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 kabupaten (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 region. 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 Malay 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 for migrants from throughout Indonesia. In the mountains, where communities of subsistence farmers live in villages comprised of a small number of extended families, legal (and illegal) logging and ladang slash-and-burn farming are the main economic activities. Local custom and local agreements between communities, rather than national law or government policies, regulate access to land.

Pasir’s district government, based in the city of Tanah Grogot, is far away from the mountains. Because communication and administrative control are lacking, government policies and regulations frequently hold no sway in mountain villages. Moreover, mountain communities saw the New Order’s decentralisation project as a platform for local politics and were regarded as such by local governments. However, in spite of what some politicians and NGO officials claim, decentralisation has not 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 polities appear to be evolving toward the former, but it is too early to conclude that a new style of district government has been established.

Indore [Indonesian-Netherlands studies of Decentralisation of the Indonesian ‘Postcoffice’ and its impact on Adat’] is a Dutch-Indonesian socio-legal research project focusing on the impact of the new decentralisation administration structure on the rule of law and local levels in Indonesia. The project studies how ‘guardian institutions’ such as courts and customary law, are often applied in 1960, national land law is adat law, but the BAL does not define adat; it merely provides broad qualifications under which the validity of adat land claims may be overruled (see also Haven 1999). During the New Order, these qualifications were often applied to nullify adat claims regardless of their validity. Moreover, the BAL mentions only individual rights to land, whereas traditional rights are often communal.

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 community NGOs have helped increase the number of cases in which communal land are proclaimed by adat communities. The Minister of Agraria/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 Saats 2000; Sanji 2001). The regulation was often ignored or turned into a tool to investigate whether communal land claims exist within their district.

The Pasir government enlisted a team of researchers from Universitas Hasanuddin in Makassar to conduct four days of field research in 2002, mainly on the coastal plain. Government officials were concerned that large numbers of migrants live. 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 which was a breakdown by area, making existing claims appear insignificant. Thus, in 2005, the district government drafted a regulation stating that communal land in Pasir does not 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 (Pembinaan 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 (Pembinaan Baku Pasang, or United Adat People – Daerah Pasir Division), attempts to strengthen the position of the Orang Pasir by joining forces with Dayak organisations from other areas of Kalimantan.

Through a special partnership, LAP, though not well-known outside its base in Tanah Grogot, is the district government’s official liaison with all other NGOs – all, that is, except PBA-PDB. Also based in Tanah Grogot, PBA-PDB instead tries 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: all three 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 them – a pragmatic 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 decentralised 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 communal 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 estate 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 selection of discourse 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 Ministry of Forestry has gained a platform 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 politicized 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’ have gained a platform for local politics and are regarded as such by local governments. However, in spite of what some politicians and NGO officials claim, decentralisation 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 polities appear to be evolving toward the former, but it is too early to conclude that a new style of district government has been established.

References