Land and authority: the state and the village in Pasir, East Kalimantan

Nearly five years after the implementation of administrative decentralisation in Indonesia, popular influence on governance has increased, especially at the kebupaten (district) level, where ‘local ways’ have become a hot topic in political discourse. But what are local ways and to whom do they belong? Can they be reconciled with national law? Consider land tenure, where district regulations and grassroots practice often differ: in Pasir, government and society are looking to tradition, national law and Pasir identity to redefine authority over land.

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Pasir is the southernmost district of the province of East Kalimantan, comprised of a flat coastal plain and a mountainous area in the Gunung Lumut. Most inhabitants are ethnic Orang Pasir who have recently shifted their cultural focus from nearby Central Kalimantan’s Dayak communities to the ethnically diverse coastal area, Islam and Malayu identity. Without its natural resources, Pasir would have been an inconspicuous peripheral district within Indonesia. Oil palm plantations and mining dominate the coastal area and provide work to migrants from throughout Indonesia. In the mountains, where communities of subsistence farmers live in villages comprised of small houses, community enforcers or practitioners ignore, or remain oblivious to, the other’s strictures. The illegality of communal claims does not stop the population from making them. In recent years national media exposure and the establishment of a network of adat claimants have helped increase the number of cases in which communal land are proclaimed by adat communities. The Minister of Agrarian/Head of the National Land Agency tried to address this in a 1999 regulation specifying conditions for the recognition of such claims and guidelines for their settlement (see also Slaats 2000; Sakai 2002). The regulation makes it clear that it is the districts that should investigate whether communal land claims exist within their district.

The Pasir district government enlisted a team of researchers from Universitas Hasanuddin in Makassar to conduct four days of field research in 2002, mainly on communal land claims. The districts are inhabited by large numbers of migrants. Although part of the team worked along Gunung Lumut’s periphery, no research was done in the mountainous region itself. Results showed clear differences among the areas studied, but final conclusions were presented in terms of a percentage of the whole region that adheres to adat by area, making existing claims appear insignificant. Thus, in 2003, the district government drafted a regulation stating that communal land rights effectively no longer existed in Pasir.

You’re not the state, we are

This, to many, did not reflect ‘local ways’. Three local NGOs, claiming to represent Pasir’s adat communities, immediately challenged the district government. The first was LAP (Lembaga Adat Pasir, or Foundation for Adat in Pasir), whose mission is to improve religious, medical and education facilities for all of Pasir’s population. The second, PEMA (Persatuan Masyarakat Adat Pasir, or Association of Adat Communities in Pasir), is a small Gunung Lumut organisation that puts its considerable knowledge of local circumstances to work on just about anything it finds relevant. The third, PBA-PDB (Persatuan Benuaq Adat – Paser Dayak Pasir), is another Gunung Lumut association that has its critics. Despite criticism, PEMA has effectively been able to utilise its influence over land disputes in the district. The two NGOs have tried to attract the attention of the government, newspapers, and Pasir society through demonstrations. Although both claim to represent adat groups, they have in fact little contact with them and rely on third party information to pursue their goal of influencing the government in Tanah Grogot – which, since both have supporters in and around the local government, they often achieve.

The two organisations will, like true politicians, co-operate to keep smaller NGOs small but are otherwise fanatical rivals. Given the choice between representing their clients and gaining political influence, both opt for the latter and take possible inconsistencies with ‘local ways’ for granted. Only PEMA has all links with the adat communities that local NGOs claim to represent. Based in the mountainous Gunung Lumut, this proximity to the grassroots results in the organisation’s isolation from the political nerve centre of Tanah Grogot, meaning that PEMA is dependent on LAP for access to the district government.

All three NGOs voiced their concern at a meeting organised by the district government to discuss the 2003 draft regulation. The government’s decision to address the NGOs’ protests is not mere opportunism. Most government officials are of migrant origin and identify little with Pasir society beyond Tanah Grogot. They co-operate with organisations that appear to best represent it – a pragmatist approach that endows government officials with popular support, but leaves them wary of opportunism and power plays from other popular elements including the very NGOs they co-operate with.

State? What state?

For the Orang Pasir of the Gunung Lumut mountains, the debate on communal adat lands was as irrelevant as every government official who ever passed through to confirm the existence of such lands. However, as in government-NGO relations, Gunung Lumut communities treat messages from the ‘other party’ pragmatically. When decentralisation began, village governments swiftly adopted the view that national law recognised their authority over land and forest in their adat territories. Although authority over forests has since been mostly reconcentrated to the districts’ Department of Forestry offices, some communities continue to issue their own logging permits. Similarly, the borders of a national forest reserve designated by the Ministry of Forestry overlap adat lands; some communities recognise its protected status while others hold their customary rights higher, depending on their ideas about preservation or exploitation.

A second example of this pragmatism is the size of territories claimed. Pasir’s National Land Agency, in accordance with national law, limited the amount of land that can be registered per family head to 20 hectares. But Gunung Lumut communities claim much larger communal adat territories, with the smallest claim at around 50 ha per family, no community has yet agreed to registration. However, many have mapped their territories and borders and some are attempting, with varying success, to persuade government officials to sign these maps as an expression of alternative registration. Most communities express a keen interest in formal registration, but on a communal basis and for all of the territory.

Reconcilable differences?

Negotiation and the search for compromise are common ways of dealing with land issues in Pasir’s mountains. Mountain communities consider the district government as only one of many sources of authority, while the government’s administrative decisions show disregard for the existence of local traditional systems of land management. The two meet only through a chain of NGOs with varied local expertise and influence, but with a solid position in local politics. Although the local NGOs have gained a place in district politics, its relation to ‘local ways’ is not necessarily clear or direct. The physical and procedural distance between mountain communities and the district government allows for the communities’ locality to be politicised by outsiders, such as the LAP and rival PBA-PDB.

On the upside, district politics are certainly more influenced by local circumstances than they were before decentralisation. ‘Local ways’ are a platform for local politics and are regarded as such by local governments. However, in spite of what some politicians and outsiders may suggest, it is not about the district becoming subservient to local politics. The political experimenting currently taking place in districts throughout Indonesia has not yet led to stable results. Local people may gain influence in district politics, or a local political and economic elite may seize control after the New Order’s example. Pasir’s politics appear to be evolving towards the former, but it is too early to conclude that a new style of district government has been established.

References


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Indoneisa (Indonesian-Netherlands studies of Decentralisation of the Indonesian ‘Republikstaat’ and its impact on ‘Agraria’): a Dutch-Indonesian socio-legal research project focusing on institutional change in Indonesia’s fragmented administrative structure on the role of law in regional and local levels in Indonesia. The project studies how ‘guardian institutions’ such as courts and ombudsmen oversee the legality of the acts of newly empowered legislatures and executives, and how the new system influences ‘realistic legal certainty’ of common people, an in-depth analysis is made of the role of the national government’s ‘Agraria’ or Ministry of Agriculture’s ‘programme Indonesia in Transit’. Participating universities include Universitas Andalas, Universitas Gajah Mada, Universitas Airlangga, Universitas Paramadina, Leiden University and Redford University Nijmegen. A more detailed account can be found at: www.indera.leidenuniv.nl.