



MONASH University

**The Struggle over Adat Forest Rights in Upland
Banten, Indonesia**

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Abstract

This study investigates local institutional arrangements and the regulation of forest access and control in the wake of the 2013 decision of the Indonesian Constitutional Court, which recognised indigenous peoples' rights over forest territory. The research focuses on the interactions between *adat* groups and other actors in that context, with specific attention to the Kasepuhan indigenous communities of West Java. There has been considerable political ecology scholarship about state-society-nature relations in Indonesia; this research contributes to this knowledge base by extending political ecology analysis to the entirely new situation that is unfolding in the wake of the court decision. As such, this research interrogates ongoing changes by employing the concept of institutional bricolage as a tool for understanding just how institutional alterations occur and how these mediate resource access and entitlements.

For the greater part of Indonesian history, indigenous communities in Indonesia have been trying without success to assert their traditional rights and redefine their place in Indonesian statehood. *Adat* rights have, however, been severely undermined for the sake of development or other 'national interest'. The political efflorescence popularly known as *Reformasi* has, since 1998, opened the channel for many disenfranchised groups, such as indigenous peoples, to demand social justice. In the case of the Kasepuhan indigenous group, these demands have concerned their communal rights over land and forest territories. Nearly two decades after *Reformasi*, the Court's 2013 decision has invalidated the notion that the state is the sole owner and manager of Indonesia's forest areas. It has brought new hope for indigenous communities all over the country, as it potentially acknowledges their exclusive rights over specific plots of land or forest.

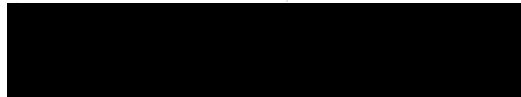
This study describes and analyses the practical implications of the Court's ruling. The study shows that the Kasepuhan people have acted as innovative *bricoleurs* who patch together elements of different institutional logics available to them. This, in turn, leads to novel institutional arrangements, and to a bylaw that excises parts of the Gunung Halimun-Salak National Park in their favour. This is an unprecedented development for an *adat* entity in the

country. The thesis unpacks the dynamics of the institutional arrangements between the Kasepuhan people and other actors involved in state-society-nature relations in Indonesia.

Declaration

This thesis contains no material which has been accepted for the award of any other degree or diploma at any university or equivalent institution and that, to the best of my knowledge and belief, this thesis contains no material previously published or written by another person, except where due reference is made in the text of the thesis.

Signature :

A solid black rectangular box used to redact the signature of the author.

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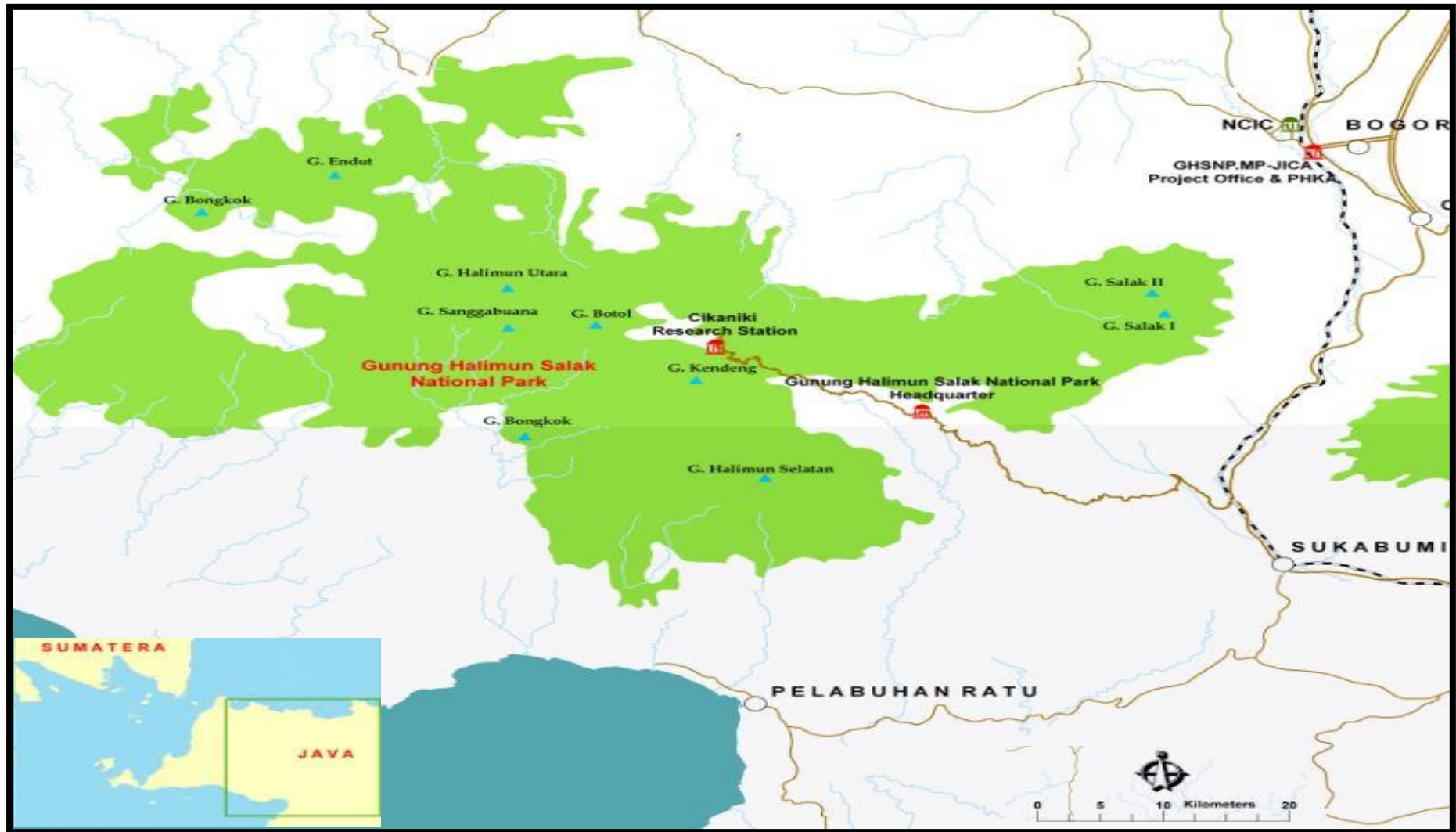
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List of Abbreviations

| | |
|------------|---|
| AMAN | <i>Aliansi Masyarakat Adat Nusantara</i> or the Alliance of Indigenous Peoples of the Archipelago |
| Agfor | World Agroforestry Centre |
| ANTAM | <i>Aneka Tambang</i> , State-owned Mining Company |
| BAL | Basic Agrarian Law |
| BFL | Basic Forestry Law |
| CBPR | Community-Based Property Rights |
| CBNRM | Community-Based Natural Resource Management |
| CIFOR | Centre for International Forestry Research |
| CNN | Cable News Network |
| CPRM | Commons Property Resource Management |
| DPRD | Dewan Perwakilan Rakyat Daerah or regional council |
| FAO | Food Agriculture Organisation |
| FPP | Forest People Programme |
| GPS | Global Positioning System |
| ILO | International Labour Organisation |
| JAPHAMA | <i>Jaringan Pembela Hak-Hak Masyarakat Adat</i> or the Network to Defend Indigenous Peoples' Rights |
| JPSHK | <i>Jaringan Pendukung Sistem Hutan Kemasyarakatan</i> or the Community Forestry Support Network |
| JKPP | <i>Jaringan Kerja Pemetaan Partisipatif</i> or Network for Participatory Mapping |
| KKN | <i>Korupsi, Kolusi dan Nepotisme</i> , Indonesian terminology for corruption, colution and nepotism |
| KMAN | <i>Kongres Masyarakat Adat Nusantara</i> or the Congress of Indigenous People of the Archipelago |
| KOMNAS HAM | <i>Komisi Nasional Hak-Hak Asasi Manusia</i> or the National Commision for Basic Human Rights |
| KUD | <i>Koperasi Unit Desa</i> or Village Co-op |
| MKK | <i>Model Kampung Konservasi</i> or conservation on the village/hamlet level |

| | |
|------------|---|
| MUHREC | Monash University Human Research Ethics Committee |
| NGO | Non-government Organisation |
| PEMKAB | <i>Pemerintahan Kabupaten</i> or municipality government |
| PERDA | <i>Peraturan Daerah</i> or local regulation |
| PERHUTANI | <i>Perusahaan Kehutanan Negara</i> or State Forest Company |
| Pemilukada | <i>Pemilihan Umum Kepala Daerah</i> or regional election |
| PETI | <i>Penambangan Emas Tanpa Ijin</i> or illegal gold mining operation |
| Pilkades | <i>Pemilihan Kepala Desa</i> or village head election |
| PMA | <i>Penanaman Modal Asing</i> or foreign direct investment |
| PTPN | <i>Perusahaan Perkebunan Nusantara</i> or State Plantation Company |
| RMI | <i>Rimbawan Muda Indonesia</i> or the Indonesian Foresters Institute |
| RUU PPMHA | <i>Rancangan Undang-Undang Pengakuan dan Perlindungan Masyarakat Hukum Adat</i> or Draft of Law on the Recognition and Protection of Adat Communities |
| RRI | Rights Resource Initiative |
| SABAKI | <i>Kesatuan Adat Banten Kidul</i> or the organisation of indigenous people in Banten Kidul |
| TNGHS | <i>Taman Nasional Gunung Halimun-Salak</i> or Gunung Halimun-Salak National Park |
| TGHK | <i>Tata Guna Hutan Kesepakatan</i> or Consensus-Based Forest Land Use Planning |
| UN | United Nations |
| UNESCO | United Nations Educational, Scientific and Cultural Organisation |
| VOC | <i>Vereenigde Oost-Indische Compagnie</i> or the United East Indies Company |
| WALHI | <i>Wahana Lingkungan Hidup</i> or Indonesian Forum for the Environment |



Map 1 The area of Gunung Halimun-Salak National Park, Banten Province.

1 Introduction

On May 16th, 2013, by the decision of case number 35/PUU-X/2012 (hereinafter referred to as MK 35) Indonesia's Constitutional Court ruled that the forest lands of customary communities, normally known as *masyarakat adat*, should not be classified as falling under 'State Forest Areas'. The judgement potentially opens the way for a major reallocation of forests back to the communities that have long occupied and looked after them. Research on Indonesia's forests and forest-dwelling communities has formed a prominent part of the political ecology scholarship about state-society-nature relations in Indonesia (e.g., Dove 1985; Ellen 1985; Colchester 1986; Barber 1990; Peluso 1992; Moniaga 1993; Acciaioli 2001; Li 2001; Thorburn 2002, 2004; Afiff 2004, 2008; McCarthy 2004, 2009; Hartanto 2009; Warren and McCarthy 2009; Maryudi 2011; Krott, Bader et al. 2014). Most of this work focuses on forests and forest-dwelling communities. This research contributes to this knowledge base by extending political ecology analysis to the entirely new situation that is unfolding in the wake of the Constitutional Court's decision.

The Court's decision has been heralded by civil society groups and customary communities in Indonesia as a landmark ruling for the well-being of customary communities in the country. This decision clarified that customary forest (*hutan adat*) must be recognised, although the mechanisms for doing this in practice remain uncertain. This study is an attempt to scrutinise the most recent changes in the constantly shifting dialectic of state, society and nature relations in Indonesia.

This study treats the Kasepuhan community as its primary research unit. The Kasepuhan community has been living in and around Gunung Halimun-Salak National Park (TNGHS), in the Indonesian province of Banten, for generations, yet their existence has always been contentious due to government restrictions regarding forest access and use. They were one of the original plaintiffs that requested judicial review of the 1999 Forestry Law which then resulted in MK 35. Now that a few years have passed since MK 35, it is the aim of this study to critically reflect on the scope, implementation and implication of the Constitutional Court's ruling to adat communities in moving their traditional rights forward.

I spent six months between July and December of 2014 in Kasepuhan villages in Lebak, Banten to observe and investigate the influence of MK 35 on the local level. At the outset, I hoped to find answers to the following set of research questions:

1. How have Kasepuhan community worked towards and responded to the changing range of possibilities?
2. How have Kasepuhan people mobilised their claim to rights through representation, advocacy, media and the appropriation of contemporary legal and political forms of expression?
3. How do interactions – conflicts, accommodations and exchange - between Kasepuhan groups and other actors in changing circumstances affect forest access and control?

Not long after I finished my fieldwork, in November 2015, the regional council (DPRD) of Lebak passed a local government bylaw (or *Peraturan Daerah, PERDA*) which formalised Kasepuhan community's customary rights, especially their claim for forest management rights (District Regulation on the Recognition, Protection and Empowerment of Kasepuhan Adat Community, hereinafter referred to as PERDA on Kasepuhan). According to the Court's ruling in MK 35, local level regulations of this kind are crucial in order to operationalise MK 35 in specific communities. The Indonesian Forestry Law states that indigenous communities that have been recognised as such by provincial or district legislation have the right to own and manage their forest areas using traditional practices, provided these are in accordance with the law (article 67). The success of the Kasepuhan people speaks loudly to other customary communities across the archipelago which are also undergoing similar processes in order to gain recognition of their customary rights over forest and its resources.

In this thesis I argue although MK 35 has been portrayed as a turning point for customary communities in Indonesia, the impact of the decision is highly contingent upon local socio-political conditions. In other words, the Court's decision does not guarantee favourable outcomes for customary communities' forest governance. However, it does increase the bargaining position of

traditional customary communities and their proponents by providing a framework for the full recognition of the collective rights of adat communities to manage forest situated inside state forest areas.

In August 2015 one of Indonesia's leading legal and policy institutes, the Epistema Institute, showed that there have been an increasing number of regulations, especially at the district level (*kabupaten/kota*) in regards to masyarakat adat since MK 35 (Malik, Arizona et al. 2015). Of these regulations, unfortunately, only a few actually contain regulations that explicitly deal with communities' rights to natural or forest resources. The Kasepuhan community are included in this category. Despite this reality, the overall trend shows that the movement for the recognition of collective traditional rights in Indonesia is gaining momentum.

This project is among the first to undertake an analysis of changes to forest governance in the wake of the landmark ruling. It provides a unique opportunity to assess the experiences of an adat community in capturing and consolidating new opportunities in their own locality. It is in this light the Kasepuhan community would demonstrate the power of 'adat' narrative in the current socio-political terrain in Indonesia.

1.1 Introduction to MK 35

In the wake of the downfall of ex-President Suharto's authoritarian regime in May 1998, Indonesia embarked on a tumultuous journey of democratisation and openness: the new political landscape of Reformasi. A loosening of central authority, accompanied by deliberate administrative and fiscal decentralisation, made it more possible for many formerly disempowered social groups – including customary communities – to assert themselves and pursue their respective interests and agendas (Li 1999, 2000; Lucas and Warren 2000; Lynch and Harwell 2002; Thorburn 2002; Warren and McCarthy 2002; Wollenberg and Kartodihardjo 2002; Aspinall and Fealy 2003; Henley and Davidson 2008).

Throughout much of the second half of the 20th century, the Indonesian government's economic development strategies have pursued a policy of export-led economic growth, drawing on the

country's vast natural resource wealth. One of the first orders of business for the military-backed pro-Western New Order government when it came to power in 1966-67 was to issue a suite of investment and natural resource management laws to promote the exploitation of forest, mineral and marine resources (McVey 1982; MacAndrews 1986; Barber 1990). The revenue generated allowed the New Order to construct a vast and powerful bureaucracy reaching all corners of the archipelago.

In the discourse, laws, structures, and policies surrounding forest use, the Indonesian state has laid claim to exclusive authority over a vast forest estate comprising nearly three quarters of the nation's terrestrial area, and also over the ways that people within or near it may interact with the natural environment (Barber 1990). The classification of '*kawasan hutan negara*' (State Forest Area) indicated that authority over forest territories and resources belonged firmly to the Central Government (MacAndrews 1986; Barber 1990; Peluso 1992).

This model of natural resource export-led development came at great social and environmental cost. Many forest-dependent communities lost access to the lands and resources on which their livelihoods depended, and local forest ecosystems were often severely degraded. Most forest-dwelling communities' access and management rights are mediated by customary *adat*¹ law which is locally recognised and respected, but only weakly acknowledged in state law. Whenever customary law or use practices came into conflict with powerful commercial interests or national government priorities and classifications, the modernisation juggernaut invariably held sway.

Local resistance was usually met with force as national security organs aligned with private firms.² For decades adat communities saw their rights trampled, territories and resources expropriated, and traditional livelihoods severely undermined. It is therefore not surprising that during the post-New Order Reformasi period, there occurred a groundswell of support for adat communities to organise themselves to advocate for recognition of their customary rights and regulatory practices –

¹ *Adat* is a heavily loaded concept. In its most general sense, *adat* refers to the customs and practices of Indonesia's various ethnic groups. It encompasses customary laws (*hukum adat*), ritual conventions, marriage rules, kinship systems, methods of conflict resolution, rules for resource ownership and utilisation, and other formally articulated norms and ideas (Hooker 1978, Burns 1999, Moniaga 1993).

² In fact, many of these private firms were wholly or partly owned by highly placed military or police officers.

particularly for the restoration of their access rights to forest lands and resources. Later in the thesis, I will give a more elaborate explanation of adat and its impact on Indonesia's natural resource governance. Chapter three, for example, will contextualise the importance of adat narratives in the struggle for social and environmental justice in Indonesia.

After more than 18 years of Reformasi, significant progress has been achieved, culminating in the landmark Constitutional Court ruling that challenged the government's claim (as expressed most recently in the 1999 Forestry Law) to customary forests as part of state forest areas. This judicial review was requested by the Alliance of Indigenous People of the Archipelago³ (*Aliansi Masyarakat Adat Nusantara, AMAN*) and two of its member communities, the Kuntu community from Riau and the Kasepuhan Cisitu from Banten. The ruling challenges the principle that the state is the sole arbiter and owner of the country's forest and its resources as the 1999 Forestry Law initially declared. The decision is similar to the Mabo case⁴ in Australia or the Sparrow case⁵ in Canada. In this case, Indonesia's Constitutional Court affirmed that the state's sole authority in owning almost all forest areas in the country is a violation of the Indonesian Constitution, and resulted in the subjugation of the indigenous communities' traditional rights.

A breakdown of the changes mandated by the Court's decision is set out in Table 1-1. Their decision included amended articles intended to replace the existing provisions. These are translated in the right column of the table. The Constitutional Court in principle agreed with the petitioners that the categorisation of '*hutan adat*' as part of state forest was unconstitutional. The Court invalidated the definition given in article 1(6) of the 1999 Forestry Law and the chief justices ruled that customary

³ *AMAN* is a large and influential NGO that has become the main funnel for adat communities in the country to help them to voice their political aspirations. AMAN receives financial support from international donors, such as the Ford Foundation, Forest for the People, CGIAR and others, to conduct advocacy and programs on behalf of numerous adat communities in Indonesia. More discussion on this organisation will be provided in chapter 3.

⁴ The Mabo decision in 1992 was an important milestone in Australian recognition of customary rights. It recognised the land rights of the Meriam people, the traditional owners of the Murray Islands in the Torres Strait.

⁵ The Sparrow case remains one of the most important Canadian Supreme Court decisions pertaining to Aboriginal rights. The decision provides substantive meaning to Section 35 of the 1982 Constitution Act. It declares: 'The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed'.

forest is a forest area that is located within *masyarakat adat* territories, rather than a part of a ‘state forest areas’. This decision identifies adat communities as the ‘right bearers’ and legal subjects over lands where customary forests exist, and therefore, adat forest must be classified as private forest or *hutan hak*. This classification recognises individual or communal ownership rights within the state forest areas, as the revised version of the bill explicates in article 5.

**Table 1-1 Constitutional Court Ruling 35/PUU/X/2012
(Judicial Review of articles in the 1999 Forestry Law)**

| What was changed | Original (unofficial translation) | Revision (unofficial translation) |
|-------------------------|---|--|
| Article 1.6 | ‘ <i>Adat</i> ’ forests are state forests located in indigenous peoples’ territories. | ‘ <i>Adat</i> ’ forests are forests located in indigenous peoples’ territories. |
| Article 4.3 | In exercising its authority over forest areas, the state shall respect the rights of indigenous peoples, as long as they exist and their existence is recognized, and do not contradict national interests. | Forest control by the state shall respect the rights of indigenous peoples, as long as they remain in existence and are compatible with societal development and with the principle of the Unitary State of the Republic of Indonesia as regulated by law. |
| Article 5.1 | Forest status consists of two types: a. state forest, and b. forest subject to rights. | State forest as referred to in paragraph (1) point a, does not include ‘adat’ forest. |
| Article 5.2 | State forest as referred to in paragraph (1) point a, can be in the form of ‘ <i>adat</i> ’ forest. | [deleted] |
| Article 5.3 | The Government shall determine the status of a forest as referred to in paragraph (1) and paragraph (2); and ‘ <i>adat</i> ’ forest shall be categorised as such as long as the indigenous peoples concerned remain in existence and their existence is recognised. | The Government shall determine the status of a forest as referred to in paragraph (1); and shall determine that a forest is an <i>adat</i> forest as long as the indigenous peoples concerned remain in existence and their existence is recognised. |

Source: <http://www.downtoearth-indonesia.org/>

1.2 The Research Site and Approach

My interest in the Kasepuhan community and Halimun-Salak forest area emerged about 12 years ago when I was studying for my Bachelor’s degree at the University of Indonesia. The name Kasepuhan derives from *sepuh* meaning ‘old’, a reference to the essential role of the *karuhun* (ancestors) in the lives of contemporary members of the community (Adimihardja 1992, 2008). The Kasepuhan communities are forest-dwellers that still live based on a distinct traditional set of norms and belief system. They consist of numerous groups. Each group has their own leader and autonomy, but they all identify themselves as the ‘Kasepuhan people’. They live deep in the forested hills of the Halimun-Salak Highlands. The route into the Kasepuhan people’s settlements traverses fertile agricultural and

plantation land, and is crisscrossed by many rivers. It is difficult to access, especially during the rainy season. Most roads leading to Kasepuhan villages are unpaved; the only way to get there is by a four-wheel drive or motorbike. The entire Kasepuhan adat communities is estimated to number around 20,000 individuals, living in 314 *kampungs* (hamlets) scattered around Halimun-Salak Highlands (Kubo and Supriyanto 2010, TNGHS 2012).

As a member of the student senate, I received the chance to come to the Halimun-Salak region to conduct a community service program. We were greeted by the late *Abah* Anom, one of the leaders of the Kasepuhan community who was highly respected not only by the community but also by the government officials and other outside parties. I still remember his initial greeting to us: ‘welcome to a piece of heaven on earth’. He then described the surrounding forest where he and his people had been living for centuries as a place endowed with natural beauty, high mountains, dense tropical forests and rich biodiversity. He attributed local customs and their age-old rules of environmental wisdom as the impetus behind this. ‘It is not because of the national park officers’, he said.

Abah Anom was the tribal chief of Kasepuhan Ciptagelar, one of the biggest group of Kasepuhan community. He claimed that this group’s adat forest area is the largest of the Kasepuhan groups. He explained that almost all of the territory is located inside the Gunung Halimun-Salak National Park’s territories. He and other Kasepuhan members believe that they have the rights to manage forest resources based on their adat rights, but in terms of legality the forest areas in the region belonged to the ‘state forest areas’ under the management of the Ministry of Forestry.⁶ However, due to his charisma and ability in negotiating forest access with the forest authorities, to some extent the people of Kasepuhan Ciptagelar were still able to exercise their traditional forest management practices, which are so important for them because they are an essential part of their custom and belief system. Just a few years after my excursion, he passed away due to a heart attack.

⁶ After Joko Widodo took office in 2014, the Ministry of Forestry merged with the Ministry of Environment, and then became the Ministry of Forestry and Environment (*Kementerian Kehutanan dan Lingkungan Hidup-KKLH*).

Kasepuhan people are still talking about his profound impact on the communities even though it has been seven years since his untimely death.

When I sought suitable locations to conduct my PhD research project, my thoughts immediately turned to Abah Anom, Halimun-Salak area and the Kasepuhan community. Kasepuhan Ciptagelar is not the only Kasepuhan group that lives within the boundaries of TNGHS, and there are other indigenous groups – not called Kasepuhan – in other locations in the country. Communities like the Kasepuhan Ciptagelar was frequently labelled as ‘forest encroachers’ or ‘backwards’ by state authorities especially during New Order regime to signify communities that live within ‘state forest areas’. This labelling was part of the government’s strategy that intended to justify the forest utilisation for development purposes. The government also often argued that these communities were part of society that needed to be modernised (Peluso 1992; Li 1999; Afiff 2004).

As I will explain further in the next section, democratisation and decentralisation during Reformasi have resulted in competing claims between the communities and local forest authorities. In most cases these have resulted in the restriction of the freedom of the indigenous communities to access the forest. To address this challenge, the Kasepuhan people have become more engaged in the political processes; not just holding demonstrations but being actively involved in local government. This is vital for the Kasepuhan community because in the era of regional autonomy, the local government has the authority to adopt policies that would be best suited for their own region. The Kasepuhan community members have participated in local executive and legislative elections in the past, and a few of them are now sitting members of the Lebak DPRD. The Vice-District Head (*Wakil Bupati*) of Lebak also comes from a Kasepuhan group, the Kasepuhan Citorek, another Kasepuhan group that lives in Halimun-Salak forest areas.

After MK 35, the Kasepuhan people have worked closely with NGOs, especially with AMAN and the Indonesia Forest Peoples’ Institute (*Rimbawan Muda Indonesia*, RMI) to expand their legal and political repertoire in the wake of the court’s ruling. The NGOs have assisted the Kasepuhan people to mobilise their identity as an adat community in the forms of media publication, modification of adat rituals and socialisation in mainstream media on their ancient environmental wisdom. I argue

in what follows that these actions have helped the Kasepuhan community to fit the ‘tribal slot’ (Li 2001), where identity representation becomes important to create the flexibility for political manoeuvres to achieve social justice. More importantly, their NGO allies had played a crucial role in facilitating a multi-stakeholder process that was important in the adoption of PERDA on Kasepuhan people’s traditional rights.

As I will explain in more detail in chapter two, this research employs political ecology as its methodology. I have used the concept of institutional-bricolage (Cleaver 2001) as a theoretical lens to examine the Kasepuhan community’s actions and practices in responding to the Court’s decision. The Kasepuhan people have used the local political networks, aligned themselves with NGOs and called upon their identity to contest and negotiate access and control over forest areas and its resources. Through this grounded approach I will reveal the exercise of power on the ground by the Kasepuhan community to achieve their political aspirations.

This research focusses on state-society-nature relations, but another important element of the political ecology analysis is the notion of adat and its revival in the Indonesian political context. The significant point to note is that the concept of adat is being deployed by different parties in very different ways, and for different ends (Li 2000; Warren and McCarthy 2002; Bakker and Moniaga 2010; Acciaioli 2001; Davidson and Henley 2007; Peluso et al 2008; Hauser-Schaublin 2013). NGOs and the Kasepuhan community in Halimun-Salak forest and elsewhere are drawing strength and legitimacy from the adat discourse in their struggles to retain or regain some control over local resources, and over the pace and direction of local change.

In any given context, formal and informal institutions are intricately interwoven, and their interactions produce operational ‘rules of the game’ that shape how people act (Ostrom, Gardner et al. 1994). In this study, forest use in and around Gunung Halimun-Salak area shows how adat, state regimes, and other actors have a complex relationship that is shaped by legal pluralism and their competing legitimacies as well as by informal processes resulting in ‘a rich diversity of pliable institutional arrangements’ (Cleaver 2001: 29). Actual local resource use and management arrangements are shaped by different legal and political cultures and histories that are inextricably

intertwined and built upon one another. By viewing this process as bricolage, I have been able to explain the formulation of institutional arrangements and how these mediate resource access and entitlements. This framework underscores the multiple identities, cross-cultural borrowing, and multipurpose institutions that enable the institutional changes relevant to this thesis.

1.3 Background: Community-based Natural Resource Management and Adat

Legal pluralism is defined as ‘the presence in a social field of more than one legal order’ (Griffiths 1986:1). Such a situation pertains in many post-colonial societies, including Indonesia, a country recognised for its cultural and ecological diversity. During the colonial era, the Netherlands Indies government adopted a pluralistic legal system, which meant the use of multiple legal systems applied to racially-based law groups within the political boundaries of a territory (Hooker 1978). Indonesia inherited a legal order that distinguished between formal laws of the state and customary norms and practices of the people. Like many post-colonial states, Indonesian society is highly pluralistic, reflecting the tremendous variety of ethnic and customary communities spread across the vast archipelago.

The fundamental premise of colonial-era land and resource management was set out in the 1870 Agrarian Law, also known as *Domein Verklaring* (the Domain Declaration). One of the most enduring legacies from the colonial legal system, the *Domein Verklaring* placed all ‘wastelands’ in the Indies under the control of the state (Peluso 1992). The category of ‘wasteland’ (*woeste gronden*) applied to land that was not continually cultivated for more than three years; such lands automatically reverted to state jurisdiction and could be used for plantation development (Peluso 1992). In the gaze of the colonial state, the swidden⁷ agroforestry systems practiced by forest-dependent communities across many parts of the archipelago were in effect invisible. When colonial administrators did perceive it, swidden agroforestry was viewed as wasteful and destructive (Peluso 1992, Boomgaard 1992).

⁷ Swidden agriculture, also known as shifting cultivation, refers to a technique of rotational farming in which land is cleared for cultivation (normally by fire) and then left fallow for a longer period of time so that vegetation can grow again.

Forest-dependent communities in the Indies adhered to an array of management practices and rules regarding access to and use of forest territories. Some colonial officials argued for recognition of these rules and norms, on the premise that many affairs of Indies society were best governed under native law that had developed over generations (Hooker 1978).

Hereditary adat rights of avail to territory are known as *hak ulayat*. According to this right, a community that occupies a particular territory has sovereignty over it (Dove 1985; Zakaria 1999). Although, in fact, most adat codes did include categories of individual property, the Dutch view was that private property was a Western concept, as opposed to the *hak ulayat* of native societies. Communally-held properties can be neither alienated nor mortgaged, thus were seen to be incompatible with development/investment/capitalist norms. This set up a dichotomy where Dutch civil law was seen as modernising, while adat law applied to those segments of the community who could not or would not modernise (Hooker 1978; Lev 1985).

To Indonesian nationalists, adat was seen as something quintessentially Indonesian, distinct from imposed western ideas, and was embodied in Indonesia's independence declaration in 1945, (Soepomo 1951; Bourchier 1998; Burns 1999). As such, adat was viewed as 'original law', and the basis for a new post-colonial Indonesian legal system that would eliminate legal dualism. An idealised conception of adat provided the constitutional foundation of the new Republic (Soepomo 1951). However, the newly formed state faced significant conceptual and jurisprudential challenges in devising a positive legal code based upon such a disparate, amorphous and often ambiguous constellation of norms, beliefs and practices (Fitzpatrick 1997; Burns 1989).

This history has produced an Indonesian legal code that is inherently convoluted and sometimes contradictory. For example, article 18B (2) of the Constitution reads that the state recognises and respects individual adat law communities and their traditional rights, as far as they 'still exist' and are 'in accordance with the evolution of society and the principle of the unitary state'. In other words, the Indonesian Constitution acknowledges legal pluralism as a defining characteristic of Indonesian society by acknowledging the traditional rights of adat communities. However, article 33(3) of the Constitution states that 'the land, the waters and the natural richness contain therein shall be

controlled by the state and exploited to the greatest benefit of the people.’ This provision, in effect, justifies the state appropriation of adat communities’ territory and resources for the ‘national interest’. Adat rights over forest resources are, therefore, weakly recognised and vulnerable to being taken over by the state, or by any parties that claim to have concession/statutory rights over the same piece of land (Fitzpatrick 1997; Butt 2014).

The Basic Agrarian Law (BAL) of 1960 was one of the most significant pieces of legislation promulgated in the early years of the Republic. This law provides support for the legal recognition of communal property rights under adat i.e. hak ulayat. It explicitly allows for the registration of adat territories (Article 5) and recognises adat law,⁸ rather than colonial western law, as the primary basis for land ownership. However, the mandate for recognition of hak ulayat in the BAL is muddled by the qualification that it must not contradict the interests of the state and the nation of Indonesia as a whole (Lee Peluso, Afiff et al. 2008; Rachman 2011; Lucas and Warren 2013). It provides no interpretation, however, of what is meant by ‘national interest’. Ironically, the BAL repudiates *Domein Verklaring* but then replicates it.

When the New Order regime came to power in the wake of the coup of 1965, it promoted an integralist (*negara kesatuan*) approach which saw the state and its people as being inseparable (Peluso 1992; Bouchier 1997; Barber and Talbott 2003). ‘National interest’ was conflated with ‘development’; all citizens and all natural resources were committed to this righteous pursuit. New Order leaders’ interpretation of the BAL left little room for the already vague and weak commitment to respect and uphold customary adat rights and practices (Bedner and Van Huis 2008; Fitzpatrick 2008).

Through the enactment of the 1967 Basic Forestry Law (BFL), the new government endeavoured to promote investment and development of commercial forestry (Barber 1989). The law

⁸ Article 5 of the Basic Agrarian Law declares that ‘adat law applies to land, water and air, as long as those rights do not conflict with national interest...’ The Official Explanation states that under Article 5 ‘Novel agrarian law must be appropriate to the people’s law. Because most people live by *adat* law, the new agrarian law must be based on *adat* law as the original law....’

stated that ‘all forests within the territory of the Republic of Indonesia, and all the resources they contain, are under the authority of the state’ (Article 5). This law provided the legal basis to engineer an exponential expansion of forest resource exploitation, and signalled the establishment of a vast and complex institutional and policy framework concerned with forest protection and conservation (Peluso, Afiff et al. 2008; Fauzi Rachman 2011; Siscawati 2013). In 1982, through a re-measurement process entitled Consensus-Based Forest Land Use Planning (*Tata Guna Hutan Kesepakatan*; TGHK), the state through the Ministry of Forestry classified forest land by function, with little or no regard for actual situations on the ground (Barber 1990). The Forestry Ministry held sole power to issue licenses for logging and plantations and other purposes. Few if any of the benefits from forest exploitation and conversion accrued at the local level, to either local/adat communities or to local governments. Instead, profits largely flowed to businesses and elite circles with close ties to the country’s military leadership (Barr 1997; Ascher 1999; Ross 2001).

The government’s policy of national development supported by the exploitation and export of natural resources exacted a heavy social and environmental toll. The state’s authority to allocate the function, meaning, and utilisation of forest lands and resources undermined pre-existing adat rights and management systems, and dispossessed many customary communities from the lands and resources upon which their livelihoods depend. Many customary uses of forest lands and products, and traditional agroforestry practice were effectively criminalised, and the communities that had for multiple generations controlled and managed these territories were branded as ‘backward people’, ‘isolated tribes’ and ‘forest raiders’ (Peluso 1998; Li 1999; Afiff 2004). Not only that, the state security apparatus was often deployed to forcibly evict forest communities and to protect the assets and personnel of the commercial companies that had been granted rights to log their forests (Peluso and Vandergeest 2001; Hall, Hirsch et al. 2011).

As mentioned in the previous section, the end of the New Order regime in 1998 led to a major reconfiguration of Indonesia’s political landscape. The political space available to local actors and non-government organisations opened up dramatically.

The political efflorescence of the post-New Order period afforded new opportunities to air grievances about many aspects of governance and state-society relations that had occurred throughout the New Order era. One of the ramifications of political freedom following the downfall of Suharto in May 1998 was the revival of adat as a basis for retaining and regaining control over the utilisation and management of natural resources (Davidson and Henley 2007). An upsurge of land claims by adat communities – many of which had existed before Reformasi but were suppressed by the state apparatus – signalled a significant shift in natural resource politics in the country.

A national adat communities' organisation AMAN was established in March 1999 to represent customary communities' voice and aspirations. It represented adat communities' attempts to redefine their place in the Indonesian political landscape (Fay 2009; Li 2001; Acciaioli 2001; Warren and McCarthy 2002; Afiff 2004; Darmanto et al 2012; Safitri 2010). From the outset, the new organisation confronted the government with a variety of demands including the return of their customary territories. The new organisation's leaders proclaimed (AMAN 2013), 'If the state doesn't recognise us, we won't recognise the state!' The essence of AMAN's demand is that the state acknowledge and recognise adat communities' right to govern their territories and natural resources.

AMAN's attempts to place the problems and aspirations of masyarakat adat on the political agenda have been quite successful. The term 'masyarakat adat' appears ever more frequently in the discourse of activists, politicians, media and government officials dealing with forest and land issues. There have also been a few changes in national government policy. For example, in 2002 Indonesia's highest legislative body, the People's Representative Assembly (*Majelis Permusyawaratan Rakyat*; MPR) amended a Decree (TAP MPR IX/2001) regarding agrarian reform and natural resources management to include language recognising the cultural identity and traditional rights of adat communities as a basic human right. Other gains have seen the recognition of adat rights in the 2007 Law on the Management of Coastal Regions and Small Islands, and in the 2009 Environmental Law. However, despite all of this progress little has changed regarding adat communities tenurial rights over forest land and resources (Lynch and Harwell 2002, Butt 2014, Colchester, Anderson et al. 2014).

As mentioned above, on March 2012, AMAN together with representatives of two adat communities initiated a challenge to the legality of the 1999 National Forestry Law in the Constitutional Court. AMAN's petition noted that Indonesia's 1999 Forestry Law treats adat communities' customary forest as State land, providing only weak use-rights to local communities⁹. The court decided that the law was indeed in conflict with the constitution and should be changed. This landmark ruling acknowledges that customary forests belong to the adat communities not to the state, and the state should respect the hereditary (*hak ulayat*) rights of adat communities.

However, restitution of customary forest governance remains a long battle amidst a contradictory and convoluted land and forest policy landscape. Claimant adat communities are faced with the challenge of proving that they actually exist as discrete coherent entities, that their adat exists, and that they have continuously practiced customary management based on adat in the contested forest territory. In the beginning of this chapter I mentioned that this then needs to be established in a PERDA. Land allocation in Indonesia is characterised by a complex array of institutions and legal instruments. Multiple stakeholders and their interests are interwoven in this complexity. Not least important with respect to the Indonesian state's role in law enforcement and resource management are endemic patterns of patronage, bribery and misappropriation that pervade every level of governance (Aspinall and Fealy 2003; Hadiz 2004, 2010; Thorburn 2004; Nordholt and Van Klinken 2007; Aspinall 2013).

Despite these complications, the Kasepuhan people have thrived in using this watershed moment in the country's forest governance. Less than three years after MK 35, the Kasepuhan community has been able to have a PERDA that recognises their customary forest rights. One of the crucial factors for their success is that they have successfully embraced the local political process and used it to move their adat rights recognition forward. As a result, they have been able to secure the political leverage needed to capitalise on the new political and legal landscapes that have opened up

⁹ Little had changed in regards to the legal recognition of adat communal property rights from the 1967 Basic Forestry Law. *Hutan adat* (customary forest) was subordinated to state ownership or subject to state criteria.

from MK 35. Chapter six and seven will analyse how the Kasepuhan people have modified adat to represent both a potent motivation and an effective resource that they tactically mobilise in order to secure greater autonomy over ancestral lands.

1.4 Finally PERDA: Formalising the informal

The Kasepuhan groups form one of the very few communities that have finally overcome the long impasse over recognition of their customary land rights. Their rights to access forest and manage its resources are now protected by the PERDA on the Recognition, Protection and Empowerment of the Kasepuhan Community.¹⁰ This is a breakthrough not just for the Kasepuhan community, but also for other adat communities that are still struggling to gain similar regulation from their respective local government. Kasepuhan people's achievement signals hope for those communities that are still struggling for restoration of their customary rights. The following points are some of the highlights of the bylaw which significantly alter forest governance in the region.

First and foremost, article 4 of the bylaw recognises the Kasepuhan community as an indigenous community in Lebak that has its own traditional institutions, norms and territories. This recognition is important because the 1999 Forestry Law stipulates that formal recognition of adat communities' rights and existence in a form of a PERDA is crucial to fulfil the rights to forest tenure.

Second, article 9 (1) of the PERDA explicitly recognises the Kasepuhan community as the 'rights bearer' of forest territories that have clear boundaries. These boundaries could be in the forms of rocks, trees, stream or borders with other Kasepuhan villages' territories (article 9 [1])¹¹. Next,

¹⁰ The full title of the law is 'Lebak Regional Regulation no. 8 of 2015 on the Recognition, Protection and Empowerment of the Kasepuhan Adat Communities.'

¹¹ Article 9: (1) Kasepuhan Adat territories have specific boundaries with nature or with other Kasepuhan villages
 (2) Kasepuhan communities' territories consist of:
 a. *Leuweung tutupan*
 b. *Leuweung kolot*
 c. *Leuweung titipan*
 d. *Leuweung sampalan*
 e. *Leuweung garapan*
 f. *Leuweung paniisan*
 g. *Bagian dari wilayah adat yang memiliki sebutan lain*
 (3) Kasepuhan communities' territories referred in paragraph (1) is further elaborated in annex II (of this regulation). This annex is a part of this bylaw.

article 9[2] acknowledges that the Kasepuhan people have their own ways in managing forest which are distinct from the forestry management system that are usually applied in most of the state's forest authorities. The PERDA on Kasepuhan acknowledges Kasepuhan people's traditional forest management system, which divides forest territories into 3 different zones based on their functions. These zones, *leuweung kolot*, *leuweung titipan* and *leuweung sampalan* (protected forest, reserve forest and open forest) will be discussed in more detail in Chapter 5.

In the past, Kasepuhan community encountered severe restrictions from the forest authorities which made them unable to perform some traditional agricultural practices within their belief system. For example, the practice of swidden farming, essential for Kasepuhan identity, has been significantly declining due to government restrictions. With the adoption of the regulation, the Kasepuhan community will finally have the autonomy to manage forest territories according to their beliefs and traditional practices.

The PERDA is thorough and leaves no room for ambiguity, as it also includes maps of each Kasepuhan group (article 9[3]). Moreover, based on public consultation and verification processes prior to the passing of the bill, it declares that there are 57 Kasepuhan groups in Lebak (see appendix 1). The list of these Kasepuhan groups along with their territories is inserted as an addendum to the bill. Currently, there are only eight Kasepuhan groups¹² that have their territories mapped and more are awaiting further verification from the delineation committee.

Second, following up from the previous article, article 10(1) clearly states the need for a new forest boundary delineation. Most of the current forest boundaries are still based on the Dutch forestry service's boundary. According to the bill, adat forest territory that was initially declared to be within state forest areas will be under the tenure of adat communities. This arrangement directly affects the forest areas within the TNGHS boundaries. According to the participatory mapping process, 67 per cent of the total Kasepuhan adat territory that has been mapped, or 14,138.045 hectares, lies within

¹² These Kasepuhan groups are Kasepuhan Cirompang, Kasepuhan Karang, Kasepuhan Sindang Agung, Kasepuhan Pasir Eurih, Kasepuhan Cibedug, Kasepuhan Citorek, Kasepuhan Cibarani, and Kasepuhan Ciptagelar. Kasepuhan Ciptagelar has the biggest territory and it spreads in two districts, Lebak and Sukabumi (West Java Province).

the national park area (Arizona and Ramdhaniaty 2014). Therefore, there is an urgent need to delineate forest boundaries in the area. In order to do this, the district government will establish a delineation committee on adat territory consisting of representatives of all relevant stakeholders, such as government officials, academics, adat community representatives and NGOs (article 10 [2]).

Boundary delineation is divided into two phases. First, the process starts with mapping temporary boundaries, which the Kasepuhan people with the help of NGOs have been doing for the past two years. The map also includes delineation based on Kasepuhan adat forest management. The second action will be to designate permanent boundaries that are based on all stakeholders' agreement. Subsequently, the government places permanent boundary markers and then formalises this in a map. The agreement regarding permanent boundaries and the boundary maps are written and signed by all stakeholders. After this whole process, the Ministry of Environment and Forestry will issue a decree to affirm the new forest boundaries (article 11). This means the size of TNGHS would be reduced due to the excision of those parts of it that will become Kasepuhan territories.

Third, the PERDA recognises, respects, and protects a wider range of traditional rights for the Kasepuhan community, going beyond their rights to forest tenure (article 16).¹³ These include their rights to the benefits from development, to receive education and other forms of public services, and to practice their customs and operate their own adat judicial court.

Fourth, the PERDA recognises the authority of Kasepuhan adat institutions to manage and control the lives of the Kasepuhan people (article 17) based on their traditional beliefs and practices. The clause of this article invigorates adat bodies, such as the adat court, enabling them to become

¹³ Article 16: (1) *The District Government recognises, respects, protects and fulfils Kasepuhan communities' rights*
(2) *These rights are:*

- a. *Communal rights over forest territories*
- b. *Rights over land and natural resources*
- c. *Rights to gain the benefits from natural resources*
- d. *Rights for development*
- e. *Rights for nature*
- f. *Rights for special education*
- g. *Rights for medical service*
- h. *Rights for public administration service*
- i. *Rights to govern themselves*
- j. *Rights to exercise adat norms and adat court*
- k. *Other rights that are administered by the Constitution*

more involved in the daily lives of Kasepuhan people beyond forest governance. Article 17 (1) of the PERDA states, ‘The district government acknowledges, protects and empowers adat institutions that have been present in Kasepuhan community life for generations.’ According to this article, an adat institution has the authority to:

- a) Administer, manage and determine the use of Kasepuhan adat territories and its resources.
- b) Enforce adat law and the adat court decisions.
- c) Represent the Kasepuhan community when dealing with outside parties.

This provision is aligned with other legislative developments affecting adat communities. Under the 2014 Village Law (*UU Desa*), Kasepuhan villages can apply for ‘adat village/*desa adat*’ status to the national government in the future (article 8). According to that law, *desa adat* will have autonomy in governing their territory and receive an annual development budget direct from the national government. Similar with the objectives of the PERDA on Kasepuhan, the main purpose of the Village Law is to empower village communities (*masyarakat desa*) and make them less dependent on their municipal government. It acknowledges village-specific governance, which is rooted in their origin, history or customary tradition. Article 76 of the Village Law makes specific reference to communal land (*tanah ulayat*) as a village asset if a village has been legally recognised as an adat village by district regulation. Consequently, by using the existing multiple legal arrangements, the Kasepuhan community has established themselves in a very favourable position in sustaining their adat sovereignty. As Bedner (2016:82) argues:

...the 2014 Village Law indicates that the intention of its drafters was to confer flexibility on the adat concept that had hitherto been absent and allow a wider range of communities to be recognised as adat law communities than was previously the case. The key provision is article 97, which holds that an adat village requires an adat law community whose traditional rights are still alive, whether territorially, genealogically or functionally. This requirement must be interpreted in the light of the ‘development of the community’, which is explained as being ‘based on the valid laws as a reflection of the development of values that are considered ideal in present-

day society’. In other words, an adat law community may consist of ‘modern’ citizens. In addition, a ‘feeling of togetherness as a group’ is required, which should not be too difficult to prove either. Such an interpretation comes very close to recognising any community availing itself of a territory as an adat law community.

It will be interesting to observe how this regulation will be implemented on the ground. The core question is whether this kind of regulation will impact the community’s well-being or only strengthen the position of adat elites. However, this discussion would go beyond the scope of this thesis, although it will be an important topic for future research.



Figure 1-1 Kasepuhan people making history

The prostration of gratitude performed by representatives of Kasepuhan peoples just moments after the passage of the PERDA on Kasepuhan at Lebak Parliament House. Photo by RMI (2015)

Fifth, the PERDA regulates conflict resolution mechanisms in relation to forest access and control, especially with regards to concession areas and lands which are legally within the adat territory. Commercial activities that already hold a permit would still be able to operate up to the expiration time of the concession agreement, after which the resources will be managed by the

Kasepuhan people. There are a few small logging companies, mostly having an affiliation with PERHUTANI (State Forest Company), operating in and around Kasepuhan adat territory. These companies usually have disputes with the Kasepuhan villagers, who perceive the concession area to be part of their adat forest. Meanwhile, individuals who have legal title over land areas within adat territory will be part of an enclave within the larger adat territory. The principle from this arrangement is to ensure that the rights of other parties would still be respected in the process, and to ensure that the district government will assist the Kasepuhan community if they feel their adat rights are being neglected by companies or other parties.

Finally, the PERDA states that the district head (*Bupati*), after the verification process has been cleared and agreed to by all relevant stakeholders, will hand the adat territorial map to the National Land Agency (*Badan Pertanahan Nasional*, BPN) which will then issue a communal land certificate. The PERDA also declares that the district government and any other parties will ask permission from the Kasepuhan people regarding any future development plans that might take place in their adat territory.

Overall, the PERDA on Kasepuhan empowers the Kasepuhan community in both political and legal terms. The Kasepuhan community not only has secured its forest entitlements, but, more than that, it also has formally ensured that the Lebak district government will protect its customary rights in the future. The PERDA serves as a ‘blanket guarantee’ for the Kasepuhan community to be able to perform its way of life without any forms of restrictions from other parties.

This is a significant achievement, not just for the Kasepuhan people, but also an important model for other communities across Indonesia as they contemplate similar processes. Therefore, it is important to understand the social, economic backdrop and political relationships that the Kasepuhan community has encountered and overcome. In order to do that, this research explored the cultural settings and political strategies of the Kasepuhan adat community in the district of Lebak, Banten, as they attempted to implement their customary rights and to change their legal environment in order to secure these rights. As such, this research presents critical insights into the process whereby the

struggle for access to and control of forest resources is shaped by local political, social, cultural and economic contexts (Blaikie 1985; Peluso 1992; Brosius and Tsing 1998; Li 1999).

1.5 Thesis Outline

This thesis is structured into eight chapters. This introductory chapter describes the historical setting, current development and objectives of the research and provides a brief overview of the thesis.

Following the introductory chapter, chapter two presents the conceptual pillars and theoretical framework underlying the study. The chapter therefore discusses the concept of common property resource management, adat and the role of the bricolage process in mediating access for forest use and control. In this chapter, I also describe the method applied in this research project.

Chapter three uncovers the politics of adat revival in Indonesia. This chapter explores the national discourse on customary collective land rights (*hak ulayat*), from its modest inception during the New Order regime in the 1980s through to contemporary national debates through which adat has now become a potent force for a social movement that aims to tackle social injustice. This includes a chronicle on how this movement initially appeared in Indonesia as well as popular discourse and collective actions that have contributed to the rise of the adat movement.

To understand the significance of the MK 35 decision, it is important to understand first the historical settings of forest management in Indonesia. These are deeply rooted in the management practices of the Dutch colonial era. Therefore, chapter four traces the origins and implementation of scientific forestry in Indonesia. I will show how the application of this paradigm has shaped the contestation over control of forest territories, commencing from the colonial era through successive post-independence Indonesian governments, before providing a chronicle of forest classification, exploitation and conservation in the Gunung Halimun-Salak area.

Chapter five presents the history, livelihood and belief systems of the Kasepuhan people, based on my own field research as well as secondary sources. It explores their traditional land and forest resource management practices and institutions, and how these have played a role in the controversies over forest management rights within TNGHS territory. This is important for understanding

Kasepuhan peoples' actions in securing their forest tenure through a variety of political and legal means.

Chapter six analyses the power dynamics between Kasepuhan community and key local decision makers, and how these play out in terms of forest access and control. Here the institutional bricolage introduced in Chapter two is overlaid upon the shifting control of forest territories and land uses. This chapter thus presents the political strategy that the Kasepuhan people deployed to shape institutional arrangement in forest access and control, and analyses how MK 35 shifted the balance in forest management in the Halimun-Salak region.

Chapter seven explores Kasepuhan people's public representations, focussing particularly on how they have aligned their interest and aspirations in the context of adat revival in Indonesia. Next, this chapter presents how they construct a romanticised image of masyarakat adat through symbols, rituals and how these public images help them to forge alliances and increase their political leverage to secure their traditional rights.

The thesis concluded with chapter eight, where I present the summary of the thesis's findings and implications of MK 35 for customary forest governance in Halimun-Salak region. The chapter also discusses some of the lessons from the study and what it means for other Indonesian adat communities in related positions.

2 Theory and Method

In this chapter, I convey the theoretical framing for my thesis analysis. I present the theories through which I engage with the realities that I encountered during my fieldwork in Kasepuhan community's villages. I use three concepts that intersect with one another and frame the theoretical core of this study. First, it is essential for me to lay a foundation for understanding the concept of adat and how it pertains to this study. More specifically, I analyse how adat narratives have been valuable to efforts to address past injustices done to marginalised communities and how this narrative has been instrumental to the post-Reformasi revival of 'masyarakat adat'.

The second concept is the commons. I present the scholarly literature on common property resources and the role of local communities. In particular, I illustrate how adat communities manage forest control and access to produce what is normally called community-based property rights. This discussion is important to help understand the production of territorial space by the Kasepuhan community in Halimun-Salak area.

The third is institutional bricolage. I argue that in order to understand the implications of the court's ruling on forest access in the Halimun-Salak area, it is important to scrutinise the ways in which adat actors navigate institutional arrangements in the area, especially the formulation of the arrangements. The concept of institutional bricolage enables me to paint the broader picture of how resource management emerges from mutual interactions and influence among actors in the context of the new political and legal landscape.

2.1 The notion of adat

The concept of adat has been a persistent theme in state-society relations from the Dutch colonial era through to contemporary Indonesia. Originally an Arabic term, adat translates as custom, which is itself a very expansive and amorphous concept. Adat is commonly used to describe the characteristic trappings of an individual culture, e.g. traditional attire, dance, architecture and various rituals. In some situations, adat could also refer to manners or decent behaviour. The oft-cited saying in

Indonesia, '*Tidak tahu adat!*' (Don't have any manners!), is used to describe someone who does not act or behave in a socially proper manner (Suparlan 1999). Adat is a well-developed concept that forms a part of ongoing social reality for most Indonesians, and for some comprises an entire 'symbolic universe' consisting of rules, regulations, institutions and procedures, along with theories about the sources of its validity. Von Benda-Beckmann (1992:4) defines adat as:

...consisting of cognitive and normative conceptions, that is concepts, rules, standards, and principles pertaining to all fields of social activity, to the construction, allocation and transmission of political power, to the right to make, and change rules and to make decisions, to validate transactions, to the access to and distribution and intergenerational transmission of economic resources, to social arrangements like marriage and kinship, and procedures to deal with problematic events.¹⁴

Throughout the evolution of Indonesian history, adat has been described as a form of law (Burns 1999, 2007). The Dutch term '*adatrecht*' and its Indonesian equivalent '*hukum adat*' – 'adat law' – came into circulation when the Dutch colonial government tried to comprehend the various customary laws of native peoples in the archipelago. During the final decades of the history of the Netherlands East Indies, a groups of scholars set out to observe, compile and analyse the customs and practices of adat in various Indonesian communities. Under the heavy influence of the great adat scholar Cornelius van Vollenhoven (1874-1933), the data gathered were considered to be variations of local customs that govern the natives. Van Vollenhoven is responsible for the 'discovery of adat law', which also happens to be the title of one of Van Vollenhoven's seminal publications in this field. As Lev (1986: 64) pointed out, 'Adat as it has been thought of for nearly a century, is a Dutch creation, not an Indonesian one. The substantive rules are Indonesian in origin, but the understanding of adat, the myth of adat, as it were, and the relationship between adat and state authority are the result of Dutch, not Indonesian work.'

¹⁴ See also von Benda-Beckmann (1979, 1986).

The initial objective of his work was to create a native legal system which was based on the pre-existing adat norms that could be incorporated into the colonial *adatrecht* framework. His work ultimately codified unwritten adat law, which in its original settings had multiple, regionally diverse forms, into 111 articles of coordinated adat law principles (Fasseur 2007). Van Vollenhoven did not realise that several decades after his death his work would eventually lead to something far more complex – the creation of an entire myth, an entire normative and symbolic universe, that has been invoked, interpreted and deployed by governments, local communities, scholars and NGOs as means to address social, political and territorial control (Burns 1999; von Benda-Beckmann 1992; Hooker 1975; Moniaga 1993; Fitzpatrick 1997; Li 2000, 2001; Thorburn 2000).

With this significant contribution from Van Vollenhoven and his students, the Dutch colonists established a plural legal system that consisted of adat law for the natives and civil law for Europeans in the Indies. Many areas of the Dutch East Indies were ruled indirectly, leaving much of the conduct of local governance in the hands native rulers. This effort had a profound effect on the subsequent development of the Indonesian state (Hooker 1978, Burns 1989). Chapter three and four will extensively discuss how the state usurped land and forest management in Indonesia and how adat has been used by the social movements emerging during *reformasi* to counter the state's hegemony over resource access.

After Indonesia reached its independence, the notion of adat took centre stage in Indonesia's political scene at that time. The newly-established state sought to formulate its own nationalist ideology. Raden Supomo who was amongst von Vollenhoven's students and arguably the most influential member of the committee¹⁵ that prepared the national constitution after independence, attempting to make adat suitable for Indonesia's nationalist ideology (Supomo 1951, 1953; Hooker 1975, 1978; Fitzpatrick 1997, 1999). Adat was seen as unique to Indonesian settings and different

¹⁵ The Investigating Committee for Independence Preparations (*Dokuritsu Zyunbi Tyoosakai*) was established by the occupying Japanese forces once it became apparent that the tide of the War in the Pacific was turning against them. At the very least, they reasoned, they could prepare local nationalist politicians and militias to resist the return of Western colonial powers after the war.

from western values. As Henley and Davidson (2008: 21) state: ‘Adat, then, was spiritual, community-oriented, humane and quintessentially Indonesia, while western law and by extension its culture was mundane, individualistic, inflexible and supportive of rich foreign capitalists.’ With that in mind, the committee approached the task of drafting a new constitution with a foundation based upon adat. Supomo, who was a Javanese nobleman, envisioned a ‘village republic’, an Indonesian state that mirrored the institutions and ethos of a (highly idealised) Javanese village (*desa*), in which there was no sense of separation between rulers and ruled. Rahardjo (1994: 495) lists the characteristics of the village republic, which includes:

- a) The state exists to protect and serve the interests not of an individual or group but of society as a whole.
- b) The union between the government and the people should be strong - to use the Javanese expression '*manunggal kawula lan gusti*' ('the unity between authority and the people'). The government should embody the peoples' sorrows and wishes and all other mental states and aspirations.
- c) Individualism is frowned upon. The Indonesian state is a joint venture of the people based on the principle of *gotong-royong* – ‘all works should be accomplished in a spirit of togetherness.’
- d) Opposition between the state and the people is inconceivable. Opposition and conflict are inconsistent with the ideal of a *negara kekeluargaan*, ‘a state based on the familial concept.’

Another fundamental characteristic of adat systems that has generated a powerful influence on Indonesian legal culture and state-society is the collective ‘right of allocation’ (Burns 1999), or locally known as hak ulayat. Ulayat incorporates a distinctive set of traditional adat rights over land, and is ‘fundamentally concerned with the rights and reciprocal responsibilities of individuals to their communities or descent groups, and to the founding ancestors who continue to ensure collective wellbeing’ (McCarthy and Warren 2002: 82). In other words, the main concerns of most customary

land and resource management regimes are the operational rules that determine who may exploit or utilise local territories or resources, and the collective choice rules that determine who decides, and how. As chapter four will show, this concept contradicts the Indonesian Constitution which weakly recognises such rights. Subsequently, this condition has brought a systemic denial of hak ulayat through the most part of Indonesian history, and the state has become effectively the only owner of forest or any other natural resources. Supomo's vision of the 'village republic', ironically, became the pretext for the dismissal of adat communities' rights that initially inspired him.

Overall, the concept of legal pluralism during the Dutch colonial period, especially concerning the customary communities' rights over land and resources or hak ulayat, has left an enduring conceptual legacy pertaining to adat communities' rights to forest resources. This is an important part of the background to why MK 35 is considered to be ground breaking by adat communities and NGOs that have been fighting for adat rights recognition for decades. MK 35 opens up the potential for adat communities to exercise their hak ulayat, which beforehand were systematically refused by the state for the sake of development or conservation. According to the Constitutional Court's ruling, adat communities are now the 'rights holders' of adat forest territories. MK 35 has become one of the major legal justifications to push for fundamental changes in the management of forest and natural resources by adat communities (Rachman and Siscawati 2014; Fay and Denduangrudee 2016).

2.1.1 The production of space by adat communities

Foucault (1984: 252) argues that 'space is fundamental in any exercise of power'. Any efforts that want to claim or identify an interest in space need to be seen as exercises of power. Kasepuhan peoples' claim for forest access and control in a national park area represents a contemporary example of such a process. Exploring the role of space is valuable for obtaining a complete picture of the relations between adat communities and other stakeholders involved, and of how the dynamic of those relations affects institutional arrangements of forest management in the Halimun-Salak area. Space is ultimately shaped by social practices of collective actors and the individual in particular historical,

cultural and social settings. It is both social product and it engenders social relations that involve accommodation as well as conflict over interpretations and representations (Foucault 1984).

Based on this argument, Lefebvre (2009: 171) emphasises that ‘space is always political and strategic.’ It is continuously reinterpreted, represented and practised through a community’s physical, mental and social activities. Hence, analysis of space should be focused on the production of space as well as the conflictual and conforming actions within these processes. According to his conceptualisation, people produce space through three kinds of practices: spatial practice, representation of space and representational space (Lefebvre 1991).

In spatial practice, people perform daily activities and follow patterns of interaction where they categorise and organise space in accordance with specific ideals in order to exert control. Spatial practices include ‘routes and networks, patterns and interactions that connect places and people, an image with reality and work with leisure’ (Merrifield 2006:110). In doing so they produce representations of space, that is, the ideal space constructed out of symbols, codifications and abstract representations (Lefebvre 1991). In other words, it is a conceived space, an aspect of space that is mainly used to serve the interests of specific actors. In Lefebvre’s view ideology, power and knowledge are embedded within this representation. The third kind of action represents collective experience, traditions, social values and imaginations of the community. Lefebvre refers to it as the ‘social space’. Such space constantly intertwines with representations of space, it is a dimension of space that is ‘directly lived through its associated images and symbols’ (Lefebvre 1991: 39). Therefore, representational space is both the source of domination and resistance (Oslender 2004).

Acting in accordance with Lefebvre’s concept, adat or customary communities have engaged in the production of space through these three kinds of practices. Kasepuhan communities have produced space through routine spatial practices by physically occupying or living within the forest, practicing swidden farming and extracting rattan fruits, resins, honey and other forest products. They cleared certain forest areas and transformed them into different kinds of cultivation areas. Kasepuhan communities transform the barren, uncultivated or fallowed land into forested areas (also see Amanor 1994; Fairhead and Leach 1998; Batterbury and Bebbington 1999 for comparison).

As chapter five will show, these actions involve the adaptation of rituals, adat practices, and also their identity as masyarakat adat. Especially during the harvest ceremony known as Seren Taun, the Kasepuhan people display their collective resources of environmental wisdom through rituals and highlight their traditional forest management practices to shape the public imagery. This is part of the adat communities' strategy for securing their rights to natural resources. As Li (1996: 509) argues:

Images of community are central to questions of resource access at the local level, not because of guaranteed rights provided by rules and traditions, nor because of any self-evident qualities of moral economy, but as culturally available points of leverage in ongoing processes of negotiation. Particular visions of community, such as those proposing the entitlement of every individual to a livelihood, or requiring kin or neighbours to take care of each other, do not guarantee that such things will take place, but they provide vocabulary of legitimation for requests to be made and pressure to be exerted.

Furthermore, in the process of staking their claim to the forest areas, Kasepuhan people produced representational space by assigning values, meanings and symbols to the surrounding environment. The landscape of Kasepuhan community is filled not only with symbols, values, and meaning, but also with memories and histories that linked persons, magical entities, events, activities and places together (Adimihardja 2008). Their identity is inseparable with the histories of the place and the symbols and meanings assigned to the forests, mountains, river bends, caves and other natural features. Forest areas and their resources, therefore, serve as beyond just a geographic backdrop for the Kasepuhan community. It also serves as their cultural space (Lefebvre 1991; McDermott 2001; Feit 2004). This means that their attachment to their physical surroundings serves as a tool for thought and also action through which actors develop and maintain their socio-political resistance, as chapter six and seven will show.

Because of this, Kasepuhan community respond to the state-imposed space division and categorisation in several ways. They accommodate new boundaries when they suit their interests,

challenge them when the new space arrangements conflict with their own territoriality and resource use institutions, or ignore them when they do not affect their ‘lived space’ in a significant way. These responses have contributed to competing claims that regulate access to land, not only among state institutions, where each of them has corresponding laws, but especially with traditional customary institutions with long-established systems of forest governance. Several scholars have explained how forest and land use conflicts, due to the competing claims between state laws and customary regulations, have been an ongoing reality in post-Reformasi Indonesia (e.g. Afiff 2007, Bakker and Moniaga 2010, Galudra et al 2008, McCarthy 2004, Lucas and Warren 2013, Colchester et al 2014).

2.2 The Commons

In Hardin’s (1968) seminal publication of ‘The Tragedy of the Commons’, he refers to the commons as all land or other natural resources that are not privately owned or state owned. The main argument of his work is that the pursuit of short-term economic benefits and increase of population would lead to environmental degradation and works against the long-term welfare of the planet and its inhabitants. He argues that this tragedy of the commons happens due to ineffective regulations and the incapability of institutions to protect natural resources. Therefore, he suggests that only state or private management regimes are able to prevent or resolve the ‘tragedy’. Hardin’s thesis had sparked responses from other academics that argue Hardin’s argument conflates the commons with an ‘open access’ situation. In open access, there is indeed an absence of any regulatory regimes to administer the use of natural resources, a situation which could possibly lead to resource depletion and nature degradation. Some critics consider that Hardin’s argument neglects the existence of a wide range of institutions, regulations, norms and traditions outside the state and private regimes that effectively mediate access to shared resources and territories in many communities throughout the world (Bromley 1992, Schlager and Ostrom 1992). It is argued that these kind of communities would be able to prevent the ‘tragedy’ from happening, and even be able to ensure better environmental outcomes compared to state or private regimes.

The commons discourse has helped in promoting customary/traditional communities' rights in Indonesia and other parts of the world. Several scholars have argued that natural resources may be sustained through the enforcement of local institutions even under adverse pressure from the state, demographic changes and market forces (e.g., Bromley and Cernea 1989; McCay and Acheson 1990). These discussions argued that in many cases local institutions in different parts of the world have come up with a wide variety of property regimes and institutional arrangements for resource management which have ensured sustainable use of natural resources. They have provided convincing evidence that traditional communities are capable of crafting and enforcing institutions to regulate resource use among their members, reduce free-rider behaviour, exclude non-members of their collectivities and maintain important economic and cultural resources (Ciriacy-Wantrup and Bishop 1975; Ostrom 1990; Bromley 1992). These traditional systems are in some cases viewed as underutilised means to help curb or reverse the environmental degradation that often accompanies economic development (Posey 1992; Gadgil, Berkes et al. 1993; Alcorn 1994; Lynch and Harwell 2002).

This argument provides a scholarly conceptual resource that activists can exploit, either from the perspective of indigenous peoples' activism or the environmental movement. For example in a fairly recent report from the Forest People Program (FPP), a UK based international NGO that advocates alternative ways of forest management based on respect for indigenous peoples' rights, Colchester, Anderson et al. (2014) use the phrase 'assault on the commons' to describe how nature degradation has stimulated 'the rise of a national movement for the restoration of rights and justice to local communities and indigenous peoples' in Indonesia. The concept of the 'commons' has fit well with the aim of the adat movement in the country that wants to integrate social justice concerns with an environmental agenda (Moniaga 1998; Lynch and Harwell 2002; Warren and McCarthy 2009). As I will show in the next chapter, the birth of the indigenous movement in Indonesia came from an environment-related background. Not only that, in their campaigns to advance traditional rights to resources, NGOs and adat communities have highlighted their traditional forest management practices, arguing that they are sustainable and would significantly reduce deforestation.

Consequently, the ability of communities to use and manage forests and other natural resources in a sustainable manner has attracted much interest from various scholars, policy-makers, donor agencies and NGOs. Their interest in this issue is growing even more with the worldwide trend to devolve natural resource management to communities (Agrawal and Ribot 2000). The so-called community-based natural resource management (CBNRM), is based on the assumptions: ‘that local populations have a greater interest in the sustainable use of resources than does the state or distant corporate managers; that local communities are more cognizant of the intricacies of local ecological processes and practices; and that they are more able to effectively manage those resources through local or traditional forms of access’ (Brosius and Tsing 1998: 158). This assumption advocates the restoration of rights to control of resources to communities in order for them to be fully able to operate their resource management systems.

Ostrom (1990) developed the discussion on the commons further by introducing a general model of self-governing institutions, seeking to identify the key characteristics that have enabled local communities to successfully manage commons over long periods without resource degradation. She also singles out indigenous/customary institutions in this case, because she notes that a strong community tradition is usually essential for successful management of common property resources. Ostrom’s ‘design principles’ that favour positive environmental outcomes include:

- a. Clear definition of boundaries.
- b. Establishment of effective monitoring arrangements for imposing sanctions.
- c. Linking of rules to local conditions.

The previous section has discussed the Kasepuhan community’s activities in (re)producing space in staking their claims to forest territories. This conception correlates well with the concept of the ‘commons’, where the Kasepuhan community is in effect redefining the boundaries of their commons territories through their spatial practices. Consequently in practice, they are making claims on specific forest territories in ways that provide the basis for ‘the development of more restrictive common property institutions: rules and regulations about the distribution, use, and transfer of rights in the commons’ (McCay and Acheson 1987: 11). As I will address in chapter five, the Kasepuhan

people live their life based on certain rules and prohibitions that are passed down from generations. This includes regulatory regimes on forest management. In the process of getting their rights recognised, they have represented themselves as the type of communities that have the ability to prevent ‘the tragedy of the commons’. Kasepuhan community shows that their ancient environmental wisdom is parallel with the national park’s conservation goals.

In addition, in chapter one I pointed out that efforts to resolve problems over the tenure system in favour of adat communities became more evident in the wake of Reformasi in 1998. The democratisation and decentralisation processes have enabled adat communities to demand forest management rights. The concept of community-based property rights (CBPR) was introduced by the NGO coalitions on behalf of adat and local communities to help them to fully restore their rights to manage their own commons resources. Therefore, CBPR should be understood as an aspirational and ultimate goal for many customary communities in contemporary Indonesia. As Lynch and Harwell (2002: 3) explain:

Community-based property rights by definition emanate from and are enforced by communities. The distinguishing feature of CBPRs is that they derive their authority from the community in which they operate, not from the nation-state where they are located. Formal and legal recognition or grant of CBPRs by the state, however, is generally desirable and can help to ensure that CBPRs are respected and used in pursuit of the public interest.

References to community-based natural resource management and property rights should be used only with regard to initiatives that are primarily controlled and authorised from within a community. Externally initiated activities with varying degrees of community participation should not be referred to as community-based, at least not until the community exercises primary decision-making authority.

The Constitutional Court ruling of MK 35 has been an unprecedented development for adat communities’ effort to gain CBPR, for before the ruling, there was only weak legal standing for them

to gain such rights. MK 35 provides a stronger legal basis for the restitution of adat communities' rights over forest resources and enhances dialogue between adat movement proponents and government officials on negotiating for adat communities to be able to manage forest commons. It gave the necessary legal push for the Kasepuhan community to pass a PERDA on Kasepuhan which basically restores the Kasepuhan peoples' community-based property rights. Chapter six and seven will further address the efforts of the Kasepuhan people in creating socio-political advantages through a variety of pliable arrangements. This includes the representation and rhetorics used by the community, which are crucial of the endeavour to restore their traditional rights to forest tenure.

2.3 Institutional bricolage: mediating access to and control over forest management

The political, social and physical environments surrounding the Kasepuhan community provide the perfect arena to assess how adat communities exploit uncertainties and recent policy changes concerning forest management in the country. The Kasepuhan peoples have been living in the Halimun-Salak forestlands for centuries. However, in recent times, their forest access has been rather shaky because they live within state forest areas, the Gunung Halimun-Salak National Park (TNGHS). However, as mentioned, they have been able to endure living in the vicinity with most of their cultural and traditional beliefs and practices intact to this day. They have a very good relationship with authorities, and some of its members occupy roles as 'authorities', ranging from school teachers, and local bureaucrats, to even becoming parliamentary members. They also have been working closely with outside parties, such as scholars, NGO activists, and media members for the last several years. All of these have enhanced their ability to maintain some degree of forest access and control, which in turn has enabled them to preserve their traditional forest resource management. When MK 35 came, they seemed to be one of the few adat communities that were ready to materialise the process in their locality. Overall, I would say that the Kasepuhan community presents an anomaly compared to most adat communities in the country regarding the impact of MK 35. They are one of three adat

communities that have been able to follow up the MK 35 decision into a more tangible result by benefitting from a PERDA that recognises and acknowledges their rights¹⁶.

It is clear that the political and social dynamics of access to natural resources are ‘the processes where rights over land and other natural resources are settled and contested’ (Sikor and Lund 2009: 3). This means that resource access is profoundly shaped by power and authority in a specific locality, and institutional arrangements are critical to such processes. As argued by De Koning and Cleaver (2012: 280) ‘tracking the ways in which power is visibly and invisibly channelled through these arrangements is a key challenge.’ Adding to this challenge are the concepts of regulatory and legal pluralism (Hooker 1975, Fitzpatrick 1997, Lindsey 1998, Burns 1999, Wollenberg and Kartodihardjo 2002) and policy inconsistencies in multilevel governments (Resosudarmo 2007, Aspinall and Mietzner 2010). These have made natural resource governance more complex in practice, with multiple systems shaping chain of activities and different actors introducing, influencing and shaping institutions, values and norms.

One way to analyse the social dynamics in Kasepuhan communities and their ability to access and control forest resources is through the concept of institutional bricolage (Cleaver 2002). The bricolage concept has emerged over the last decade as an important theoretical framework for understanding how institutional arrangements mediate access and control over natural resources. The term bricolage (Lévi-Strauss 1966) itself refers to making things happen with whatever is available at hand. In natural resource management literature, ‘institutional bricolage’ refers to the cross-cultural borrowing of institutional arrangements and their underlying norms, values and social relationships and the crafting of new arrangements. This, in turn, produces multipurpose institutions and arrangements that foster cooperation and advance livelihoods, individually and collectively (Cleaver 2002). Furthermore, Cleaver (2012: 45) sees institutional bricolage as:

¹⁶ MK 35 states in order for the *adat* communities to restore their rights to forest territorial control they need a regional bylaw, which recognises and acknowledges such rights (Epistema Institute 2015). Three years after MK 35, there are only three *adat* communities that have been able to advance their pursuit for rights over land through PERDA. These communities are the Kasepuhan Community and Kajang and Massenrempulu Communities in South Sulawesi.

...a process in which people consciously and non-consciously draw on existing social formulae (styles of thinking, models of cause and effect, social norms and sanctioned social roles and relationships) to patch or piece together institutions in response to changing situations. These institutions are neither completely new nor completely traditional but rather a dynamic hybrid combining elements of ‘modern’, ‘traditional’ and the ‘formal’ and ‘informal’. The institutions produced through bricolage are inevitably uneven in functioning and impact, and are often fuzzy assemblages of meaningful practices, which overlap and serve multiple purposes.

The concept of institutional bricolage helps to illuminate the complexity of institutions in everyday life, their formation and the interplay between traditional and modern, formal and informal arrangements. Processes of bricolage can ‘reach brilliant unforeseen results’ (Levi-Strauss 1966: 17). Institutions are about ‘what actors do’ – about the ideas and associations they bring into a relational network (Lund 2006). Bricoleurs are the ones consciously and unconsciously weaving through the local socio-political terrain in order to be able to come up with ‘new’ arrangements. Cleaver (2002) states that there is a constant reciprocity between bricoleurs and the institutions that they shape and by which they are shaped.

In this study, I argue that acts of bricolage are part and parcel of everyday forest management realities in the area and often allow or enable the Kasepuhan community to shape or influence institutional logics or the state administrative order. Cleaver (2002, 2012) illustrates three aspects of bricolage that are essential for the shaping of institutional arrangements on natural resource management. As chapter six will show, these aspects fits well with the institutional arrangements that the Kasepuhan people have been creating and exploiting in order to secure their forest tenure.

2.3.1 The multiple identities of the bricoleurs

Openness to multiple identities is a key characteristic of bricoleurs. They resourcefully adopt, modify and build arrangements from multiple elements to articulate certain goals or even contest certain

discourses. In this study, for example, it is important to note that a bricoleur is not simply a government official, adat community member or leader, NGO activist or politician who engages in forest governance dynamics in the region. For instance, he/she could be at the same time both adat activist and government official, and community leader, entrepreneur, NGO member and so on. This suggests that bricoleurs can hold several positions while operating in the society, depending on time, place and occasion. I will show that it is this multiplicity of performances, and fluidity of actors and bricoleurs, which gives the Kasepuhan people the ability to change shape and adjust to different settings and purposes.

2.3.2 The frequency of cross-cultural borrowing and of multi-purpose institutions

Local institutional dynamics in natural resource governance often takes place through cross-level interactions between multiple actors and different forms of organisation. Therefore, they build on social and political capital, and in the case of the Kasepuhan people, cultural capital, to construct new institutional arrangements regarding natural governance and/or modify existing ones in order to sustain their livelihoods or broader goals. This includes the formation of strategic alliances and informal agreements between state institutions and local communities on the use and management of natural resources. As a result, the rules of the game are to a large extent implemented through a blending of formal and informal mechanisms and practices, thereby showing that not only communities but also local state actors are active bricoleurs in everyday natural resource governance. The Kasepuhan people have adroitly implemented this approach by aligning themselves with the larger adat movement in the country in order to gain more socio-political support. At the same time, they are also directly involved in local political process through the participation of some of their members in the local parliament and executive bodies. As will be discussed later in chapter six, they have been able to transmit their identity as masyarakat adat into a political asset that is valuable in negotiating their case.

2.3.3 Shared norms

Berry (1989) argues that the iterative relationships between bricoleurs and other relevant stakeholders for natural resource governance help to channel access to resources in a community. Therefore, conflict must be avoided to ensure secure access to resources. Further, Cleaver (2002: 33) suggests that ‘values of social respect and conflict avoidance are deeply embedded and [...] link moral behaviour to individual and community well-being’. In this regard, the role of the supernatural (spirits, the ancestors, and God) and community belief systems are strongly linked to cultural norms compelling people to act based on principles of mutual respect and the tendency to avoid conflict. This, in turn, helps the community to shape desirable arrangements for collective action and the use of natural resources.

The Kasepuhan people are the perfect embodiment of these three bricolage aspects. In the era of democracy and decentralisation, they believe that there are many channels to be exploited for the securing of their adat rights. As I will show in chapter six, they are firm believers in the power of engagement and not confrontation. This has led to relatively fluid relationships between the communities and other stakeholders. Most of the altercations regarding rights and access to resources could be resolved between conflicting parties. The fact that there has not been any physical conflict between Kasepuhan community and forest authorities is a clear testament to their approach. Many Kasepuhan members also have maintained good relationship with key policy decision makers, such as the local police chief, army officers, government officials, and national park manager. They often pay visits to such figures and discuss their concerns regarding forest control with these important stakeholders.

There is an expression in Indonesia that says ‘*semua bisa diatur*’ (‘everything can be arranged’); I believe this sentiment is also behind Kasepuhan people’s dispositions about and responses to the state’s authority over forest resources. For most of the recent history of the Kasepuhan peoples, forest authorities have let the Kasepuhan community carry out their activities inside the national park areas through ad-hoc arrangements because they sympathise with and respect the Kasepuhan groups. In chapter six, by using ‘institutional bricolage’ as my tool of analysis I will

explain exactly how forest access in the Halimun-Salak region has been negotiated and how the ‘bricolage’ manners have assisted the Kasepuhan people to retain forest access and control.

2.4 Research methods

The core of my research was a period of participant-observation in the Kasepuhan community. I received the ethics clearance from Monash University Human Research Ethics Committee (MUHREC) in June 2014.¹⁷ Afterwards, I conducted fieldwork in the Gunung Halimun-Salak area for a period of six months, between July 2014 and December 2014. I am a native speaker of Indonesian and can speak Sundanese at conversational level. This language competency is a valuable asset for my research especially because this study adopts multi-site approaches in charting the implications of MK 35 and actors’ response and perceptions in the Mount-Halimun-Salak area. Most of the respondents whom I interviewed could not speak English. They speak Sundanese in their daily life and occasionally speak Bahasa Indonesia (mostly during formal occasions).

I spent the first two weeks familiarising myself with the institutional setting at the district level, to obtain and review a range of information on forest management, and to assess the suitability of the proposed research sites. I visited various district government agencies in Rangkasbitung, the district capital of Lebak, including the forestry service (*Dinas Kehutanan*), State Forest Corporation (*Perum Perhutani*), and the planning and development agency and local legislative council. I introduced myself to key staff members of these agencies and learned about their land and forest policies and programs, and obtained some preliminary information about how these have affected Kasepuhan resource management systems and rights. I also interacted with the staff of various local and national NGOs, such as Rimbawan Muda Indonesia (RMI), AMAN, Sajogyo Institute, Epistema, and HuMa. As I will show in the chapters to follow, these NGOs, especially AMAN, have played a vital role in influencing the Kasepuhan people through introducing new ideas and strategies to be mobilised in materialising MK 35. In addition, I procured documentary materials, including project reports, district

¹⁷ Project Number: CF14/1557 – 2014000744, approved from 9 June 2014 to 9 June 2019.

decrees and regulations, village demographic reports and maps from different government agencies and NGOs.

A key opportunity to learn more about the Kasepuhan emerged when AMAN invited me to participate in a workshop and participatory mapping exercise that AMAN and RMI organised in August 2014 in the village of Cisit. This event brought together representatives from different Kasepuhan groups who have been negotiating their control over forest territories. In this three-day workshop, I had the opportunity to obtain an overview of customary forest institutions and management, but more importantly, I was able to establish contacts for my field stays in Kasepuhan villages. During fieldwork, I stayed in several Kasepuhan villages, namely Cisit, Cisungsang, Citorek, and Ciptagelar, and I briefly visited other smaller Kasepuhan villages. Fortunately, in every village that I stayed in or visited I was able to interview the adat leaders. It became clear that there are – and have long been – a variety of tactics and ‘countermeasures’ used by the Kasepuhan to attain and secure access and control of state forest areas. They believe that the state’s domination over forest areas in the country is not an end result, but is a result of a political process. The most effective way for them to challenge the trend is through such a political process, not confrontation. The adat leaders responded positively to my intention to carry out this study in their areas because the timing of my study coincide perfectly with some of the ‘political moves’ that they were about to carry out as a response to MK 35.

I conducted intensive fieldwork in Citorek village, the largest Kasepuhan village, between August and mid-September 2014 (1.5 months). I shifted to Cisit between September and mid-October 2014 (3 weeks), then Cisungsang between October and November 2014 (1 month), and Ciptagelar between November and mid-December 2014 (2 weeks). Within these periods, I sometimes visited smaller villages, including Bayah, Karang, Cicarucub, Ciherang, Ciputer, and Cibedug, to gather additional information.

To garner insights into how the authority of customary leaders over village communities and forest resources within their respective territories had evolved over time, I interviewed adat leaders, village elders, village heads, national park officers, and members of the district parliament. I asked

them about the history of the village, the size of their customary territories, the customary social and political structure, the roles and responsibilities of adat leaders, and how they categorised land, allocated land use rights, and enforced rules in the customary forests. In particular, I explored how the Kasepuhan negotiate forest access and control; the political strategies that they have adopted in order to assert their adat rights; resource extraction patterns; the relationships with Halimun-Salak National park management; and the enforcement of the government's various land and forest policies. In the wake of MK 35, I asked adat leaders and elders how they consolidate themselves especially with different groups of Kasepuhan, and what processes the Kasepuhan community has taken with the help of NGOs such as AMAN and RMI to operationalize MK 35 at the local level.

I attended various adat rituals and ceremonies to understand how customs and customary leaders influenced different aspects of village life. These included the most important ceremony of the year, the *Seren Taun* rice harvest ceremony. The moment was also crucial for me to witness Kasepuhan people's political strategy in responding to MK 35, as they lobbied parliament members, strengthening the bond between Kasepuhan groups and discussing their future actions with NGOs. I obtained a snapshot on the social cohesiveness of the Kasepuhan groups, their deft political skills and also the respect that they received from various stakeholders of the region who came to the ceremony, including from key government officials, such as the *Bupati* (District Head), head of the local police (*Kapolsek*) and some high-level officials from the provincial government.

To learn about the Kasepuhan's land use, their access to and interaction with the adat forests, and the enforcement of forest rules and prohibitions, I interviewed farmers and forest users, both male and female. From farmers, I gathered information about where cultivation areas were located, how swidden cultivation has been practiced and changed over time, and how they have responded to the restrictions from the national park agency. From forest users such as the village shaman, traditional miners, and loggers, I collected information on what rules they had to follow, and how their extraction activities have changed over time. I went with several Kasepuhan farmers to their rice and swidden fields. I visited the customary forests several times to gain a general idea of the forest condition and to observe who accessed the forests and what products were extracted.

The total number of government personnel, NGO activists, adat leaders, farmers, and forest users whom I interviewed during the fieldwork is listed in table 2-1. The list of government and non-government agencies visited and the total number of personnel interviewed is provided in table 2.2.

Table 2-1 Number of people interviewed at the village level

| Category | Citorek | Cisitu | Cisungsang | Other villages |
|------------------------------|----------------|---------------|-------------------|-----------------------|
| <i>Adat</i> leaders | 3 | 6 | 2 | 5 |
| Village government officials | 5 | 3 | 2 | 4 |
| Farmers and forest users | 15 | 10 | 10 | 12 |
| Company representatives | 2 | 4 | - | 5 |
| TOTAL | 25 | 23 | 14 | 26 |

Table 2-2 Number of government and NGO personnel interviewed

| Name of the agency | Total number |
|---|---------------------|
| Government agencies: | |
| Ministry of Forestry | 2 |
| Ministry of Environment | 1 |
| Lebak District government (PEMKAB) | 5 |
| Lebak District legislative council (DPRD) | 4 |
| KOMNAS HAM | 1 |
| Gunung Halimun-Salak National Park | 3 |
| Perum Perhutani (State Forest Corporation, SFC) | 1 |
| Planning and development agency | 1 |
| Non-government agencies: | |
| AMAN | 4 |
| RMI | 3 |
| Epistema Institute | 2 |
| Sajogyo Institute | 1 |
| HuMa | 2 |
| TOTAL | 30 |

3 The Politics of Adat revival

3.1 Introduction

This chapter describes how national debates surrounding adat have shaped resource contestation in the Halimun-Salak region. It is beyond the purpose of this chapter to discuss the entirety of the debates about adat and customary law during the colonial and post-colonial era. Instead, it explores how adat functions as a political discourse and a framework for political action to be deployed so as to empower the local community to claim natural resource access. As Li (1999) points out, supporters of adat institutions can use the representation of adat communities as timeless entities as a tool to challenge prevailing development orthodoxies and to open up space for policy shifts and new program directions.

I begin with the explanation of the emergence of masyarakat adat in the country. To help to frame this discussion, I adopt the four reasons stated by Henley and Davidson (2007) in their account of the rise of adat. The first is the support of international organisations and networks committed to the rights of indigenous people. Second is how the political openness and the process of democratisation have engendered a wide range of possibilities for the adat movement. The third is the repression of marginalised groups, such as customary communities, throughout most of the second half of the 20th century. And last but not least is the historical aspect, which embodies in all other aspects that I have just mentioned. A more comprehensive discussion about the history of the state's domination over forest areas will be provided in chapter four. In the latter stages of this chapter, I explain how the notion of adat, as a political cause, is able to coalesce and mobilise support.

3.2 The rise of masyarakat adat

Discussions on forests and their resources in Indonesia cannot be separated from the existence of diverse communities that have social cohesion and cultural, spiritual, ecological, economic and political attachment to the land, territories and forest ecosystems. But this trend has not always been

the case. The term *masyarakat adat* was initiated by social movement activists in Indonesia in the 1990s, especially by academics, activists and NGOs formed by the Network to Defend Indigenous Peoples' Rights (JAPHAMA, *Jaringan Pembela Hak-Hak Masyarakat Adat*) in Tana Toraja, South Sulawesi. However, it is important to note that concerns about indigenous people at that time began to resurface as a result of the prior rise of the Indonesian environmental NGO movement in the 1980s.

The rise of the Indonesian environmental NGOs in the early 1980s was a direct result of two complementing factors: the first one was the rise of the international environment movement, and second was the personal commitment of a charismatic and well-respected government figure at that time, Dr. Emil Salim (Afiff 2004). Suharto appointed him as Minister of Environment from 1978 to 1993. As a high-ranking official in the Suharto government, his role became crucial for the civil society movement in Indonesia. This was quite odd, considering the attitudes of most officials during the authoritarian regime, who typically were anti-NGO and perceived such organisations as 'subversive' (McVey 1992; Budiman 1994; Crouch 1994; Liddle 1994). His underlying principle was that environmental protection could only be achieved if there was a 'bottom-up' support from the people who interact daily with the environment. His well-known *segitiga* (triangle) approach came about due to his awareness that successful action to solve environmental problems would require collaboration between government, NGOs and universities (Afiff 2004).

Salim was well-aware that his Ministry had no authority to impose environmental standards on other sectors of the government or on the industry. This is where he relied heavily upon the work of his university and NGO counterparts. With the help of many international donors, he pioneered the creation of *Pusat Studi Lingkungan* (Centres for Environmental Studies) in several state universities. Not only that, he supported efforts to form the first and largest environmental organisation in Indonesia even to this day, *Wahana Lingkungan Hidup Indonesia* (Indonesian Forum for the Environment, WALHI). This was truly ground breaking, remembering the socio-political context at that time.

Furthermore, to be able to actualise their goals, the community activists realised that they needed a legal justification to articulate their political aspirations. At that time, the 1982

Environmental Law and the 1989 Regulation on Environmental Impact Assessment provided such avenues for the NGO activists to expand their political space (MacAndrews 1994; Moniaga 1998; Afiff 2004). These regulations were the only policies at that time that acknowledged the role of NGOs and their right to participate in the decision-making process. In this way, environmental regulations became an important instrument to promote social and political issues, such as human rights, democracy, clean and good governance and sustainable development. By the 1980s, environmental issues were perceived by the state as ‘scientific’ rather than ‘political’, plus the government considered the environmental policy as a good strategy to enhance their international image (MacAndrews 1994; Moniaga 1993, 1998).

As mentioned, the state’s appropriation of land and natural resources was at the centre of the New Order regime’s pursuit of economic development. It was not coincidental that environmental concerns became a venue for social justice initiatives (Moniaga 1993, 1998). WALHI were able to use the seeming neutrality of scientific environmentalism to develop a politically-focussed environmental agenda (Afiff 2004). They were concerned not only with ecologically sound resource management but, more importantly, with the direct links between forest, other natural resources and the survival of people whose lives depended on it.

They called upon the ‘commons’ discourse, which I have discussed in chapter two, to help the NGOs to discuss the state of adat rights. Through this they were able to frame the debate as an issue of ecologically sound management. According to Afiff (2004: 92), by doing so ‘they diminished the political aspect of adat and the risks arising from the possibility that the discourse would be interpreted as a direct threat to the state’s power.’ In line with what scholars such as Gardner, Ostrom et al. (1990) and Bromley (1992) have argued, according to these activists protecting customary land rights was also a good method for conserving the forest.

Adat communities, they argued, had a genuine interest to protect the environment and the necessary expertise to back it up (Adimihardja 1992; Moniaga 1993). In reality, of course, activist support had never been driven only by a concern for the environment. Activists also saw the problem that was faced by masyarakat adat to be a part of the larger human rights issues during the tenure of

President Suharto. This is still true for many current cases where many efforts to move adat rights forward run in parallel with campaigns for REDD+, conservation, combating forest fires and illegal logging, peatlands restoration and many more such ecological issues (e.g., Contreras-Hermosilla and Fay 2005; Mutaqqin 2012; Afiff 2016).

3.2.1. The early inception of ‘masyarakat adat’

According to Afiff (2004), concerns over the well-being of adat communities in the early 1990s coincided with the rise of global concern over nature degradation, especially rapid deforestation of the tropical rain forest. Indonesia became a target of the international rain-forest movement since the country has the world’s second largest rainforest area. International organisations, such as the Ford Foundation, made significant contribution in bringing many stakeholders such as social scientists, foresters, government officials and NGO activists together to find solutions to deforestation. Among the strategies that rain-forest alliances used to confront the problem of unsustainable forest management practices was the acknowledgements of local people’s property claims, indigenous knowledge, and traditional resource management. In the early 1990s, a variety of studies and campaigns began to move in this direction. A study funded by the United Nations Food and Agriculture Organization (FAO) in 1990 was among the first studies that recommended that the government acknowledge customary rights in resolving local conflicts within the forestry sector. This study by Zerner (1990: 39) concludes:

Indonesia’s forest management law and policy has accorded a weak status to the communal and customary rights of local forest cultivators. In practice, the policy in several cases has resulted in exclusion or marginalization of local communities.

These policies have been inefficient for a variety of reasons: forest concessions areas are so vast as to make policing the forest estate impracticable. State exclusionary policies (to customary communities) have, in effect, created alienated, disenfranchised local resource users by legal fiat.

During the International Year of Indigenous Peoples in 1993, JAPHAMA was established during a workshop concerning forest and forest-dwelling communities organised by WALHI in Tana Toraja, Central Sulawesi. Many people still refer to this meeting as an important milestone for the indigenous peoples movement in Indonesia (Lynch and Harwell 2002; Fay and Sirait 2002; Afiff 2004; Acciaioli 2007; Moniaga 2010; Rachman 2011; Siscawati 2013). This meeting was the first occasion on which the term *masyarakat adat* was translated as indigenous people. They defined *masyarakat adat* as ‘community groups who for generations have lived in specific geographical regions and have their own values system, ideology, economy, politics, culture, society and territory of their own’ (Moniaga 1993: 136).

The term *masyarakat adat* was consciously adopted and redefined by JAPHAMA in 1993, as it allowed clearer alignment with the global indigenous peoples movement that was unfolding at the time. Moniaga (1993) further argues that there are three more reasons for the adoption of the term. First, whereas the majority of Indonesian people could call themselves as *masyarakat asli* and *pribumi*, the term *masyarakat adat* refers to ‘those people living in a free country whose social, cultural and economic condition are different from the majority of the population of the country and whose status is governed partly or entirely by their own customs and traditions’ (Moniaga and Djuweng 1994: 7). Second, they wanted to counter the negative stereotypes of *masyarakat terasing* (alienated communities), *masyarakat terisolasi* (isolated communities) and *perambah hutan* (forest raiders), which the New Order regime used to label forest-dwelling communities. They needed a fitting image that could present their claims to local geographical settings and its resources. As Bouchier (2007: 122) explains, ‘if indigenous peoples self-identified as *masyarakat adat* rather than accepting the pejorative official term ‘isolated tribes’ (*masyarakat terasing*), they could reclaim their dignity after decades of marginalisation.’

Third, in order to serve political purposes, the New Order regime had often labelled the indigenous people’s movement as a separatist movement wanting to free its people from the Indonesian state. This was not true. Therefore, community activists at that time were forced to find ways to offset this negative overtone. In addition, the term *masyarakat adat* was seen as appropriate

because the term *masyarakat hukum adat* had already been used in the Constitution, the 1960 Basic Agrarian Law, the 1967 Basic Forestry Law, and other regulations. These two regulations are specifically important to this study, for they were the first laws that gave the legal justification for the state to undermine customary or adat rights to forest resources (discussed further in chapter four).

As mentioned earlier, support for customary communities' rights during the New Order regime was heavily influenced by the growing interest in the 'commons' discourse. In 1994, WALHI published an extensive report with the title '*Hutan dan Kesejahteraan Masyarakat Lokal*' (Forests and the Prosperity of the Local Community), which explores numerous local community-based forms of forest resource management. According to Siscawati (2013), this publication became the main reference used by NGO activists in formulating alternative ideas regarding forest management in Indonesia. The environmental activists then conducted activities organised around the Community-based Natural Resource Management (CBNRM) approaches, which emphasised the issues of land tenure and resource rights and recognition of the existence of an array of community-based forest management practices based on local/indigenous knowledge (Fay and Sirait 2002; Afiff 2004; Siscawati 2013).

Activists began to introduce the term 'community-based forest system' (*sistem hutan kerakyatan*, SHK) to describe the diversity of local models of forest management. This, in turn, inspired the establishment of the Community Forestry Support Network (*Jaringan Pendukung Sistem Hutan Kemasyarakatan*, JPSHK) that aimed specifically to collect information about traditional forest management and lobby the Ministry of Forestry to acknowledge and protect traditional forest land tenure systems. The main point that this network tried to make to the government was that these traditional communities could actually generate a positive outcome for the sustainability of the common resources.

Around the same time, the growing trend of participatory mapping began to surface among global conservationists and indigenous people movement circles. Correspondingly, in Indonesia the *Jaringan Kerja Pemetaan Partisipatif* (Network for Participatory Mapping, JKPP) was formed in 1995. Several pilot projects funded by international donor institutions such as the International Center

for Research in Agroforestry, World Wildlife Fund and USAID collaborated with local NGOs in promoting community-based forest management in Indonesia. The collaboration between local NGOs and international donor organisations was the motor of adat revival in the country post-New Order regime, and also the embryo of a variety of NGOs that focus on adat advocacy and studies at the present time. As Henley and Davidson (2007: 824) argue, ‘the roots of today’s masyarakat adat movement, then, lie in domestic Indonesian politics as well as in international activism.’ Therefore, without the past and present synergy between the global-local concerns on indigenous peoples’ rights, the adat movement in Indonesia could not be at the place it is now.

3.2.2. Political Openness of Reformasi

Reformasi, whose major pillars are regional autonomy and democratisation, has opened up the prospect of negotiations for many indigenous people to recapture their forest management rights based on adat. Consequently, the masyarakat adat movement became more visible and permeated into society across Indonesia. The most important event in the beginning of this era was the first national meeting on masyarakat adat (the First Congress of Indigenous Peoples of the Archipelago, KMAN I), organised by twelve national and grass-roots organisations,¹⁸ held in Jakarta on 17 March 1999. From around five hundred people who attended this meeting, more than two hundred claimed to be representatives of ‘indigenous peoples’ in the archipelago (Afiff 2004). This meeting resulted in the establishment of AMAN, which claims to be the primary national institution representing the voice of ‘indigenous people’ in Indonesia.

AMAN and many communities stated that many adat communities had been managing their ancestral lands for many generations and that the state had forcefully taken over their right to manage

¹⁸ These organising groups were Aliansi Masyarakat *Adat* Kalimantan Barat, Baeileo Maluku, Bioforum, Jaringan Advokasi Tambang (JATAM), Jaringan Gerakan Masyarakat *Adat* Nusa Tenggara Timur (JAGAT), JKPP, JAPHAMA, Jaringan Pesisir dan Laut (Jaring PELA), Konsorsium Pembaruan Agraria (KPA), Konsorsium Pendukung Sistem Hutan Kemasyarakatan (KPSHK), Konsorsium Penguatan Masyarakat *Adat* Irian Jaya (KoPenMA-Irja) and WALHI.

without any proper compensation. This, in turn, had ultimately marginalised adat communities from their way of life, which was ruled by traditional norms and customs. Therefore, the crux of their demand was the restitution of land control rights to adat communities and the abolition of all policies that undermine their ability to access forest resources. This includes the agrarian, mining, forest and foreign investment laws (AMAN 1999). Li (2001), Acciaioli (2002) and others argue that the establishment of AMAN was the official mark of indigenous people's involvement in social and political space in Indonesia. The date of AMAN's establishment, 17 March, is now celebrated by adat communities in the country as '*hari masyarakat adat nusantara*' or 'archipelagic indigenous peoples' day. According to Abdon Nababan, AMAN's secretary general, whom I was able to interview, currently AMAN members consist of 2,244 adat communities with 107 local chapters spread across the archipelago (Interview with AN 18/8/2014).

Initial pressure on the national government from AMAN and its NGO allies produced some results, at least on paper. For example, the State Minister of Agrarian Affairs at that time issued a decree on the guideline for 'resolution of the customary rights problem'. This decree opened up the possibility to designate some areas as adat lands (Lynch and Harwell 2002, Fay 2009). Activists also lobbied political parties and parliament members to amend the national constitution. Their effort was successful when the People's Consultative Assembly (MPR), the nation's highest state institution, finally passed a resolution in 2001 (TAP MPR IX/2001), which in principle recognises customary rights over land and natural resources. This decision should give a strong legal foundation for the government to follow up on this resolution by revising the laws in regard to land, especially the 1960 Basic Agrarian Law, the 1999 Forestry Law which replaced the 1967 law, and the 1967 Mining Law in order to recognise customary rights. However, this has never happened.

For example, although the Forestry Law was revised, their rights were only vaguely recognised in the revision (Lynch and Harwell 2002, McCarthy 2004, Warren and McCarthy 2009, Lucas and Warren 2013). In reality, the type of forest management that had occurred during New Order regime has been echoed almost throughout the Reformasi era. In some aspects, the social impacts for the adat communities are even far worse compared to the authoritarian regime because during Reformasi, in

the spirit of decentralisation of government each district could issue concession permits in its respective area. This has made adat communities at odds once again with political-economic pressure (Resosudarmo 2007).

Lower-level governments of *Kabupaten or Kota* are now permitted to generate their own regional incomes, which are usually derived from lucrative natural resource extraction sectors, e.g. mining, timber, and plantations. Resosudarmo (2001, 2007) shows that during the initial stage of decentralisation, some Kabupaten governments had issued countless permits to logging, plantation and mining companies. The Center for International Forestry Research (CIFOR) even claims that the Reformasi period ‘could go down as one of those key periods in history where there is a massive loss of forest, such as there was in China in 1958, during the Great Leap Forward’ (Pye-Smith 2001: 26).

Adat communities responded to this trend with various strategies. One of the main strategies that adat communities and their NGO alliances often use is to invoke the myths and legends of imagined adat that combine the ‘environmental wisdom of the ancestors’ with the argument that communities in Indonesia have been practising adat since before the establishment of the Indonesian state, and thus should take precedence (Moniaga 1993). This re-construction of adat as environmental wisdom, or what Zerner (1994) calls the ‘greening of adat’, is presented with varying degrees of sophistication and complexity, and meets with varying degrees of success.

Adimihardja (1992), for example, traces the Kasepuhan community’s attachment to forest areas in the region to prehistoric times, when the chieftains of the Padjajaran Kingdom moved around from one forest area in the mountains to other areas to conceal their tracks from troops of the Banten Sultanate¹⁹. This story has been deployed by the Kasepuhan community and their NGO allies to support the romantic imagery of adat communities harbouring ancient environmental wisdom. In addition to their historic claims, the Kasepuhan community has represented examples of their local conventions and practices that embody principles of sustainable natural resource and ecosystem management.

¹⁹ A more elaborate explanation of Kasepuhan communities’ history will be addressed in chapter five.

Well-known examples from the Kasepuhan people include practices for the planting and harvest season of paddy and other food crops, which are conducted only once a year (Adimihardja 2008). These and other practices demonstrate an essential and accurate understanding of local biological systems, soils and climates. Kasepuhan community's livelihoods depend on this sort of knowledge. Most importantly, though, is that in some communities, customary structures and regulatory systems continue to adapt successfully to changes in the socio-political environment, while others tend to wither, as control is usurped by the state or other external forces and actors. As I will show in chapters six and seven, the Kasepuhan community is included in the category of the very few successful masyarakat adat that have been able to excel due to the political situations brought by Reformasi.

3.3 Adat Rights in the Present

To strengthen the position and role of indigenous peoples in order to realise justice and popular democracy in the era of regional autonomy. (Motto for the second Congress of Indigenous Peoples of the Archipelago, KMAN II, 19-26 September 2003)

To prioritise the protection of indigenous peoples' constitutional rights before the law. (Motto for the fourth Congress of Indigenous Peoples of the Archipelago, KMAN IV, 18-19 March 2015)

In hindsight, the two mottos for the second and the fourth AMAN congresses reflect the transition of the indigenous peoples movement's objective in Indonesia, from a more general emphasis on political articulation of their adat rights to a more tangible and impactful result for their livelihoods via official legal instruments. Despite limited significant progress, the transition could perhaps happen due to the growing awareness of the struggle for indigenous peoples' rights both in the government and in parliament at the national and local levels.

This may very well be due to AMAN's stance in engaging a more active role in mainstream politics, including endorsing 181 parliamentary candidates in Indonesia's general election in 2014 (AMAN 2015). Fay and Denduangrudee (2016: 100) explain that:

...unlike many other civil society movements it is neither rooted in nor interested in affiliating with specific political parties. Instead, it has aligned itself on a case-by-case basis with parties, candidates and politicians who have demonstrated a commitment to AMAN's core agenda of realising the recognition and protection of the rights of indigenous peoples.

This, in turn, has made AMAN and adat communities' aspirations become more pertinent in the public sphere. This was evident during the 2014 presidential elections when then presidential candidate Joko Widodo asked for AMAN's political backing and support from its constituents (AMAN 2015).

This type of strategy has put masyarakat adats' rights to resources back into mainstream political debates in the country. For example, after Joko Widodo was voted in as President, the Ministry of Forestry and Environment (*Kementerian Kehutanan dan Lingkungan Hidup, KKLH*) asked AMAN to help it in developing the preparatory work to verify the claims from masyarakat adat, especially for the land claims located within state forest areas. This is a part of a bigger plan from Jokowi's government to designate 12.7 million hectares of state forest areas for social forestry projects by 2019. According to Fay and Denduangrudee (2016: 101)

AMAN has seized this opportunity to develop and test procedures for recognition in specific sites, with the backing of supportive district officials. Concrete actions such as this will continue to be critical in propelling government departments to comply with regulations that so far have largely been ignored, including the key step of developing a communal land-titling mechanism.

Later chapters will further show how AMAN's strategy fits very well with the local socio-political situation in Lebak. The Kasepuhan community is faced with local political leadership and bureaucrats that are supportive to their socio-political aspirations.

As a response to MK 35, a joint effort to develop alternative mechanisms to increase the pressure on the government and parliament to protect the rights of indigenous peoples in the country has been initiated by the National Human Rights Commission (KOMNAS HAM) in collaboration with a number of NGOs (e.g., Komnas Perempuan, AMAN, Sayogyo Institute, HuMa, and ELSAM). A national inquiry held by KOMNAS HAM was conducted in 2014²⁰ to make an inquiry on the *modus operandi* that has led to the denial of adat communities' rights over forest access and control (Press Release by KOMNAS HAM 19/8/2014). It was conducted in seven regions in the country, which were North Sumatra, Banten, Bali and Nusa Tenggara, West Kalimantan, Central Sulawesi, Maluku, and Papua. According to the Inquiry's report one of the fundamental problems is:

Lack of legal recognition/status as indigenous people makes their legal rights/claims unclear or uncertain. The absence of such recognition has resulted in the absence of boundaries of indigenous territories and security of tenure. The problem is not only related to the non-recognition of control and ownership of indigenous peoples' territories, but also the absence of a legal system provided by the state to protect indigenous territories. This encourages the blurring of boundaries which *de facto* confers the determination to the state regarding the interpretation of security of tenure (National Human Rights Commission 2016: 14).

²⁰ As stated in the summary of findings and recommendation from the inquiry 'The National Inquiry is an attempt to contribute to the efforts to resolve violations of human rights. The National Inquiry combined four functions in one activity: investigation, research and study to analyse the roots of the problem and formulation of recommendations for resolution of human rights violations.' (KOMNAS HAM 2016: 1) The process involved communities, witnesses, institutions, researchers and other relevant stakeholders. It aimed to identify findings on the ground and give recommendations for possible solutions. The cases were selected based on region and typology of forestry problems, i.e. conservation, production forest, forest conversion and land for mining operations.

The above problem is appropriate considering that Indonesia's legal development after 18 years of Reformasi has not sufficiently addressed the lack of recognition of indigenous peoples' rights. Despite the range of statutes that have been enacted during Reformasi which supposedly recognise and protect indigenous rights (see table 3.1), I would argue that these existing laws are terrific on paper but relatively toothless in practice because they cannot affirm the adat communities' rights in reality.

Table 3-1 List of regulations that pertain to adat communities' rights

| Regulations | Relevancy to adat rights |
|--|---|
| Article 18B (2) of the 1945 Constitution (second amendment) | Declares that 'The state recognizes and respects indigenous peoples and their traditional rights providing these still exist and are in accordance with the development of the people and the principles of the Unitary State of the Republic of Indonesia, which shall be regulated by law.' |
| Article 28I (3) of the 1945 Constitution (second amendment) | Declares that 'The cultural identities and rights of traditional communities shall be respected in accordance with the development of the times and civilisation' |
| Law 5/1960 on Basic Agrarian Law | <ul style="list-style-type: none"> • Recognises rights over customary territories (hak ulayat) • Recognises adat law as long as it still exists • States that traditional communities' resource rights should be in accordance with national interest |
| Law 39/1999 on Human Rights | Acknowledges the importance of the protection of adat communities' rights as basic human rights that must be appropriately considered and protected by law and the government |
| Law 41/1999 on Forestry (after MK 35) | <ul style="list-style-type: none"> • Declares that adat forest is part of adat communities' territories • Declares that adat forest is not a part of state forest areas • Declares adat communities that have been recognised as such by provincial or district legislation have the right to own and manage their forest areas using traditional practices, provided these are in accordance with the law |
| Law 27/2007 on Management of Coastal Areas and Small Islands | Confirms the existence, recognition and protection of adat communities that have lived in the coastal areas for generations according to their traditional wisdom |
| Law 32/2009 on Environmental Protection and Management | <ul style="list-style-type: none"> • Confirms adat communities' rights protection, including the communities' involvement in decision-making based on free, prior and informed consent (FPIC) and the right to be compensated for any loss • Confirms the importance of adat communities in the process of crafting policies related to management and control over natural resources |
| Laws 22/1999 and 32/2004 on Regional Government | Recognises the rights of adat communities to organise and administer their aspects of life in the form of an 'autonomous village' in accordance with traditional customs. |

| | |
|--|--|
| Law 39/2014 on Plantation Development | <ul style="list-style-type: none"> • Article 12 (1) declares that companies and businesses must seek an agreement from the traditional land right holders • Article 17 (1) declares that authorities are not allowed to issue concessions over the adat communities' territories • Article 55 (b) declares the prohibition of individuals to use, occupy and/or control the adat land for plantation business purposes • Article 103 declares that any government apparatus that issue a permit over adat communities' territories will be punished with imprisonment of 5 years or a fine of IDR 5 billion. |
| Law 6/2014 on Villages | <ul style="list-style-type: none"> • Declares that local/adat communities have the opportunity to apply for the status of adat village (desa adat), which mean they will have the ability to self-govern based on adat laws • Article 76 declares communal land (<i>tanah ulayat</i>) as part of village asset if a village has been legally recognised as an adat village by district or provincial bylaw. |
| Draft Bill on the Recognition and Protection of the Rights of Indigenous Peoples | Serves as a national recognition framework that aims to synchronise multiple laws (such as the ones above) to address problems of social injustice that adat communities have experienced and mitigate conflict between adat communities and state authorities and/or corporate bodies. |

Source: Adapted from Fay and Denduangrudee in McCarthy and Robinson (2016) and Arizona (2014).

The stalemate of the development of adat communities' legal recognition framework is evident in some of the objectives set forth in a document circulated at the last congress of AMAN. The demand for acknowledgement remained the main theme that summarises the various demands articulated by AMAN leadership (AMAN 2015). These include:

1. To force the national government and major political parties to support and instruct their cadres in the national parliament (DPR-RI) to pass the legislation on masyarakat adat that aims to acknowledge and protect indigenous peoples' rights;
2. To strongly urge the president as the head of state to issue a formal apology to all indigenous communities all over the country for past injustices;
3. To force the president to give instructions to the army and police force on not using coercive actions to settle land disputes that involved indigenous communities;
4. To strongly urge the government to revise concession areas and also to suspend concession areas that are proven to commit violent actions towards masyarakat adat;
5. To follow up the MK 35 decision, the President needs to issue a decree able to expedite the legal acknowledgement of customary forest territories by local government in their respective territories;

6. To stop any forms of discrimination towards indigenous beliefs and practices;
7. To urge the government to maintain the current moratorium that limits the issuance of commercial concession permits;
8. To ask all indigenous communities in the country to channel their votes in the upcoming local direct election (*pilkada serentak*) to the candidates that are committed to fight for their cause.

In regards to the landmark Constitutional Court's decision, MK 35 has produced mixed outcomes across localities, contingent upon the local socio-political condition. According to a report from Malik, Arizona et al. (2015), after MK 35 there is an increasing trend at the local level to adopt regulations that are concerned with masyarakat adat. Although it is increasing, these regulations are rarely (if at all) concerned directly with communities' forest tenurial rights (hak ulayat). Currently, only three communities (Kasepuhan community in Lebak, and Kajang and Massenrempulu communities in South Sulawesi) are able to operate MK 35 by passing a local regulation on adat communities' forest rights (Malik, Arizona et al. 2015). This further shows that the battle over restitution of traditional rights to forest entitlements has not yet been won. In chapter six and seven, I will explain and illustrate how the local level of government is at the focal point where this battle is to be lost or won.

3.4 Conclusion

This chapter sought to explain the evolution of the adat movement in Indonesia. Peluso (1995) states that the contemporary understanding of adat practices, rules, and institutions is contentious because they have gone through various changes, and further that even the very concept of adat law is problematic because that understanding had been influenced by both Dutch scholars' interpretations and colonial policies. She further explains that the notion of adat has been 'romanticised' by activists in portraying the way natural resources were managed by adat communities prior to New Order regime. Although adat does embody certain 'traditional' aspects and resource management practices, 'it is also a dynamic institution which has repeatedly changed in response to forces impinging on

particular localities from the ‘outside’, such as markets and other political-economic influences’ (Peluso 1995: 399). Her argument remains valid regarding the current state of adat movement in the country, and, as I will show in later chapter, it also particularly applies to this study.

The adat movement in Indonesia is indeed partly inspired by the adat law movement in the 1920s and the adat debates directly following independence. However, as the discussion above has shown, adat movement origins arose mainly from the disenfranchisement that adat communities have experienced and in the global rise for indigenous people movement and environmental concerns (see Li 2001, Sangaji 2007, Acciaoli 2002, Henley and Davidson 2007). It gained traction in the mid-1990s and emerged as a national movement following the fall of Suharto, which was signified with the formation of AMAN.

During post-New Order period, there has been a efflorescence of attention on adat and its narrative in some parts of Indonesia, especially in regions where adat was still a strong part of regional identity or where marginalised communities used the opportunity of the new political and legal landscape (Warren and McCarthy 2009). NGO organisations, local communities and local governments have all competed to mobilise the potential of bringing adat back as a central platform for their political articulations (see for example Li 2001, Thorburn 1999, Warren 2007, Acciaoli 2007, Afiff 2004, Hartanto 2009, Affandi 2016).

As I have shown in this chapter, AMAN and other NGOs have successfully brought adat communities’ political aspirations to a new level, compared to that at the beginning of Reformasi. Although much work is still needed, the current success is a testimony to the communities’ political skills, many of whose members had been part of the struggle against Suharto in the 1980s. In addition, as Bouchier (2007: 123) suggests, ‘the success of the movement was also due to the fact that their representations of adat as wise, socially harmonious, communalistic and in tune with nature ‘chimed well’ with one of the favourite themes in Indonesian political thinking, the idea that adat is inherently good, pure and authentic.’ In the NGOs’ campaign, adat communities are presented as a group within society that is unique and lives by their own set of norms and customs. Furthermore, the revival of the adat movement in Indonesia represents what Lowe (2006) addresses as ‘counterhegemonic forms of

thought and action' that offer alternative political trajectories with the potential to challenge the status quo in natural resource management in the country. The revival has opened social and political possibilities for further advancement.

The Kasepuhan community presents itself at the forefront of contemporary adat revival. Particularly, as proceeding chapters will demonstrate, they have been at the cutting edge in implementing the MK 35 decision. In contesting the state's authority to forest management, the Kasepuhan community has appealed to local politicians and key government officials for assistance based on the rhetoric that is imbued by a powerful adat romanticism, exalting the ecological wisdom of the forefathers and imagining a simple virtuous life in harmony with God and nature. Indeed, its image also appeals to national NGOs and some allies in the press and academia, which consequently enables the Kasepuhan community to mount success on their campaigns to secure access or control of forest resources.

This study by no means seeks to generalise the findings to other adat communities in the country. Nevertheless, it is exciting to analyse how an adat community has been so successful in asserting its rights after decades of injustices - a story that, unfortunately, still rarely comes up among other adat communities in Indonesia. Therefore, the Kasepuhan community has produced novel outcomes in the study of the adat movement, and for this reason it is interesting and important to analyse its story.

4 Origin and Evolution of the Forest Management Paradigm in Indonesia

4.1 Introduction

Current forest management ideological, structural and policy forms and practices are largely the heritage of colonial patterns and policies that developed over the course of the 19th and early 20th centuries. As in most other developing countries containing forests, forest management in Indonesia has adhered to the scientific prescriptions that involve the application of silvicultural techniques and delineation of forest borders. Forest areas were mapped, zoned and categorised according to use, into ‘protection’, ‘production’, and ‘conversion’ forest and then further segmented into various sub-categories. The policy resulted in seventy-eight percent of Indonesia’s land area – more than 140 million hectares – being placed under the responsibility of the Ministry of Forestry (Ministry of Forestry 2003). This is rationalised by the belief that pre- or unscientific forest uses – i.e., the customary extraction or agricultural practices of traditional communities – result inevitably in forest degradation, or at the very least sub-optimal utilisation.

This chapter gives a historical account of the origin of state control of forest resources from colonial times, and how this has shaped the current forest management paradigm in Indonesia. It begins with an overview of historical trends and events that have shaped the theory and practice of forestry in present day Indonesia. It then discusses the major features of the government’s forestry laws, particularly those pertaining to state’s right to control over forest lands. During my fieldwork I had the opportunity to hear about and witness the application of forestry regimes in the Halimun-Salak area, which proved to be invaluable for this thesis.

The following discussion is concerned primarily with describing the formal legal and institutional framework and ideological environment within which the state’s conservation effort operates. This will provide the basis for subsequent chapters, which analyse the processes through which adat rights over forest have been perceived, institutionalised and implemented by the

Kasepuhan. Therefore, the analysis of historical influences and Indonesia's forestry policy in this chapter is specifically structured to understand the significance of MK 35 on Kasepuhan community's pursuit of forest tenure security.

4.2 Colonial Legacy

The Dutch, like the Spanish and Portuguese before them, were initially attracted to the East Indies spice trade. Soon, however, Dutch attention shifted to the magnificently fertile island of Java, with its volcanic soils, dense teak forests, high population and advanced culture and stratified society. Dutch involvement in forestry affairs in Indonesia began from the Dutch East India Company (*Vereenigde Oost-Indische Compagnie*, VOC) era in the 17th century, when the Company sought to meet the massive demands for forest resources, particularly teak, to build ships, forts and colonial offices (Boomgaard 1992, 1998; Peluso 1992; Reid 1995; Ricklefs 2008).

The operations of the Dutch were not initially driven by an interest to govern the population or establish territorial control. Their presence in the islands was limited to the facilities needed to establish and protect monopolies over particular commodities. VOC leaders recognised and supported native rulers and governance systems that benefited their trade endeavours. The VOC established alliances, contracts, and treaties with local rulers which gave them the rights to trade, extract resources and establish warehouses and settlements for its personnel. As Lev (1985:58) notes: 'From the start, the Dutch East-Indies Company (VOC) resolved to respect local law – another way of saying that, by and large, they could not have cared less – except where commercial interests were at stake.' The strategy proved profitable; the company was able to develop a timber and shipbuilding industry and other plantations and generated enormous profits, while exercising control over a few economically important areas in the East Indies (Peluso 1992; Boomgaard 1992; Siscawati 2013).

The VOC eventually went bankrupt at the end of the 18th century because of growing debt and corruption of VOC officers, and in the early 1800s the Netherlands government took over the company and its assets (see Breman 1983; Cribb 1988; Reid 1995). The colonial state's premises and

institutional framework for forest exploitation differed substantially from those of the VOC (Bremar 1983; Boomgaard 1999).

The scientific forestry that emerged in the mid-eighteenth century in Europe has had a pervasive influence over the management and exploitation of Java's forest (Bremar 1983; MacAndrews 1986; Barber 1990; Fasseur 2007; Ricklefs 2008; Siscawati 2013). The concept of colonial scientific forestry denotes the application of scientific forestry principles and practices – including forest inventory, classification, zoning, mapping, harvest controls, species control and forest regeneration – by the colonial state in order to enhance the productivity and ongoing viability of forest potential (Guha 1985; Peluso 1992; Gadgil and Guha 1993). This approach combined both exploitative and conservationist goals and practice. Through these forms of forest utilisation native communities' access and control over forest were significantly reduced (Peluso 1992).

The primary reason for European colonialism was to secure supplies of raw materials that were required to feed the expanding industrialisation of Europe. Timber played an important role in that mission. The imposition of scientific forestry in the Indies took place in two stages (Boomgaard 1999; Peluso and Vandergeest 2001; Siscawati 2013). First, the colonialists introduced capitalist exploitation of natural resources to the colonised lands, including logging. Eventually, colonial administrators became concerned that this practice of simply mining the forests would eventually deplete supplies. This contributed to the second reason to implement scientific forestry. The Dutch regime recognised that increased exploitation had to be balanced with increased controls over forest access and use. In other words, the immediate reason for forest conservation was economic – to ensure a consistent and growing supply of timber. Yet, there was also a scientific logic to conservation – to conserve the integrity of tropical ecosystems, especially soils, and watersheds (Galudra and Sirait 2009). In order to achieve these goals, they established forestry policies and departments and employed experts to ensure the continued supply of timber, regulate the destructive activities of the logging enterprises and impose the monopoly of state and capital in controlling the use of forests (Boomgaard 1992; Peluso 1992; Peluso and Vandergeest 2001).

Forestry reforms introduced by Governor-General Daendels during his short tenure (1808-1811) in the Netherland Indies laid the basic foundation of the scientific principles and foreshadowed much of what was to come (Ricklefs 1981). Although it was not fully successful, he was able to create a centralised system of forest management to increase teak timber production. As Ricklefs (1981, 2008) has pointed out, Daendels ‘brought Java a combination of reforming zeal and dictatorial methods which achieved little but offended many.’

Daendels established the first inspector-general of forests and a Board of Forests and invested it with the right of exclusive control over forest lands and resources for the benefit of the state. He also established the first ‘sustained yield’ system under which forest parcels were logged and replanted on a rotational basis and issued edicts restricting local community access to teak for housing construction (Breman 1983; Barber 1989; Boomgaard 1999; Peluso 1992). At this stage, the Dutch colonial government still did not fully assert control over the population and resources in the archipelago. Daendels’ system only applied to existing or potential teak lands, since only teak was considered of value to the state. Meanwhile, it still allowed the natives to govern themselves in accordance with their customs and recognised village adat institutions and adat rights over non-teak forest resources²¹ (Hooker 1978; Peluso 1992; Peluso & Vandergeest 2001).

The Dutch government’s colonial control in the Netherlands East Indies was impacted by the Napoleonic wars that put the Netherlands under French rule (Breman 1983; Barber 1989; Boomgaard 1998, 1999). The weakened power of the Dutch government ended Daendels’ tenure in early 1811, and by August of that year the British wielded control over much of Java. During the brief British colonial reign (1811-1816), Governor-General Sir Thomas Raffles undertook some reform measures, but these consisted mainly of retracting all of Daendels’ measures as a cost-cutting move. Raffles investigated native land tenure in Java and found there was no equivalent to the Western concept of

²¹ These rights were provided for by the Constitutional Regulation (*Regerings Reglement*) of 1854. This regulation subjected the Dutch and other Europeans to the regulations and ordinances which were in conformity with those in the Netherlands (Hooker, 1978; Peluso & Vandergeest, 2001).

private property. Accordingly, he placed forest management in the hands of the Residents²² and abolished the forest boards, reserved the most productive forest for the state, and introduced ‘land rent’ tax of 40 per cent of each village’s main crop (Ricklefs 1981; MacAndrews 1986; Barber 1989; Boomgaard 1999).

Further, he used the category of ‘wasteland’ (*woeste gronden*) for any land in Java that had lain fallow for more than three years, deeming this land to not be burdened by either proprietary or usufruct rights and therefore the property of the state. The discourse of forestry changed accordingly: The natural forests – hitherto a commons – became state-owned ‘wastelands’, and native forest users became ‘squatters’, ‘forest thieves’, and ‘illegal graziers’ (Dove 1985; Peluso and Vandergeest 2001). Following the end of the Napoleonic wars, the Dutch government managed to regain its territories in the East Indies in 1816. The new Dutch Colonial regime maintained more profitable aspects of the British reforms but also combined it with Daendels’s ideas of forest management (Chandler and Ricklefs 1986; Ricklefs 2008).

Furthermore, in order to extend colonial sovereignty and administrative control throughout Java, the period following the British interregnum witnessed a gradual shift in the East Indies colonial government’s territorial strategy. The period between 1816 and the 1870s was one in which forest policy was characterised by the passage and retraction of a great number of alternative regulatory and administrative schemes. As Barber (1990: 112) has pointed out, the ongoing shifts in forest policy in the 19th century must be seen in the context of three broad trends:

First, the ongoing effort by the Dutch to build their colonial holdings into a true state, characterized by firm territorial and political control, and administered by an efficient modern bureaucracy; second, colonial economic policies, which aimed at the extraction of ever-larger amounts of agricultural export commodities such as coffee, sugar and tobacco, at as low a cost as possible, and (finally); the steady increase in population over the course of the century, and the concomitant clearing and

²² Residents were representative of the colonial state in district or lower level of colonial administration.

settlement of large areas of the previously forested uplands. The aggregate effect on Java's forest was to reduce their size, intensify the nature of their management, and restrict local community access to their resources.

A major watershed occurred when the Dutch colonial government issued the '*Boschreglement*' (forestry act) of 1865. The 1865 law was the first forestry regulation in the Indies, which served to consolidate state control of Java's teak forest. The law provided detailed technical guidelines on forest classification and utilisation, and through the establishment of forest service in the same year the colonial government administered the rights to control land, trees and also labour.

The Agrarian Act of 1870 further deepened state control of forest territory and attempted to extend its control beyond Java²³. The Domain Declaration or *Domeinverklaring*, one of the Act's implementing regulations, declared all 'wastelands' in Java and Madura to be the property of the state (Hooker 1978; Lynch & Harwell 2002). It also mandated that all unclaimed land, or land not proven to be owned (*eigendom*) within the meaning of the Civil Code, was the domain of the state (Peluso 1992). This is called the Domain Principle. The only adat right to land that could be converted to *eigendom* was that of individual ownership (*hak milik*). The Declaration thus wiped out adat rights over forestlands, since forest adat rights were generally communal usufruct.

The law's central aims were to provide mortgageable land rights on government lands for time periods sufficient to make investment attractive, and also to provide a mechanism for the leasing of customary adat lands (Peluso 1992; Siscawati 2013). Government land could be leased for a term of seventy-five years and be used – and mortgaged – as if fully owned, until the reversion. Adat lands could be leased for periods of up to twenty years, but not purchased (Ricklefs 2008; Peluso 1992; Boomgaard 1999). The act limited adat land rights to continuously cultivated lands only, and consequently constrained local people's access to forest resources. Local people were allowed to

²³ The Dutch colonial government could not implement their power and authority in the outer islands (the term refers to all islands other than Java and Madura) to the same extent as it did in Java. The Act for the outer islands created tremendous controversy among the colonial administrators themselves.

collect fuel wood and obtain limited volumes of timber, such as for the construction of carts, small boats, or fences only²⁴ (Peluso 1992; Peluso and Vandergeest 2001).

The forestry law underwent revisions later on, but in-the-main these changes were concerned with administrative and institutional structure only, whilst the basic principle of Domain Declaration remained intact. In the 1930s, most of the basic premises and institutional structures of forestry practice on Java were essentially in place. According to Barber (1990:120-121), forest management practices embodied the following principles:

- a. The state is the sole owner that controls forest lands, and has the power to restrict public access to forest and its resources;
- b. Forest are administered by a specific branch of the civil service bureaucracy in which their main task is to ensure a sustainable teak production for the benefit of the state by applying scientific silvicultural care, cutting, and replanting;
- c. Forest preservation is a secondary goal of forest management, it also gives an impetus for restricting public access to non-teak forests (wild jungle);
- d. Laws and Regulations are set up by and for the Forest Service to give justification for forest management;
- e. Forest police that works under the authorisation of Forest Service carry out enforcement of access restriction.

Colonial officials generally viewed native forest management as ‘unscientific’ (Guha 1985; Barber 1989; Gadgil and Guha 1993; Peluso 1992, 1998). The creation of scientifically managed forests and their commodification contributed to drastic changes in forest access by native peoples in the Netherlands East Indies. The 19th century saw the establishment of a state forestry regime in which forestlands per se were enclosed as the property of the state, and local people’s access to the forest

²⁴ The rights of local people were progressively constrained in the following decades. The forestry laws of 1928 and 1933 further constrained the rights to the collection of minor forest products only, such as tubers, forest fruits, nuts, leaves, and vines (Peluso, 1992; Peluso & Vandergeest, 2001).

was increasingly constrained (Peluso 1992; Peluso and Vandergeest 2001). The Dutch sought to build their colonial holdings into a true state, characterised by firm territorial and political control, and administered by an efficient modern bureaucracy (Peluso and Vandergeest 2001).

Peluso and Vandergeest (2001) coin the term ‘political forest’ to refer the land areas declared as ‘state forest areas’. They argue that political forest processes have been of vital importance in the territorialisation and legal framing of forest resources. As a result, at the end of the colonial era, the Colonial Forestry Service (*Boschwezen*) controlled roughly 92 percent of the total teak forest area in Java and Madura, along with 30 percent of the total wild forest area there (Soepardi 1974; Rachman 2014). This trend has continued in the post-colonial era, as discussed further below.

4.3 Genesis of forest management policy in the Netherland East Indies

Initially, the 1865 Forestry Act did not provide protection status to non-teak or jungle wood forest (*wildhoutbossen*). Forest degradation deriving from commercial expansion raised the concerns of Dutch scientists and individual members of colonial elites, who subsequently warned the colonial government of the potential soil and hydrological consequences of the loss of natural forest (Galudra and Sirait 2009). Referring again to their scientific discourse, colonial foresters believed that strict forest preservation and reforestation on certain areas were becoming imperative (Boomgaard 1992). The scientific forestry approach also implied that the activities of local communities were bad for regional hydrologies (Galudra and Sirait 2009; Siscawati 2013).

An 1874 revision of the forestry law mandated protection for jungle wood forests, and in 1876 the first jungle wood forests in Java were brought under Forest Service control. In 1884, a new Ordinance was enacted providing criteria for the creation of forest reserves. In the same year, the colonial government declared all non-teak forests located above 5,000 feet in West Java and above 4,000 feet in Central and East Java to be reserve forest (Boomgaard 1999; Galudra and Sirait 2009). Timber extraction was prohibited in these mountain forests. In 1889, the Forest Service established a 240-hectare nature reserve in the montane forests of Gunung (Mount) Gede and Gunung Pangrango in Southeast Bogor for scientific research (Boomgard 1998, 1999; Siscawati 2013). Another significant

contribution to nature conservation came from a private nature conservation society, the ‘Netherlands Indies Society for the Protection of Nature’, which was devoted to preserving wildlife and promoting the institution of nature reserves (Boomgard 1999). The society proposed for the Colonial Forestry Service to declare twelve forested areas in Java as nature reserves. This request was granted in 1916 by the establishment of nature reserves in certain areas.

The legal justification employed for this designation called on the domain principle. Just as the colonial commercial focus excluded native people, so too did this regulation for conservation, and hunting, collecting and harvesting by natives were forbidden in these forests (Boomgaard 1999). The Colonial Forestry Service argued that forests have a significant role in regulating hydrology to stop soil erosion from occurring. Under this ‘scientific’ pretext, the forestry service deemed that communities governed by adat were unscientific and wasteful, and they did not prescribe a proper regime to manage and maintain soil (Galudra and Sirait 2009). Therefore, the forestry service felt that it was urgent for forest areas to be designated into the state domain for better protection.

Through 1931, the reserve forest area in the Indies increased slowly to some 450,000 hectares (Boomgaard 1999). A new Ordinance in 1931 created the possibility of establishing wildlife reserves, and the total area set aside began to increase more rapidly. By 1936, some 1,450,000 hectares had acquired reserve status; by the time of the Pacific War, a total of 2.5 million hectares had been designated (Boomgaard 1999). Table 4.1 presents a breakdown of reserve areas by island or island group.

Table 4-1 Distribution of nature and wildlife reserve over the Netherland Indies in 1945

| Island(s) | Area in ha | No. of reserves |
|-------------------|------------|-----------------|
| Java | 150,000 | 70 |
| Bali/Lombok/Timor | 65,000 | 4 |
| Sumatra | 1,300,000 | 27 |
| Borneo | 600,000 | 7 |
| Sulawesi | 5,000 | 7 |
| West Papua | 320,000 | 1 |

Source: Eshuis (1939) and Pluygers (1952) adapted from Boomgaard (1999:275)

4.4. Post-colonial legal evolution

The Indonesia[n] revolution without land reform is like a building without a foundation, like a tree without a trunk, like big talk which is empty. The implementation of land reform means the implementation of an absolutely essential part of the Indonesian Revolution.... Land is not for those who sit around and become fat and corpulent through exploiting the sweat of the people whom they order to till.

Soekarno 1960:34

For more than seventy years (1870-1942), the state domain principle was the hegemonic political concept that served the colonial government in providing the legal basis for access to natural resources in support of commercial exploitation and development in the Indies (Ricklefs 1981; Peluso 1992). Indonesia gained independence in 1949²⁵, but actual legal changes concerning the way lands and natural resources should be used and allocated only eventuated once the 1960 Basic Agrarian Law or BAL (*Undang-Undang No. 6/1960 tentang Dasar-Dasar Pokok Agraria*) was enacted.

The 1960 BAL was the first national agrarian act intended to operationalise the provisions of article 33 (3) of the Indonesian Constitution, which states, ‘The land, the waters and the natural riches contained therein shall be controlled by the state and exploited to the greatest benefit of the people.’ The BAL drafters perceived the state domain principle and its derivative land rights and land management institutions to be a source of agrarian injustice for Indonesians. Therefore, the BAL declared that ‘the principle of *domein* which was used by the colonial government as a basis for agrarian legislation ... has been discarded, [and] various *domein* statements ... have been revoked.’

²⁵ When the Japanese surrendered to the Allied Forces on August 14, 1945, Indonesia proclaimed its independence. However, the Indonesia revolution war continued until political negotiation with the Dutch and Allied Forces in 1949 finally recognised Indonesia’s independence.

The BAL placed agrarian justice at the centre of the nation's economic life and reflected a particular concern for the rights of disadvantaged peoples.²⁶

The spirit of the law, summed up in the quote from Indonesia's first president Soekarno above, was to free the Indonesian people, the majority of whom were dependent for their livelihoods on the land, from precolonial 'feudal' bonds and exploitation. For this reason land reform, aimed at protecting the interests of peasants, became the key policy focus. In addition, the law intended to overturn the legal dualism from the Dutch colonial era, whereby Indonesians were governed by customary law, while westerners and commercial transactions were governed by positive [European] laws. The BAL attempted to establish a unitary law system, based on adat (Barber and Churchill 1987; Moniaga 1993).

Despite the acknowledgement of adat and renunciation of the domain principal, the BAL actually embodied an ambiguous message regarding hak ulayat. The BAL establishes the 'state's right of control over all lands and resources' as stipulated in article 2 of the law. With this notion, the state was therefore an extension of the will of the people, and had the authority to regulate and manage land and natural resources, and to determine property relations including ulayat rights. Further, article 5 of BAL states that 'Adat law applies to the earth/land, water, and the air as long as it does not contradict national and state interests, based on national unity and Indonesian socialism, and also the other related regulations within this law and others, all with respect to the religious law.'

²⁶ "It is necessary to provide protection for economically weak citizens against those who are economically strong ... to prevent overstepping the limits of domination of the life and work of others in agrarian activities, which is against social justice and humanity" (BAL/UUPA, Elucidation II [6]).

The BAL drafters attempted to initiate a process of reform that would be followed by a suite of implementing regulations that would ‘put flesh on the bones’ of this notion of a legal system based on ‘Indonesia adat’, but this mission was interrupted by the collapse of Sukarno’s Indonesian socialism/guided democracy and a right-wing military coup. While the 1960 Agrarian Act was never repealed, nor was it implemented, and subsequent natural resource and investment laws completely reversed the spirit, if not the letter of the 1960 law (Hooker 1978, Burns 1999, 2004, Fitzpatrick 1997, 2007).

The Forestry Law

Before the government had the opportunity to craft the regulations necessary to implement the BAL, Indonesia descended into chaos and in 1965 there was a military coup. The New Order government of General Suharto created a structure and ethos of state power analogous to the colonial *beamtenstaat* – the state as an efficient bureaucratic machine (McVey 1982). The new regime was staunchly anti-communist, pro-foreign investment, and pursued an export-led growth model to support national development.

A combination of economic and natural resource policies, political favour-granting and deal-making, and heavy-handed enforcement of national unity and discipline had very dire consequences for Indonesia’s forest resources and the communities who depended on these forests for their livelihoods (see for example Peluso 1992; Lucas 1992; and McCarthy 2006). Adat rights, which were celebrated but not well elucidated in the 1960 BAL, were largely ignored or actively suppressed during three decades of New Order rule.

Prior to 1967, forest exploitation in Indonesia was almost entirely confined to the extraction, processing and trade of teak, concentrated mainly in Java. With the passage of the Foreign Capital Investment (*Penanaman Modal Asing*, PMA) and Domestic Capital Investment (*Penanaman Modal Dalam Negeri*, PMDN) Laws in 1967 and 1968, and the Basic Forestry Law (BFL) of 1967, the regime signalled its intention to convert forest especially on outer islands into a major source of state revenue (MacAndrews 1986; Barber 1989). Since the enactment of the laws, production of

Kalimantan and Sumatra hardwood logs climbed from virtually zero to a 1980 peak of approximately twenty-seven million cubic metres (Ministry of Forestry 2003). This process helped to boost Indonesia's foreign exchange earnings by 2,800 per cent between the period of 1983 and 1989 (Hurst 1990).

The BFL brought about a sharp turn in forest management and in the lives of customary communities for decades. The law was a comprehensive general statement of state forestry policy, and the primary source of authority and guidance for the structuring of forest administration, the making of regulations, and policy implementation. It reaffirms that 'All forests within the territory of the Republic of Indonesia, and all the resources they contain, are under the authority of the state' (Art.5), and lays out the structural and policy guidelines for the exertion of state control.

Mirroring colonial domain principles, the law classifies all of Indonesia's forest land into either: 1) 'proprietary forest' (*hutan hak*), where land titles have already been secured; or 2) various categories of 'state forest areas'²⁷, where [formal, individual] property rights are not recognised. The customary forests of the majority of Indonesia's adat communities fall within this vast national forest estate²⁸. At the stroke of a pen, the national government placed about 75 percent of Indonesia's total terrestrial area, or 143.8 million hectares, under the direct control of the newly-established Ministry of Forestry (Barber 1990; Zerner 1990).²⁹ The Forest Land Use Policy (TGHK) categorises state forest areas into four functions: 1) production forest, aimed to be extracted for timber-based industries; 2) protection forest; 3) natural conservation and nature preserve forest; and 4) convertible forest.

In line with the 1960 Agrarian Law, the BFL recognises rights 'of the customary adat community to make use or obtain benefits from the forest' as long as (1) the communities still exist, (2) it does not conflict with the national interest, and (3) does not contradict the laws and regulations

²⁷ Art 6.

²⁸ Official Explanation, art 2, General Elucidation. The official explanation asserts that "state forest are all those which are not private property, including those under customary law."

²⁹ The territory controlled by the Ministry of Forestry surpassed that of the Colonial Forestry Service, which was reported to be 120.7 million hectares in 1939 (Department of Forestry, 1986).

of higher levels. This type of conditional recognition with strictly set requirements eventually led to the expropriation of adat communities from their land. For instance, whether an adat forest ‘exists in reality’ depends on recognition by the state. If the state finds that the customary community is no longer in existence (no criteria were given to determine this), the management rights are ‘returned to the government’.³⁰ Such restrictions limit the adat groups’ access to land and forest areas, to the point that their rights become essentially meaningless.

Since its inception, the BFL has spurred countless conflicts between the state, the international and national commercial resource ventures it encouraged, and local communities asserting their customary rights to forest territories. Community rights over hak ulayat forestland were ignored by state law, and most customary resource use patterns and practices were now officially illegal. All the while, logging companies with state concessions were engaging in large-scale deforestation, and making vast fortunes. Expectations of future resource shortages pushed local communities to claim some benefit from their resources by similarly clearing land and engaging in short-term exploitation of land in a ‘tragedy of competing regimes’ (McCarthy and Warren 2002: 87).

Relevant to this research project, since the 19th century a number of plantation and forestry operations, including conservation measures, were imposed on customary land and forests that belong to the Kasepuhan. This appropriation of customary lands and resources continued throughout the Japanese occupation and after independence. The New Order regime, under the auspices of the 1967 BFL, continued to give concessions to private and state-owned companies to use Kasepuhan peoples’ customary forest. In addition, with the growing pace of development and higher incomes in society, demand for timber to build houses increased during the 1980s. Some private entrepreneurs (including individuals from the Kasepuhan group) and high-level government officials saw this as an opportunity to enter the timber trade by using the Kasepuhan peoples’ forest areas. This mode of encroachment had led to forest degradation in some areas of the Halimun-Salak forest corridor (Adimihardja 2008; Galudra et al 2008). In a few areas, Kasepuhan community members attempted to retain traditional

³⁰ Art.5 (4)

sustainable agricultural practices and to fight against large commercial interest and forest degradation, with varying degrees of success. However, under Suharto's repressive system, those who tried to assert their rights were often arrested and sometimes even killed (Peluso 1992).

As discussed in the previous chapter, an international discourse arguing for recognition of indigenous peoples' rights was also beginning to gather momentum at this time. Developments in Indonesia and the increasing support of adat groups' claims for recognition and rights since the early 1980s and the international support they received, cannot be considered independently from the global campaigns of groups including United Nations (UN) organisations such as the International Labour Organisation (ILO) and UNESCO, along with a broad range of international NGOs ranging from Greenpeace to Survival International and the Forest People's Programme. The 1989 ILO Convention no. 169 on Indigenous and Tribal Peoples, for example, proposes that indigenous peoples are a distinct socio-cultural category and deserve special recognition, protection, and rights after decades of dispossession and oppression.

The international indigenous peoples' rights discourse fed the considerable internal pressure growing in Indonesia when Suharto's New Order regime finally fell in 1998. Prominent among those demanding change right after the fall of Suharto were the country's hundreds of different adat groups, aggrieved by what they considered misappropriation of their forest and land resources.

As discussed earlier, the revival of the adat movement culminated in 1999 in the establishment of AMAN (*Aliansi Masyarakat Adat Nusantara –The Indigenous Peoples' Alliance of the Archipelago*). AMAN adopted the slogan, 'If the state does not recognise us, we will not recognise the state' at its first congress held in Jakarta that year. The Congress marked the formal entry of masyarakat adat as one of the several groups seeking to redefine its place in Indonesia's political scene. Their central demand is for the reform of forestry and land tenure laws to ensure a restitution of customary rights to own, control and manage natural resources as part of their communal rights as adat communities.

However, much ambiguity remains as to whether the transfer of natural resource management authorities is included in the reformist agenda. The BFL was hastily revised under intense pressure

from civil society in the wake of Reformasi to provide rights for the forest people. The Forestry Law of 1999 disappointed many, who considered it to be a continuation of the colonial and New Order regime's state-centric legal notions. Article 1 echoes its predecessors during Raffles's period, the *domeinverklaring* and the 1967 BFL, maintaining that 'all forest within the territory of the Republic of Indonesia including all the richness contained therein are under the state's control for people's maximum welfare' (Art 4 (1)). Basically, the new law held the same fundamental assumption that all forests are controlled by the state, and reiterated the same commercial production and conservation paradigms.³¹

At first glance, the 1999 Forestry law appeared to embody stronger recognition for customary law and adat forestry rights. However, this is limited by the familiar phrase: 'as long as it (customary law) exists and its existence is recognised and not contradicting national interests.'³² In this way, the 'national interest' mantra that was so narrowly interpreted throughout the New Order period was retained. The potential existence of adat forest is acknowledged, but it is only recognised as part of the state forest, meaning that official legal recognition of customary adat rights had barely progressed.

4.5. Forest management in the Gunung Halimun-Salak National Park (TNGHS)

The history of formal nature conservation in the Gunung Halimun-Salak area, like that of land use in general, has been shaped and influenced by the colonial state's domain principle. Table 4.2 lists several colonial government decrees that were issued to designate Gunung Halimun-Salak as a state forest zone. This list proves that the Dutch colonial government as thorough and bureaucratic in their forest territorialisation. These provided the legal basis for the Colonial Forestry Service to claim most of the area as protected forest and other sections for agroforestry. In total, from 1,280 square kilometres, nearly 1,170 square kilometres of the Gunung Halimun-Salak area was delineated and

³¹ The 1999 Forestry Law (UU 41/1999), article 4.

³² UU 41/1999, article 4(3)

gazetted by the Netherland East Indies forest service. Teak and agroforestry plantations were excluded from the gazettelement of protected forest and received enclave status. The list of colonial government's decrees in this table became the benchmark for future boundaries of the national park when it was initially established in 1992 and expanded in 2003.

Table 4-2 Registered forest in Gunung Halimun-Salak area by the Dutch Colonial Government (1905-1930)

| No | Registered Forest | Government Decree | Date of Gazettelement Finalisation | Size (ha) |
|----|-------------------|-------------------------|---------------------------------------|-----------|
| 1 | Halimun | Ind.Staatsblad 42/1905 | 17 September 1914 | - |
| 2 | Salak | Ind.Staatsblad 562/1911 | 1 August 1906 | - |
| 3 | Bongkok | Gov.Decree No.6/1915 | 9 October 1919 | - |
| 4 | North Sanggabuana | Gov.Decree No.6/1915 | 4 January 1933 | 4,568 |
| 5 | South Sanggabuana | Gov. Decree No. 6/1915 | 30 Sept 1924/11 Nov 1935 | 30,023 |
| 6 | Salak Utara | Gov.Decree No.17/1925 | 1 March 1926 | |
| 7 | Jasinga I | Gov. Decree No.14/1927 | 13 July 1934 | 5,800 |
| 8 | Jasinga II | Gov. Decree No. 14/1927 | 23 May 1934 / 14 September 1939 | 2,865 |
| 9 | Nanggung | Agric.Dir.No 3613/1930 | 28 Mar.1934 | - |

Source: Perum Perhutani Unit III West Java-Banten Archives

Furthermore, due to political unrest in several places in the country during the 1950s and 1960s, the Indonesian government could only effectively manage forest areas in the country when the New Order regime was established. In 1979, using colonial era forest maps, the Indonesian government declared 40,000 hectares of state forest in Halimun area as conservation forest. The reason for this declaration was similar to those of the Dutch foresters during the colonial era, this being to secure and protect habitats of important endangered wildlife species, and also maintain hydrological function and climate (Versteegh 1955 in Boomgaard 1999; Galudra and Sirait 2009). Perum Perhutani initially rejected this declaration, because 1,000 hectares of its teak forest were reclassified as a nature reserve. After many discussions among government bodies, the Ministry eventually excised this area from the nature reserve area, resulting in a reduction of its size to less than 38,000 ha.

In 1993 the government changed the status of the nature reserve to become Gunung Halimun National Park. The changing status still covered the same forest area: it initially did not accommodate Gunung Salak forest corridor. Many conservationists were discontent with this policy because

Gunung Salak forest areas provide important sanctuary for many animals, some of which have endangered status (Galudra et al 2010). Environmental activists and scientists feared that this forest area would be degraded, causing many species to live in danger and water crises in the surrounding area. Their fear became reality when the Halimun-Salak forest corridor lost nearly 25% of its forest cover or around 22,000 ha within an 11-year period (1990-2001) due to logging activities under Perum Perhutani management (Galudra et al 2010). In many ways, the government could no longer ignore this situation and expanded the Gunung Halimun National Park boundaries to cover an area of 105,174.11 hectares. It included all the areas that were being managed by Perum Perhutani, expanded the area of Gunung Halimun National Park to also cover Gunung Salak forest corridor, and changed the name to become Gunung Halimun-Salak National Park³³ in 2003 (TNGHS 2012).

The Kasepuhan people became more concerned about threats to their livelihoods due to their limitation to forest access. According to the 1999 Forestry Law pre-MK 35, the Kasepuhan community (or other communities) living inside the national park would have no ownership rights. Signposts adjacent to one of the main gates of TNGHS state:

The law of the Republic of Indonesia, Number 41/1999 on Forestry, Paragraph 50 declares: (1) The destruction of the forest infrastructure and facilities is strictly prohibited. (2) Anyone who has licenses for forest use, such as concessions for environmental services, concessions for timber and non-timber forest product collections, is not allowed to undertake any activities leading to the destruction of forest. (3) No one is allowed to a) cultivate, use or occupy forest areas illegally, b) encroach within the forest, c) cut trees inside the forest areas.

However, in practice, Kasepuhan and other local communities have exercised some degree of management rights. For example, in the timber forests managed by Perhutani, local community members were employed to plant trees and in return were allowed to grow crops on the land plots

³³ Forestry Minister's Decree No. 175/KPTS-II/2003

while the trees were still small in the long-established taungya, or ‘tumpang sari’ system (Peluso 1992; Dove 1983). The taungya is a forest management system where land areas are initially used to grow food crops but after 3-4 years of production are replaced by timber. Meanwhile, *tumpang sari* is a set of different methods of multi-cropping system. This includes wet paddy fields (*sawah*), dry paddy fields (*ladang*, *huma*), cash crop fields, garden (*pekarangan* or *kebon talun*) and mixed tree gardens. A more elaborate explanation about forest use by the Kasepuhan people will be given in the next chapter.

Other de facto management rights were negotiated with national park staff. The latter realised that in practice it was not realistic to implement the law strictly; therefore, they accepted that Kasepuhan had a right to utilise forest land and resources in certain designated areas, and to live within park boundaries (Interviews with national park officer BS and WS 24/9/2014). The national park management has also designated a ‘special use’ zone to acknowledge the fact that people live and farm inside the park boundaries. These arrangements are rather fluid and ambiguous, but provide the Kasepuhan some sense of land tenure security, as one member of the Kasepuhan pointed out:

There are warning signs, but when the rangers come they feel bad for us. They know the people were already there before the national park. That is why they allow us to get non-timber forest resources for consumption. If you do it commercially then they will put you in jail. I know someone from a nearby village who was jailed because he sold wood (D 10/8/2014).

Another factor that comes into play is the participatory approach that the National Park management adopted in 2004. They introduced three distinct common property arrangements, which encompass complex and often overlapping bundles of rights. Traditional use zones, special use zones, and conservation villages (*model kampung konservasi-MKK*) are each designed to accommodate conservation goals while at the same time providing Kasepuhan people with clearly defined and delineated modes of forest access and control. Although these arrangements were well intended, they have been rather slipshod in terms of implementation. The forest management system by the national

park office does not provide clear direction for forest governance, but it does give an opportunity for the Kasepuhan people to use this ambiguity to have certain degrees of access and control over forest. Eventually, all of these arrangements reproduce – and depend on – ambiguity in forest governance. Ad hoc arrangements become common in forest governance. These arrangements are neither completely new nor completely traditional, but rather a dynamic hybrid combining elements of ‘adat’ and ‘modern/state sponsored’ systems.



Figure 4-1 One of the entries to TNGHS.

According to the latest data by the Ministry of Forestry (2012), forest areas in TNGHS are the largest remaining tropical forest in Java. It is the home of some endangered species such as the Javanese Hawk and leopard. Other than that, the areas also have hydrological importance for the surrounding areas. Photo by Dean Yulindra Affandi (2014).

During the KOMNAS HAM’s national inquiry that I discussed in chapter three, one Kasepuhan member testified in the hearing that their ability to use and access forest had been constantly negotiated between the Kasepuhan and local forest authorities. This means that the Kasepuhan people still have to deal with some kind of restrictions regarding their forest access and

use as long as the forest where they live is declared as ‘State forest area’. One of the Kasepuhan members testified:

We have lived in the area for generations. We cultivate our crops, herd our goats within the national park boundaries. This is the way of life that my father taught me, he got his knowledge from his father, and I am teaching my son the same thing. The Kasepuhan tradition must never stop. In the past there were times that the forest rangers understood us and let us be, but at other times they put so many restrictions on us. We do not have assurance regarding our access and use of forest resources. This needs to stop. The Kasepuhan people need to be able to thrive and sustain ourselves without being afraid or dependant on the park manager’s discretion. So that is the reason I am here. I want affirmation from the government (that enables me to keep maintaining my tradition). (KY 10/11/2014)

The MK 35 decision in 2013 was a game changer for the Kasepuhan community. As mentioned earlier in this thesis, the decision invalidated provisions of the 1999 Forestry Law under which the central government had assumed ownership over forest land that traditional communities had occupied and used for generations. Therefore, the lingering uncertainties faced by the Kasepuhan people and other adat communities, which had begun during the colonial reign of the Dutch East Indies, could potentially be stopped due to this ruling.

The Kasepuhan community is at the cutting edge of the application of the Court’s decision. As noted, on 19 November 2015 the Lebak district parliament ratified the bylaw recognising and protecting the customary rights of the Kasepuhan community (PERDA on Kasepuhan). The law explicitly recognises the Kasepuhan adat community’s territory; the bill includes a map of the adat lands as an appendix. This is highly significant as it provides explicit and unambiguous authorisation of the boundaries for a forest territory to be autonomously managed by an adat community. The Kasepuhan people are currently in a transition period waiting for the Ministry of Forestry and Environment to issue a decree recognising this local government regulation. Once the administrative

protocol is fulfilled, the Kasepuhan people could gain full restitution of their hak ulayat. This includes the excision of their ancestral territory from TNGHS' boundaries.

4.6. Conclusion

A key objective of this chapter has been to explore the progression of Indonesia's forest management paradigm, from the Dutch colonial era to the most recent turn of events. Throughout most of Indonesian history the state domain principle has prevailed, and undoubtedly contributes to the legitimatisation of the assumption that the state has the capacity, the internal legitimacy, and the will to manage all resources under the state boundaries. Hence, it is easy to understand why MK 35 has been hailed as a 'turning point' (Down to Earth 2013). It challenges the abovementioned assumption and more importantly has given something new for the adat communities to work for in the restoration of their rights to forest resources.

In the following chapter I explain in more detail the Kasepuhan community way of life. Like other adat communities in the country, they have been subjected to numerous government restrictions that have limited their capability to practice their traditional forest management practices. The forest access in the area is constantly in flux, contingent to realpolitik and the negotiation between Kasepuhan community and other stakeholders in the forest areas. Therefore, by understanding the Kasepuhan community's history, culture and attachment to the area we can better understand both the strategy and reasons behind their claim to forestlands in Halimun-Salak region.

5 Kasepuhan Way of Life

5.1 Introduction

Similar to other adat and local communities in Indonesia, the recent history of the Kasepuhan peoples shows that at the local level, the arena of land claims is highly dynamic. Despite the lack of explicit legal authority to stay in the national park areas, the Kasepuhan community was able to maintain their forest access and control. They have used various strategies. As Moniaga and Bakker (2010: 190) argue, the communities ‘may confront unwilling or hesitant authorities over land claims and convince them of their rights based on adat arguments.’

Through my encounters with a number of *Abahs* (adat leaders) of the Kasepuhan groups, and through my interactions with *SABAKI* (*Kesatuan adat Banten Kidul*-Kasepuhan peoples’ adat organisation), I have been able to become familiar with the myth, legend and the cultural settings that form a source of inspiration for Kasepuhan community. I witnessed firsthand the Kasepuhans’ stories and how they have adapted these stories with the changing nature of socio-political situations in the area. The conversations I had with the Kasepuhan revealed a more dynamic impression of the Kasepuhan community’s traditional forest management than I initially imagined.

This chapter draws on those encounters and the literature that describes the importance of forest in supporting Kasepuhan life. First, it outlines the history, world view and belief systems of the Kasepuhan. Second, it illustrates how the Kasepuhan people categorised land and natural resources within their territories and allocated land use rights to members of the communities. Finally, this chapter explains the land use among Kasepuhan people and describes their sense of attachment to Halimun-Salak forest. This discussion is an important foundation for understanding the cultural and historical narratives behind the efforts of Kasepuhan peoples to resourcefully maintain and secure their ancestral lands in the wake of MK 35.

5.2 Legends and History of the Kasepuhan

The Kasepuhan community lives in the last large tract of relatively pristine rainforest remaining in Java, consisting of lowland rainforest, sub-montane forest, and montane forest. Huge ‘rasamala’ (*Altingia excelsa noronha*) and chestnut (*Castanopsis spp*) trees soar to over 50 metres in height, filled with epiphytic orchids, rhododendrons and ferns. The understory is rich in diverse small trees and shrubs, while the ground layer is covered by orchids, palms, ferns and an abundance of Acanthaceous herbs (*Strobilanthes spp*). The forest is also particularly well-known as a habitat for a variety of endangered species such as the Javan Hawk (*Spizeatus bartelsi*), Javan Gibbon (*Hylobates moloch*), and Javan Leopard (*Panthera pardus*). It is surprising that such a large and biologically diverse forest still remains so close to the teeming national capital, Jakarta. According to many Kasepuhan people, the primary reason for this is that this whole section of the south west of Java is inhabited by spirits. According to the oft-cited aphorism, these spirits ‘*Nyumpt buni dinu caang*’ (They hide in the light, where they are invisible).

According to the Kasepuhan, they have cleared and cultivated forest in this area since long before the Dutch arrived, and they perceive themselves as the original owners and guardians of the region and its forests (Adimihardja 1992). Most houses are still built in the traditional style. Kasepuhan people do not purchase building materials such as tin, brick or tile, but use natural resources from the forests to construct their own houses. The houses are constructed of timber with plaited bamboo walls, lashed together with rattan and the roofs are thatched with palm fronds. Many of their daily needs are met using natural resources from their gardens or forests. Their staple food is rice harvested from their paddy and swidden fields. Farming and gathering firewood are the daily activities of the Kasepuhan. Some firewood is supplied from their gardens, although most is gathered from surrounding forests.

The National Park designated 21,674 ha of park area as a ‘special use zone’ for the Kasepuhan adat community (TNGHS 2012). However, the Kasepuhan believe that their customary area covers a far greater area. This is partially explained by the fact that some of the Kasepuhan groups still practice

what could describe as semi-nomadic settlement patterns and swidden farming (Adimihardja 1992, 2008). The various Kasepuhan community claims specific territories as their ancestral adat lands. These territories border one another, leaving no unclaimed land between them.

According to Kasepuhan oral history passed down through the generations, the Kasepuhan people originated from the Padjajaran Kingdom, which is believed to be the last Hindu Kingdom in Java. According to some accounts (e.g., Adimihardja 1992, Wessing 1993) and also based on the interviews that I conducted, during its heyday, the kingdom covered most of West Java including Banten. Some even argue it covered some eastern parts of Java as well, even when these areas had already been Islamised. Contemporary Sundanese in general still talk about the folklore of the Padjajaran Kingdom, and continue to remember the Kingdom's most popular leader, Prabu Siliwangi.

The Islamic Sultanate of Banten invaded Padjajaran in 1579 (Ekadjati 1984). According to the version most often told in Sundanese society, Prabu Siliwangi became a *hiang* or ancestral spirit (Wessing 1993, Adimihardja 1992) after the fall of the kingdom. The destruction of Java's last Sunda-Hindu Kingdom was overseen by Sultan Maulana Yusuf. Kasepuhan claim to be descendants of high-status *Bareusan Pangawinan* (special troops) of Padjajaran who did not want to convert to Islam and fled into the mountains where they were beyond direct state control. Even though Kasepuhan peoples nowadays have adopted a generally Islamic identity, their belief system is strongly imbued with shamanistic practices. This is visible in many of their rituals, which pay tribute to great magical powers of their ancestors and spirits that surrounds them in their physical environment. I will discuss some of these rituals in the later stages of this chapter.



Figure 5-1 One of the Kasepuhan Communities' rituals

Ngareremokeun pays tribute to Dewi Sri-the Goddess of Rice. This is one of the main events during Seren Taun. During the rituals, the Kasepuhan people make sacrifices for their future well-being, in particular regarding their relations with nature. Photo by Dean Yulindra Affandi (2014).

Meanwhile, based on the archaeological remains and the oral histories told to me during fieldwork in various Kasepuhan villages, it appears the early inhabitants of Halimun-Salak forest occupied the hills and mountains of the area rather than the valleys. The story goes that frequent relocations were necessary to conceal their tracks and avoid persecution by the sultan's troops. Their frequent exfiltration helped them to resist incorporation into the Banten sultanate. The following folklore always came up during my interview with the Kasepuhan people. It fits easily with the mystical ideas about the relation between the Kasepuhan people and the nature surrounding them. As one Kasepuhan leader told me:

In 1579, our Padjajaran Kingdom in Batu Tulis (the present day site of the city of Bogor) was attacked by the Banten Sultanate. Around 800 of the King's followers

were able to escape, including the king himself, Prabu Siliwangi. While the king and his escort fled to Palasari in the Pandeglang district of Banten, the chieftains proceeded to Jasinga Bogor and then moved on to Lebak Binong village, in what is now the Lebak district of Banten. Later, they went to Cipatat but later returned to Lebak district where they moved successively from Lebak Larang, back to Lebak Binong and to then Tegal Lumbu. Their escape then took them to Cicadas (Sukabumi district), and to Bojong Cisono (Lebak district), before they finally arrived in Cicemet. A few of the king's followers decided to join with the settlers in Parahyang, who are now called the Baduy people. They mainly stayed high in the mountain areas to avoid the Sultan's troops. (AU 20/9/2014)

The story has also been handed down that, one day, the Kasepuhan community of Ciptagelar, Citorek, Cisitu, Cisungsang and others will return to the heart of the Padjajaran Kingdom in Batu Tulis, Bogor. According to the leader (locally referred to as Abah), the practice of periodic relocation 'is a part of who we are as a Kasepuhan group. If I receive a premonition (*wangsit*) from the ancestors, then it is a sign that we need to move again to other areas. But for now we are staying (in the current place)' (AUg 20/9/2014). Furthermore, the Abah told me that the origin of the Kasepuhan village of Ciptagelar can be traced to around nine ancient settlements, all of them located on the hillsides. It was only at a later stage that the inhabitants occupied and cultivated the valley. The Kasepuhan community of Ciptagelar in 1957 relocated to Cikaret village (now called Sinaresmi), then in 1972 to Ciganas village (now Sinarrasa), before moving to the hamlet of Lebak Gadog (Linggar Jati) in 1982. In 1983, they moved once more to Datar Putat (Ciptarasa) and finally, in 2003, to their current site in Cikarancang.

The community elders explain that these recent moves were intended to demarcate and maintain the identity of Kasepuhan customary lands spread across the three districts of Bogor, Sukabumi, and Lebak, in and around what would soon become Gunung Halimun-Salak National Park. The Abah of Kasepuhan Citorek told me 'as the offspring of the followers of the Padjajaran Kingdom,

we have legitimate rights to keep occupying and using the lands in Halimun-Salak forest. The area is inherited by our ancestors, it is our duty to keep it that way' (OD 20/9/2014).

As I will later show in this thesis, the Kasepuhan people have used the realm of myth and legends about the story of Padjajaran Kingdom and the disappearance of Prabu Siliwangi (and his subsequent life as a supernatural being) as a strong impetus for the Kasepuhan people to sustain their forest tenure in the Halimun-Salak region. According to them the Halimun-Salak forest is the home of supernatural powers. It is part of the Kasepuhan peoples' heritage that Prabu Siliwangi can take the form of a tiger, the embodiment of his shaman spirit. It is in this form that he is said to still watch over his descendants, the Kasepuhan people, and the Sundanese generally. In chapter seven, I will explain in more detail how the Kasepuhan peoples have made stories like this valuable for them to self-represent as an authentic masyarakat adat, and how they have done this in making their claim to entitlement.

Currently, most of the Kasepuhan villages are located in the Cibeber Sub-District (*kecamatan*), District of Lebak, Banten Province. They live at the foot of the Halimun-Salak mountain range about four to five hours drive from Jakarta. There are no reliable data on the total tally of the Kasepuhan people, and some of the respondents that I interviewed have stated there are around 7,000-8,000 Kasepuhan households. According to Arizona (2014), there are 57 Kasepuhan villages spread out within and around TNGHS territory.

The wider public often misunderstands the distinction between the Baduy and the Kasepuhan people, which is understandable because both of them live in the same district and consider one another as 'cousins'. According to some accounts from my interviews, during the flight of the survivors of Padjajaran Kingdom, a few of these survivors decided to take a different route and isolated themselves. It is said that this group was visited by the Gods who gave them their adat and told them that all would be well if these rules were kept intact. Although they live in the same administrative district, the forest area of Kasepuhan and Baduy people are miles apart and they identify themselves as two different masyarakat adat. The Kasepuhan community has a different

history and although there are a few cultural similarities with the Baduy, they do not regard themselves as one entity.

During the heyday of Dutch botanical exploration, relatively few attempts were made to explore and exploit Baduy peoples' forest because it was considered as '*angker*' (haunted) and therefore forbidden (Boomgard 1999). The Dutch forestry service declared their area to be a nature reserve, a situation continued by the post-independence government, leaving their area relatively untouched by exploitation. In 2001, the Lebak District Parliament passed a local bill³⁴ that acknowledged the Baduy peoples' customary territories, giving them rights to manage around 5000 hectares of forest. They are the only customary communities in the Indonesian archipelago that have received that kind of recognition from the government after Reformasi. Therefore, they present a case of adat exceptionalism, in that they have managed to maintain almost a 'state-within-a-state' autonomy almost throughout the entire history of Indonesian statehood (see Wessing 1977). For that reason, we cannot draw useful comparisons to them because the Baduy people have not been subjugated to the state's authority to designate forest use and purposes. In addition, it appears that this has been the trend for the Baduy people for quite some time, as Wessing (1977: 295) argues:

The Baduy's continued existence as a separate group is probably due at least partially to the isolation of their settlements and to the fact that both the Dutch colonial government and the Indonesian republican government have adopted a 'hands off' policy towards the Baduy over the years.

The Kasepuhan people, on the other hand, have been undermined by the state like other adat communities across Indonesia ever since national politics began. It was often said to me by Kasepuhan community members that their customary forest area covers much more land in comparison to the Baduy land, and most of this land lies within with the boundaries of the TNGHS. In

³⁴ This is the Regional Regulation (*Peraturan Daerah*, PERDA) No.32/2001 concerning the recognition of the Baduy peoples' indigenous property rights.

addition, both PERHUTANI and PTPN (State Plantation Company) have concession areas around Kasepuhan settlements, which restricted the Kasepuhan people's access to forest resources. The Kasepuhan peoples' strategy in maintaining their rights to the forest, and how they have adjusted their adat to suit the ever-changing local socio-political setting will be discussed in more detail in the next chapter.



Figure 5-2 Kasepuhan Citorek village is located deep inside the national park's territories. Photo by Dean Yulindra Affandi (2014).

5.3 Adat of Kasepuhan

The worldview and belief systems of the Kasepuhan people are shaped by the environment in which they have settled. Their belief systems are full with symbols, histories and rituals that link them with the forests and the forest spirits. The Kasepuhan people's domain and that of the spirits remain separate: the Kasepuhan inhabit the village, while the spirits occupy the forest. Therefore, they have to follow specific rules and prohibitions when they enter the forest.

Similar to traditional communities in other parts of the country, the fundamental principle of Kasepuhan custom is to preserve the balance between humans and nature (Adimihardja 1993). They believe that nature sends out a signal that people can read to help them maintain this natural balance. Balance or harmony can only be achieved if there is a balance between the three fundamental attributes of *Tekad*, *Ucap* and *Lampah* which roughly translate as intent, speech and behaviour. Kasepuhan people must pay attention to these three principles and use them as guidance in their daily lives at the individual and community levels.

Kasepuhan have their own moral guidance to help community members to learn and maintain their customary social attitudes, called *tatali paranti karuhun* or 'ancestral customs' (Adimihardja 1993). In my discussions with Kasepuhan leaders in mid to late 2014, a number of them passionately explained to me that their ancestors had provided the necessary customary code with which the Kasepuhan peoples will be able to maintain social order in the community, if it is properly implemented. Some of the respondents explained to me that the Kasepuhan believe that deviations from the law of the *tatali paranti karuhun* will lead to *kabendon* (disaster or bad luck), and this will affect not only those who disregard or disobey the law, but also the entire community (AUS 20/9/2014; OR 21/9/2014; AU 22/11/2014).

The belief systems and lifeways of the Kasepuhan people have evolved over time as they have interacted with values, principles and ideas from the outside world. For example, due to government rural development programs such as road improvements, education, and electricity, the Kasepuhan are now far less isolated from the outside world. Although the Kasepuhan people have modernised themselves and have embraced Islam, they still hold on to their basic belief system and conduct various traditional ceremonies to coincide with significant cycles and events in the community's life. They hybridise their custom by complementing it with Islamic teachings.

As a result, the religion and spirituality of the Kasepuhan peoples differ from those of the majority of the Sundanese population in Banten and West Java. The Kasepuhan practise a form of Islam that is strongly mystical and also fits easily with their devotion to the *karuhun* and other form of spirits. They conduct rituals and ceremonies that are different in form from the majority of the Muslim

population in the region. For example in their ceremonies, they always open by paying homage to their ancestors and ‘forest spirits’. They close the ceremony with Islamic prayers. Further, nobody is allowed to cut any trees at all during the second and third month³⁵ of the Muslim calendar, as it is believed this could disturb the balance between the Kasepuhan community and the nature surrounding them. The month of *Raby’ al-Awwal* is the month of *Maulud* (birthday of the prophet), and at this time the spirit tigers which are the embodiment of the God(s) and the ancestral spirits assemble at the forest in the Halimun-Salak Mountains. It is also important to note that during my field observations in the Kasepuhan villages I rarely encountered mosques. I more frequently encountered *Musholla* or *Surau*. These are Islamic prayer rooms, which are usually attached to shopping malls, airports or other public places. These are significantly smaller than Mosques. This is striking, considering that I was carrying out my fieldwork in a part of the country where the Islamic religion has generally been dominant for centuries.

In any case, the Karuhun or ‘ancestors’ still form the central reference point in the Kasepuhan people’s belief system and daily lives. The Abah, formally called the *Sesepuh Girang* (adat leader) makes a pilgrimage visit once a year to the graves of their ancestors, which are located in numerous places deep inside Halimun-Salak forest. A rare opportunity came when the Abah asked me to come with him to one of the gravesites, an opportunity that I could not miss. At the grave, Abah recited the following words that show how deeply devoted the Kasepuhan community remain to their belief system and how precious nature is for them.

Pun ampun ka luhur ka sang rumuhun,

Ka handap ka dang batara, ka para dewa dewi,

Ka siluman ka sileman,

Ka dewa kalakay salemba, anu

Nyicingan ieu bumi

(I ask forgiveness from the ruler of heaven and earth,

³⁵ The month of *Syafar* and *Raby’ al-Awwal*

And from the rulers of the underground,
 From the God and Goddess,
 From the evil and good spirits,
 From falling leaves,
 Who occupy this earth)

Ema, Bapa,

Abdi neda widi nitip Nyi Sri,

Ulah aya nu ngaganggu ngagunasika,

Berkah doa salametanna kalawan rahayu sadayana

(Mother, Father,

I entrust *Nyi Sri* (The goddess of rice)

To your authority, to watch their destroyer and

To provide us with blessing and welfare)

The above is called *doa amit* (prayer for permission), which the *sesepuh girang* recites before rice planting and after the harvest season, both in the paddy fields and swidden farm. A ceremony in Abah's house followed immediately after the prayers, where *adat* figures and state authorities are invited to attend. At the gathering, they wanted to reach consensus about the time of planting and harvesting for all Kasepuhan villages. During my time in the Kasepuhan villages, Kasepuhan people were frequently conveying to me proscriptions and prohibitions that were passed down in oral form. According to them the following example, recited to me by Kasepuhan people, serve as the 'cardinal rules' for their interaction with the surrounding nature that have been told for generations:

| | |
|---------------------------------------|--------------------------------------|
| <i>Gunung teu meunang dilebur,</i> | The hill should not be destroyed, |
| <i>Lebak teu meunang dirusak,</i> | The valley should not be damaged, |
| <i>Larangan teu meunang dirempak,</i> | Restrictions should not be violated, |
| <i>Buyut teu meunang dirobah,</i> | Taboos should not be changed, |

| | |
|--------------------------------------|---|
| <i>Lojor teu meunang dipotong,</i> | What is long should not be shortened, |
| <i>Pondok teu meunang disambung,</i> | What is short should not be lengthened, |
| <i>Nu lain kudu dilainkan,</i> | What is other must be considered other, |
| <i>Nu ulah kudu diulahkeun,</i> | What is forbidden must be forbidden, |
| <i>Nu enya kudu dienyakeun,</i> | What is right must be considered right |

Before undertaking any activity related to natural resource management, there are rituals and ceremonies dedicated to their ancestors. All men, women, and young people of the community participate in these activities according to their talents and capability. These ceremonies embody the Kasepuhan people's collective and individual obligations before the natural environment can be disturbed or manipulated. Rituals carried out throughout the course of each year include:

- ***Ngaseuk*** marks the beginning of the planting season for upland rice, followed by the planting season for lowland paddy rice;
- ***Mipit*** is celebrated when the rice is ready for harvesting;
- ***Nganyaran***: a ritual for cooking the newly harvested rice;
- ***Serah Ponggokan***: a ritual that expresses apology to 'disturbing' the nature for agricultural activities
- ***Seren Taun*** is the ceremony where the community offer their gratitude to the Almighty for a good harvest.

These ceremonies also serve as opportunities for routine adat meetings. As noted, the largest and most important meeting takes place during the harvest celebration (*Seren Taun*), and provides an opportunity to evaluate the community's overall development. This event is attended by the leaders of each Kasepuhan group, with local government officials as invited guests. This gathering also serves as a forum for the community to hold discussions with representatives of government agencies.

Therefore, *Seren Taun* has evolved to become more than just a traditional ceremony. The event also serves as a political convention to consolidate the Kasepuhan people's aspirations. This last few years,

the Seren Taun has been an integral part of the Kasepuhan peoples' strategy to gain forest tenure security from the government, as chapter six and seven will further explain.



Figure 5-3 Seren Taun in Kasepuhan Cisungsang

Big gatherings like this have recently become common during Seren Taun. They provide the perfect moment to discuss the communities' interests and political aspirations, but also strengthen social cohesion among Kasepuhan groups. Photo by Dean Yulindra Affandi (2014).

All adat positions within the Kasepuhan customary social structure are responsible to the highest leader, the *Sesepuh Girang* (or usually called *Abah*, meaning father). These positions are all hereditary. Only the *Kokolot Lembur/Jaro* (Village Head/*Kepala Desa*), the leaders of each village in a Kasepuhan group, are elected by the community members of that village. Usually, the *Kokolot Lembur* also hold other positions within the Kasepuhan's customary structure. The *Kokolot Lembur* is accountable not just to the community, but also to the district government (Suganda 2009). Nowadays, this position has a significant strategic consequences for the communities' ability to manage the surrounding forest resources, as I will explain in the next chapter.

Table 5-1 Adat position in Kasepuhan Community

| Title | Function |
|---|---|
| <i>Sesepuh Girang</i> | Head of a Kasepuhan group. Highest <i>adat</i> leader. Serves the needs of the members of the community in matters concerning this world (material) and beyond (spiritual). Appoints and dismisses customary officials. |
| Head of external affairs (<i>Kanagaraan</i>) | Assists <i>Sesepuh Girang</i> in all affairs dealing with the government. Advise the <i>Sesepuh Girang</i> on community issues. Organises the community. Issue statements/political positions. |
| Village Chief (<i>Jaro/Kokolot Lembur</i>) | As a community leader, the <i>Kokolot Lembur</i> participates in <i>adat</i> meetings where decisions are made regarding the whole cycle of agricultural productions and community development |
| Head of religious affairs (<i>Syara</i>) | Assists the <i>Sesepuh Girang</i> with affairs concerning customary law and religion. Proposes candidates for the position of leader. |
| Head of customary law (<i>Panghulu</i>) | Leads prayer in customary rituals. Prepares and conducts burials. |
| Water manager (<i>Tatanen</i>) | Coordinates the management of rice paddies and the irrigation system. Punishes those who interfere with water supplies. |
| Shaman (<i>Dukun</i>) | Leads the <i>adat</i> rituals ³⁶ to prevent or cure illness. Gives medicines and treats the sick |
| Musician (<i>Gamelan</i>) | Plays and takes care of the gamelan (traditional orchestra) |
| Rice field manager (<i>Panyawah</i>) | Supervises/controls/administers/looks after communal and individual rice paddies. |
| Cultural guardian (<i>Pamuk/Obor³⁷/Pantun/Pakarang</i>) | Inform and educates community members about Kasepuhan beliefs. Enforces <i>adat</i> law. |
| Forest protector (<i>Kemit Leuweung</i>) | Supervises the community's protected and sacred forest areas |
| Treasurer (<i>Pakarang</i>) | Take care of and polishes the community's heirlooms and sacred objects, especially during the month of <i>Maulud</i> |
| Ceremonial Assistant (<i>Tukang Sawyer³⁸</i>) | Carries out parts of the wedding and circumcision ceremonies and celebrations. |

Source: Adapted from interviews with adat leaders OO 23/8/2014, AUS 20/9/2014, AU 22/11/2014 and Suganda (2009)

In the wake of the Constitutional Court's decision, the Kasepuhan have mobilised their adat beliefs and customs even more in an attempt to gain recognition of their claims to ownership and control of their customary forest lands by the government. For example, they use local media to report different aspects of their lives; the harvest festival of Seren Taun has lately become quite well-known due to media coverage. This has had a positive impact by increasing public awareness of the Kasepuhan way of life and increasing public support for its cause. Another tactic that the Kasepuhan

³⁶ These healing rituals are called *nyimur* or *prah-prahan* in Kasepuhan. Nowadays, the immunisation program is also considered part of these rituals.

³⁷ *Obor* literally means 'a torch'. The person in this position is responsible for 'enlightening' people about traditional knowledge through poetry, stories and other art forms. He also warns the community to follow *adat* rules.

³⁸ Literally *sawer* means to share or distribute money. At these ceremonies, money and yellow rice are handed out to symbolise hopes for justice, solidarity and collective prosperity.

community use to assert their territorial claims has been to present authorities with examples of their customary forest management system. This includes reforestation in various locations where the forest had been destroyed or degraded, regardless of who holds the rights to manage it. This reforestation effort serves other purposes besides rehabilitating the forest. It is also a way of staking claim to it. By undertaking various initiatives to make claim to their land, the Kasepuhan people hope that this will eventually strengthen their position in negotiations over the recognition and protection of their rights to access and utilise the surrounding land and natural resources. Chapter six and seven will address these actions in more detail.

5.4 Livelihoods

Kasepuhan livelihoods can be described as fundamentally self-sufficient. They follow a subsistence economy in which swidden and wet rice cultivation are the main activities. Selling rice is taboo among the Kasepuhan people. However, they also engage in a variety of supplementary activities to earn cash to purchase trade goods including salt, tobacco, kerosene, and clothing – and more recently, cellular phones and four-wheel drive vehicles. They engage in cash-earning activities including harvesting or cultivating non-timber forest products such as honey; coffee; fruit trees; and in some cases tapping rubber. More recently, gold mining has emerged as an economic activity. Fruit trees such as durian, banana and papaya and other seedlings are planted in their swidden fields to mature along with other recovering forest species once the swidden is fallowed. This combination of subsistence and cash cropping has been widely found among swidden cultivators in Indonesia (Li 1996; Scott 1998; Doolittle 2001; Fox, Fujita et al. 2009). Incomes from agroforestry activities provide a crucial cushion in the event of economic misfortune such as harvest failure when they have to buy additional rice.

On numerous occasions my respondents from the Kasepuhan community said to me that in their village there was no need to worry about food since it exists in plenty (JW 20/8/2014, HH 21/8/2014, KD 22/8/2014). They then explained that The Kasepuhan community only plant paddy and other crops once a year, which is in contrast to the government or commercial norms. Kasepuhan

people consider land and forest as the ‘mother’ who should not be forced to endure labour more than once a year. Planting rice more than once per year would disturb the balance with nature and could result in soil erosion or other misfortunes. Despite the fact that they only have harvest once a year, the Kasepuhan people have never experienced any shortage in rice and other staple foods. Their local wisdom in managing natural resources has drawn attention from the government and has provided them with a platform to represent their adat in the national platform. In 2012, Abah Okri of Kasepuhan Cisitu won the Adhikarya Pangan Nusantara award from the national government. This award is given to a member of society who shows exceptional effort and delivers positive results in ensuring food security in their community.



Figure 5-4 *Leuit* or the granary

This is the place for the Kasepuhan community to store their grain rice. Each leuit is assigned to specific households. Photo by Dean Yulindra Affandi (2014).

There has been a shift in Kasepuhan community’s traditional land use activities, especially in regards to swidden farming. Various pressures, including government policy, demography and rapid

economic and land use change, have resulted in the decline of swidden farming among the Kasepuhan. Regulatory control has been the major cause of this condition. Since colonial times and through most of the present time, swidden farming has been prohibited, as it is considered as destructive for both soil and forest (Fox, Fujita et al. 2009; Galudra and Sirait 2009; Siscawati 2013).

Increased market penetration has also reduced the scale of the swidden field cultivation in the Kasepuhan villages. Intensive rural development programmes, including improvement of roads and the introduction of village electricity and telephones in the neighbourhood of the Kasepuhan area, have facilitated more access to local markets (Adimihardja 2008). These have enabled the sale of more products from and to Kasepuhan areas. Subsequently, the Kasepuhan have been encouraged, or seen opportunities to convert their swidden fields into commercial gardens, planted, for example with vegetables, rubber, cloves, or coffee. In addition, the more lucrative traditional gold mining activities that have been going on for the last five to six years have freed some Kasepuhan households from dependence upon agroforestry activities. A more detail account on the mining activities within Kasepuhan will be provided below.

5.4.1 Kasepuhan forest management

Mapping is a core activity of the contemporary Kasepuhan groups. In a recent community mapping exercise facilitated by Kasepuhan adat leaders and NGOs, the Kasepuhan identified that the land they claim as adat territory covers most of the national park area and beyond. Currently, a participatory mapping exercise is still underway to determine how many hectares are within this claim. A report by community leaders at Kasepuhan Ciptagelar reveals that around 9,520.4 ha of national park lands belonged to their ancestors. Another report from AMAN shows that around 7,200 ha of national park lands are claimed by Kasepuhan Cisitu. These two reports from AMAN and Epistema Insitute account for only two Kasepuhan groups. Mapping activities by other Kasepuhan groups surrounding the national park are still ongoing.

Different groups within the broader Kasepuhan community are quite autonomous. Each group has its own leaders, territory, and territorial boundaries that are now mapped with the help of local

NGOs. The adat leader has the authority to arrange space, allocate use rights over land and natural resources, and to come up with institutional arrangements for members of their respective communities. Although the groups share basic customary principles, the customs and traditions somewhat vary between groups. For instance, the two neighbouring groups of Kasepuhan Cisit and Kasepuhan Cisungsang probably share the same parent village and ancestral origins, but have developed slightly different rituals, codes of conducts, processes, and rules regarding land and resource use.

For the Kasepuhan, ‘customary land’ refers to communal property. This land has clear boundaries, and its use is regulated by customary rules, although there is no formal written proof of ownership. Meanwhile, the term ‘village land’ applies to land which was managed individually and was formally registered as individual property by the government when the 1960 Agrarian Law came into effect. In general, this land is considered by the Kasepuhan to be ‘common land’ within the area of their customary land; however, some of the Kasepuhan claim to have private ownership rights based on the land use certificates issued by the National Land Agency during the 1960s under national land reform policy.

This situation is a typical example of legal pluralism in Indonesia. Due to competing legal claims, legal interpretation is the focus of contention and it makes the actual forest management become fluid and negotiated between stakeholders. Leaders of the Kasepuhan community quietly work on the formalisation of their claims through government authority or through alliances with government, and engage in dialogue with the government in order to gain media recognition. In addition, broad local alliances involving other communities, NGOs, local parliaments and government bureaucrats have proven to be the most efficient strategy for the Kasepuhan people to gain rights to land, whether they are based on formal law, semi-legal agreements or other form of arrangements. Bakker (2009, 2010) argues that obscurities or even inconsistencies in national law, social networks between claimants and officials, and policy disharmony between different government levels are all contributing factors to communities’ success in maintaining their access to forest. These factors also have contributed to the ability of the Kasepuhan community to challenge the state’s authority and

negotiate for the alternative to forest management in the region. In chapter six I will explain in more depth how the Kasepuhan community has been able to shape the institutional arrangements for forest access using some of these factors.



Figure 5-5 The 'commons' around Kasepuhan peoples' territories

The Kasepuhan people's forest management distinguishes three types of forest based on use (Adimihardja 2008; Galudra, R.Nurhawan et al. 2008). In contrast to the forest management employed by the state and commercial regimes that use maps to indicate clear boundaries, Kasepuhan people's forest areas were originally demarcated by natural features such as rocks, streams or particular trees. However fairly recently, this trend has changed, for the Kasepuhan community has adopted the state's techniques of geographic management by doing participatory mapping activities to help support their claims. And as I mentioned in chapter one this forest zonation is now a part of the PERDA on Kasepuhan adat rights, meaning that their type of forest management is now formalised

and have clear boundaries. The adat leaders whom I interviewed explained to me that each forest types has its own functions and proportions as explained below.

a. Protected Forest (*Leuweung titipan*) (60%)

Also known as *hutan awisan*. Awisan means ‘forbidden’ or ‘sacred’. It is believed that this forest area is protected by the community and by forest spirits. The forest and its resources, including all animals, plants, and their habitats, are considered sacred. It is strictly forbidden to enter this forest area or to take anything from it without the permission of the Abah.

b. Closed forest (*Leuweung tutupan*) (20%)

This forest functions as a buffer and also protects the village. Community members may only harvest non-timber products. In cases of extreme need, the community may decide to clear parts of this forest for the benefit of the entire community, but not for individual use.

c. Open forest (*Leuweung bukaan/garapan*) (20%)

This is the part of the forest that the community uses for its paddy fields, swidden fields (*huma*), agroforestry, housing, roads, mosques, cemeteries, livestock and other needs. It is strictly forbidden to use the other two forest areas for any of these purposes. The open forest is also known as *Terasan* once it has been cleared.

Furthermore, the areas of *leuweung bukaan* are zoned according to function; they classify their land use into five zones as follow (YO 22/11/2014):

a. *Huma*

Swidden is a farming system in which forest is cleared for agriculture, mostly using fire.

Swidden fields have two types. Smaller fields of approximately one hectare have vegetables such as maize, fruit trees, and fast-growing trees for fuelwood and construction. The second type of swidden fields is planted with rice. Swidden system or *huma* is very important for the Kasepuhan people, for it is bound up to their traditional belief system that is handed down by their ancestors. All of their rituals and ceremonies are based on the growing of rice in the swidden systems. Figure 5.1 shows the activities and ceremonies involved in swidden

farming. The practice of swidden agriculture and the surrounding forest form a basis for their identity as a community.

b. *Jami and Reuma*

Jami is old *huma* (fallow land one year after the last crop) where dried rice stalks remain standing while *reuma* is classified as the secondary forest that has re-grown three to five years after *huma*. *Reuma* is a type of enrichment planting and selective coppicing and regeneration that favours useful plants to regenerate naturally in the forest. This area will be left fallow until it is cleared again to be used as *huma*, usually between 6-7 years.

c. *Agroforestry (kebon talun)*

Kebon talun is secondary forest (i.e., ex-*huma*) with fruit trees, the result of enrichment planting. Some seasonal plants are interplanted with the fruit trees and regenerating forest species until dense canopy makes this impossible. Fruit and timber trees can be harvested for a long period of time after *reuma*.

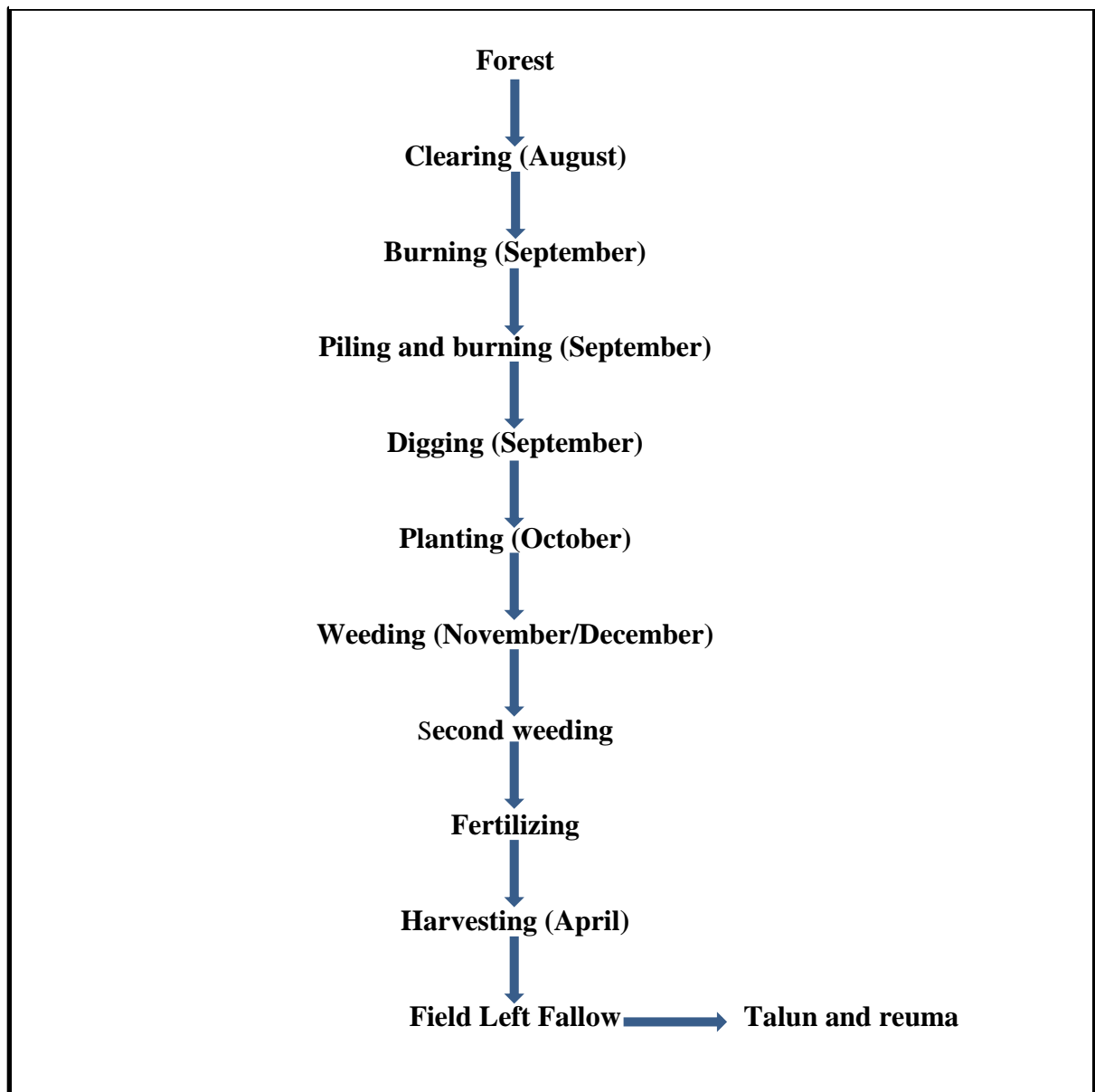
d. *Irrigated paddy (sawah)*

Sawah is another cultivation system among Kasepuhan villages besides *huma*. The development of *sawah* among the Kasepuhan has been intensified over the last 45 years, mostly due to government restrictions on the swidden system. Rice is planted for consumption, not as a cash crop. The bunds of paddy fields are planted with fruits such as bananas, and vegetables like cassava and beans. Fish breeding and hatching also take place in the paddy fields before the rice-planting season. They breed carp, catfish, tilapia, gourami and other species.

e. *Fishponds (legok balongan)*

The Kasepuhan people build fishponds in parts of the valley floor close to streams or springs. Fish is much in demand for daily consumption and rituals throughout the year, so nearly all community members have fishponds.

Figure 5-6 The cycle of swidden cultivation in 2014



Source: Adapted from interviews with adat leader AU 18/8/2014, NGO personnel RN 20/8/2014 and Adimihardja (2008)



Figure 5-7 Kasepuhan Communities' land use

Right after the forest area is cleared the Kasepuhan community hold *Ngaseuk*, a ritual to ask forgiveness to forest spirits because of the disturbance caused by swidden farming activities, and request blessings for successful harvest. Photo by Rebakah Daro Minarchek (2014).

Based on my observation and the responses from Kasepuhan members whom I interviewed, they do not view their forest as a commodity. One of the Kasepuhan members said to me that ‘our world can feed any amount of people, as long as it is managed in a fair way, but it will not feed two or three greedy people’ (YO 24/8/2014). This type of sentiment is shared among other community members whom I also interviewed. They understand the value provided by the forest ecosystem is far beyond economic reasoning, and includes:

- Protecting water resources;
- Balancing climate;
- Habitats for animals; and
- Conservation.

Therefore, the Kasepuhan community members argue that they already have the pre-requisites needed to manage the forest without the involvement of the state authorities. They firmly believe that the forest authorities would only disturb the balance of the Halimun-Salak ecosystem, as one Kasepuhan elder said

we are the true “guardians of the forest”, we have lived in this region long before the existence of the Indonesian state. We do not need people from Jakarta (the government) to tell us what to do in order for us to conserve the nature because we have been doing it since way before climate change became a trend’ (WS 24/9/2014).

As I will discuss in chapter seven, the Kasepuhan community’s representation as masyarakat adat that has the capability to sustainably manage forest resources increases the public support for their cause. The Kasepuhan people are fully aware that this representation would strengthen their negotiations over their hak ulayat.

5.5 Current patterns of land use rights of the Kasepuhan

As I described in chapter four, after the New Order government of General Suharto came to power the government did not recognise individual land ownership in the area, and villagers' land was considered to be 'without owners', and was therefore by default classified as 'state land' (N 11/9/2014; WS 24/9/2014; PP 25/9/2014). However, during the 1970s, forest authorities in the Halimun-Salak area allowed Kasepuhan households to farm the land with the condition that they must share 25% of their produce with local forest authorities. In addition, the district government issued land use permits³⁹ allowing people to use this land for agriculture, subject to the following conditions (Suganda 2009; PP 25/9/2014):

- This land could not be bought or sold.
- It could not be passed on to anyone else.
- It could be reclaimed by the government in the public interest without compensation.
- The certificate holder must pay land and building tax on any village land used for individual purpose.

This mechanism was in place until it was abolished in 2003 when the area became a national park. The mechanism, however, provided a sense of land tenure security for the individuals in the community to manage the forest lands, even though in terms of its legality, it is somewhat dubious. Like many other adat communities in Indonesia, a sort of customary labour theory of value forms the core of property relations among Kasepuhan, according to which ownership rights were acquired through investment of labour (Dove 1983; Peluso 1996). Consequently, the pioneer who clears the primary forest for cultivation has permanent usufruct rights to that land. Despite the fact that land in Kasepuhan adat territories has been utilised for multiple generations after the original settlers has long since perished, their descendants can still claim primary use rights to the land. As Doolittle (2001: 84)

³⁹ License to manage or *Surat Izin Menggarap* (SIM). The local land agency office issues certificates called *Surat Pemberitahuan Pajak Terhutang* (SPPT) which recognises land use, subject to payment of taxes.

argues, ‘this notion is intertwined with principles of inheritance as the usufruct rights conferred on the first person to clear the forest are passed from parents to children for generations.’ This corresponds well with the Kasepuhan peoples’ conception regarding property relations. When I asked how they obtained access to a specific plot of land, most villagers in Kasepuhan said that they had inherited the land from their *karuhun* (ancestors), who initially cleared and used the land for farming or other activities.

As already argued by some scholars using cases in different parts in Indonesia and the world (Li 1996; Peluso 1996; Brosius 1997; Agrawal and Ribot 1999; Dove, Sajise et al. 2005), the Kasepuhan case show how cultural notions of access to property are adapted to meet new political-economic conditions and in turn structure daily land use practice. At this point, Kasepuhan members do not necessarily present a single unified notion of customary property rights (*hak ulayat*). Rather, the Kasepuhan show how they have tried various ways in order to gain ‘community-sanctioned’ ownership of land that they have access to.

For example, Kasepuhan members’ access to *huma* and fallow land is elaborated through what has generally been referred to in the literature as a ‘moral economy of peasants,’ in which reciprocity and exchange lay the groundwork for social relationships (Scott 1977; Thompson 1991) between community members. Shared community access to agricultural land is possible due to the notion that the forest and its resources form a common pool of resources for the Kasepuhan people. The agricultural cycle of the *swidden* system means that land is available for community use during long fallow periods when the family with primary use rights is not cultivating it. In exchange, the primary owner of the same parcel of land is spared the hard labour of opening up the land in the future when he returns to it to reuse it as *huma* after soil structure and fertility have been restored. Any fruit trees or crops planted during the fallow period could be preserved and enjoyed by fellow community members, subject to negotiations between the tree planters and primary rights holder.

Adat institutions play a vital role in crafting and mediating land use rights within the community. Rangan and Gilmartin (2002: 636) point out that ‘institutions are geographic entities produced and sustained through the lived dimensions of social life and which have, over time,

developed distinctive spatial characteristics and regional identities.’ As I will show in chapter six, rights to resources and the evolution of the institutional arrangements that mediate access to resources are shaped by both negotiations over cultural meaning, social identity, and power and also by the incorporation of adat communities into the national political. This has engendered a highly fluid set of customary practices and ideas which proved to be instrumental in creating more leverage at the negotiation table.

5.5.1 Mining

Another important resource extraction activity that has been going on in the area for several decades is gold mining. Gold extraction on Mount Halimun began in the mid-1930s. Large-scale mining started in 1936 when the government of the Netherland East Indies opened up Cikotok as a state-owned gold mining operation (Galudra, R.Nurhawan et al. 2008; Soemarwoto and Ellen 2010). Kasepuhan members were among the labourers at the mine.

State-sponsored mining continued into the post-colonial period, when the Cikotok mining area was nationalised and handed over to ANTAM (*PT Aneka Tambang*) in 1955. ANTAM’s permits to mine gold in the Halimun area were granted through Government Regulation No. 91 /1961 in the form of a *kontrak karya* (leasehold) and a mining license. The 2596 hectare Cikotok mining site was enlarged with the addition of the 1978 hectare Cirotan concession in 1968. The mining activities on these sites stopped in 1991 due to unproductive gold yield (Galudra, R. Nurhawan et al. 2008; WS 24/9/2014). Then in 1992, ANTAM initiated exploration in another area of the Mount Halimun region, Pongkor Mountain. The initial contract covered 4,058 hectares and was subsequently expanded in 2000 to a total size 6,047 hectare (BAPEDA 2010). The entire area is within the boundaries of TNGHS.



Figure 5-8 One of the mining sites owned by Kasepuhan member. Photo by Dean Yulindra Affandi (2014).

Other than ANTAM, only village cooperatives (*Koperasi Unit Desa –KUD*) have been granted official licenses to mine. All other mining activities are described by the government as ‘unauthorised’ mining (*Pertambangan Emas Tanpa Izin-PETI*). These peripheral gold mining activities increased throughout the period that ANTAM operated (1958-2010) and quickly proliferated in ANTAM’s concession area after the company ceased operation.

In 1995, there were four sites of PETI extraction, covering an area of approximately 31 hectares. By 1997, this had increased to ten separate sites covering approximately 50 hectares, and by 1998, 13 sites covering 53 hectares (Galudra, R.Nurhawan et al. 2008). By 2002, this had grown to 21 sites covering 59.8 hectares (Balai TNGHS 2003). This gradual increase was partially due to the fact that while ANTAM was still operating in the area, to avoid conflict with local communities, they allowed local people to mine abandoned areas within their concession. The national park authorities were hesitant to shut down this activity since it was within ANTAM’s exploitation area. Together, the national park authorities’ hesitancy and the mining company’s tolerance allowed this activity to grow unabated.

A range of informal arrangements has also helped the proliferation of PETI in the area. Small-scale mining operations are often financially assisted in secret by investors (*cukong*) who provide seed

money for the operations. Investors sometimes also provide technical support while the Kasepuhan provides the site.

PETI extraction ‘rights’ are negotiated through a system of patron-client relations, or in the jargon of popular Indonesian discourse, through ‘*KKN*’ (*kolusi, korupsi, nepotisme*). According to one of the miners with whom I was able to speak in one of the mining sites, such negotiations involve particular individuals in villages, the police, military, officers of the civil authority, and are sometimes supported by the elders of the community (OD 2/10/2014). He then further explained that miners usually pay a kind of ‘permit’ fee for mining and milling to policemen, and in some cases also give ‘voluntary’ donations in the form of unprocessed gold ore to the local adat leader (OD 2/10/2014). Through these mechanisms, most PETI miners perceive themselves as having legal ‘permission’ to mine.

To mine the gold, miners dig a tunnel or hole in the side or slope of the mountain (see picture 8). Such holes are in general just wide enough allow a single person to pass. Based on my respondents’ testimonies, there are no formal rules of ownership with respect to tunnels (YO 24/8/2014; OD 2/10/2014). In general, the first person to dig a tunnel is considered to be the owner of that tunnel.

Reports of the death of miners due to tunnel collapse have become common in recent years. In 2014 alone twenty were killed, all due to tunnel collapse (Radar Banten 16/6/2014; AU 22/11/2014). Some Kasepuhan see it as ‘compensation’ to restore cosmological balance disturbed by gold extraction (Sumarwoto and Ellen 2010; Interview with YO 24/8/2014). Not only that, mining within the Halimun-Salak area also presents a considerable threat to the environment due to the use of mercury to separate the ore. However, this does not stop the Kasepuhan people, who are increasingly drawn into gold mining to supplement traditional forms of income generation at a time of rising material expectations. One of the adat leaders at Kasepuhan Cisitua said that currently 80 percent of the population in his village (around 1200 people), especially its youth, are involved in the gold production (Jakarta Globe 31/3/2015). This particular adat leader has remained neutral about this. He claims that he ‘*teu ngalarang oge teu ngajurung*’ (neither prohibits nor encourages) this activity

(AUS 20/9/2014, AU 22/11/2014). He implies that how people behave in such matters is their own individual business. He realises that in this modern era, Kasepuhan have many needs, many of which are new in terms of their cultural precedents. Most of the adat leaders on Kasepuhan are looking for a rational reason in terms of traditional cultural logic to justify mining i.e. when it is for the community's interest. For instance, when one of the adat leaders wanted to raise funds to maintain and repair the electric turbines of the local hydroelectric scheme, he actively encouraged people to mine (AU 22/11/2014). Or it may be that their attitude reflects new aspirations nurtured by an increasingly close relationship with a wider world. Kasepuhan continue to discuss the moral dimension of mining in terms of what is a legitimate contract between themselves as a group, and the balance of nature. No clear resolution of these tensions has yet emerged. It would be interesting to see what will happen in the near future now that the Kasepuhan people have a PERDA that guarantees their rights to resources, especially regarding the social and environmental impacts of this mining activities.

5.6 Conclusion

This chapter has shown that Kasepuhan adat identity refers not so much to a particular body of rules and practices, but more to a sense of authenticity, community, harmony, order and justice. They are proud with their heritage, especially with the belief that they are the 'descendants' of Prabu Siliwangi, who they claim to be the last King of the Padjajaran Kingdom. Even to this day, the name 'Prabu Siliwangi' is still legendary especially among Sundanese people due to ancient stories of his heroic acts and charisma that has been told for generations. This history helps to construct a social identity and nurtures the sense of distinctiveness among Kasepuhan members, and has made the Kasepuhan group respected by wider society, including by government officials. This, in turn, helps different Kasepuhan groups to revitalise their sense of identity. Hence, this identity represents both a potent motivating force and an effective and resourceful tactic that they mobilise in order to secure greater autonomy and control over ancestral lands.

The following chapters describes their ways and tactics in contesting forest use and access despite the weak recognition from state authorities. In particular, it examines how the Kasepuhan people negotiate forest access with the local policy decision makers and how they have used the narrative of adat revival to sustain their culture and way of life. This includes discussion on the socio-political ramifications of MK 35, where the Kasepuhan community has proven to be very resourceful, not just in using but also in creating leverages, to secure their traditional rights.

6 Institutional bricolage and forest management in the Halimun-Salak region

Before 2003, the national park was still small and far away from our village. Then from other villages we heard that the park would become bigger, so we were very scared. After a part of our agricultural land fell within the national park boundaries, we had to hide if there was a forest patrol in the area. Fortunately, a few years ago Abah, friends from AMAN and other Kasepuhan leaders made an agreement with the park and local authorities, therefore, we can have access to the forest areas to fulfil our needs. (SO 6/8/2014)

6.1 Introduction

This was the answer given to my question ‘how would you describe your ability to access the surrounding forest for your daily needs?’ by a member of Kasepuhan Cibedug, one of the Kasepuhan groups that live within Gunung Halimun-Salak National Park. The villager also claimed to me that his ancestors have been living in the area for centuries. He told me, ‘Let me take you to *Karamat Cibedug* (see figure 6-1), a stone terrace that our ancestors left for us to guard. It is physical proof that our people have lived here for centuries or maybe more.’ Karamat Cibedug is a megalith site adjacent to Kasepuhan Cibedug settlements, located inside the national park boundaries. It is considered a holy site by the Kasepuhan people (Karamat itself literally means ‘sacred’). Many Kasepuhan community members go to the site to get ‘life guidance’ from their ancestors or just to pray for their well-being. Similar to other Kasepuhan groups, members of Kasepuhan Cibedug rely heavily on the surrounding forest to fulfil their needs. Kasepuhan Cibedug is located deep inside the national park with very limited access to roads and telecommunication. Its members generally feel secure to go in and out of the forest to pick up fruits and vegetables from their huma or ladang (swidden farm) and maintain their paddy fields. The people of Kasepuhan Cibedug have been able to set up informal arrangements with the national park office in order to be able to maintain their way of life.

The foregoing story provides a context for this chapter. For several decades, Kasepuhan people have been caught between what is authorised by the state and what is required to survive and prosper. Kasepuhan communities are often able to craft workable arrangements under these circumstances, though their security and control over resources are somewhat tenuous. From my observation, it is obvious that they feel quite empowered to challenge the state's authority to manage forest resources. They have been able to use the local social and political terrain to secure their adat rights. As a result, Kasepuhan people have been versatile in maintaining their adat practice, and have persisted in not completely succumbing to the state's legal authority over forest use and management.



Figure 6-1 Karamat Cibedug

Karamat Cibedug is a megalith site considered to be a sacred place by the Kasepuhan community. The only way to reach the site is by foot or with motor trail. Photo by RMI (2010).

In examining the institutional arrangements for forest access in this study, I frequently refer to the perspective of legal pluralism. As already addressed in chapter four, the concept of legal pluralism acknowledges that there is more than one legal system that applies in society and that there is no simple division between *de jure* and *de facto* rules (Griffiths 1986; Burns 1999; Benda-Beckmann et

al 2006). It implies that there are overlapping legal and normative frameworks affecting how institutions work, and this applies also for institutional arrangements regarding forest management.

I employ the bricolage concept to help me in investigating the formation and functioning of arrangements pertaining to natural resource access and entitlements. According to Cleaver and de Koning (2012: 281) bricolage consists of an ‘adaptive process through which people inscribe configurations of rules, traditions, norms and relationships with meaning and authority.’ In other words, it involves processes which shape and are shaped by individual action and by broader societal relationships and patterns of resource distribution. Relevant stakeholders often modify old arrangements and experiment with new arrangements in different combinations until they find the ones that could be linked to the communities’ rules of the game regarding resource access and control.

I have discussed above the content of the PERDA on Kasepuhan at length, and how it recognises the Kasepuhan peoples’ territory and traditional land use system. The PERDA on Kasepuhan is a remarkable achievement for the adat community in the country and makes the Kasepuhan community unique among adat groups in the country. It represents the best-case scenario that an adat community could achieve in the wake of the MK 35 decision.

Two pre-existing conditions help explain their success. The first is the local socio-political condition in Lebak where the Kasepuhan people enjoy the near-unanimous support of political and community leaders. Back in 2010, the District Head of Lebak had already issued a decree (SK Bupati No 430/Kep 318/Disporabudpar/2010) acknowledging the existence of Kasepuhan Cisitu as an indigenous group in the district. After MK 35 in 2013, the Bupati of Lebak issued another decree (SK Bupati No 430/Kep 298/Disdikbud/2013) that replaced the previous one, which also included sixteen other Kasepuhan groups⁴⁰, and declared these groups to be part of the larger indigenous community in the region. Despite its relative weakness in terms of legal authority, this decree demonstrates the high

⁴⁰ These groups are Kasepuhan: Cisungsang, Cisitu, Cicarucub, Ciherang, Citorek, Bayah, Karang, Guradog, Pasireurih, Garung, Karangcombong, Jamrut, Cibedug, Sindangagung, Cibadak, Lebak Larang and Babakanrabig.

level of political support for the Kasepuhan from local government. It has enabled the Kasepuhan to gain similar recognition to that enjoyed by the more prominent Baduy adat community.

The second factor is that the Kasepuhan people have proven to be shrewd political operators, adopting effective strategies to further their claims to achieve a meaningful result. Kasepuhan leaders and community members have been nimble in navigating social and political spaces to find workable solutions. The dynamics of forest access and control in Halimun-Salak have changed considerably as the Kasepuhan people have adapted to changing socio-political conditions. Most notably, the Kasepuhan have mobilised their alliance with the indigenous peoples' movement in Indonesia while navigating the local political channels that have opened up since Reformasi. In adapting the outside values brought by their NGO allies, the Kasepuhan people have shown that their traditions cannot simply be understood as the persistence of age-old practices handed down over time, unchanging and unchanged, but also reflect flexible values and institutions that can guide, legitimise and interpret the choices societies make when responding to novel circumstances. To put it in Sahlins's (1993: 18) terms:

...how else can the people respond to what has been inflicted on them except by devising on their own heritage, acting according to their own categories, logics, understandings? I say 'devising' because the response may be totally improvised, something never seen or imagined before, not just a knee-jerk repetition of an ancient custom.

The Kasepuhan people have successfully, borrowing Sahlins' term, 'devised' their adat beliefs and customs in an attempt to gain recognition of their claims to ownership and control of their customary forestlands by the government. In the process, they have come up with institutional arrangements that help structure the processes of competition, negotiation and exchange within these particular settings. The Kasepuhan community shows that 'identity-based movements need not be 'traditional' to be effective, and by controlling the conditions under which introduced technologies and outside forces act, such movements allow traditional communities to thrive' (Robbins 2011: 224).

This chapter aims to analyse the bricolage process unfolding between the Kasepuhan community and other stakeholders in their locality. I believe these processes have helped them in their rights recognition. Institutional arrangements for forest resources in Halimun-Salak region are pieced together, consciously and non-consciously, from the social, cultural, and political resources available to people, based on the logic of dynamic adaptation. Therefore, this chapter unpacks how the existing institutional arrangements in Halimun-Salak region have enabled forest access for the Kasepuhan groups and fostered the inception of PERDA Kasepuhan.

6.2 The Indigenous Organisation of Banten Kidul (*Kesatuan Adat Banten Kidul, SABAKI*)

Against the backdrop of the revival of adat specifically in the local social setting and political opportunities at the district level, the Kasepuhan people have creatively adopted outside influences in implementing the bricolage process. And SABAKI is right in the middle of this process. SABAKI was revitalised right after MK 35 with the help of AMAN and RMI (Indonesia Foresters Institute; *Rimbawan Muda Indonesia*) to facilitate negotiations with the district government regarding the forest entitlements of the Kasepuhan people and to become the ‘voice’ of the Kasepuhan people.

SABAKI has also become a chapter of AMAN in the region, which makes them direct beneficiaries of funding and technical assistance from AMAN. As the group representing the Kasepuhan people on day-to-day basis, they have the responsibility to execute AMAN programs in the region. This organisation is widely accepted by the Kasepuhan people as having the authority to speak on their behalf regarding their desire for formal acknowledgement from the government and their broader economic and political aspirations. During the legislative process, SABAKI had intensively lobbied the Lebak regional parliament and other key government officials to officially recognise the Kasepuhan community’s rights.

SABAKI is the epitome of a bricoleur. Despite its strong affiliation with AMAN, it is chaired by a *camat* (head of a sub-district), which is a well-respected bureaucratic and political position in the local government hierarchy. Pak Sukanta is the Camat of Malingping, one of the areas in Lebak, and

originates from a well-respected and renowned lineage of local adat leaders. His appointment as the chairman of SABAKI has strategic importance in helping the organisation to be acknowledged by the district government. It sometimes also acts as an arbitrator in disagreements between Kasepuhan groups and holds responsibility for keeping all Kasepuhan groups collectively in sync with regards to their efforts to reclaim their adat territory. SABAKI itself consists of a relatively young group of people from a variety of Kasepuhan groups who mostly hold daytime jobs and have regular encounters both with the adat leaders and state authorities.



Figure 6-2 AMAN and SABAKI

SABAKI members at a meeting with AMAN's Secretary General, Abdon Nababan, at AMAN's office in Bogor. During this meeting, AMAN and SABAKI consulted on future coordinations between one another, and discussed future actions to follow up on MK 35. Photo by Dean Yulindra Affandi (2014).

Central in SABAKI's range of activities is their program of referencing the old traditions, myths and legends about the Kasepuhan to foster their 'identity' as a masyarakat adat. This is crucial in order for the Kasepuhan groups to represent themselves in concert and to be able to increase their leverage in negotiating their political aspirations. At the same time, SABAKI has the capacity to do this task while maintaining harmony with relevant stakeholders. This is important for the Kasepuhan

people. They do not like confrontation, as many adat leaders told me ‘it is not our way in handling problems. We believe in *musyawarah*⁴¹ because it actually works for us.’ Consensus decision-making through *musyawarah*, conflict avoidance and reconciliatory conflict resolution arrangements are considered proper by the Kasepuhan community because they concur with the received wisdom handed down from ancestral spirits about living cooperatively together (*gotong royong*). There is some pessimism concerning the effectiveness of *musyawarah* decision-making in Indonesia in general, but such pessimism is not felt in this setting. SABAKI also takes this position when they represent the Kasepuhan peoples’ interests; they have never placed themselves as the ‘opposition’ of the government, on the contrary, they consider themselves as a valuable ‘partner’ in relationships in which the partners mutually need each other.

SABAKI creatively adapted traditional adat arrangements in order to emphasise attributes of adat communities along the lines of ‘environmental wisdom’, initiating a kind of language that was created by the adat NGOs. Consequently, SABAKI has been able to smartly articulate the Kasepuhan peoples’ interests so as to align them both with popular idiom and government rhetoric. SABAKI argued that both combating deforestation and the creation of social justice in the region hinged on the recognition of Kasepuhan communities’ rights. I will discuss this issue more in the next chapter.

6.3 Claiming forest through bricolage

The concept of institutional bricolage is a useful theoretical tool to apply here because it so neatly characterises the socio-political realities that I encountered during my field observation. Therefore, in this section I discuss how the continuous interactions of sociocultural, economic and political elements have produced, what McCarthy (2006) called the ‘rules in use’. It refers to ‘how institutional

⁴¹ According to Koentjaraningrat, *musyawarah* grew out of a cooperative spirit (*semangat gotong royong*) that underlies the village sense of community in most Indonesian cultures. Further, he argues ‘...The concept involves the processes that develop general agreement and consensus in village assemblies, which emerge as the unanimous decision or *mufakat*. This unanimous decision can be reached by a process in which the majority and minorities approach each other by making the necessary readjustments in their respective viewpoints, or by an integration of the contrasting standpoints into a new conceptual synthesis’ (Koentjaraningrat 1967: 397).

arrangements of a specific nature have structured action and determined resource outcomes (and use) in specific localities' (McCarthy 2006: 212).

Cleaver (2001) argues that there are three aspects to the formation of institutional bricolage. These aspects are the multiple norms and complex identities of the bricoleurs; the practice of cultural borrowing and adaptation of institutions to multiple purposes; and the prevalence of common social principles which foster cooperation and respect between different groups of stakeholders. These aspects most of the time are fluid, informal in nature and intersect with one another. As I address each aspect, I would like to show how the concept of bricolage implies an active assembly of parts and the adaptation of norms, values and arrangements to suit a new purpose for forest management in the Halimun-Salak area. This, in turn, has created a confluence of good situations for the Kasepuhan people and has helped them in negotiating their forest rights and facilitating the legislative process at the local level after MK 35.

6.3.1 The complex identities of the Kasepuhan people

Putting a single label on actors' identities for analytical purposes is problematic as it ill reflects the complexity of social and livelihood identities. For example, Kasepuhan people's interests do not easily fall into the conceptual divide between masyarakat adat and state. A large number of Kasepuhan members are actually working as civil servants. Some of them work as teachers and village bureaucrats. It would not be an exaggeration to say that we can observe a blurring of the distinction between local government programs and organised Kasepuhan activities, for Kasepuhan leaders breeze in and out of local government offices as if they were their own. A direct consequence of this arrangement is the existence of functional networks of patronage and communication, not just with politicians, but also between the Kasepuhan and the military and police. The military and police forces have a significant amount of influence in Indonesian politics (see for example Nordholt and Van Klinken 2007; Hadiz 2010). The Kasepuhan people realise that they need to have these two institutions on side as they could influence the political decision-making process on the ground.

These social networks have helped Kasepuhan to feel secure in regards to their access to and control over forest, while continuing to reproduce a fluidity and complexity in local forest management regimes. In exchange, the Kasepuhan people provide crucial political support during election times (see below). Alternatively, in the case of the security officers, the Kasepuhan can provide to them a portion of the benefit that the community gains from their extraction of forest resources (i.e., mostly from gold mines). This is the social backdrop on what the Kasepuhan people have been facing throughout their effort to contest the state's domination of forest management.

One thing stands out from the Kasepuhan people with whom I worked: far from being isolated hunter-gatherer tribes living deep in the last remaining tropical forest in Java, the Kasepuhan people have been embroiled in socio-political networks in Lebak. Just as important, they have been a part of the political and economic upheavals that have affected these networks and relations. Under Indonesia's recently decentralised government system, the Kasepuhan people have become more involved in local politics, including fielding candidates for positions in the executive and legislative branch. They have pursued what Bourdieu (1977) refers as 'officialising strategies' or 'non-official customary practices', using formal and informal relations with local officials to seek institutionalised recognition for their adat claims.

Ade Sumardi, the vice district head of Lebak, and Junaidi Ibnu Jarta, the speaker of DPRD, are both from the Kasepuhan community and are close relatives of the Abah in Kasepuhan Citorek and Cisungsang. These two Kasepuhan members have sat in the district government and have given endless support to the Kasepuhan people by using their positions for lobbying for and initiating the legislative process leading to the PERDA Kasepuhan. Other than those two, there are other parliamentary members and key government officials who have strong ties to Abah and the Kasepuhan community in general. These kinds of relations with key government officials have contributed positively to the Kasepuhan community's achievement in quickly turning the tide after the Constitutional Court's decision.



Figure 6-3 Preparation for the upcoming *Pilkades*

AMAN's Secretary General, Abdon Nababan, is here briefing residents of the Kasepuhan Karang village concerning the forthcoming election of the Village Head (KaDes) in Lebak regency. At this meeting, Abdon stressed upon the participants the strategic value of the election and its relevance for adat rights in general. Photo by AMAN (2015).

Not limiting themselves to participation only in the district election (*Pemilukada*) and legislative election, the Kasepuhan members are particularly active in the lowest level of political election, the *Pilkades* (*Pemilihan Kepala Desa* –Village Head election). The newly adopted 2014 Village Law has provided new avenues for the Kasepuhan people by providing them with larger political and legal capabilities, putting village governments in a stronger position to manage their natural resources. Article 97 of this law declares that the status of ‘adat village’ could be attained as long as the communities’ traditional rights are still alive, whether territorially, genealogically or functionally. The fulfilment of this requirement to ‘be still alive’ is conditional upon the rights being ‘based on the valid laws as a reflection of the development of values that are considered ideal in present-day society’.⁴² Since the Kasepuhan community already has secured a PERDA on Kasepuhan,

⁴² The translation is: ‘*keberadaannya telah diakui berdasarkan undang-undang yang berlaku sebagai pencerminan perkembangan nilai yang dianggap ideal dalam masyarakat dewasa ini.*’

they have been able to conjoin both legal instruments-the PERDA and the Village Law- to serve their interests.

As I have mentioned in chapter one, the impetus behind the 2014 Village Law is very much aligned to the goals that the Kasepuhan people and their proponents want to achieve. One of the aims of this law is to create a village community that is strong, developed and independent. According to article 103 of the law, villages are self-governing communities, like a much smaller unit of a state, which have clear boundaries of jurisdiction, authority, community and natural resources. This provision makes the position of *Kepala Desa* or *Jaro* (village head) very strategic, as they are the ones responsible for and having the authority to implement the village's programs.



Figure 6-4 AMAN campaigning for their cadres

Banner of an AMAN cadre, Wahid who is also a member of Kasepuhan Karang. He is running for the position of Kepala Desa. Photo by AMAN (2015).

SABAKI and their NGO allies see this legislation as a golden opportunity to further secure the Kasepuhan people's ability to manage their own natural resource. This is why the Kasepuhan members capitalize upon this opportunity by embracing an active role in local/village politics. AMAN was very assertive in following up the possibilities offered by the law, so much so that it was no less a figure than AMAN's secretary general, Abdon Nababan, who gave the briefing to AMAN cadres standing as candidates in the Pilkades (see figure 6-3). According to my respondent, this was to ensure that the Kasepuhan people realise the importance of this law and the election itself. Further, he also wanted to consolidate the campaigning strategy of the cadres participating in the election so that it would align with AMAN and Kasepuhan community's goals.

In line with the bricolage strategy, Kasepuhan leaders have adapted to multiple roles. The Abah of each of the Kasepuhan groups holds a strategic position both in a cultural and political sense. All of them are male since the word '*abah*' itself comes from an Arabic word that means 'father'. It is a position that is inherited by a son from his father. He is not just a cultural leader, he is also the social and political leader of the groups. The Kasepuhan people consider him as 'the one who needs to be followed and his action to be emulated' (*nu digugu-ditiru*). No one questions the legitimacy of Abah as the leader of a Kasepuhan group. Despite all of that, almost all of the Abahs that I met are very humble, close to their members and very approachable. Any issues regarding livelihood in the village could be discussed and negotiated with them. As a result, the Abah of the Kasepuhan community has significant political power and high social status which enable them to have high political and economic capital. The respect also comes from government officials who regularly come for a courtesy visit to the Kasepuhan villages. Sometimes the Abah reciprocates by visiting them in their offices. More than that, local government often asks help from these adat leaders to promote and also implement government programs in education, health, food security and other issues.

Frequent encounters between state authorities and adat leaders have made their relations very fluid and well-maintained. During my stay in Kasepuhan Pasir Eurih, the Abah, along with other community members, helped the local election committee to set up voting tents and other logistical requirements for the 2014 Indonesian Presidential Election in the nearby village. A few weeks before

in Kasepuhan Karang, the tourism agency of Lebak district government came and interviewed the local Abah about the tourism potential in the area. At that time, the Abahs explained the uniqueness of their adat, especially their guiding principles in life and the importance of keeping balance and harmony with the surrounding nature. After that meeting, the Abah said to me ‘I was hoping to get through to their minds when I talked about our principles for managing nature so they know more about our local wisdom here. And hopefully, they will also have a positive attitude towards us and help us to expedite PERDA on Kasepuhan.’

The abah have been actively engaging with the authorities in order to maintain the informal arrangements that have been evolving throughout the years. SABAKI members who are also members of the state apparatus can easily convene a musyawarah with other Kasepuhan members to discuss government policies that might affect the daily lives of the Kasepuhan people. Back in chapter two, I discussed about Raden Supomo’s vision about the village republic and the ‘integralist’ approach that characterised it. The ways in which the Kasepuhan people and especially SABAKI conduct themselves in such negotiations closely resembles this vision.

From my observation, I draw a conclusion that the Abahs and SABAKI are skilful in using their social and cultural status to fabricate a very conducive socio-political condition in order to achieve their interest. They have been acting like diplomats for their community and are also very active in taking advantage of the political and legal swings that have risen since MK 35. From rallying support for their Kasepuhan members who want to run in a local/village election to negotiating with outside parties regarding forest management rights, the adat leaders and SABAKI have acted effectively in capitalising upon their relations with influential local actors.

Various channels to articulate their political desires have emerged in response to the multiple identities that most of the Kasepuhan people have held in the larger society. The following statements can be taken as broadly representative of views portrayed about the fluidity of forest access prior to the passing of PERDA on Kasepuhan. The first is by a common Kasepuhan community member and the second from an adat leader.

You know I realise that I am not just a member of the Kasepuhan community, I am also an Indonesian citizen. I am a teacher at the nearby elementary school, I get my pay check from the government. I am aware that by law this land does not belong to me. But there is something here that the government or the national park office cannot occupy in the name of state sovereignty. Because here, we have our adat. Therefore, adat and the state need to co-exist with one another. There is no need for conflict, I am sure any dialogue will solve any issues regarding our rights to forest access. (KY 31/8/2014)

Every time there are frictions with the national park office or PERHUTANI, it normally cools off in a matter of days or maybe weeks. I am the adat leader here, and am also an AMAN representative in Banten Kidul, and my younger brother sits in Lebak parliament now. In addition, the vice-district head is my childhood friend and I always pay a visit to the national park office regularly. We are all on good terms. I really believe with this kind of political and social cachet, we can continuously negotiate our forest access with the state (AUg 10/10/2014).

In sum, vibrant forms of associational life enable the Kasepuhan to combine productive and social functions and draw on both traditional and modern forms of interactions. Accordingly, they have shown that multiple identities could also lead to multiple institutional goals where decision-making arrangements and relations of cooperation may be co-opted for new aspirations. In my observation, the line between state organisation and socially and culturally embedded networks through which cooperation is forged becomes blurred. In turn, the Kasepuhan people have been able to maintain their forest control, and with MK 35, they have been able to extend this control to a more permanent footing.



Figure 6-5 Abah from the Kasepuhan Communities. Photo by Dean Yulindra Affandi (2014).

6.3.2 Cultural borrowing and adaptation of institutions

A sizeable body of literature has explained how ‘informal’ institutions and decision-making about natural resource management in Indonesia are deeply culturally embedded (Li 2000; Thorburn 2000; Acciaioli 2002; Afiff and Lowe 2007; Benda-Beckmann and Benda-Beckmann 2010; McCarthy 2013). Li (2001) has discussed how local communities in Central Sulawesi’s Lore Lindu National Park strategically positioned themselves as local ‘indigenous’ landowners, in so doing cultivating the support of NGO allies and a larger segment of society when threatened with displacement by a large hydroelectric scheme. A key point of her analysis is that the status of being ‘indigenous’ was a novel designation in the local context, being the language of their international allies rather than their own. This has also occurred in the context of a resurgence of customary land ownership in the Halimun-Salak region, emerging as a possible alternative to the excesses of state control of land and resources. As argued by Cleaver (2001: 31) ‘livelihoods are not simply technically and economically rational sets of survival strategies in varying contexts, but are clearly linked to ideas about a way of life, to

practices in relation to resources, to other people and to aspirations that are heavily loaded with symbolic meaning'. Hence, institutions formed as a result of bricolage may be multicultural in origin, intersecting in formal and informal, adat and modern domains.

The following account illustrates some of the Kasepuhan peoples' efforts to (un)consciously shape bricolage process. Prominent in these cases are evidence that developing shared understandings is critical to the institutionalisation of collective action and natural resource management. In these cases, arrangements for resource management were shaped both deliberately in formal spaces, and less consciously in routinized daily interactions. Although they constantly asserted the importance of local connections, influential actors also drew on wider political or cultural networks and on national and international discourses of indigenous community, democracy and environmental management to give weight and meaning to their actions.

Building alliance with NGOs

As discussed above, in the context of escalating support for the adat movement in the country, the Kasepuhan community has strengthened their power by enrolling external actors to claim authority and management over adat forests and tighten their bond as a group. Such linkages have made the Kasepuhan community more powerful and exposed to new ideas that are useful for their goal in securing their traditional rights.

One group of actors from whom the Kasepuhan groups have had consistent support is national NGOs such as AMAN and RMI (Indonesia Foresters Institute). The Kasepuhan community's alliance with these NGOs represents a key part of their movement. They also played a vital role in providing the information to the Kasepuhan groups on the legislative processes and policies concerning decentralisation and community-based forestry available at the local level. As explained by one of the Abah in a Kasepuhan community who was approached by RMI and AMAN:

When AMAN and RMI first came to me, we supported them because they came with good intentions and their program would benefit the community especially with regards to their access to the surrounding forest. AMAN and RMI bridged and

opened the communication between the communities and the government. (AU 28/9/2014)

AMAN, as discussed in chapter three, is the most influential actor in the adat movement in Indonesia. They have dozens of collaborations with international donor organisations and more than 30 national non-governmental allies. Meanwhile, RMI has been operating in the region since 1998 and has been working with the Kasepuhan people ever since. As mentioned, both of these NGOs have received a considerable amount of funding from international donors⁴³. Therefore, they have been able to provide financial support to the communities they work with. The strategic alliances that the Kasepuhan groups have established with these NGOs have given them a stronger footing to exert claims over their territory in response to state authority.



Figure 6-6 In pursuit of legal recognition

SABAKI with their NGO partners after a legislative consultation in October 2014 with Lebak DPRD members and the Vice-District Head (*Wakil Bupati*). The highlight of the meeting was the joint commitment of the parliament and the government to ratify legislation that protects Kasepuhan peoples' adat rights. Photo by Epistema Institute (2014).

⁴³ To name a few: Ford Foundation, Japan Social Development Fund, Tamalpais Trust, and Rainforest Foundation Norway (AMAN 2014). These are the international donors that have been the main contributors for adat movement NGOs.

One of the key moments of this alliance happened in 2012 when AMAN requested one of the Kasepuhan groups, Kasepuhan Cisit, to join them in filing an application for judicial review on the 1999 Forestry Law to the nation's Constitutional Court. Kasepuhan Cisit decided to join them. AMAN, Kasepuhan Cisit and Kanagarian Kuntu community from Riau were the original plaintiffs for the judicial review that eventually produced MK 35.

In the effort to push for an administrative follow-up to the Court's decision, on 27 May 2013, just a few weeks after the Constitutional Court's ruling, AMAN announced a national declaration to support a petition to be distributed for signatures across communities in the country. Three points were highlighted in the petition: implement the Constitutional Court decision; settle conflicts related to customary forests and natural resources in the territories of indigenous peoples; and map indigenous territories. AMAN also called for faster discussion and adoption of the Draft Law on the Recognition and Protection of the Rights of Indigenous Peoples (*Rancangan Undang-Undang Pengakuan dan Perlindungan Masyarakat Hukum Adat- RUU PPMHA*). These declarations from AMAN also impacted the Kasepuhan people because, since the Court ruling, AMAN and other NGOs also have stepped up their activities in the Halimun-Salak region. Many of these NGOs' headquarters are located in the Jakarta and Bogor area, and this enabled the Kasepuhan people to interact more frequently with their NGO partners compared to other adat communities in the country. Various activities by the NGO coalition, such as gatherings and workshops on land rights, gender and youth empowerment, have been on their regular agenda for the last few years. Their exceptional commitment to the Kasepuhan community is not without reason. Among all other adat communities in the country, the NGOs consider the socio-political setting of the Kasepuhan community to be relatively more conducive in comparison with other communities, making them more feasible as the benchmark test case for the adat movement in the country.

One of the core collaborations between NGOs and Kasepuhan groups is participatory mapping, or often referred as 'counter mapping' (Peluso 1995). This activity partially originates from an international arena of large-scale conservation to provide an alternate visions to maps and claims made by the state. This effort has become key to the NGO strategy in advocating communities' rights

to resources. In campaigning for the activity the NGOs use the slogan '*Petakan wilayah adatmu, sebelum dipetakan orang lain*' (Map your indigenous territory, before someone maps it for you) as a rallying cry. It was initially brought forward by activists to counter New Order regime policies that did not recognise the land claims of indigenous people. As Peluso (2003: 243) explains:

In practice, therefore, counter mapping accomplishes some of the same things as formal government mapping does. It asserts permanent claims to both territorial and non-territorial resources. It covers differences in forms of claim. It seeks a historicity to some claims while it ignores others. And oddly enough, it does what colonial officers were never able to accomplish: it maps the extent of village territories and the various intensive and extensive land and forest uses. While it eschews the government's overarching claims to forests, it uses some of the categories of contemporary forest management -for example, forest protection- in order to legitimise its claims to the very government authorities it wants to deny direct controls. Finally, these new notions of territoriality reflect an earlier time and earlier systems of authority and celebrate both the 'timelessness' and the dynamic nature of adat.

According to the Kasepuhan members to whom I talked, this activity was galvanised by the Constitutional Court's decision in 2013. Since then the Kasepuhan people have striven to affirm their claims to forest territories. This kind of activity has enabled them to reassert their capability as an adat group to (re)produce space, especially in the areas that overlap with the national park's boundaries. They are able to represent themselves in a way that provides a united front, elicit sympathy, claim collective property and affirm their identity in the face of different interpretations of forest rights and control. Their counter-mapping activities resonate with Lefebvre (1991) who argues that space is always political and strategic. This is one of the actions of the Kasepuhan to claim their space and respond to the government's hegemony over forest management. Chapter seven below will show how

their identity and representation have proven to be an effective tool to delimit and assert control over forest space in Halimun-Salak.



Figure 6-7 Participatory Mapping in Kasepuhan Communities

Kasepuhan villagers are here preparing for a workshop at the terrace of *Imah Gede*, the residence of Abah in Kasepuhan Cisungsang. The poster translates as ‘Socialisation and training: Adat territory mapping for the Kasepuhan of Cisungsang, Cicarucub and Bayah’. Photo by Dean Yulindra Affandi (2014)

During the mapping activities, NGO personnel and SABAKI members talk to the Kasepuhan elders and adat leaders about a number of topics: the current land use and the history of land use in their area; sacred places inside the forest that have both symbolic and cultural meaning for the community; the current pattern of individual and community decisions regarding resource use; and the ways in which villagers have dealt with forest authorities regarding access to forest resources. They then record this information on sketch maps, and in some cases match their illustrations to points on

the Global Positioning System (GPS) and forest spatial planning maps in the region. Currently out of 57 Kasepuhan groups in Lebak, eight of them already have their own adat forest territory delineated (see table 6.1 for detail). Each of the groups' territory is now included in the appendix of the PERDA on Kasepuhan, which puts in place clear, legally-binding boundaries defining what is and is not included within their adat forest.

Through these practices, the Kasepuhan community has hybridised their traditional knowledge of forest management with the technologies and protocols of the government's scientific forestry paradigm. They are willing to replace their forest boundaries that were previously only based on oral history (that is unfixed and sometimes ambiguous) with forest delineations that are based on modern cartography technique (i.e. fixed). In doing so, they have engaged in a more conscious, strategic territorialisation processes, which aim to appropriate state authority in justifying their claim over forest areas. This form of adaptation was considered to be necessary for them in order to stay relevant in the midst of the growing political and economic pressure, as Abah Ugi of Kasepuhan Ciptagelar told me: 'The Kasepuhan are not entering the 21st century as defeated people. We will not degrade ourselves. We have not lost a sense of who we are.'

Abah Ugi himself emphasised to me that the Kasepuhan community need to compromise in order to maintain their traditional cultural space or, as Lefebvre (1991) calls it: the spatial space. This is the space where the Kasepuhan communities perform physical activities and follow patterns of interaction as a matter of routine. Based on Lefebvre's conceptual theory, the Kasepuhan peoples' actions are needed in the production and reproduction of specific places, as he (1991: 38) argues: 'The spatial practice of a society secretes that society's space; it propounds and presupposes it, in a dialectical interaction; it produces it slowly and surely as it masters and appropriates it.' As in other parts of the world, participatory mapping activity conducted by SABAKI and their NGO partners can also be considered as a 'tactical means of resistance' to challenge the state's hegemony in forest territorialisation and provide an alternative representation of space (see Peluso 1995, 2003).

Table 6-1 The result of participatory mapping in eight Kasepuhan groups

| Kasepuhan group | Size of forest areas (ha) | Size of forest areas within TNGHS (ha) |
|------------------------|----------------------------------|---|
| Karang | 1,081.28 | 585.6 |
| Cirompang | 639 | 352.3 |
| Citorek | 7,422.4 | 7,422.4 |
| Cibedug | 2,137.2 | 2,137.2 |
| Cisitu | 7,266.5 | 6,878.2 |
| Pasir Eurih | 1,145.6 | 652 |
| Sindang Agung | 160.3 | 124.5 |
| Cibarani | 1,207 | - |
| Total area | 21,059.2 | 18,152.2 |

Source: RMI, JKPP, AMAN 2015

In the Kasepuhan Citorek village, for example, they use the technique to bolster their legitimacy as an adat community that promotes good forest management in degraded areas. This includes reforestation in various locations regardless of who holds the rights to manage it. This reforestation effort serves other purposes besides rehabilitating the forest. It is also a way of staking claim to it. This was illustrated in a recent occurrence when mismanagement by PERHUTANI resulted in some western and eastern parts of their concession area being degraded and infested by shrubs and Imperata grass. The Kasepuhan people, who already believe that the area is part of their adat territory, initiated the rehabilitation process by transforming the area to become part of their swidden field. They undertook a mapping process in conjunction with AMAN, in which the 27 plots of swidden farms within that forest area, covering a total of 33 hectares, were surveyed and demarcated as part of Kasepuhan Citorek's forest territory (AMAN 2013).

Adaptation of adat rituals and ceremonies

According to Cleaver (2001) claims on tradition are an integral part of institutional bricolage. This also happens within the Kasepuhan community. They often modify adat rituals to extend their meanings beyond traditional and spiritual purposes. Under the guise of traditional ceremonies, rituals are being deployed to defuse any tensions and encourage dialogue and practical collaboration. This deployment frequently performs an important role in the process of external political engagement and building alliances, providing a medium through which to assess, broker, facilitate and legitimise arrangements for forest access.

Seren Taun is considered to be the ultimate cultural event on the calendar of the Kasepuhan community, with elaborate ceremonies, feasts and rituals continuing from one Kasepuhan village to another throughout the months of August and September. Through offering ceremonial sacrifices, the Kasepuhan people plea to their ancestors and gods to safeguard the sustainability of the surrounding nature. Such ritual, myth-based safeguarding measures convey the sense of giving back to nature after a year of extractive activities, the success of the upcoming harvest, and the general health and prosperity of Kasepuhan people. Sacrifices and ceremonies are commonly held in forest gardens and in the front yards of Abah's residence (*imah gede*). Gatherings between Kasepuhan groups, NGOs and state officials in between rituals and ceremonies have become common in the last few years after MK 35. They specifically use the Seren Taun and other rituals to showcase their adat wisdom regarding natural resource management and lobby relevant stakeholders regarding their forest access and management rights.

Indeed, the Kasepuhan peoples' ability to hybridise adat rituals in creative ways is heavily influenced by their alliance with the NGOs. AMAN and RMI are heavily involved in the process of familiarising Kasepuhan people with their legal rights and political opportunities through workshops and gatherings. Not only that, these NGOs also expose the community to new ideas, such as mediation of representations and campaigning of their political aspirations through the local media to garner support. In the process, they have been exposed to a range of new information, which have

expanded their political, legal and institutional repertoires. These repertoires include the adaptation of their traditional rituals.



Figure 6-8 Adat on the move.

Kasepuhan members march to the *imah gede* (Abah's house) during Seren Taun at Kasepuhan Cisitu while carrying the nation's flag and the banner of AMAN. Photo by Dean Yulindra Affandi (2014)

For example, during Seren Taun Kasepuhan Cisungsang in 2014, other than the normal rituals of the event, there were also some moments that discussed the legal affirmation of Kasepuhan peoples' rights after MK 35. At this time, the Kasepuhan used the gathering as a stage to make a statement about the political-legal aspirations of the community in the presence of so many visitors and media outlets. They asserted their political stance regarding their desire for acknowledgement, not just for their adat rights and territorial sovereignty but also their broader economic and political goals post-MK 35. In front of thousands of spectators and government officials, Sukanta, the SABAKI chairman, announced the following points:

1. Encourage local governments and legislators of Lebak to issue local regulations on the protection, recognition and respect for the rights of Kasepuhan.
2. Support the birth of similar initiatives in Sukabumi, Bogor and Pandeglang districts where other Kasepuhan groups reside.
3. Demand the district government to allocate funds for the empowerment of the Kasepuhan.
4. Demand the district government to resolve the boundary dispute between Kasepuhan people and other claimants in the Halimun-Salak area.
5. Together with the Alliance of Indigenous People on the Archipelago (AMAN) and other civil society actors encourage the national government to immediately issue a Bill recognising and protecting the rights of masyarakat adat (RUU PPMHA).
6. Push for the establishment of Cilangkahan District, as a new autonomous region.
7. Push the establishment of adat villages as allowed under the new Law on Villages (UU Desa 2014).
8. Give a mandate to SABAKI to act as a mediator between masyarakat adat and the government or other stakeholders, (while pledging that SABAKI will not interfere with any internal affairs of individual Kasepuhan groups).
9. Instruct SABAKI to hold *Riung Mungpulung* (Musyawarah) on an annual basis, or at least once in three years.
10. Hold regular meetings with AMAN.
11. Negotiate with business entities that might undermine the rights of Kasepuhan and harm their livelihoods.
12. Encourage NGOs, universities and other stakeholders that support the cause of Kasepuhan adat groups to coordinate their activities in Halimun-Salak area with SABAKI.

Other than the Kasepuhan peoples' interests, the list represents a set of larger political motives that concern the broader struggle of indigenous movement narratives in Indonesia. Despite the nuance of festivity and celebratory of the event, the Kasepuhan community has shown that they have the cohesiveness to conceptualise the groups' future actions in order to have their traditional rights

recognised by the district government. In chapter seven, I will discuss another consensus that SABAKI, NGOs and also government officials agreed upon prior to the PERDA on Kasepuhan. Again, Seren Taun set the stage for this consensus-building mechanism, but this time it was in Kasepuhan Ciptagelar.

What has happened with the Kasepuhan community corresponds well with Campbell's (2004) argument that creativity and innovation are a function of the actors' position within a set of social relationships and institutions. He asserts that actors who belong to diverse social networks, connections and organisations are more likely to receive more ideas, information, knowledge and resources that consequently increase their creativity and social leverage. Kasepuhan community possesses these connections, which enable them to have more capabilities to change the existing practice and rules of the game in a more progressive manner.

6.3.3 *Rukun*: shared norms

The actions of all of us are influenced by the very structural characteristics of the societies in which we are brought up and live, at the same time, we recreate those structural characteristics in our actions. (Giddens 1989: 18)

As Giddens has alluded to, institutions are the embodiment of social process, and it is necessary to understand institutions as located social practices. In the context of this study, this means people devise arrangements of roles and rules for natural resource management, but this process is also influenced by routinised local daily practices and conventions, by moral worldviews and by conscious and non-conscious psychological motivations. Therefore, it is necessary to scrutinise common social principles in the Kasepuhan community in order to understand their actions and choices regarding their pursuit for hak ulayat recognition.

I would like to start by referring to a colonial adat scholar, F.D. Holleman, whose study sheds light on the 'communal trait' particularly in Javanese society. He underscores the concept of *rukun*, a concept that he believes was significant for understanding the dynamic of Indonesian society when he

conducted his observation in Tuluangagung, East Java. Holleman defines it as ‘peaceful conflict resolution’. In a more general sense it could be understood as a condition where there is balance and harmony- an ideal condition of a society in general (Henley 2007). He argues:

To a much greater extent than among ourselves, there is an inclination to be helpful to one’s neighbour, to avoid any conflict with one’s fellows, to avoid causing controversy, and to respect public morality... It is not my intention to argue that...these preconditions for an ideal state of society in the native world are everywhere and always lived up to, only to note that in native society a strikingly powerful inclination exists to orientate oneself toward them... This principle...will be referred to in what follows as rukun or the ‘rukun principle’. Holleman (1927: 17-18) quoted in David Henley (2007)

The Kasepuhan people’s tendency towards the ‘integralist’ approach (already discussed in chapter two) in their village life could perhaps be based on this ‘traditional’ notion of rukun, particularly in the way they try to approach and address issues in forest management in the area. As I have discussed in chapter two, one of the key traits of the integralist approach is ‘*asas kekeluargaan*’ or the ‘family principle’ in governing their daily lives. They believe that being in opposition to the authorities or having an open conflict with other stakeholders are inconsistent with this principle. This is very much in tune with the rukun principle, and it resonates well with the Kasepuhan peoples’ demeanour.

One of the Sundanese expressions that I often hear is *harep teuing bisi ti jongklok, tukang teuing bisi ti jengkalang*, ‘do not stand too much to the front, or you will topple over forwards, but do not stand too far behind lest you fall over backwards’. They believe that the best position for them is in the ‘middle’ or *siger tengah* in Sundanese terms. This convention provides guidance that enables one to achieve proper balance in one’s life, and applies also to one’s relationship with nature (*rasa manunggal*). Kasepuhan peoples have attributed the maintenance of the adat forests in their area to the

timeless environmental wisdom of the adat communities who lived in harmony (rukun) with the forest by respecting long-standing adat principles like this one.

For example, they have highlighted many other non-Kasepuhan villages that conduct small-scale logging in their surrounding forest for commercial purposes, while the people of Kasepuhan forbid it. According to their adat, to cut down trees for one's own immediate needs is only permissible if the plan has been discussed by the adat leaders, and it is imperative that such work be accompanied by the planting of younger trees in the surrounding vicinity. The status of wood differs from that of other forest products that can be gathered and sold off by anyone. The forest is, as the abah called it, the community's '*Ibu*' (literally mother) which provides sustenance for the Kasepuhan people.

As I was doing my fieldwork, I could sense the signs that expressed the rejuvenation of Kasepuhan identity in the community. It was as if the court decision was understood as an affirmation and legitimization of Kasepuhan values. Members of SABAKI enthusiastically explained to me their history and the meanings of forest to them. They consider MK 35 as the missing piece in the puzzle to formalise their customary rights over forest. It was also an easy decision for AMAN to include the Kasepuhan community as one of the original plaintiffs (represented by the Kasepuhan Cisit) in the application for judicial review of the 1999 Forestry Law in 2012. The Kasepuhan has made themselves attractive partners for AMAN and other adat advocates through their conviction concerning their adat. Similar to AMAN, the Kasepuhan community is the embodiment of a bricoleur. This has made it easy for AMAN/other NGOs and the Kasepuhan people to work together. As AMAN personnel told me 'the Kasepuhan community has an ideal situation for us to exploit. They offer us a story that we could easily 'sell' to support our movement' (AMS 21/8/2014). In the same vein, one Kasepuhan elder said to me that they have been always true and consistent to their adat and the Court's decision is the proof. He told me:

Even the judges in the Constitutional Court can see that we exist and are real. We do not make up the *karuhun* guiding principles, it was easy for me to testify in front of the judges as I only need to tell them stories that have been passed down for

generations. We are *masyarakat adat*, always have been and always will be. (KY 24/9/2014)

In this study, the adat leaders of Kasepuhan and SABAKI have presented themselves as a politically aware class that has the ability to devise entirely new collective-choice mechanisms in response to the emergence of new markets, adaptation of new technologies, or changes in the political-economic or natural environments, with or without (or in spite of) state supervision. Therefore, it is necessary to examine in more detail how the members of Kasepuhan community have represented themselves in the effort to, not just to fit the tribal slot, but to capitalise upon the new political and legal opportunities. The discussion about this topic will be addressed in the next chapter.

6.4 Conclusion

People draw on existing social and cultural arrangements to shape institutions in response to changing situations, a process referred to here as institutional bricolage (Cleaver 2000). If we are to take one thing from the Kasepuhan peoples' experience, it is that in terms of how Kasepuhan people operate in a practical sense, they do not accept change that restricts their access to forest resources as the final result. Over time, they simply find other ways to create more leeway to sustain their livelihood. A mindset and cultural attitude towards differences in values, ideology, religion and belief exists in the Kasepuhan community that tends towards harmonisation and eliding conflict and contradiction in favour of mutual respect and co-operation between entities and groups, and this allows for the possibility of assent to more than one system of arrangements.

Hence, the Kasepuhan peoples' pursuit of adat rights does not necessarily oppose the state's authority. As a true bricoleur does, they evaluate what is convenient for them and then use the spaces that are available to them, leading to novel institutional arrangements. As I have discussed, in its interactions with government agencies and their NGO supporters, SABAKI has highlighted 'ideal' adat laws and management practices despite being aware that these laws and practices were not always followed or had been hybridised and adapted to contemporary conditions (von Benda-

Beckmann 1989, Zerner 1994, Li 1996). Another example from the Kasepuhan people is how they have been engaged in the local political process. Their involvements have effectively expedited the passing of the local regulation regarding their rights. Kasepuhan people have exhibited how they have been able to challenge state legitimacy without having to be in direct confrontation with them. As a result, they are able to sustain their way of life and eventually gain formal recognition of their adat rights on forest management.

This study paints a similar picture to previous studies on the nature of adat institutions and their responsiveness to broader shifts (e.g., Thorburn 2000; McCarthy 2006; Acciaioli 2007). The Kasepuhan community challenges the conceptualisation of customary institutions as static entities that are inert and vulnerable to external forces. Instead of resisting change, the findings show that the Kasepuhan community has engaged in dialectic and discursive strategic relations with external forces.

7 Kasepuhan, Media, and Selective Representation

7.1 ‘Kasepuhan: maintaining tradition, guarding the forest’

This was the headline in the CNN Indonesia online news portal on 25 August 2015. The article quoted the Abah of Kasepuhan Pasir Eurih on the centrality of the forest to the Kasepuhan community’s livelihood - the ‘strong traditional ties that the Kasepuhan people have with the land they live on’; and the current adat values about maintaining the forest resources that have sustained them for generations. The article also cited activists on the ecological soundness of the Kasepuhan people’s traditional resource management practices, one of whom said, ‘Some of the things that are forbidden by the national park management are also forbidden by the Kasepuhan people. Therefore, Kasepuhan don’t need the presence of TNGHS to tell them what to do.’ Speaking as if he were a true advocate for adat rights, he also mentioned the need for the government to learn about forest management from the people, and on the urgency of implementing the Constitutional Court decision on adat forest as soon as possible. An older article in the Bandung newspaper *Pikiran Rakyat* on 15 November 2007 had a headline reading ‘*Mencari Pengawal Gunung Halimun*’ or ‘Looking for the guardian of Halimun forest mountains’. Similar to the latter article, the author explained how the Kasepuhan people have devoted themselves to their adat which has been exemplified from their ancestors or karuhun, and how the designation of a national park could damage their existence.

Although there is an eight-year gap between two articles, the themes from both stories are more or less consistent: adat institutions, adat leaders, environmental wisdom, a particular geographical space central to the group’s identity and culture, and the threat of the state potentially undermining their way of living. This has become a widely-repeated narrative through which the Kasepuhan community and other adat communities in the country have been representing themselves. The retelling of the story has to be regarded as an ‘accomplishment, a contingent outcome of the cultural and political work of articulation through which indigenous knowledge and identity were made explicit, alliances formed and media attention appropriately focused’ (Li 2000: 163).

Li views masyarakat adat as filling a discursive ‘tribal slot’ in response to the possibilities and limitations of political discourse in Indonesia, rather than a natural outcome of a certain affiliation between communities and land, place or tradition. It is a direct response to the issue of land and resource disenfranchisement (Moniaga 1993; Colchester 1995). A ‘tribal slot’, as argued by Li (2000), is a simplified framing of identity that depends on particular regimes of representation and contestation. It is situated within particular forms of geographical and historical representation that she calls ‘the structure of power that continually attempts to produce the very model of tribal society it imagines pre-exists its exercise’. She then explains:

The absence of clear boundaries to the category masyarakat adat provides advocates with important room for manoeuvre, but it also permits a rather formidable array of forces to narrow and limit the places of recognition that masyarakat adat may fill (Li 2001: 670).

She explicates further that to successfully fit into the ‘tribal slot’, there is a list of requirements that a community needs to possess. These include, among others, self-identification, vulnerability and close cultural affinity with a particular area of land or territories. This is reflected in the fact that, as Li (2000) notes, claims made by masyarakat adat generally revolve around three central themes: the right to ownership and control of their territories, the right to self-determination and the right to represent themselves through their own institutions. Invoking the adat narrative becomes a ‘formula for encapsulating personal and cultural identity within a struggle for territorial decolonization’ (Gray 1995: 56). It serves as a means to create a common identity, a condition of sameness or oneness, for the social movement and its participants.

This study suggests that the public identification of Kasepuhan people as ‘masyarakat adat’ has been rewarding, especially after MK 35. Corresponding with Li’s analysis, the Kasepuhan people and their NGO allies deploy the adat narrative to make an argument and mobilise support with a view to empowering themselves. For example, the folklore of the Kasepuhan community as the descendants of the Padjajaran Kingdom has been told for generations. The myth, legends, and image

of the sanctity of adat, combined with NGO activism, have served as tools of persuasion to assert the connection between the Kasepuhan people and the forest that surrounds them. Consequently, Kasepuhan leaders and NGO activists have been able to employ the ‘ancient’ environmental wisdom of the Kasepuhan people’s livelihood practices to negotiate against the national park’s authorities in managing the forest and gaining support from important stakeholders in the process. The revival of the Kasepuhan community and its claim to land were accompanied by and resulted in a transformation of their attitude about the forest and themselves. In the wake of political and legal change, they have come to insist that protection of the forest and of the environment are important values and goals. As Robbins (2011: 216-217) explains:

Institutionalised and power-laden environmental management regimes have led to the emergence of new kinds of people, with their own emerging self-definitions, understandings of the world, and ecological ideologies and behaviours. More firmly: people’s beliefs and attitudes do not lead to new environmental actions, behaviours or rules system; instead, new environmental actions, behaviours, or rules systems lead to new kinds of people. Correlatively, new environmental regimes and conditions have created opportunities or imperatives for local groups to secure and represent themselves politically. Such movements often represent a new form of political action, since their ecological strands can connect disparate groups, across class, ethnicity and gender.

The forest had become a value in its own right for them, and they had become the kind of people who protect the forest. They had become, in Agrawal’s terminology, environmental subjects: ‘those for whom the environment constitutes a critical domain of thought and action’ (Agrawal 2005: 16). Accordingly, in the Kasepuhan community’s case, the expansion of the Gunung Halimun National Park has catalysed incipient senses of their identity as a community and revitalised adat as a mechanism for forest access, a process furthered by the rise of the adat movement in the country.

This chapter focusses on how the Kasepuhan community and the NGOs that advocate their cause have represented themselves as ‘environmental subjects’ through numerous media and communications channels. They have done this to cement an image of themselves as an indigenous group in the region. Especially important, it investigates how actions, ideas and identities are meshed with the rhetoric and representations that the Kasepuhan people use to extend their adat rights.

7.2 *Leuweung*: the rhetorics of indigenous knowledge

We are missing a vital opportunity to combat climate change by strengthening the land and resource rights of Indigenous Peoples and local communities whose well-being is tied to the forest (World Resources Institute 2016).

The above passage is from the World Resource Institute (WRI) Report ‘Securing Rights, Combating Climate Change’ that was published in 2016. The report makes a compelling argument for strengthening the rights of indigenous peoples and local communities, basing it on the potential positive effect towards climate change. In this section, I argue that the Kasepuhan community has deftly responded to perceptions of this kind by highlighting and discursively packaging traditional knowledge as ‘folk’ forest management practices. In the academic literature, folk management has a number of synonyms, such as ‘traditional management,’ ‘localised management,’ ‘indigenous management,’ ‘community-based management,’ or ‘bottom-up management’ (e.g., Bailey 1988; Berkes 1986; Cordell 1989; Johannes 1978; Klee 1980; McCay and Acheson 1987; Ruddle and Akimichi 1984; Ruddle and Johannes 1985). Use of the terms ‘folk’ and ‘traditional’ do not necessarily imply an archaic nature. As Agrawal (1995: 422) states:

Certainly, what is today known and classified as indigenous knowledge has been in intimate interaction with western knowledge since at least the fifteenth century. In the face of evidence that suggests contact, variation, transformation, exchange, communication, and learning over the last several centuries, it is difficult to adhere to

a view of indigenous and western forms of knowledge being untouched by each other.

The key term for the Kasepuhan peoples is *leuweung*, which refers to the ‘folk’ forest management practices in Kasepuhan community’s context as well as the mechanisms for the Kasepuhan people to (re) produce their own spatial practice. I already explained this above in chapter five. The NGO allies also highlight the concept of *leuweung* to link how Kasepuhan’s beliefs and their traditional forest management practices are actually better for the forest ecosystem in the region.

The Kasepuhan is very aware of the need to frame their practices as folk regimes. This was apparent during my interview with Abah Ugi, the leader of Kasepuhan Ciptagelar, when he explained about Kasepuhan peoples’ swidden farming practices. He said ‘the most important thing to understand is we don’t burn forest. We burn *ladang* (*huma*). We have our own ‘spatial plan’ that has been passed down by our *karuhun*, which included where you can and cannot plant *ladang*. We need to have space for our tradition, and that includes the forest areas for us to do burning.’ In addition, Abah also stated to me that under such conditions the landscape in his area has maintained large tracts of undisturbed forested land between isolated Kasepuhan settlements. He then claimed that the practice of *leuweung* shows the Kasepuhan people’s ability in managing and conserving forest resources in a sustainable fashion.

In the past, especially during the New Order regime, this kind of farming practice was severely limited due to state restrictions. Not only that, the communities were often stigmatised with negative labels such as ‘forest raiders’, or ‘forest encroachers’. Although swidden farming is no longer the only method of farming system for the Kasepuhan, it is now gradually coming back in Kasepuhan peoples’ livelihood.

In practising their traditional forest management, the Kasepuhan people have adapted the kind of languages and practices that their NGO allies have actively used in the global indigenous movement. For example, in one of the discussions with key government officials

during Seren Taun, many adat leaders strongly encouraged the forest authorities not to ban this kind of forest practices. On the contrary, they urged the local government to protect and preserve this traditional wisdom and its practice because, they argued, they are sustainable ways of using forest resources and able to prevent nature degradation in the long run (AMAN 2015, 2016). This is aligned with the effort to establish the image of ‘ancient traditional wisdom’ of traditional communities that the indigenous movement in the country has been trying to achieve.



Figure 7-1 *Ngahuma*

The picture shows a patch of forest area that has just been cleared by the Kasepuhan people for their swidden field. Photo by RMI (2015).

In effect, the Kasepuhan community is relying on the perceived authenticity of these practices to counter the state’s conservation narrative, something that has emerged quite frequently in similar situations (for example Scott 1998; Ellen and Harris 2000; Dove 2000; Hartanto 2009). At times, these representations do not fully correspond with reality. During their interactions with government agencies, NGOs and SABAKI have always highlighted

ideal adat principles and management practices despite being aware that these practices were not always followed or had been hybridised and adapted to contemporary conditions. They have also refrained from mentioning activities that would harm the image of folk management. As I discussed in chapter five, many Kasepuhan members have been attracted to traditional gold mining production. One of them says ‘It is very convenient, it is like cooking. They can buy the ingredients and mix it for themselves.’ One of the ingredients is mercury, which can be bought illegally. Most families have ball mills, which grind ore to form an amalgam with mercury, in their backyards. Tailings are deposited into local waterways that feed into nearby rice fields and fishponds. Purifying the amalgam – which releases mercury vapour into the air- is done in residential areas. ‘In the majority of the community, households are farming, but at the same time they also have ball mills operating at their house,’ Abah said.

These practices were not mentioned in the representations of Kasepuhan adat submitted to the Constitutional Court’s judges during the court hearing for the judicial review of the 1999 Forestry Law. In a powerful representation, Kasepuhan representatives convincingly testified in front of the judges. The main narrative of their testimony was twofold: first, they related how state authority had undermined their traditional rights and, second, how their indigenous land-use system, as discussed above, has proven to be beneficial for the surrounding nature, since it is still forested while the community has been living in the same area for centuries. According to one of the advocates who was present in the court room during the verdict of the judicial review, their testimony was a crucial part of the judges’ consideration that ruled in favour for the revision of the law (YA 10/8/2014). According to him, ‘the Kasepuhan community gave the judges all of the romantic imagery that is usually attached on masyarakat adat. Harmonious, strong lineage and attachment with the region and nature, able to show that their culturally distinct with common citizen and they have a district head’s decree that acknowledges their existence as a masyarakat adat in the region since 2010’ (YA 10/8/2014). Overall, the adat NGOs are in consensus that the Kasepuhan community has been the

perfect representation for the masyarakat adat movement in the country. And both have been neatly complementing each other.

7.2.1 Public Representation through numerous media

In chapter two, I mentioned the importance of image management and creation, as these are crucial to challenge resource access at the local level as they create ‘culturally available points of leverage in ongoing processes of negotiation’ (Li 1996: 509). This is exactly what the Kasepuhan people have been doing in terms of representing themselves as an adat community. SABAKI and the Kasepuhan people in general realise the importance of the representation of their Kasepuhan identity in ways that were not possible or necessary before, and this has led them to start retelling and adapting their identity, beliefs and traditions in a more public sphere. As Brosius (1999: 285) argues:

Environmental mobilisations and the counter mobilisations deployed against them are today as much about images of the environment as they are about the environment itself. That is to say, environmentalism is thoroughly enmeshed in the global circulation of images, a state of affairs mediated by the mass media.

The ability of media in shaping public opinion is crucial for the development of the environmental discourse in the region. This, in turn, has the potential to produce a potent political force that needs to be reckoned with by key government officials, as it would garner support from the general public. Based on Balinese case studies, Warren (2012) concluded that local media have played a crucial role in ‘fostering the emergence of culturally salient environmental discourse’ (Warren 2012: 294) that consequently help to frame and politicise the debates on local environmental issues.

In this study, the Kasepuhan community has used numerous media to showcase their traditional wisdom in managing the forest, and have blended it with the narrative of the community’s disenchantment caused by the state’s hegemony in forest management. They did not limit themselves only to print media to do this; NGOs and mainly Kasepuhan youths also took these representations to

social media as well. For example, they tweeted with *#bukanbaduy* (*#notthebaduy*) to introduce the Kasepuhan community as an adat community that is different from the Baduy people, who also reside in Lebak (see Figure 7-2). They want to educate the wider public about their existence and give a rationale for their struggle to achieve a legal recognition similar to the one enjoyed by the Baduy people, and to convey their claim that they have been treated differently from the Baduy due to the lack of recognition. By using social media they have also been able to expand their story beyond their geographical domain, further publicising their struggle.



Figure 7-2 Using social media to further their goals. The Epistema Institute, an NGO active in the field of adat rights, used *#BukanBaduy* on their Facebook account to represent Kasepuhan peoples' interest and educate the wider public about their struggle.

Kasepuhan members also have been supportive of print media representations that support their case. In the wake of the Constitutional Court's decision, the grievances of adat communities in the country were the object of mainstream media attention, including the Kasepuhan community's story. On 2 October 2014, *Tempo*, one of the biggest national newspapers published this headline: '*Kasepuhan customary forest; it exists but is not recognised*'. Again, this report presents the Kasepuhan people as a distinctive group that has been subjugated by the state, which consequently has prevented them from accessing forest areas in order to pursue their traditional livelihood. Other reports from other national and local newspapers had a more relaxed tone, and tended to represent a more 'romanticised' image of the Kasepuhan community as one which had been able to maintain its 'ancient' environmental wisdom (see figure 7-3).



Figure 7-3 Representing the ancient

An online article at Kompas (27/8/2014), one of the best-known news outlets in the country.

The NGO coalitions also have given publicity to the Kasepuhan community's progress in their own internal publications. Similar to the *Kompas* article cited above, they mainly highlight an idealised image of the Kasepuhan community as one that continues to live in accordance with its ancestors' principles, and that has maintained forest areas according to their ancient wisdom. Filtered and interpreted through a 'green lens' (Zerner 1994), almost all of these NGOs' publications tend to pay attention to the land use categories of the Kasepuhan people and emphasise their attachment to their place by naming features of the landscape. For example, RMI policy briefs (2014, 2015) underscore the resemblance between the Kasepuhan communities' concept of *leuweung* (Kasepuhan's traditional forest management system) and conservation goals. A more elaborate explanation of this issue will be addressed in the next chapter.

Additionally, the NGOs have highlighted the Kasepuhan peoples' authenticity and their legitimacy as the indigenous inhabitants of the region. They do this by referring back to the history of the Padjajaran Kingdom. The telling of this story has been central in the construction of the Kasepuhan peoples' legitimacy to occupy the forest, to the point where this was one of the foundations for the argument presented in the academic paper generated in the pre-PERDA consultation process (RMI 2015; Epistema Institute 2015). This is astonishing because the history and existence of Padjajaran Kingdom itself are still debatable (for example Rosidi 2011). Despite this, the broad acceptance of the story shows how deeply it has resonated with the culture of Sundanese society in general and specifically for the Kasepuhan people. The pre-PERDA academic paper (Academic Paper on the Draft of Local Regulation on Kasepuhan 2015, *Naskah Akademik Rancangan PERDA tentang Masyarakat Kasepuhan* 2015: 10-11), which was drafted by the Kasepuhan people with the help of NGO personnel, claims:

Dari folklore yang berkembang di masyarakat diceritakan bahwa tiga pengikut setia Prabu Siliwangi ditugaskan oleh paduka raja membawa suatu pohon ajimat. Pada saat itu, Kerajaan Padjajaran sedang diserang oleh Kesultanan Banten. Pohon ajimat itu diselamatkan oleh ketiga tokoh tersebut. Ketiga tokoh ini ikut mundur dari

Pakuan (ibu kota Padjajaran) dengan rombongan raja sampai ke pesisir selatan Sukabumi, di daerah yang disebut Tegal Buled. Setelah itu raja membubarkan rombongan tersebut dan membiarkan pengikutnya menentukan nasibnya masing-masing. Pohon ajimat tersebut lalu ditanam dan ketiga orang tadi mengambil bibitnya untuk masing-masing. Ketiga orang tersebut lalu berpisah, salah seorang diantaranya, Ki Demang Haur Tangtu pergi ke daerah Guradog, yang sekarang ini lokasinya terletak diantara Jasinga dan Rangkasbitung. Dan turunan Ki Demang ini beranak cucu di Citorek, Bayah. Inilah cikal bakal berkembangnya kelompok Kasepuhan di daerah ini.

During the attack of the Banten Sultanate on the Kingdom of Padjajaran, Prabu Siliwangi commissioned three of his loyal followers to take the sacred tree (some say it was the kingdom's heirloom) with them. These three men left Pakuan (the capital city of the Kingdom of Padjajaran) along with other followers of the King and fled south to the coast of Sukabumi, where they arrived in an area called Tegal Buled. From here, the King then decided to divide his followers throughout the surrounding areas. The King's followers dispersed in the directions that suited them. But before the three men split up, they planted the magic tree and each took seeds of the tree with them. One of these three men, named Ki Demang Haur Tangtu, went to Guradog. This is now located between Jasinga and Rangkasbitung. Ki Demang's descendants and relatives settled in Citorek and Bayah. According to the folklore, this is the beginning of a group of people that would later become known as the Kasepuhan community.

The summoning of this history serves the Kasepuhan peoples by enabling them to narrate themselves within a 'sacred' discourse, and this also extends to the forest that they inhabit. This imbues them with a sense of authenticity in their actions. As explained by Brosius (1997: 64), this makes 'lands, resources, and people inviolable, and it does this by appealing to pre-existing categories

of value: the endangered, the last whisper of an ancient past.’ This is also part of the reason that ordinary people in Lebak commonly call the Kasepuhan people ‘urang dalam’, which literally means ‘people from the inside (of forest)’.

Some Kasepuhan groups have their own self-promotional tools, using modern technology to promote Kasepuhan tradition. This once again shows the resourcefulness of the Kasepuhan community in using whatever is available for them in order to reach their goals, just as a true bricoleur does. Kasepuhan Ciptagelar, for example, has its own radio station (Figure 7-4). Other than traditional music or *jaipongan*, they also broadcast information on their cultural heritage and have programs that give education on ways to be ‘green’ on a daily basis. This includes information on what to do and what not to do when villagers cut down trees, what to plant in their garden and explanation from Abah about environmental consequences that would follow if the villagers ignore the taboos and prohibitions when entering forest areas. Meanwhile residents in Kasepuhan Cisungsang have been maintaining their own website for the last couple of years (www.cisungsang.com) and have published a book (Figure 7-5) about their heritage and cultural distinctiveness (Yusanto et al 2014). Similar to Ciptagelar, their website and book contain history, cultural heritage and an overview of the meaning of their rituals.



Figure 7-4 Kasepuhan Ciptagelar's radio station. Photo by Dean Yulindra Affandi (2014)

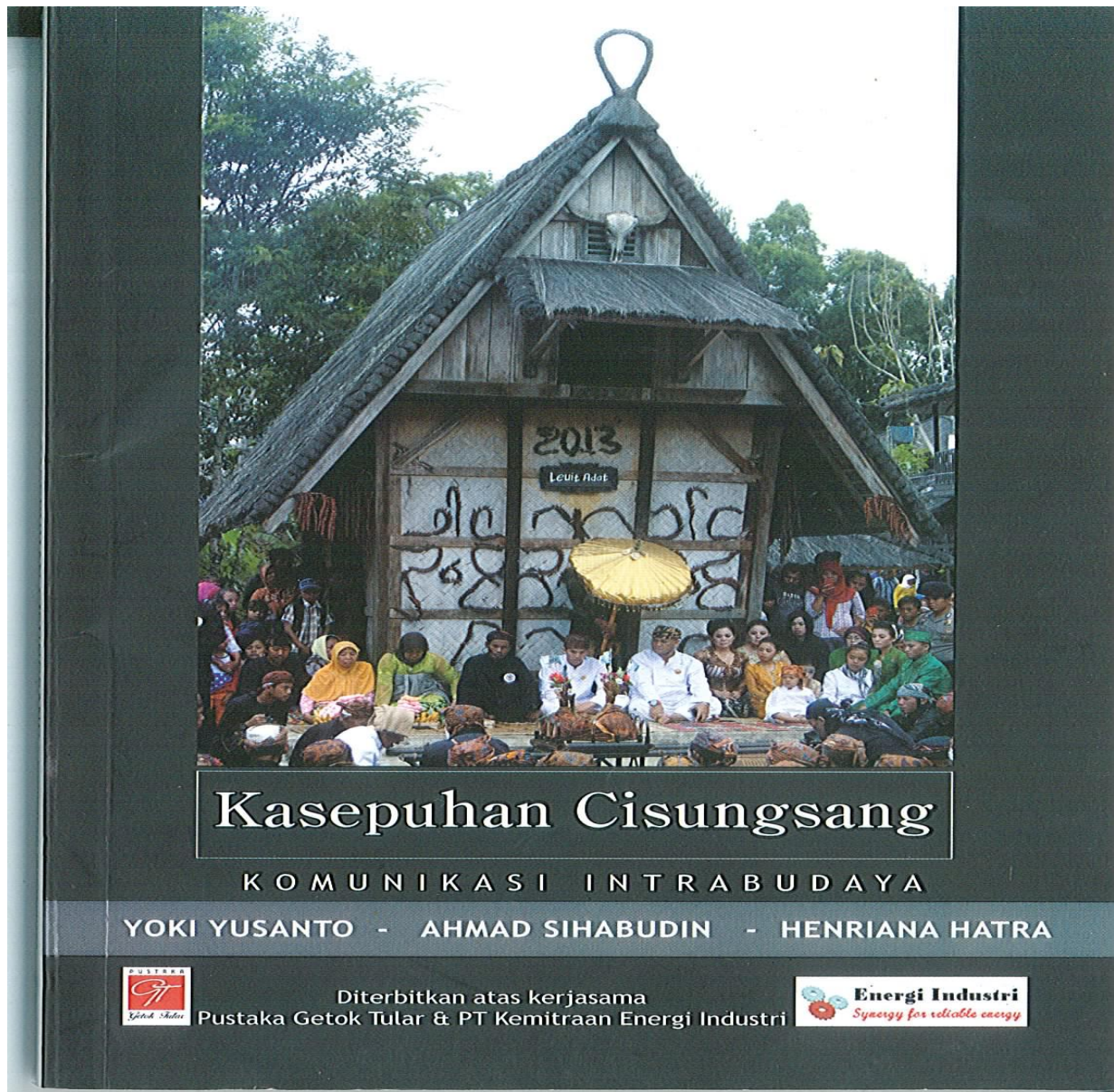


Figure 7-5 A book about Kasepuhan Cisungsang, authored in a collaboration between a Kasepuhan member and two scholars from Universitas Padjajaran, Bandung, and Universitas Ageng Tirtayasa, Banten.

Other Kasepuhan groups also run blogs, Facebook accounts and some are also in the process of making their own websites. The NGOs have encouraged the use of social media as a way, not just to campaign for adat rights, but also as a tool for economic empowerment. For instance, Kasepuhan Cirompang offers ecotourism packages where people from the outside of the community, usually high school and university students, may come and home stay in Kasepuhan members' houses for a sum of money. Residents of Kasepuhan Pasir Eurih use blogs as tools to promote products from their village, such as coffee and handicraft products.

In retrospect the representations of the Kasepuhan community, whether through the media or their own forms of representation in interactions with people from outside the group, have given them legitimacy for filling the ‘tribal slot’. It is notable that the Kasepuhan people pick and choose their narrative and tell it over and over again until it becomes the ‘truth’. They do not want their story only to be told locally; on the contrary, they want their story to become a benchmark for other adat communities. This seems to be especially the case after MK 35, for these representations generate the sense of ‘authenticity and legitimacy’ that give them better leverage to negotiate for their social space. This is a common trend amongst indigenous people movement around the globe. Brosius and Tsing (1998) explain that by asserting their authenticity through the narrative of cultural timelessness, indigenous peoples have been able to assert more control over natural resource management through a variety of channels.



Figure 7-6 Mass media during Seren Taun in Kasepuhan Cisungsang. Kasepuhan people invited the mass media to cover their rituals and ceremonies to help them in dispersing stories about their identity and struggle to form public opinion on them. Photo by Yoki Yusanto (2015).

7.2.2 Seren Taun: maintaining the legacy of the *karuhun*

Each group of the Kasepuhan community has its own Seren Taun ceremony, and each has its own variations on its rituals. As I have noted above, nowadays the Seren Taun is more than just ritual and ceremony. It is also the perfect time for the Kasepuhan to publicise their political aspirations and garner support from the wider public and key government officials regarding their adat rights to manage forest and its resources. I would liken this event to a business rendezvous where deals are made and lobbying processes happen. During this time, the Kasepuhan community represents itself as a united community that is proud of their heritage, and showcase their mission of sustaining their way of life. In addition, rituals such as the Seren Taun also show the public that the Kasepuhan people are still living based on their ancestors' norms and prohibitions. This image is necessary for them to back up their claims to being 'masyarakat adat'.

The Seren Taun of Kasepuhan Cisungsang in September 2014 was an example in which Kasepuhan communities showcased their social and political aspirations. This was a week-long activity and was full of festive moments. This event was organised by Kasepuhan Cisungsang, SABAKI and fully supported by the NGOs. This celebration was more festive compared to other Seren Taun ceremonies in the neighbouring Kasepuhan groups that I attended during my fieldwork. Four wheel drive vehicles, trucks and also motor trailers were buzzing in and out a week prior to the event to prepare all the logistics that were needed for the festival. Tents were prepared for the bazaar, stages were constructed for music events and the kitchen was busy preparing a feast for the main event. Every person attending the venue could eat freely by coming to the kitchen area and serving themselves. It was an extravagant event by the standards of 'tribal communities'. The magnitude of the event was able to attract cigarette and other big companies to co-sponsor the Seren Taun. Their banners were all over the place, between tree branches or power poles and also on the side of the road leading to the venue up to the *imah gede* (the adat leaders's house). This event drew people from all different kinds of backgrounds, including teenagers, city dwellers, government officials, some of whom even came with their whole family. The most eagerly awaited guest for the event was the District Head of Lebak, Iti Jayabaya, and she did not disappoint the spectators by actually coming to

the event and staying for a few hours. I managed to speak with one of her entourage, who said to me ‘One should not miss moments like this, for it is the perfect time for *Ibu* (The Bupati) to get closer to the people of Lebak and show her support for the indigenous people of Lebak who have been supporting her throughout her career’.

According to other dialogues that I had with common spectators, they generally came because they associated themselves with the community and supported the continuation of the Kasepuhan community way of life (people such as these are often referred to as *incu putu* or followers of the Abah). Overall, during the peak of the event around 6000 people attended Seren Taun, most of them coming from neighbouring cities of Palabuhan Ratu and Rangkasbitung, but a few also drove from cities such as Jakarta, Bandung and Bogor. The atmosphere of the event was almost like a music festival, and there were four stages for bands and dancers to perform traditional dances and play music, ranging from reggae to *jaipongan* during the night. However, from morning to early afternoon the program of the event was dominated by adat rituals and ceremonies, the original program of the Seren Taun.

This is a clear example of how the Kasepuhan community has represented its adat before external actors and parties and has thereby attracted alliances from the wider society and built socio-political support. The Kasepuhan community wants to represent itself as an adat community that still respects its adat principles, but welcomes outside influences to complement its adat. It was necessary for them to package the ritual in a way that was different from the genuine adat ceremonies in order for them to stay relevant in society, while at the same time not leaving their core identity as masyarakat adat. The following slogan from the event also shows the intention to embrace and include, not just the Kasepuhan members, but also the wider society in the region:

Ngarakeutkan Beubeungkeutan dina Raraga

Ngahontal Karaharjaan Rahayat Sarawuh Incu Putu

Ngeunaan Budaya, Politik, Ekonomi, Katengtreman

Enggoning Ngeusian Kamerdekaan

(Strengthening our unity as a community to achieve prosperity)

for all followers in order to be able to practise our freedom
in cultural, economic and political realms)

Moments like Seren Taun have also helped the Kasepuhan people in reinventing the idea of unity among them, which is crucial in order to assert claims on the legitimacy of local arrangements for environmental stewardship. A notable aspect of Seren Taun is the importance of the meaning of natural resources to people's everyday lives and practices. This is not confined to the economic importance of those resources, but rather to ideas about identity and place in the world. Drawing back to ancient tradition allows the affirmation of shared understandings between Kasepuhan groups. This, in turn, represents adat as 'the source of ultimate beliefs surrounding the way the world works and how one should live one's life in it' (Acciaioli 1985: 151). Hence, an authoritative discourse of responsible local stewardship rooted in the shared history of the place is created. This provides the legitimising frame for new institutional arrangements based upon adat. As one of the adat leaders said:

Our livelihood cannot be separated from the forest, and we have kept it that way for all this time. It somehow defines our identity; without the forest we are not a Kasepuhan community. Seren Taun is not just a ritual, it has more meaning than that. It is the way we connect with the forest that has given us life. It is our way to show our appreciation to nature and hope it will give us the same blessings for the upcoming year. Therefore, it is the perfect time for the Kasepuhan groups to come together to discuss the future trajectories of our forest tenurial rights. The declaration provides a framework where just resource management can be negotiated while our way of life and traditions can be respected, maintained and indeed re-invigorated.
(AU 25/9/2014)

From my observation, I believe that this moment is a key strategy of the groups' political mobilisation and of their attempts to broker discussion with government and other relevant

stakeholders to operationalise MK 35 in the region. On the sidelines of the event, NGO activists and SABAKI discussed the main points that needed to be addressed using this moment in order to materialise MK 35 in the region. They realised that the stage was set for them to use this political and cultural momentum for their broader objective. For the NGO coalitions, the Kasepuhan community's success would send a strong message to other adat communities in the country that are facing decades of injustice.

Furthermore in the effort to replicate the success of Seren Taun in 2014, at the next Seren Taun in 2015, the Kasepuhan people managed to attract the attention of the Governor of Banten, who came to the ceremony (Figure 7-6). Attendance from such a high-profile politician at their adat ceremony had a strong political message for the Kasepuhan peoples' effort to gain recognition. It gave the impression that the Kasepuhan people have obtained political endorsement and have secured political support from a high-ranking official. This would increase the chance of success for the adat communities' rights campaign that the Kasepuhan people and NGOs had been advocating intensively over recent years.



Figure 7-7 Rano Karno, Governor of Banten, and Abah Usep, the leader of Kasepuhan Cisungsang. Photo by RMI (2015).

Realising the progress that they had achieved, Kasepuhan adat leaders and their NGO counterparts initiated another Cisungsang Declaration-type gathering to give the final push for the PERDA on the Kasepuhan Community to be passed. Although it was not as big as the Seren Taun in Kasepuhan Cisungsang, the significance of the outcome from the *musyawarah* held in Kasepuhan Ciptagelar in September 2015 cannot be underestimated. The objectives were to come up with a consensus among Kasepuhan people and other relevant stakeholders including key government officials, which would be able to put the ‘icing on the cake’ regarding the ‘special legislation’ on the Kasepuhan community. This meeting agreed on several important points (SABAKI 2014):

1. It is crucial to have the current draft ratified in the form of PERDA immediately.
2. If the PERDA Kasepuhan is ratified, the Kasepuhan people will continue to commit to protecting and preserve their adat forest.
3. Kasepuhan members will obey adat rules to ensure forest preservation and nature conservation.
4. All the contents of PERDA Kasepuhan are based on the on-going participatory process that involved all Kasepuhan groups.
5. Adat rules on all aspect of lives will be strictly enforced as a way to preserve Kasepuhan culture.
6. All the village heads (*Jaro*) of Kasepuhan community will be elected through a fair and honest process of village election.
7. SABAKI is responsible for holding activities that aim to empower youth and women of the Kasepuhan groups.
8. The Kasepuhan adat leaders entrust SABAKI to represent Kasepuhan people in securing Kasepuhan adat rights.
9. SABAKI is to be fully involved in conflict resolution regarding adat territorial disputes, especially regarding illegal retribution against masyarakat adat.

Other than to reiterate the commitment from the Kasepuhan people on their ‘green’ identity, the Kasepuhan community also wanted to show the authorities present that they were willing to persist with their cause until the PERDA was finally passed. In other words, in harmony with the idea of avoiding conflict and creating mutual cooperation based on *rukun* that was mentioned in chapter 6, this was also a way for the Kasepuhan to increase the political pressure on the Lebak government officials, especially the DPRD, without being too antagonistic.

The list once again represents the Kasepuhan community’s ability to adapt new ideas, which included gender issues and peoples’ empowerment. This is considered to be necessary in order to fit the language of their NGO counterparts. Moments such as this are also the time when the Kasepuhan people absorb new ideas, and as long as the ideas do not contradict their *karuhun* principles, they are willing to adopt them. This meeting seemed to be useful and effective, for just a few months later, the Lebak regional council passed the bill that recognises and protects the Kasepuhan peoples’ rights.

7.3 Conclusion

In the discussion of this chapter, we saw that Kasepuhan people have been adroitly representing their identity through channels that have opened before and after MK 35. The globalisation of claims on tropical forest resources and social movements calling for indigenous people to formalise their resource claims are echoing locally just as they coalesce with simultaneous local processes. Through the successful exploitation of representational processes available to them, Kasepuhan community has territorialised spaces so that they are being produced locally as well as nationally and globally (Lefebvre 2009).

Moments like Seren Taun provides the NGO and Kasepuhan people much-needed public attention that enable them to coalesce their social and political assets. Yet, in the process NGO coalitions and the Kasepuhan community have explicitly chosen to keep involving state bodies and using the local procedures to gain their rights. Thus, at the same time that the Kasepuhan community and NGOs are making claims in numerous media, they are accepting the terms set by the state. In this process, they are inevitably aiding in the incorporation of their representation into the public sphere

and local government policies for controlling resource use. Keeping the balance between community and government interest has been a key trait of the Kasepuhan community in progressing their cause for adat recognition. They have been able to find the common ground with other stakeholders in every negotiation that they encounter. The Kasepuhan community has become a recognised arbiter and mediator of both access and rights, and making the right representations has turned out to be a practical way to establish forest rights or at least to create a case that can be used for negotiations.

8 Conclusion

In 2013, the Constitutional Court ruled that the state had wrongly appropriated forests and should return them. One of the big questions prompted by the Court's decision is how an adat community might be able to go beyond the decision to the next substantive step of acquiring official recognition for themselves in Indonesia. Despite the historic nature of this decision, some scholars expressed their scepticism on the impact that the ruling would bring to the forest-dwelling adat communities (e.g., Butt 2014, Colchester, Anderson et al. 2014). Their scepticism is valid for at least two reasons. First, the judgement continues to invoke the Constitutional provision that adat peoples' rights should be recognised 'as long as they still exist'. This is the same mantra that has always led to the subjugation of adat communities' rights in the past. Second, the local government must, under Article 67 (2) of the revised Forestry Law, issue a bylaw (PERDA) to legally recognise the adat community exists before that community can exercise any of these rights. It is only after the passing of the bylaw that the Ministry of Environment and Forestry can issue a decree declaring that the state legally recognises and protects the hak ulayat of an adat community.

Therefore, as is the case with decentralisation policies generally in contemporary Indonesia, the main battle over adat recognition is being fought at the *kabupaten/kota* level. This causes a dilemma, for some local governments are notorious for their lack of responsiveness to the needs of their constituents. It scarcely needs to be mentioned that adat communities are likely to have particular difficulties convincing their local government to pass a bill if the local government itself wishes to give concessions over the very land that those communities use.

I spent six months in the southern part of Banten Province in order to gain a picture of the difference the decision might make. This research has captured the current 'transition period' for adat communities in Indonesia regarding their forest and land claims. To put it in simpler terms, this study has explored how the community has attempted to secure its right to adat forest on the ground. It sets out to answer the core research question: have adat communities been able to capitalise and advance their traditional rights forward after the Constitutional Court's ruling? To answer this research

question, I focused on the Kasepuhan community in Lebak, Banten which was one of the plaintiffs for the judicial review. Three research sub-questions were addressed:

1. How have Kasepuhan community worked towards and responded to the changing range of possibilities?
2. How have Kasepuhan people mobilised their claim to rights through representation, advocacy, media and the appropriation of contemporary legal and political forms of expression?
3. How do interactions – conflicts, accommodations and exchanges - between Kasepuhan groups and other actors in changing circumstances affect forest access and control?

This chapter presents and discusses the study's main findings by highlighting the current dynamics of forestry politics in the Halimun-Salak region, and by singling out the key contributions the findings make to our understanding on the state of adat communities' rights to forest tenure. First, it assesses the implications of MK 35 for the Kasepuhan community and how the Kasepuhan community differ from the general trend. Second, it will explain the contributing factors behind Kasepuhan success in capturing the current political-legal landscape in Indonesia. Then I will explain the current state of indigenous peoples' rights in general and the reasons behind the limited success of other communities in efforts to replicate the Kasepuhan community's gains. Finally, in the last section I address some possible challenges that might productively be addressed in future research.

8.1 Implications of MK 35

Following the Constitutional Court's decision, there has been a growing sense of optimism among NGOs and communities in regards to the recognition of the rights of indigenous communities. The national government's initial response to MK 35 was positive. As I have mentioned before, the ruling has triggered a series of other processes regarding rights recognition of adat communities in Indonesia. The National Commission on Human Rights has held months of public hearings into past land crimes against masyarakat adat all over the archipelago (The National Inquiry on the Right of Indigenous Peoples to their Territories in the Forest Zones). President Jokowi's administration has

committed to working with the legislature to pass a long-awaited bill on adat rights that would create verification systems for demarcating adat territories. The Ministry of Environment and Forestry announced that it would redistribute 12.7 million hectares of state forests and commercial concessions in the form of village and community forests in the next four years. And in his address at the Paris climate talks, President Jokowi specifically mentioned ‘climate change mitigation by involving indigenous peoples/masyarakat adat’ (*Jakarta Post* 2/12/2015).

This is a good start in the task of addressing the claims by adat communities nationwide, which according to AMAN’s estimation, amount to at least 40 million hectares. But the Jokowi government has shown some tendencies to succumb to business interests that oppose land tenure reform. The Ministry of Environment and Forestry has delayed setting up a task force to manage the indigenous rights process, and more than 600 detailed maps of community lands prepared by AMAN covering over 6.8 million hectares are yet to be recognised. In addition, there is no indication that the national legislative assembly (DPR-RI) will ratify the long-awaited Law on the Acknowledgement and Protection of Indigenous Peoples (RUU PPMHA). This would ensure adat communities in the country are able to exercise their traditional rights, including forest rights.

All in all, much remains to be done to dramatically increase the recognition of land rights, and close the gap between the area of land managed by communities in practice and what is formally recognised by the government. It is widely known that the absence of clear recognition of adat rights often results in social conflicts and an increase in poverty due to the limitation on the ability of those communities to access and control forestlands. This encourages competing legal claims between the communities and the state/private regimes. Adat communities’ knowledge regarding the location of the boundaries of their communal forest is generally based on oral tradition, which is not recognised by the government, and so it tends to arbitrarily treat any forest as ‘state forest’. According to the

latest KOMNAS HAM report published earlier this year,⁴⁴ this remains the most pressing issue behind human rights violations related to masyarakat adat in the country.

Considering the current situation, the Kasepuhan community has brought a breath of fresh air to the adat cause in the country. They have shown exemplary success in funneling their political aspirations after the Court's decision, appearing to open a wide range of possibilities for adat communities in the country. The Kasepuhan is one of the few adat communities in the country that have been able to effectively use the political and legal momentum for adat communities' rights in their locality. As addressed in chapter six and seven, they have used this momentum to consolidate themselves and garner support from various stakeholders, including key political actors, to push for the ratification of a local regulation that would acknowledge and protect their adat rights. After decades of uncertainty on the status of their adat territories, during which they were required to deal with unilateral claims by the State and corporations, in November 2015 the PERDA on Kasepuhan was finally passed.

The PERDA on Kasepuhan includes the full recognition of indigenous rights: the community is formally acknowledged as being 'indigenous'/masyarakat adat, so its traditional rights are secured and protected under law. This regulation designates some forest areas in Halimun-Salak as territory of the Kasepuhan communities, which is indicated on the maps of each Kasepuhan group. This means it possibly excises some of national park's territories. This represents a major breakthrough for an adat community in Indonesia. Technically, the final decision concerning Kasepuhan territory still awaits bureaucratic formal approval from the Ministry of Forestry and Environment, but it is safe to say that the Kasepuhan people and NGOs have achieved what they wanted. As explained in chapter one, the PERDA on Kasepuhan presents all the necessary provisions that should eliminate any ambiguity regarding forest boundaries and who has the right to access and manage the adat forest. Currently, the

⁴⁴ Summary of Findings and Recommendations for Improvement of the Law and Policy Concerning Respect, Protection, Compliance and Remedy Relating to the Human Rights of Indigenous Peoples over their Territories within the Forest Zones (KOMNAS HAM 2016)

re-delineation processes are underway, requiring the relevant stakeholders in the area to set new boundaries in national park areas, Kasepuhan forest areas and other forest concession areas.

In addition, the PERDA explicitly recognises each Kasepuhan group's territory individually and includes the map of each Kasepuhan territory in the addendum of the PERDA. Currently, there are eight Kasepuhan groups with territory that has been mapped out and inserted in the PERDA (already discussed in chapter six). More will be done in the upcoming months. Once again, this is groundbreaking. To have a regulation that acknowledge their rights alone is already an achievement, let alone having a detailed map included in the regulation. This is an important feature of the PERDA as it would eliminate future disputes among Kasepuhan groups and/or between Kasepuhan groups and other stakeholders.

Another potential that this regulation might achieve is solving the legal pluralism dilemma, which has caused many land disputes due to competing legal claims between the local/adat community and the state (discussed in chapter two and three). It formalises traditional Kasepuhan forest management, in which forest areas are divided based on functions (see chapter five). A possible negative outcome of this process is that this will reduce the dynamic nature of adat into a more static form of adat (see for example Peluso 2005; Peluso et al 2008; Li 2007; Acciaioli 2007; Warren and McCarthy 2009; Hauser-Schaublin 2013). This has the potential to lead to social and environmental impacts in the future. Whatever the result might be, one thing is certain, and that is that the success or failure of what is going to happen in Halimun-Salak region in upcoming years will set an example for many stakeholders involved in forestry and agrarian reform in the country. It will be interesting to see how the implementation of this policy will unfold in the future, and future research will hopefully give us a picture of the process.

8.2 Lesson learned: Representing adat in the public sphere

In principal, there are three main factors that explain the Kasepuhan community's success. The first is the cohesiveness within the plural Kasepuhan community, and the unity that they have displayed in

the struggle for recognition. A well organised adat community with a leadership that is able to represent the best interest of the community as a whole is crucial in this process.

In fact, the Kasepuhan has supported the creation of a generic and homogenous quality for what is in fact a plural group. Even though there are many Kasepuhan groups in Lebak, the NGOs simply refer to these groups as the 'Kasepuhan people', and attribute to them the same culture and ancestry. The NGOs effectively impose 'a falsely universalised quality on a range of peoples, [...] thereby collapsing precisely the diversity that defines them' (Brosius 1997: 65). This cohesiveness has been productive, extending also to a united resolve to work with key partners. SABAKI has been instrumental in the negotiations with NGOs, officials from the Ministry of Forestry and Environment, local officials and bridging the differences between Kasepuhan groups. Their cadres have also been successful in exploiting the local political channels, such as participating in village elections and campaigning for the Kasepuhan people's interest through numerous media. Their involvement put the Kasepuhan people in the driver's seat throughout the negotiation processes, working closely with NGO allies along the way. As a result, each Kasepuhan group has the same opportunity to voice its opinion throughout the legislative process. The making of district regulations regarding adat rights recognition in the future should adopt this process, which is fully participatory. In addition, SABAKI's role in maintaining the strong social cohesiveness among Kasepuhan groups cannot be overlooked.

The second is the recent decentralisation of government in Indonesia. This has definitely helped the Kasepuhan people in their struggle. They realise the trajectories of the decentralisation policies have meant an increase in the range of issues that can be negotiated at the local level, and based on this, they have been able to lobby for support from prominent locals to achieve a more concrete result for their political aspirations. Abdon Nababan, AMAN's secretary general, has stated repeatedly that 'the destiny of masyarakat adat in the country is in the hands of the local government'. Corresponding with his statement, as discussed in chapter six and seven, adat leaders' interaction with local government agencies and officials has played a crucial part in their efforts to secure forest access.

Kasepuhan community members perform a variety of roles in everyday life within their localities and are involved to varying degrees in local political and institutional networks. The community leaders have been actively fielding candidate in the local political process since the beginning of the regional autonomy era. Some Kasepuhan individuals are key government officials in the executive and legislative branches, not to mention other individuals also holding positions in the bureaucracy. Through their multiple identities, Kasepuhan members are active at the junction of the modern state and 'traditional' adat society. This enables them to develop 'bilingual' abilities when dealing with state and society and moving between traditional and modern, enabling them to engage in a double-edged interpretation of norms and political demands. They act as brokers in local elections, lobbying and contacting the bureaucracy and higher political elites for the allocation of political-legal support, seeking to boost their interests through adat rhetoric and representations. This significantly has widened their 'room to manoeuvre' because bureaucrats and key government officials accept the Kasepuhan peoples' claim as authentic and legitimate.

The third factor is the considerable power and public impact of the adat category and narrative. This research is strong testimony to that power and impact. The Kasepuhan has been adroitly representing themselves as a population that belongs within that category, and have been actively representing their own identity through a variety of channels in ways that correspond to that category and narrative. This effort has proven to be effective for their cause. The Kasepuhan community rose to fame through the narrative employed by members of SABAKI, their adat leaders and especially NGO allies that combined the conservationist's vocabulary and rhetoric – combating deforestation, mitigating climate change - with community-based forest resource management. Through this process they have gained the support of sympathisers from the media and local politicians by drawing attention to simple, yet highly romanticised, adat narratives and the response of victims pitted against the state's hegemony in forest ownership and management.

As was explained in chapter seven, their self-portrayal as 'guardian of the forests' still living based on their ancestors' codes generate a 'romanticised' flavour of adat and also incorporates conservation discourse into their language and representations. In particular, they have perpetually

highlighted their customary forest management system. They did this to show that the surrounding forest areas have cultural importance for the Kasepuhan people despite being aware that these laws and practices had been hybridised and adapted to contemporary conditions. This has made the Kasepuhan appear to have a legitimate or authentic claim of being ‘indigenous’ in the public eye, and therefore, has made it easier for them and their proponents to assert their claim. The Kasepuhan community actions align directly with, what Tania Li (2000) described as the ‘tribal slot’, where identity representation is integral to adat communities’ manoeuvring in negotiating their political aspiration. As such, it could be said that the forest maintenance by the Kasepuhan community is a by-product rather than the ultimate goal. It is a means to an end.

8.3 Adat rights on the move?

It cannot be concluded from this study that adat rights are on the ascendant in contemporary Indonesia. Currently, there are only a couple of other Indonesian communities that have experienced progress comparable to the Kasepuhan community, the Kajang and Massenrempulu Communities in South Sulawesi province. That means most adat communities in Indonesia are still struggling to advance their claims to rights to forest resources forward despite MK 35. It seems incontestable that the possibilities of such advancement are more limited in resource-rich regions where the financial stakes are higher and the bricolage process could be more complex and generate different outcomes. Consequently, other adat communities will not necessarily be able to obtain what the Kasepuhan communities have achieved. Comparing experiences across adat communities that encounter different socio-political settings will give more insights and allow us to obtain a more comprehensive national picture by looking at both similarities and differences between communities. Furthermore, the numbers are significant. The National Inquiry on the Right of Indigenous Peoples had identified more than two hundred cases. KOMNAS HAM has also submitted a complaint about this to the Ministry of Environment and Forestry, but to this day no clear resolution is in sight.

I believe there are three reasons that can explain this lack of progress. These reasons reinforce one another, and provide a possible explanation for why progress has been very hard to come by for

the majority of adat communities in Indonesia. First, in order for it to be effective, the Constitutional Court Decision 35/PUU-X/2012 requires a strong collaboration between related line ministries. Unfortunately, there is a lack of policy synchronisation between state institutions in multiple levels of government. This is a cliché in the Indonesian political context. Right after MK 35, state institutions including ministries and other state agencies signed a joint ministerial regulation on ‘Procedures for the Settling Control of Land within the Forest Zone⁴⁵’ which aimed to harmonize all the regulations and policies from different institutions, and to develop the necessary technical procedures to address issues related to land status and natural resource conflict within Indonesia’s forest estate. This was important because some communities could not resolve their disputes due to the overlapping regulations amongst different ministries, which in turn further complicates the problem at hand. Not only that, in a meeting with President Jokowi in the Presidential Palace back in June 2015, AMAN and representatives from adat communities met with the President and pleaded that he personally ensure improved coordination between ministries and agencies under his regime. These efforts have not yet produced or changed anything. According to one activist, this is because ‘the state apparatus are all working, but not working together’ (Kompas 1/8/2016).

Second, although MK 35 has opened up new range of possibilities for adat communities, the process to actually implement the decision is still onerous and mostly suits the *Kabupaten/Kota* that are keen on moving on this. And on the contrary, making it easy for those who are not to stop or slow down this process. Therefore, the political success achieved by the Kasepuhan community in redefining their identities and the roles of adat communities in forest management might not be easily replicated in other locations. This is not to say that what happens with the Kasepuhan community could not be replicated in other communities. But it is contingent upon the flexibility of the local government. The Kajang community in the Bulukumba District, South Sulawesi is one of the examples. After several years of meetings, consultations and regulatory proceedings, on 17 November

⁴⁵ Joint Ministerial Regulation 79/2014 of the Ministers of Home Affairs, Forestry and Public Works and the Head of the National Land Agency

2015 or just a week before the PERDA on Kasepuhan was ratified, the DPRD of Bulukumba passed a District Regulation (PERDA) that recognizes and protects the land rights of the Kajang people. Very much like the Kasepuhan peoples' case, there had been unwavering support from the local government for the legislation process. For example right after MK 35, the district head issued a decree on the 'Formation of the Formulating Team for the Draft of District Regulation on the Recognition of Customary People in Bulukumba'. This decree was intended to formalize the contribution of numerous institutions to the formulation of the PERDA on Kajang people, which includes AMAN, CIFOR, Balang NGO and World Agro Forestry Centre (AgFor). This decree had enabled the legislative process to be truly participative so that it came up with a robust regulation on adat rights.

Third, the absence of a framework for national recognition makes it hard for adat communities at the local level to advance their rights. This is especially prevalent for those communities that face adversities from commercial interests, such as the palm oil and mining industries, and to force local governments to address adat communities' issues. Therefore, it is crucial to have a state law that would mandate all levels of government to legally recognise the rights of adat communities in their regions to give the adat communities the much needed stamp of approval from the state to accelerate, or even just to start the negotiation process. This is what is promised by the Draft Law on the Recognition and Protection of the Rights of Indigenous Peoples (*Rancangan Undang-Undang Pengakuan dan Perlindungan Masyarakat Hukum Adat- RUU PPMHA*). The adoption of this law should also significantly reduce the amount of land-related conflicts involving adat communities. RUU PPMHA is listed on the 2016 national legislative program (*Prolegnas*) of the national assembly (DPR), and President Joko Widodo also supports this piece of legislation. Yet, actual results are yet to be seen. Personally, I have little hope that this law will be passed in the near future due to the severe lack of effectiveness of the DPR. My pessimism is based on the fact that in 2015 alone, out of 37 laws listed as priorities, only two were passed (Kompas 1/8/2016).

8.4 Future challenges for the Kasepuhan Community

Meanwhile for the Kasepuhan community, their rights recognition implicates three things for their forest governance. First, it clarifies their legal standing in claiming their rights to resources in the eyes of the state. Their claim is now legitimate. However, law enforcement in Indonesia is notoriously sketchy (e.g., Nordholt and van Klinken 2007; Bakker 2009; Aspinall and Mietzner 2010; Hadiz 2010), to say the least, meaning the passage of a law does not necessarily lead to direct implementation on the ground. I imagine that a few logging companies that are now operating on a small scale within the vicinity would not be so keen to give up their access to resources in the area. There is also uncertainty about how the social and political dynamics between the national park management and the Kasepuhan people, who are now also the managers of the forest area, would play out. These are few of the uncertainties emerging in the wake of the PERDA on Kasepuhan. According to the latest research conducted by the Centre for International Forestry Research (CIFOR) on the relations between land tenure and livelihoods of indigenous communities in 2015, rights security does not end with tenure. It is important to scrutinise further to what extent the strengthening of rights produces new institutional arrangements and who wins and loses from the way land rights are committed on the ground (e.g., Meinzen-Dick and Mwangi 2009, Lawry, Samii et al. 2016).

Second, the PERDA clearly gives a bigger mandate for adat institutions in managing many aspects of Kasepuhan peoples' lives, not just regarding access and control to forest resources. This enables the Kasepuhan adat institution to have the autonomy to empower the Kasepuhan people. As I already discussed in the beginning of this thesis, the PERDA on Kasepuhan administers a wider range of adat rights, not just territorial rights. However, the impact of this greater autonomy to the well-being of Kasepuhan people in general is still unclear. In addition, there is also a question on: to whom is the power of autonomy actually being transferred? Would the regulation only be beneficial for the adat elites? According to the same study by CIFOR, advances in land and forest tenure reforms in recent years have not necessarily improved livelihoods for forest-dwelling community. It may lead to

negative social effects, including hindrance of women's access to land, displacements of the poor or others facing social or cultural barriers in the reformed regime.

Third, legal recognition puts the Kasepuhan people under the spotlight in regards to their claims to having environmental wisdom to manage forest resources. This subject is an important one for public discussion, because since the very beginning of the adat movement in the country, one of its main arguments has been that adat communities could prevent the 'tragedy of the commons' from happening. Would they really be able to rely on their ancient wisdom in the midst of various outside pressures? I would like to answer yes. But based on the reality that I encountered, I have to say that I have mixed feelings about this issue, particularly regarding gold mining activities that have been part of Kasepuhan life for several years. As I have discussed in chapter five, this activity is not just damaging for the environment, but also hurtful for humans. In addition, there is the problem of the unsustainable practice of swidden farming. I agree that swidden can be sustainable, but as the population grows each year, more and more people are farming in a smaller area. This, in turn, increases the loss of forest cover and the degradation of the remaining forest due to shorter fallow period. Especially now when the PERDA also includes clear forest boundaries, it also means there is only a limited amount of land that can be used. Meanwhile, the PERDA on Kasepuhan provides much in the way of rights, but not so much on the responsibilities. Granting rights without responsibilities can be dangerous. It would be interesting to see the impact of Kasepuhan peoples' forest tenure security upon the forest environment in Halimun-Salak region in upcoming years.

My narrative in this thesis have shown that the Kasepuhan people are gaining ground, but as I briefly touch on in the points above, gaining rights to their forest also creates new challenges. That said, I believe that this is just the beginning for the Kasepuhan people to move toward the livelihoods goals that they want to pursue. I believe that once rights recognition has been achieved, both NGOs and the local government must have a strategy – and allocate budget funds – to help the community to implement them. The critical point here is not to over-romanticise or over-simplify the reality that is happening on the ground, and instead to support the development of a solid and reliable self-governing institution and processes in adat communities and territories. To move this forward, it

needs commitment from all relevant stakeholders, which I hope that the NGOs and the government officials have on their disposal.

Kasepuhan have been lauded as an exemplar amongst the adat communities in Indonesia, especially by NGOs. In my narrative I have attempted to unravel the Kasepuhan community's success, connecting their own tellings of their myth, legends and history to their recent successes in securing authority over forest management. I have done so in the hope that the Kasepuhan people not only will continue to inspire other communities and NGOs in action, but also make them aware of the challenges involved in the effort to (re)claim adat rights. My narrative does not celebrate Kasepuhan people as an idyllic adat community, but it does provide an impression of the determined efforts of the adat community in extending their struggle for social justice in Indonesia's ever-changing state-society-nature relationship.

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