. The omittance of Ministerial Decrees and Circular Letters in the official legal hierarchy turned out to be significant in the implementation of decentralisation, as it led to district governments’ interpretation that PERDAs had a higher legal status vis-à-vis Ministerial Decrees or directives. These different interpretations have often resulted in inconsistencies between legal instruments.
A2-2-2 The regulatory framework for the implementation of the Decentralisation Law

Although Law 22 was passed in May 1999, the Government did not release its implementing regulation, Government Regulation 25 of 2000 on Government Authority and Provinces’ Authority as Autonomous Regions, until a year later, in May 2000.

According to Bell (2001), it is not uncommon that laws providing for a separation of powers assign residual powers to a specific level of government. Powers not specifically assigned to any levels of government will belong to the government that holds such residual powers. This was the case with Government Regulation 25 of 2000. Although Law 22 of 1999 primarily ceded powers to district and municipal governments, and not to Provincial Governments, this Government Regulation assigned residual powers to districts and municipalities. Hence Government Regulation 25 of 2000 described the Central Government’s and the province’s authority, and whatever powers were not assigned here would be the authority of district and municipal governments.

According to Government Regulation 25 of 2000, the Central Government’s authority in the forestry and plantation sectors mostly centred on four major groups of tasks. The first set of tasks involved setting up the criteria and standards for forest administration, including in forest planning and forest management. The Government thus had the power to determine the criteria and standards for the establishment of forest management areas, conservation areas and nature reserves. It also had the authority to determine the criteria and standards for the licensing of the utilization of forest areas, the utilization (exploitation) of forests, as well as the harvest forest products and their tariffs. It had the power to determine the criteria and standards for forest structuring and conservation. The Government’s second major set of tasks lay in the power to assign forest lands and change of status and function. The third set of tasks included the management and granting of licenses for activities associated with nature reserves and watersheds, hunting grounds, and the distribution of endangered species. The fourth set of tasks involved the licensing of cross-provincial utilization of production forests and cross-provincial nature tourism.

The same Government Regulation gave the provinces authority over forestry affairs in the following areas. The major first set of tasks was associated with forestry activities that involved cross-district or cross-municipality jurisdictions. These included forest and plantation macro planning, the granting of permits for the utilization of wood and non-wood forest products for areas spanning across one district, the development of cross-district plantation areas, and the protection of forests in areas that crossed districts borders. The second major group of tasks was to provide guidelines in forest administration and forest protection. They included providing guidelines associated with inventory, mapping and the establishment of forest boundaries, and guidelines for the implementation of rehabilitation and reclamation of production and protection forests. The third task was to actively work with the Central Government in assigning forest lands and the change of their status and function, particularly in the context of provincial spatial
planning that was to be made based on agreement between the province and districts/municipalities in the province.

As noted above, the fact that Government Regulation 25 of 2000 only assigned the tasks and authority of the central and Provincial Governments meant that districts and municipalities were left with residual authority and responsibilities not described in the regulation. All authority not described in this regulation then could be interpreted as belonging to districts/municipalities. It was not therefore explicitly elaborated whether or not the authority to carry out forest administration, particularly the assignment of licenses for the utilization of forest products, was under districts’ jurisdiction.

A2-3 The 1999 Forestry Law

Four months after the passage of the decentralisation laws, a new forestry law, Law 41 of 1999 on Forestry, was endorsed by the parliament. In contrast to the decentralisation law, many provisions of this law have a centralistic tone. The affirmation of central authority is reflected in the law’s provisions that maintain state control over forests and forest administration.

A2-3-1 Forest control

The basic tenets concerning the locus of control and tenure over forests in Law 41 of 1999 on Forestry remain unchanged from the earlier forestry law, the 1967 Basic Forestry Law or Law 5 of 1967 on Basic Forestry. All forests within the Republic’s jurisdiction are under the control of the state.505 State control grants the Central Government the authority to regulate and administer all aspects related to forests, forest areas, and forest products and to assign the status of a particular area as a forest or non-forest area. State control of forests recognizes the rights of customary communities or masyarakat hukum adat507 “in so far as they exist, their existence acknowledged, and in so far as they do not contradict national interests”.508

As with its predecessor, Law 41 of 1999 on Forestry distinguishes a forest into either of the following two possible status: 1) a state forest, defined as a forest located on lands with no ownership of rights, or 2) a rights forest, defined as a forest on lands with ownership of rights. A customary or adat forest is defined as a state forest located within a customary community area. The status of a forest is determined by the Government.

In addition to the status of a particular forest, the Government also determines the functional category of a forest. According to their functions, forests are classified into one of three categories: conservation, protection, and production forests.509 Conservation forests

505 In Indonesian: dikusasai oleh negara
506 Adat is often translated as customary, traditional. It is however, “a rich and complex concept touching on law, tenure, religion, symbolism, practice, and ethnicity” (Colfer and Resosudarmo, 2002: 421).
507 Article 4, Law 41 1999
508 Article 6
function to preserve plant and animal diversity and their ecosystems. Protection forest is set aside to protect life-supporting systems for hydrology, to prevent floods, control erosion, prevent sea water intrusion, and maintain soil fertility. Production forest is determined specifically to produce mainly timber.

A2-3-2 Forest administration

One of the repercussions of state control over forests is that the Government has the authority to administer all forests. The administration of forests includes forestry planning, forest management, forestry research and development, education, training and extension, and supervision.

Forestry planning covers forest inventory, forest area gazettal, forest area land use, establishment of forest management areas, and the drawing of forestry plans. Authority over the establishment of forest management areas includes making decisions over changes in the use and function of a particular forest area. This means that any conversion of forest lands into non-forest uses is determined by the Central Government. This authority is one of the centrally retained powers that was “challenged” by district governments (Chapter 3).

According to this law, forest management includes several activities: forest structuring and the drawing of forest management plans, utilization of forest and use of forest areas, forest rehabilitation and reclamation; and forest protection and nature conservation. Among these, one of the activities concerning the utilization of forest and use of forest areas, in particular, forest utilization licensing scheme, has been of major interest for all level of governments (Chapter 3).

This 1999 forestry law’s provisions on rehabilitation and reclamation of forest lands include reforestation, regreening, enrichment activities and the application of conservation techniques. The implementation of rehabilitation of land and forests is to be mainly done through a participatory approach with the aim of developing and empowering communities. The obligation to carry out rehabilitation activities associated with protection and conservation objectives rests with the party who has ownership of, manages, or utilizes that particular critical or unproductive forest.

The Government administers the protection of forests within and outside forest areas. The responsibility for the protection of state forests rests with the Central Government. However, parties assigned the rights to use or granted the authority to manage a particular area of forest are responsible for the protection of that area, including in the case of forest fires.

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556 Article 4(2a)
557 Article 41
558 Article 42
559 Article 43
560 Article 48
It should be noted that at least one provision of Law 41 on 1999 on Forestry provides for some form of decentralisation of authority. Article 66 states: "the Government shall delegate parts of the authorities to local governments". Again, the implementation of this provision was to be elaborated further in a Government Regulation.

The law also provides the framework for the application of forestry fees and royalties, including the license fee, royalty, and reforestation funds (discussed in Chapter 4).

Overall, many provisions of Law 41 on 1999 on Forestry are vague and general statements, requiring further explanation for their implementation. As in Law 22 of 1999, and as is common with other Indonesian Laws, the specifics of some of the provisions of this law are to be elaborated and detailed through implementing Government Regulations. Despite generalization and the vagueness of some of these provisions and their subsequent need for further guidelines prior to their implementation, and despite the prospect for the delegation of forestry authorities as stated in Article 66, it is clear that the 1999 forestry law affirms the authority of the Central Government over forestry affairs. Therefore, Law 41 of 1999 on forestry, in contrast to the 1999 decentralisation laws, has a centralistic tone.

A2-3-3 The regulatory framework for the implementation of Law 41 of 1999 on Forestry

The implementation of Law 41 was to be elaborated by its implementing regulations. Until the promulgation of its implementing regulations, therefore, previous regulatory framework would still prevail. It was not until June 2002 that the government passed one implementing regulation, Regulation 34 of 2000 concerning Forest Structuring and Development of Forest Management Plans, Utilization of Forests and Use of Forest Areas (Government Regulation 34 of 2002). This regulation is only one among the many implementing regulations needed to implement the law. However, this Government Regulation had specifically been much awaited for because it concerned the authority over logging licensing. This section provides a summary of the components of the regulation most relevant to the issues discussed in the thesis: the utilization of forest lands and licensing of forest lands that pertain to timber or wood harvest.

Forest classifications and the utilization of forest areas

In line with Law 41, Government Regulation 34 of 2002 establishes three basic classifications for forest lands that apply to both state and private forests: Protection Forests, Conservation Forests, and Production Forests. The type of activities (that is, utilization) that can take place on forest lands are determined by that forest’s classifications. Protection Forests are divided into protection and utilization zones; conservation forests into Nature Reserve, Wildlife Sanctuary, National Parks, Grand Forest Parks, and Nature Tourist Parks; Production Forests into Natural Forests and Plantation Forests. The utilization of forests is allowed in all

\[^{59}\text{Article 5 and Article 69}\]
three classifications of forests, with the exception of Nature Reserves, core and rimba (primary forest) zones of National Forests.\textsuperscript{561}

The utilization of forests can take one among six forms: utilization of the area, utilization of the forests' environmental services, utilization of timber products, utilization of non-timber products, harvest of timber products, and collection of non-timber products.

The harvest of timber products is only permitted in natural forests and is restricted for the purposes of individual or community subsistence needs. The utilization of timber products, however, can take place in both categories of Production Forests. The activities include felling, transportation, planning, maintenance, safeguarding, processing, and marketing. The utilization of timber and non-timber products in production forests, as well as the restrictions of the use (that is, the commercialization or subsistence use) of the harvest of timber and non-timber products were to be determined by a Ministerial Decision.

\textbf{Licensing on Forest Lands}

Under decentralisation, licensing for timber harvest on forest lands was one of the issues that sparked controversy between the Central and sub-national Governments. Government Regulation 34 of 2002 clarified the issue by specifying a licensing scheme for each form of utilization of forest lands. This scheme elaborates the conditions for licenses, eligibility qualifications for licensees, authority for the issuance of licenses, and the procedural requirements for applications. The following summarizes the important points of the scheme with regard to the utilization and harvest of timber products.

\textit{Timber licensing regulatory-framework prior to Government Regulation 34 of 2002}

Two major legal national documents governing the licensing of timber activities were critical in shaping forestry dynamics in the beginning of reformasi and the decentralisation process. They were Government Regulation 6 of 1999 on Forest Exploitation and Forest Products Harvesting in Production Forests and Ministry of Forestry Decree 05.1 of 2000 on the Criteria and Standard of Licensing for Forest Products Utilization and Forest Products Harvesting in Natural Production Forests (see Appendix 3). Both of these instruments gave the Bupatis authority over timber licensing.

Government Regulation 6 of 1999 granted the Bupatis the authority to issue small-scale logging licenses.\textsuperscript{562} This government regulation was promulgated in January 1999, or prior to the promulgation of both the 1999 decentralisation law and the forestry law; it thus referred to the 1967 Basic Forestry Law. It specified that the Rights to the Harvest of Forest Products (HPHH) be granted to cooperatives, individuals who were Indonesian citizens, or to wholly

\textsuperscript{561} Article 16
\textsuperscript{562} Article 22
Indonesian-owned corporate bodies. These rights were granted to harvest forest products from a maximum area of 100 hectares or a certain amount; for a maximum period of 1 year; and primarily with the objective to fulfill the needs of the local population. The holders of these HPHH permits were obliged to pay forestry royalties and fees, the PSDH (Provisi Sumber Daya Hutan) and DR (Dana Reboisasi or the Reforestation Fund) (Chapter 4).

Ministerial Decree 05.1 of 2000 was a major breakthrough in terms of the devolution of timber licensing authority: it granted the Bupatis the authority to issue a whole range of licenses in terms of their total area scale, from small to large-scale. Small-scale licenses were to be issued for a one-year maximum duration. The decree did not specify the maximum allowable volume of timber that could be harvested under such licenses. Medium-to large licenses were to be issued for an initial period of 20 years and up to 50,000-hectare area. This decree had led to district policies allowing for the proliferation of district logging licenses for a period.

Timber licensing regulatory-framework under Government Regulation 34 of 2002

Government Regulation 34 of 2002 maintained the maximum one-year duration for small-scale licenses, but it differs significantly from Ministerial Decree 05.1 of 2000 in that now it limits the quantity of timber that can be harvested to only 20 cubic meters. The justification for this meager volume has to do with the objective of the license, that is, to provide for household needs or public facilities.

Licenses for the harvest of timber products can only be given to individuals that are members of a local community or to cooperatives. The authority of the issuance of this type of licenses depends on the jurisdiction of the area in question. Licenses for activities in an area falling within one district are issued by the Bupati; licenses for activities over an area crossing district boundaries are issued by the Governor; and licenses for activities over an area that crosses provincial jurisdictions are issued by the Ministry of Forestry.

Although Bupatis retain the authority to issue timber harvesting licenses within their districts, the restrictions on the volume of timber that could be harvested severely diminished district governments' authority, as the Bupatis were now no longer had the authority over the licensing of commercial timber exploitation (Chapter 3).

The maximum duration of licenses for the utilization of timber forest products is much longer: 55 years in natural forests and 100 years in Plantation Forests. Individuals, cooperatives, privately owned companies, and state-owned companies are eligible for this type of license. There is no restriction on the number of licenses that can be granted to any single

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563 Article 22
564 Article 24
565 Article 25
566 In February 2002, this Ministerial Decree (and consequently all the provisions therein) was revoked by Ministry of Forestry Decree 541 of 2002.
567 Elucidation of Article 33(1)
entity. All holders of Licenses for the utilization of timber forest products are obliged to pay forestry fees including license fees (IIUPH or Iuran Ijin Usaha Pemanfaatan Hutan), royalty (PSDH or Provisi Sumber Daya Hutan), and the Reforestation Fund (DR or Dana Reboisasi) (Chapter 4).

Special attention needs to be given to Article 42 of this government regulation concerning the authority to issue licenses for the utilization of timber products. The authority to issue licenses for this type of activity rests with the Ministry of Forestry, on the recommendation of lower levels of government. As this is the only permitted activity involving timber utilization from forests for commercial purposes, it is by and large the highest revenue generating activity. Consequently, the authority over licenses for this type of activity was of highest interest to both regional and Central Governments.

In summary, this regulation achieved two things. First, it clarified some of the provisions of Law 41 of 1999 on Forestry. Second, it affirmed the authority of the Ministry of Forestry over forestry affairs, in contrast to the spirit of the decentralisation law.

**A2-4 The structure of forestry administration after decentralisation**

The structure of forestry administration post-decentralisation has seen many changes from what it was under the New Order. These changes have had strong and important implications for forestry governance in the two districts under study. This section describes the changes relevant to the discussion in the thesis.

**A2-4-1 Government structure and forestry administration**

Decentralisation as governed by Law 22 of 1999 changed the structure of forestry administration directly and indirectly, in two major ways. First, through the elimination of the hierarchical responsibilities of the Bupati to the Governor (section A2-2-1), and second, through the abolition of Forestry Regional Offices or Kantor Wilayah Kehutanan (Kanwil) that is, at the provincial level. The administrative control over forests before and after decentralisation is depicted in Figure A2.2 and Figure A2.3 respectively.

**Prior to decentralisation**

Under the New Order, the Ministry of Forestry's control over forestry extended to regions mainly through its regional offices, Kantor Wilayah Kehutanan (Kanwil) at the provincial level as well as its technical units in the regions, all of which directly reported to the MOF (Figure A2.2). However, day to day forestry operations at the local level (that is, at the district level) were handled by the provincial branch of the Forestry Service, Cabang Dinas Kehutanan (CDK). This unit was directly responsible to the Provincial Forestry Service, and ultimately responsible to the Governor. The CDK had no reporting responsibility to the district government, only to the Provincial Forestry Service. Under this arrangement, therefore, there
were often overlaps and ambiguity over authority and responsibility between the Provincial Forestry Service and the Forestry Regional Offices (Richardson, 1990; GOI/FAO, 1990). These overlaps and ambiguity often led to misunderstanding or misinterpretation of forestry tasks (Richardson, 1990). This feature of overlapping and unclear forestry tasks in the regions under the New Order not only continues, but is also more pronounced after decentralisation (Chapter 4).
Decentralisation resulted in the abolition of Regional Forestry Offices (Kanwil) (Figure A2.3) in all provinces. With the demise of the Kanwil, the Ministry of Forestry no longer has the capacity to control forestry administration, in particular those associated with logging/forest exploitation, at the district level. The Ministry of Forestry now has to depend on the Provincial Forestry Service, as an entity in the regions carrying out a deconcentration function, in place of the Kanwil. However, the Ministry of Forestry still maintains its technical implementation units that oversee other aspects of forestry, such as the gazettal of the Forest Estate and watershed management.

The increased power of district governments enabled them to establish their own forestry units, the District Forestry Service. The District Forestry Service reports and is responsible to
the Bupati, with only lines of coordination, but not of reporting, with the Provincial Forestry Service and the Ministry of Forestry. Both districts officially established their District Forestry Services in 2001. However, Bulungan District Forestry Service was only operational in 2002. During the transition period until their operations, both districts had to work closely with the Provincial Branch of the District Forestry Service (Cabang Dinas Kehutanan or CDK).

Figure A2.3 Government Structure and Forestry Administration after Decentralisation in East Kalimantan Province
A2-4-2 The structure of forest responsibilities in the two case study districts

The East Kalimantan government established technical units that operate at the district level, the *Unit Pelaksana Teknis Daerah* (UPTD). In this way, the Provincial Government continues to maintain control over key forestry responsibilities, notably those associated with timber production. Thus, there are two forestry units operating at the district level: the District Forestry Service, a unit established by the district government and which reports to the district government and the UPTD. Bulungan District follows this structure.

Kutai Barat District’s circumstances, however, were different. In addition to being a newly established district (section 2.4.2), Kutai Barat was partitioned from an original district that took part in an earlier pilot project of decentralisation involving 26 districts (section 2.4.2). This affected the structure of forest administration of the district after decentralisation. In contrast to Bulungan District, which was not part of the pilot project, the Provincial Government did not establish a UPTD in Kutai Barat District (Figure A2.4). Therefore, the Kutai Barat District Forestry Service handled all forestry responsibilities in the district, including the administration associated with the operation of centrally-licensed HPHs. Kutai Barat’s Forestry Service, similar to Bulungan’s, is only responsible to the *Bupati*. In this particular case, there is no hierarchy that links forestry authority operating at the district level with that of the provincial level. The relationship between Kutai Barat District’s Forestry Service (similar to Bulungan District’s Forestry Service) is limited to coordination only.

The “duality” of authority handling forestry affairs that exists in Bulungan District (Figure A2.3) and the existence of only one authority in Kutai Barat District (Figure A2.4) have implications for the actual forestry powers of district governments, and is discussed in Chapters 4 and 6.

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564 Each province can structure its own units. The establishment of UPTD was East Kalimantan’s initiative. It is not known whether similar units were established in other provinces.
The issues described above provided the context for the ways in which the transfer of forestry authority under decentralisation has actually played out in practice and how it has been exercised by districts. Thus, the ways in which Outer Islands’ forests have been managed in the past, the ways in which the legal framework has been interpreted by government actors at various levels, the structure of government and overall forest administration, and the existing forestry structures at the district level, have set the stage for district-level forest governance under decentralisation.
Appendix 3: Indonesian National Legal Instruments Relevant to Local Forestry Governance

Resolution of the People’s Consultative Assembly

Resolution III of 2000

Laws

Law 33 of 2004
Law 33 2004 on Fiscal Balancing between the Central Government and Regional Governments (Undang-undang Nomor 33 Tahun 2004 tentang Perimbangan Keuangan antara Pemerintah Pusat dan Pemerintah Daerah), 15 October 2004

Law 32 of 2004
Law 32 of 2004 on Regional Governance (Undang-undang Nomor 32 Tahun 2004 tentang Pemerintahan Daerah), 15 October 2004

Law 18 of 2004
Law 18 of 2004 on Plantations (Undang-undang Nomor 18 tentang Perkebunan), 11 August 2004

Law 10 of 2004
Law 10 of 2004 on the Formulation of Legislation (Undang-undang Nomor 10 tentang Pembentukan Peraturan Perundang-undangan), 22 June 2004

Law 21 of 2001

Law 18 of 2001

Law 34 of 2000

Law 41 of 1999
Law 41 of 1999 on Forestry (Undang-undang Nomor 41 tentang Kehutanan), 30 September 1999
Law 25 of 1999

Law 22 of 1999
Law 22 of 1999 on Regional Governance (Undang-undang Nomor 22 Tahun 1999 tentang Pemerintahan Daerah), 4 May 1999

Law 20 of 1997

Law 18 of 1997
Law 18 of 1997 on Regional Taxes and Levies (Undang-undang Nomor 18 Tahun 1997 tentang Pajak Daerah dan Retribusi Daerah), 23 May 1997

Law 5 of 1974

Law 1 of 1967
Law 1 of 1967 on Foreign Investment (Undang-undang Nomor 1 Tahun 1967 tentang Penanaman Modal Asing), 10 January 1967

Law 5 of 1967
Law 5 of 1967 on the Principles of Forestry or the Basic Forestry Law (Undang-undang Nomor 5 Tahun 1967 tentang Ketentuan-ketentuan Pokok Kehutanan), 24 May 1967

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Government Regulation 38 of 2007
Government Regulation 38 of 2007 on the Division of Governmental Affairs among the Government, the Provincial Government and District and Municipal Governments (Peraturan Pemerintah Nomor 38 tahun 2007 tentang Pembagian Urusan Pemerintahan antara Pemerintah, Pemerintahan Daerah Provinsi, dan Pemerintahan Daerah Kabupaten/Kota), 9 July 2007

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Government Regulation 35 of 2002 on the Reforestation Fund (Peraturan Pemerintah Nomor 35 Tahun 2002 tentang Dana Reboisasi), 8 June 2002

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Government Regulation 75 of 2001

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Government Regulation 92 of 1999

Government Regulation 74 of 1999

Government Regulation 6 of 1999

Government Regulation 62 of 1998

Government Regulation 59 of 1998

Government Regulation 52 of 1998

Government Regulation 51 of 1998

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Government Regulation 22 of 1997 on the Types and Remittance of Non-Tax State Revenue (Peraturan Pemerintah Nomor 22 Tahun 1997 tentang Jenis dan penyertaan penerimaan negara bukan pajak), 7 July 1997

Government Regulation 28 of 1985
Government Regulation 28 of 1985 on Forest Protection (Peraturan Pemerintah Nomor 28 Tahun 1985 tentang Perlindungan Hutan), 7 June 1985

Government Regulation 21 of 1970

Government Regulation 64 of 1957
Government Regulation 64 of 1957 on The Transfer of Some Central Administrative Matters in the Fields of Ocean Fishery, Forestry, and Smallholder Rubber to the First Level of Sub-national Governments (Peraturan Pemerintah No. 64 tahun 1957 tentang Penyertaan Sebagian dari Urusan Pemerintah Pusat di Lapangan Perikanan Laut, Kehutanan dan Karet Rakjat kepada Daerah-daerah Swatantra Tingkat I), 18 December 1957
Presidential Decrees

Presidential Decree 67 of 1998


Presidential Decree 41 of 1993


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Presidential Decree 30 of 1990 on the Application, Collection and Sharing of Forest Product Royalty (Keputusan Presiden Nomor 30 tahun 1990 tentang Pengenaan, Pemungutan dan Pembagian Iuran Hasil Hutan), 1 July 1990

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Ministry of Forestry Regulation P.05 of 2006


Ministry of Forestry Regulation P.07 of 2005

Ministry of Forestry Decree 127 of 2005

Ministry of Forestry Regulation P.03 of 2005
Ministry of Forestry Regulation P.03 of 2005 on the Guidelines for the Verification of Licenses for the Utilization of Timber Forest Products in Natural Forests or in Planted Forests issued by Governors or Bupati/Mayors 2005 (Peraturan Menteri Kehutanan No.03/Menhut-JJ/2005 tentang Pedoman Verifikasi Izin Usaha Pemanfaatan Hasil Hutan Kayu pada Hutan Alam dan atau pada Hutan Tanaman yang diterbitkan oleh Gubernur atau Bupati/Walikota), 18 January 2005

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Ministry of Forestry Decree 249 of 2004

Ministry of Forestry Decree 214 of 2004

Ministry of Forestry Decree 205 of 2004
Ministry of Forestry Decree 205 of 2004 on the Cancellation of Bupati of Pasir’s Decree 522.21/15/EK-PROD.II/2002 dated 22 February 2002 on the Granting of IUPHHK to PT Mentari Multi Sumber Abadi in the District of

Ministry of Forestry Decree 204 of 2004


Ministry of Forestry Decree 128 of 2003

Ministry of Forestry Decree 128 of 2003 on the Technical Guidance of the Procedures for the Application, Collection, Payment and Remittance of Reforestation Fund (DR) (Keputusan Menteri Kehutanan Nomor 128/Kpts-II/2003 tentang Petunjuk Teknis Tata Cara Pengenaan, Pemungutan, Pembayaran dan Penyetoran Dana Reboisasi (DR)), 4 April 2003, effective 1 April 2003

Ministry of Forestry Decree 126 of 2003

Ministry of Forestry Decree 126 of 2003 on the Administration of Forest Products 2003 (Keputusan Menteri Kehutanan Nomor 126/Kpts-II/2003 tentang Penataan Hasil Hutan), 4 April 2003, effective 1 April 2003

Ministry of Forestry Decree 124 of 2003

Ministry of Forestry Decree 124 of 2003 on the Technical Guidance of the Procedures for the Application, Collection, Payment and Remittance of Forest Resource Rent Provision (PSDH) (Keputusan Menteri Kehutanan Nomor 124/Kpts-II/2003 tentang Petunjuk Teknis Tata Cara Pengenaan, Pemungutan, Pembayaran dan Penyetoran Provisi Sumber Daya Hutan (PSDH)), issued 4 April 2003, effective 1 April 2003

Ministry of Forestry Decree 16 of 2003


Ministry of Home Affair’s Decree 130-67 of 2002


Ministry of Forestry Decree 541 of 2002

Ministry of Forestry Decree 541 of 2002 on the Revocation of Ministry of Forestry Decree 05.1 of 2000 on the Criteria and Standard for the Licensing of

Ministry of Forestry 1132 of 2001 and Ministry of Industry and Trade Decree 292 of 2001

Ministry of Forestry Decree 79 of 2001

Ministry of Forestry Decree 05.1 of 2000
Ministry of Forestry Decree 05.1 of 2000 on the Criteria and Standard of Licensing for the Utilization of Forest Products and for the Collection of Forest Products in Natural Production Forests (Keputusan Menteri Kehutanan Nomor 05.1/Kpts-II/2000 tentang Kriteria dan Standar Perijinan Usaha Pemanfaatan Hasil Hutan dan Perijinan Pemungutan Hasil Hutan pada Produksi Alam), 6 November 2000

Ministry of Forestry Decree 084 of 2000

Ministry of Forestry and Estate Crops Decree 318 of 1999
Ministry of Forestry and Estate Crops Decree 318 1999 on the Participation of Communities in Forests Utilization (Keputusan Menteri Kehutanan dan Perkebunan Nomor 318/Kpts-II/1999 tentang Peran Serta Masyarakat dalam Pengusahaan Hutan), 7 May 1999

Ministry of Forestry and Estate Crops Decree 317 of 1999
Ministry of Forestry and Estate Crops Decree 317 of 1999 on Rights of Customary Communities to Forest Products Harvesting in Production Forests (Keputusan Menteri Kehutanan dan Perkebunan Nomor 317/Kpts-II/1999 tentang Hak Pemungutan Hasil Hutan Masyarakat Hukum Adat pada Areal Hutan Produksi), 7 May 1999

Ministry of Forestry and Estate Crops Decree 316 of 1999
Ministry of Forestry and Estate Crops Decree 316 of 1999 on the Administration of Forest Products (Keputusan Menteri Kehutanan dan
Perkebunan Nomor 316/Kpts-II/1999 tentang Tata Usaha Hasil Hutan, 7 May 1999

Ministry of Forestry and Estate Crops Decree 310 of 1999
Ministry of Forestry and Estate Crops Decree 310 of 1999 on Guidelines for the Granting of Rights to Forest Product Harvesting (Surat Keputusan Menteri Kehutanan dan Perkebunan No.310/Kpts-II/1999 tentang Pedoman Pemberian Hak Pemungutan Hasil Hutan), 7 May 1999

Ministry of Industry and Trade Decree 185 of 1998
Appendix 4: List of people interviewed by category

Guidelines for using the codes:

Each interviewee is given a specific code with 3 characters.

The first character denotes the level of governance:
- B: Bulungan District
- K: Kutai Barat District
- N: national level
- P: provincial level

The second character denotes the type of actor:
- A: academic/researcher
- C: community/local person
- G: government official
- I: international organisation
- L: legislature
- M: media
- N: NGO
- P: private sector/business
- V: vertical agency (police, judiciary)

The third character denotes the order of the person interviewed in a particular category.
The prefix after the third character denotes the specific interview among the several interviews with the same actor.
Thus, B-G-7c denotes an interview with a Bulungan (B) government official (G), the 7th interviewee from within this category of actor, and interviewed for the 3rd time (c).
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### National Level - International Agencies/NGOs

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### Provincial Level - Government

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### Provincial Level - Academics/researchers

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### Provincial Level - International Organisations

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**District Level: Bulungan - Legislature**

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### District Level: Bulungan - Media

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**District Level: Bulungan - Private sector**

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**District Level: Kutai Barat - Legislature**

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**District Level: Kutai Barat - Arm of Vertical Agencies**

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**District Level: Kutai Barat - NGOs and International Organisations**

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<td>K-N/I-2</td>
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<td>and journalist</td>
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### District Level: Kutai Barat - Private Sector/Businesses

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Appendix 5: Postscript

Since the completion of the major fieldwork for this thesis (August 2004), the legal regulatory framework for decentralisation has been amended by subsequent national laws and regulations. Law 22 of 1999 on Regional Governance was succeeded by a revised version of Law 32 of 2004, with the same name (Law 32 of 2004 on Regional Governance), and Law 25 of 1999 on Fiscal Balancing between the Central Government and the Regions, by Law 33 of 2004, also with the same name.

The amendments to the 1999 laws have had major repercussions for district and municipal governments’ authority and autonomy. Several changes are relevant to the discussion and findings of the thesis. First, where Law 22 of 1999 specified that there was no hierarchical relationship between district and municipal governments and the province, Law 32 of 2004 specifies an explicit relationship between the Central Government and other levels of subnational government in government administration. This relationship specifically prevails over authority in fiscal matters, public services, the utilization of natural resources and other resources. Other than the authority over fisheries, Law 32 of 2004 does not specify which level of government has the authority over the management of natural resources, including forests. The law specifies that the relationship between governments in the use of natural resources governs the following particulars: the implementation of the utilization of natural resources that are under the authority of regions, the cooperation and sharing of natural resource revenue, and the management of co-licensing in the utilization of natural resources. However, the law also specifies that these relationships be regulated according to laws and regulations, without specifying which ones, leaving them unclear and ambiguous; the provisions thus can be interpreted in various ways.

Second, the law also granted the Central Government increased power to supervise the implementation of local and regional governance. In addition to the annual accountability report to the DPRD, heads of government must now submit an annual report on the implementation of governance to the Central Government, and in the case of districts, through the Governor. The law also increased the responsibility (and thus authority) of the Governor in the supervision of district governance.

Third, the law indirectly reduces the power of the DRPD, by providing for the direct election of Bupatis, mayors, and governors by citizens. Other functions of the DPRD remain unchanged, as stipulated in Law 22 of 1999 (Appendix 2 and Chapter 7).

The revised Decentralisation Law does not specify who has the authority over forest administration: it leaves that to be specified by its implementing Government Regulations. Prior to these regulations being issued, the legal instrument specifying the authority of district governments continued to be Government Regulation 25 of 2000 (Appendix 2), referred to Law 22 of 1999; however, this law is no longer valid. Therefore, there has been a high degree of uncertainty over what precisely is the authority of district governments; district governments
bewailed the necessity of coordinating many issues with the provincial government. As in the promulgation of Government Regulation 25 of 2000, the delay has been caused by the difficulty of gaining sectoral agreement over what authority was to be held by which level of government.

After 3 years, in July 2007, the Government issued the implementing regulation, Government Regulation 38 of 2007, for Law 32 of 2004: Government Regulation on the Division of Governmental Affairs among the Government, the Provincial Government and District and Municipal Governments. The authority of district governments revolves mostly around providing technical recommendations and inputs to higher levels of government and other “non-economic” authority.

The peripheral authority of district governments in forestry had been reaffirmed earlier, in January 2007, through the issuance of Government Regulation 6 of 2007 to replace Government Regulation 34 of 2002, as an implementing regulation of the 1999 forestry law (Appendix 3). Under this superseding Government Regulation, the issuance of logging licenses remains with the Ministry of Forestry. Bupatis are able to issue licenses for the harvesting of timber, but only for miniscule amount and limited to subsistence needs, up to 50 cubic meters for community purposes and 20 cubic meters for individual needs. Thus, the new regulation continues to put the most sought-after and lucrative authority in the hands of the Centre.

However Government Regulation 38 of 2007 also affirms district governments’ authority in other sectors that could potentially affect the fate of the forests, as shown in the thesis (Chapter 3). District governments continue to be authorized to issue licenses for plantations (estate crops) and for certain mining ventures, such as coal mining.

Of the provisions of Law 33 of 2004 that have revised those in Law 25 of 1999, one in particular has implications for the discussion in this thesis. The regions’ share of the Reforestation Fund, the DAK-DR, is now no longer included as a Specific Allocation Fund Category, but is now included as Shared Revenue from Land and Natural Resource Taxes. The proportion of forestry-derived revenues redistributed to regions remains unchanged (Chapter 4). However, the revised law explicitly specifies that the 40 percent of the Reforestation Fund is redistributed to producing districts or municipalities, thereby eliminating the ambiguities in the term “producing regions” in its 1999 predecessor (Chapter 4). These monies however, continue to be earmarked for the Forest and Land Rehabilitation Project.

District governments and district populations will not only continue to enjoy the inflow of the districts’ share of the Reforestation Fund through the Forest and Land Rehabilitation Project, but now also have the opportunity for involvement in a national program, the Peoples’ Plantation (Hutan Tanaman Rakyat, HTR). This HTR initiative, launched in early 2007 and

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59 Personal communication with N, CIFOR researcher, 5 May 2007
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funded by the Reforestation Fund accumulated in the national coffers, involves a new type of concession for the planting of timber species on forest lands by communities, for a period of up to 100 years (Nordwijk et al., 2007). Some 9.7 trillion rupiah (1.3 billion USD) of the Reforestation Fund has been allocated to the HTR program nation-wide, targeting some 5.4 million hectares of land (Tempo Interaktif, 29 January 2007a). While the scenarios of the types and forms of these establishments are still being discussed and developed, the proposed length of tenure can create an incentive for more certain and guaranteed future timber harvest, which is precisely what this study found to be lacking, and consequently limiting the success of the DAK-DR Forest and Land Rehabilitation Project. Nevertheless, the other issues identified in the implementation of the RHL Project are particularly relevant to the HTR program, and should be considered in its implementation.

In summary, the Central Government has now increased its powers of oversight over sub-national governments. Similarly, the provincial governments' powers have been augmented through increased oversight and coordination responsibilities over district and municipal governments. Thus, the trajectory of Indonesian decentralisation affecting forestry is becoming clearer. While the building base for democratization in terms of direct election of the Bupatis and the DPRDs is strengthened by the revised decentralisation law, the building base for democratic decentralisation to district governments is, on the contrary, weakened. The discretionary decision-making powers of district governments are now reduced because of the explicit hierarchical administrative linkages with the provincial government and the augmented supervisory role of the provincial and Central governments over district governments. Similarly, the authority of district governments in forestry has been significantly curtailed.

However, it is also clear that Central Government policies do attempt to address the perceived forestry problems that have been the subject of this thesis. The stepping up of efforts in enforcement to curb illegal logging and the HTR program initiatives are the most prominent examples. As pointed out in this thesis, although past practices have shown the disjuncture between policies and implementation, these new policies are nevertheless a step forward.

The changes in the national legal-regulatory framework undoubtedly have implications for local government decision-making and consequently local-level forest management and operations. Based on the findings of this thesis on the patterns of district governance, it is likely that, despite the narrowing window of opportunity, local authorities will continue to look to other sectors and other ways, to the extent possible, to find room to manoeuvre through the loopholes in national policy relevant to forests. Moreover, pressures arising from the economic attractiveness of other sectors that can affect forests, over which district governments continue to have authority, are still very real.