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Introduction

The regulating agency of official law, by which I mean law promulgated by a

government which derives its authority from the state it represents, is not

uncontested.¹ In most states the medium of law is applied to provide official

norms of (il)legality to society yet, as is a central theme in anthropology of law,

other normative systems may exist in addition, or even in competition, with this

official normativity. Law gains meaning from what it authorises as much as

from what it forbids, making law and its negation opposites that define and

construct one another (Anders and Nuijten, 2007:12). As the rule of law

principle maintains that none is above the law (cf. Carothers, 1998:96-97),

governments included, control over which norms are law as well as over their

actual meaning are highly valuable strategic assets in power struggles.

In this paper I analyse the discourse used by an indigenous group – Dayak-

in the Indonesian province of East Kalimantan to substantiate customary claims

to natural resources.² This discourse refers to multiple legalities – official law

as well as indigenous norms – and is sustained by references to Indonesian

nationalism and regional community. Although these varied factors seem in-

compatible, they carry a long way in practice. As legal arguments are entwined

with local needs and ethnic interests, unravelling this Gordian knot is a daunt-

ing task for those government officials that have to deal with the claims. A

purely legal analysis hence is not sufficient in settling the matter. My interest

lies with the conscious and precise mobilisation of Dayak indigeneity in

arguing exclusive rights and maintaining the continued validity of norms

alternative to those of official law. I maintain that these appeals to indigenous

norms and the normative plurality that is invoked are politicized in a way that

exceeds the direct needs of most of the people in whose name they are fielded,

¹ Research for this paper was carried out as part of the Indonesian-Dutch INDIRA

project. I would like to thank Fakultas Kehutanan of Universitas Mulawarman,

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Advancement of Tropical Research (WOTRO) and the Adatrechtstichting

² Kalimantan is the Indonesian part of the island of Borneo. It consists of the

provinces of Central-, West-, South-, and East Kalimantan.
but that serves to effectively secure a zone of autonomy. Nonetheless this is a
dangerous strategy to follow. Ethnic relations form the fibres that make up the
Dayak cords in the knot, but what keeps them from untwining? Is ethnic unity a
strong enough base to successfully claim exclusive rights and the validity of
private norms in twenty-first century Indonesia? How do Dayak get away with
such claims in the national context? My main question in this paper thus is how
the strategic mobilisation and deployment of Dayak ethnicity in the obtainment
of exclusive rights functions, and what its results are. The issue whether such
deployment is in accordance with the law or can be seen as ‘just’ forms the
broader background against which the subject is considered.

Claiming Dayak ethnic rights is a strategy that balances Indonesian national
unity, indigenous rights and local interests. Official law is, as may be expected
in a nation of which the government claims to adhere to the rule of law, the
main regulating agency as far as the state is concerned. The above questions
thus need to be considered from a socio-political as well as from a legal per-
pective. My point in undertaking such an exercise is to explore the relatedness
of these two and the dependence of local juridical circumstances on the balance
of power in politics.

Research Methodology
This paper is based on field research carried out in a series of visits to West and
East Kalimantan between 2004 and 2009. This research was concerned with the
legal aspects of land tenure as well as with the socio-political dimension in
which such tenure was to be realized. The two differed markedly, and showed
that especially at lower levels of the administration political influence and
social power were major factors that could overshadow official law. Most of
the data used for this paper was collected through semi-structured interviews
with a diverse range of respondents; farmers, regional and provincial adminis-
tration and police officials, NGO activists, indigenous leaders and judges.
People were quite willing to share their thoughts, hopes and annoyances regard-
ing Indonesia’s legal system, its government, society and future. Yet what
people say and what they do can be different. Hence the research included long
periods of participant observation. For the cases discussed here this meant
attending demonstrations, NGO and Dayak organization meetings, sitting in on
discussions between Dayak spokespersons and government officials, and
spending days in the offices of both, observing and discussing their courses of
action. The fieldwork was complemented by keeping an eye on regional
newspapers, a major source of information for all parties involved, and by
reading government reports and local Dayak magazines.

The Limits of Indonesian Unity

During the New Order, the regime led by President Suharto that ruled Indonesia
for over three decades, the metaphor of the family was regularly applied in
referring to the nation. The New Order regime was an autocracy, albeit one in
which the population was likened to one big family headed by ‘father’ Suharto.
Gaining influence and power meant gaining Suharto’s favour, and Suharto was
careful in selecting his confidants. The ‘family’ was ruled with a strong hand as
the regime maintained its power base through the careful distribution of favours
to win and maintain the loyalty of key sections of the administrative and
military elite. Suharto allowed these to benefit economically from their loyalty,
making the New Order a strong example of Weberian patrimonialism (Webber,
2006:409) as well as reminiscent of a family business in which not all siblings
have equal positions. The patrimonial pyramid, of which Suharto formed the
pinnacle, comprised the higher classes and elites throughout the nation. The
middle class was divided in groups reinforcing the authoritarian character of the
administration and others favouring a more liberal democratic leadership. A
large and expanding working class supported the pyramid, and witnessed the
nation’s growing wealth with interest. As reforms for this class were piecemeal
and slow, analysts believed it likely that working class discontent rather than
middle class mobilisation would grow to demand a change of regime (Hadiz,
1994; Berger, 1997).

Suharto was often accosted by his nickname ‘bapak’ (father) in the media
and at public gatherings. He and his family directly symbolised the unity and
harmony of the Indonesian population. Yet the image was not without its
weaknesses. The president's biological children were famous throughout the
nation for their unscrupulous abuse of their position and regarded with
ambivalence – at best – by the vast numbers of symbolic siblings that did not
share in the family's wealth. The metaphor of the presidential family as a
symbol for the nation took on an eerie predictive side in 1996 when ibu
(mother) Tien, Suharto's wife, died of a heart attack. According to persistent, if
unconfirmed, rumours, her condition was brought about by witnessing a violent
quarrel over competing businesses between two of her sons. Yet another
version of her death, discussed widely on the internet, has it that these sons
were about to go at each other with guns. Their mother stepped between them
and got shot by accident. My point here is not to determine the exact nature of
Ibu Tien's death; it is to consider the symbolism of the violence which popular
opinion holds to have torn apart the one family representing the harmony and
unity of all of Indonesia’s population. Suharto, now a widower, no longer
headed a family that could represent the unity of the nation (cf. Suryakusuma,
1996). The family was damaged, possibly from the inside out. If even the
president’s children could have gone as far as killing their own mother, what
was to maintain the grand family of the nation? Why indeed would not a new
generation disperse with the concept of a symbolic national family and shift
their focus towards their actual siblings?

Indonesia, as a state, consists of a plurality of ethnic groups with highly
quite diverse languages, cultures and religions that are mainly united through a
collective shared past as the Dutch East Indies. National unity and identity are
largely based on this common past and on the fight for independence, and are
largely considered as failing to attain the same binding powers as ethnic and
regional affiliations. When Anderson (1991) proposed to consider nations as
imagined communities – imagined because one does not know all other
members of one’s nation in person, community is not part of daily experience –
he frequently referred to Indonesian nation-building for illustrations. The
Laurens Bakker

diversity of languages was overcome by the introduction of a new, national language (*Bahasa Indonesia*). Differences between religions and ideologies were solved by formulating the state philosophy of *Pancasila* as the nation’s supreme ideological base, yet creating a uniform legal framework proved more problematic. Groups throughout Indonesia place emphasis on the validity of local custom (*adat*) as a source of rights. In the colonial past, *adat* was officially considered as valid law for the native population in most private law affairs. Non-natives were governed by other, non-*adat*, legal systems. Upon independence, this official legal pluralism was replaced by a single system of national law in which the status of *adat* became mainly symbolic and subjected to general interest as define by government. In practice *adat* norms remained valid throughout rural areas and a type of unofficial legal pluralism ensued (see Burns, 2004:249-251; Hooker, 1978:20-29). As we shall see below, rights derived from state law and *adat* interests frequently opposed one another in affairs pertaining to land and natural resources, giving rise to grievances in those population groups that maintained the validity of their *adat* rights. From 1999 onwards, reform of the national administration and far-reaching changes in government provided such groups with opportunities to mobilise their claims.

*Reform*

When the Southeast Asian economic crisis of the second half of the nineties hit Indonesia, it severely impacted the dispersal of economic favours on which New Order power was based. Support for the regime dwindled as aspiring members of the elite, politicians and high ranking army officials began to consider alternative power constellations. Moreover, large parts of the population – the poor who were directly affected by the crisis, intellectuals and social leaders critical of the unequal and authoritarian New Order rule – began to demand changes. Demands turned to large scale protests and riots and when it became clear, in 1998, that Suharto no longer had the full support of the military and political elites, he stepped down as President of Indonesia.

Suharto’s successor, vice-president Yusuf Habibie, was faced with the daunting task of keeping the Indonesian state together. The metaphor of the nation as a family was shelved in favour of no-nonsense political and administrative emancipation of the Indonesian population. In two 1998 laws known as the ‘regional autonomy laws’, far-reaching administrative powers were decentralised from the national level to that of regional government. In addition, government control over the establishment of political parties and over the press was considerably lessened.

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4. Indonesia’s administrative levels consist of the national level, below it the provinces, and below these the regions. At the time of writing some 450 regions existed (see http://www.bps.go.id/ for the current state of affairs).
The regional autonomy laws preserved the unity of the nation as they provided regional governments with far-reaching authorities. Article 7 of Law 22 decrees that regional government will not have authority over foreign politics, defence, security, the judiciary, religion and fiscal matters, but the law does not contain a positive definition of the new regional authorities. These vague descriptions of authorities led to a wide diversity in interpretation and application throughout Indonesia’s regions. Whereas the substance of the regional autonomy laws has since been elaborated in various presidential decrees as well as a set of revision laws, weak central government control over regional administrations allowed ample space for local power holders to ensure that implementation suits their interests (cf. Schulte Nordholt and Van Klinken, 2007:11-15; McCarthy, 2004: 1199-1201). Revised versions of the regional autonomy laws where promulgated in 2004. Whereas these laws contained more precise delineations of the authorities of regional government and clearly defined a more prominent role for the provincial level, they also stipulated that in addition to the members of the regional parliament, the head of regional government henceforth was to be elected directly by the population. This is an important change as it established a direct connection between the district head and the population. In East Kalimantan this made for candidates waging extensive campaigns and establishing far-reaching cooperation with local interest groups. Popular influence was entering politics.

The Rise of Ethnic Rights

Indonesian law recognizes the existence of adat claims, notably in relation to land and other natural resources. The Basic Agrarian Law, for instance, mentions adat claims as potentially valid rights to land, although various limiting conditions do exist (see Haverfield, 1999:51-4). Observance of adat rights, however, hardly goes beyond lip service. National legislation either contains references that do not have consequences, or leave adat rights conspicuously absent in laws where definition of its legal validity would appear essential. That is not to say that adat does not hold sway. In large parts of the archipelago access to land, forest, water and so on is arranged based on local adat. State administration has never provided a system that satisfactorily could replace local custom, and its representatives have never been able to instil state law throughout the nation. In many areas, therefore, adat rules exist as an alternative normative system to official law.

Under the New Order adat – in the meaning of tradition – was incorporated in the regime’s appreciation of Indonesia’s cultural diversity. Cultural and ethnic traditions were highly appreciated provided they remained folkloristic (see Acciaioli, 1985:162). Song and dance were fine, but politicisation or any

5 For a more extensive discussion, see for instance Suharyo (2000:8-14).
6 Laws 32 and 33 of 2004.
7 The regional head used to be appointed by the regional parliament.
8 See Bedner and Van Huys (2008) for an overview of the position of adat claims in official legislation.
other type of mobilisation was sternly discouraged. The perception of adat as a source of rights was sternly discouraged, even insofar as national law contained instructions to take adat claims into account. Enforcement of national law was limited and coloured by the interests of the regime and, as MacIntyre (1991:17) notes, ‘largely unfettered by societal interest’. Results of appeals to official law were unpredictable.

The end of the New Order regime brought the social role of adat claims to the fore with a vengeance. Throughout the nation communities maintained adat-based claims to lands which had been taken into use for regime-sponsored projects.

In opposite direction to government decentralisation, the adat movement centralised on the Jakarta-based National Alliance of Adat Communities (Aliansi Masyarakat Adat Nusantara, AMAN), an organisation which strongly refers to a discourse equating the position of Indonesian adat communities (masyarakat adat) to those of indigenous communities worldwide (cf. Li, 2000:155-157; Budiman, 2005:3-9). Although this is a strategy that ensures international support its effect is questionable; the government’s position is that all Indonesians are indigenous and therefore no exclusive rights can exist.9

Yet not all groups making claims based on adat do so in reference to the nationwide adat movement. With considerable administrative authority largely beyond the control of the centre at the regional level of government, arguing adat rights at this level is a strongly favoured alternative (cf. Henley and Davidson, 2007; Acciaioli, 2009:94-97). In the view of Indonesia that takes Java (more specifically Jakarta) as the centre of the nation, many regions within Indonesia are peripheral or semi-peripheral. During the New Order this meant that the regions acted upon the central regime’s instructions (Connor and Vickers, 2003:156-157). Now, however, the regions dispose of considerable space for local initiative, including matters of adat. The close proximity of administrative authorities to the region’s population, their dependency on local support for their position and the ensuing possibility of have members of local ethnic minorities forming significant blocks in the regional administration makes that ‘keeping things in the family’ can be a far more efficient course of action to get adat claims and other local interests officially supported.10 Such localism takes in the indigenous argument as well. ‘Putra daerah’ (sons of the soil) status is often fielded in support of adat claims. The claimants are not interested in some form of indigenous status on the national level; they emphasize their indigeneity at the local level and accost the regional or provincial governments. West Sumatra, for instance, is a well-researched case in which the rise to prominence of the ethnic Minangkabau majority in the local administration (F. and K. von Benda-Beckmann, 2001) and attempts to

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implement official observance of the Minangkabau adat property system (F. and K. von Benda-Beckmann, 2004) are evident examples. In Nunukan, East Kalimantan, the Dayak Lundayeh have obtained official recognition of their adat-based communal land claim, while authority in affairs pertaining to this land has been vested in local adat leaders (see Bakker, 2007:166-168). Likewise, Central Kalimantan’s provincial government followed bloody ethnic fighting between local Dayak and Madurese migrants – which ended in a decisive Dayak victory – with legislation showing a strong bias towards Dayak adat rights.11

Ethnic groups attempting to obtain governmental recognition of adat rights – a matter with a certain, if poorly determined, foundation in official law – thus approach the issue in various ways. A major strategy is by referring to the general, international discourse of indigenous peoples rights that appeals to the morality of the state and that is aligned with civil action groups, NGOs and other groups willing to openly criticize the government. Another approach sees ethnic groups attempting to harness government authority to further their goals, rather than following a strategy of open opposition. In various regions the validity of adat rules is boosted by recognition and support through official regulations, yet raises questions as well. Is the recognition of adat a valid line of action for a democracy reinventing itself after decades of authoritarianism? If the New Order regime maintained control through the appropriation of national law, than how does the rise to the fore of local adat systems differ from such exclusivist normativity?

**Defining Dayak**

‘Dayak’, as an ethnic category, originated as a pejorative term used by Bornean coastal dwellers to refer to interior and upriver pagans. It was appropriated by the Dutch and English colonial administrations respectively (King and Wilder, 2003:209). By the time of Malaysian and Indonesian Independence, the term was firmly in use as an ethnic and religious distinction that designated the non-Muslim, non-Malay original inhabitants of Borneo, who generally live in the interior of the island (cf. King, 1993:29-30). The foreign origin of the term is illustrated in Sellato’s (2002:3-10) work on ‘Dayak Cultures’. Apart from incidental generic usage, Sellato shows how those considered to be ‘Dayak’ distinguish among themselves dozens of ethnic groups and sub-groups, each having its own proper name, who often do not see themselves as related to one another in any way.

11 After plans to promulgate official legislation prohibiting Madurese to live in Central Kalimantan proved impossible to carry out under Indonesian law. See for instance the entries in the Dayak blog www.e-borneo.com of 14 September 2001. The resulting legislation (Provincial Regulation of Central Kalimantan 9/2001) makes it clear that all in the province must respect local adat and follow the instructions of adat leaders, and that the adat in question is Dayak adat.
The term had derogatory qualities. Among coastal dwellers Dayaks were known for their fearsome half-naked appearance and their head-hunting raids, the gruesome trophies of which were retained to adorn their longhouses in the forest. ‘Dayak’ therefore traditionally evokes associations of backwardness, dirtiness, violence and barbarism (Peluso, 2003:206-207). Missionaries added their bit to Dayak identity by converting the Dayak majority to various creeds of Christianity – from staunch fundamentalists to more syncretic versions in which Christianity merged with indigenous beliefs.

It was (and is) possible for Dayak to shed Dayak identity. Dayak can become Muslim, take a Muslim name and associate with Malays – a process known as masuk Malayu (to enter Malayness). Over time they will be considered Malay, rather than Dayak (Sellato, 1989:20). Many of the Brunei Malay, for instance, originate from the indigenous population inhabiting Borneo’s western coast who joined with Muslim settlers (King, 1993:31). 

Masuk Malayu had its advantages for those Dayak wanting to rise in the Malay-dominated civil service and government of Indonesia’s Kalimantan, or otherwise become more fully accepted into the coastal societies. Yet, as Tanasaldy (2007:361-369) and Widen (2002:116-120) show, from the early 1990s onwards and following the fall of Suharto and reformasi, Dayak throughout Kalimantan – but notably in West and Central Kalimantan – gained in ethnic confidence. This culminated in, among others, the dramatic Dayak-Madurese fighting in those provinces. Newly found confidence encouraged converted Dayak Muslims to hold on to or even revert back to their ethnic identity rather than become Malay (Chalmers, 2006:19-22).

Dayak Unity

The June 2007 inflight magazine of Garuda Indonesia, Indonesia’s national carrier, is a special issue on the culture of the main indigenous group of Kalimantan, the Dayak. In one of the articles, a report on the Dayak Isen Mulang festival in the province of Central Kalimantan, Sari Widiati (2007:22) writes:

‘Even though the festival presented only a small part of the tremendous range of Dayak culture, including how the Dayak have acculturated with newer arrivals in the region, it brought together people from around the province to gather and compete in a sportsmanlike way, displaying the ‘never give up’ spirit that is the meaning of the phrase Isen Mulang.’

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12 Christian Dayak working with the local government in Pontianak (West Kalimantan), at the provincial governor’s office of East Kalimantan and at a number of Kalimantane universities pointed out to me that senior functions were always filled by Muslims, not by Dayaks. They experienced their ethnicity and religion as factors limiting their career possibilities. However, in districts with a more or less equal division between Dayak and non-Dayak, such as Kutai Barat or Nunukan (both in East Kalimantan), a similar division among ethnic lines of positions within the local bureaucracy guaranteed stability within society.
No doubt the festival was a joyful occasion. Yet the illustrating photographs of men shooting blowpipes and dancing with *mandau* (a Dayak sword) will remind others of the 1997, 1999 and 2001 unrests in West and Central Kalimantan, when Dayak and Malayu warriors forcibly evicted Madurese migrants, leaving hundreds dead. Reasons stated for this outbreak of violence are diverse. Dayak apologists such as Giring (2004) and Widen (2002) emphasise continued Madurese crime, general rudeness and violence; not just against Dayak but against all ethnic groups in Kalimantan. As the local indigenous group, the Dayak were the *tuan tanah* (literally ‘lords of the land’, but also meaning hosts) to the other groups. A host politely forgives well-meaning guests an unintended mistake, the apologists argue, but after years of patiently enduring Madurese misbehaviour the Dayak had no other choice but to clear their lands of these criminals. Yet others see a more profound background. Davidson (2003:63, 65-67) points out that Dayak-Madurese conflict has a long history in Kalimantan. Davidson discerns economic interests as well as attempts by both groups to become influential political entities, and concludes that an internalised ‘us’ versus ‘them’ is a strong part of the conflicts’ origins. De Jonge and Nooteboom (2006:471-472), two researchers approaching the issue with considerable attention for the Madurese perspective, point to similar issues by emphasizing competition over resources as well as elites’ attempts to obtain powerful positions in the post-Suharto political climate. Achieving major political power in a competitive society required a defeated or subdued opposition; a role for which long-standing enmity ideally positioned the Madurese. Yet in East Kalimantan, which also has Dayak and Madurese groups among its population, no such conflicts occurred. The violence that took place in Central and West Kalimantan was not denounced or opposed by East Kalimantan Dayak groups. A policy developed among East Kalimantan Dayak organisations to condemn ethnic violence in general, but present it as a realistic threat, after which they would state their willingness and ability to protect East Kalimantan society from its threat. This approach served to improve the local position of Dayak groups to match the level of Dayak power in West and Central Kalimantan. As a result, the political importance of such organisations and Dayak standing in general increased in East Kalimantan. Real and visible relations to the victorious Dayak fighters in other provinces was essential to substantiate this rise in prestige.

**The Rise of Pan-Dayakism**

Ambitious elements within the Dayak movements aim to mobilise a pan-Dayak identity that unites Dayak groups into a coherent social force vis-à-vis non-Dayak (Thung et al., 2004) and, when deemed necessary, against the state. Education, telephone, the internet and other modern means of communication enable such developments. The need for Dayak cohesion, its supporters feel, is bigger than ever. Government development plans hold little space for *adat* rights, while the numbers of non-Dayak living on Borneo put pressure on Dayak lands and traditions. The grounds for pan-Dayakism thus are in place:
threats to Dayak cultures, livelihoods and territories. A number of potentially unifying arguments can hence be distinguished.

First is the ethnic argument, which presupposes the existence of a coherent Dayak identity that is indigenous to Borneo. Asides from various other indigenous groups – such as Malay in West Kalimantan and the Banajarese in the south – many of Borneo’s inhabitants are immigrants who have settled in Kalimantan, often without indigenous consent. In many areas, migrants are so numerous that Dayak and other indigenous groups have become minorities, and fear that what is left of their culture and lands will be swallowed up by new arrivals and government development. Yet, Dayak activists argue, they are the Putra Daerah, the ‘sons of the soil’. They belong to the place, contrary to others, and as sons from this same mother are related by a kinship that goes beyond regular bloodlines.

Second is the legal argument, which concerns illegal or unjust use of Dayak lands. As many Dayak live in rural areas with limited access to education, general ideas about law and legality are largely formed by local normativity, generally based on adat. Legitimate actions undertaken under national law which negatively influence local arrangements – for instance migrant resettlement or the construction of plantations – are frequently considered as illegal or at least unjust practices. Such actions are seen as abuses of state power controlled by an abstract elite of (non-Dayak) state officials. As a direct result the legal argument sees Dayak lands as illegally limited by the state, personified by non-Dayak migrants and mining, logging or plantation companies.

Closely related to the legal argument is a third, economic, issue. Over the past decades, the central government granted (inter)national companies permission to log Kalimantan’s extensive forests. Although these forests were subject to adat rights, profits failed to trickle down to the Dayak groups living in the areas. In addition, the workers carrying out the actual logging are usually immigrants brought in for the job, offering few local Dayaks the chance of a job with the companies. For many Dayak groups the forests provide additional produce through hunting and gathering, and are the main land available for laying out new gardens and rice fields. The type of rice farming conducted in much of Borneo’s interior is dry rice farming, or shifting cultivation. After using a plot for one or two years it must remain fallow for at least five years to recuperate. Fields are cleared on a yearly base in the forest, thus making it necessary for a small group to have access to a relatively large plot of forest in order to sustain itself. After logging many forest areas have been transformed into large monoculture enterprises of rubber or oil palm, thus limiting the land and forest available for shifting cultivators. Many local protests were staged, although few were successful. A higher level of mobilization, it is felt, might put more weight in the scale and address these significant violations of adat.

Nonetheless, ambitions to mobilise a pan-Dayak identity are hampered by the inherent high level of abstraction this requires. Most rural Dayak first consider themselves to be part of a specific sub-group rather than of a united Dayak whole. The numerous Dayak groups are divided by different languages, customs, religions and a plethora of diverse local adat rules, with many groups having histories of communal warfare. In addition, the political make-up of
Borneo means that Dayak groups are citizens of three different nations – Indonesia, Malaysia and Brunei – while they do not constitute a majority in any of them. Developments in West and Central Kalimantan have shown Dayak groups to unite in dealing with other ethnic groups, but this appears to be brought about by opportunism and personal ambitions rather than by conscious planning.

The uniting abilities of Dayak ethnicity thus face problems similar to those of Indonesian national identity. However, whereas the metaphor of the family sat problematic within the context of the nation, it holds more validity in uniting Dayak. Actual inter-group relations and marriages are quite common and the increasing presence of non-Dayak interests on Borneo provides an actual factor to unite against. Dayak identity, contrary to national identity, thus gains strong meaning by contrasting it with a concrete and nearby other group. As a consequence, the discourse of Dayak identity thus contains strong drives going against the discourse of national unity. The main issue, then, is whether Dayak unity has stronger uniting powers than the ‘national family’ does.

**East Kalimantan Dayak Politics**

East Kalimantan Dayak organisations actively ally with West and Central Kalimantan Dayak groups in projecting the potential of united Dayak to East Kalimantan’s government and society. The organisations’ existence is legitimised through appeals to customary or indigenous rights as well as by references to political muscle, for these broad alliances claim thousands of members.

Possibly due to this need for association, East Kalimantan has some highly developed ‘Pan-Dayak’ groups; notably the DADK and the PDKT. The Dayak Adat Council of Kalimantan (Dewan Adat Dayak se-Kalimantan, hereafter DADK) is based in Balikpapan and regularly fields Dayak adat as an argument to counter or influence the provincial government. The DADK has considerable success in obtaining indemnifications for usage of Dayak adat lands from the government or from companies, and ensures a Dayak voice in the province’s economic policies. This includes decisions as to the locations of new plantations and mines, as well as to the percentage of local workers that companies will be made to hire. Locating new projects on adat land and reserving jobs for local Dayak workers are strong courses of action, as they favour the area’s economy. However, claiming the validity of adat and legitimising the DADK’s position as an organisation empowered by adat authority only works if sufficient individuals support this thesis. In order to convincingly argue the legitimacy of their arguments, the DADK hence needs actual Dayak support. The organisation mobilises along such bonds as unite the Dayak groups to obtain the numbers, community, ethnicity and religion, as well as through the notions of justice of Dayak legal consciousness. Legitimacy must be established vis-a-vis the government and the non-Dayak population, yet requires confirmation from the large and diverse mass of Dayak communities. However, the accessible level of regional government offers ample opportunities to claim representative powers without the need to deliver
actual proof. Connections in government, military or police circles can be of greater importance than actual grassroots support (e.g. Bakker 2009).

The second organisation is the East Kalimantan Dayak Association (Persekutuhan Dayak Kalimantan Timur, or PDKT). Established in the late nineteen nineties, this is the oldest Dayak organisation in the province. The PDKT lobbies for proportional Dayak representation in the administration and in government and has established close links with officials at the provincial level. The PDKT’s situation is a strong example of the type of internal problems that Dayak organisations must deal with. Schiller (2007:70-75) describes how during a major PDKT seminar in 1999, participants’ diversity in religion, adat and even in cultural symbols were problematised to the extent that they prevented the formulation of a baseline of common Dayak interest and the design of an organisational coat of arms. No Dayak group would go so far as to leave the PDKT as the organisation was the main Dayak vehicle in the province at the time, but inter-group rivalry and distrust discouraged commitment and prevented the foundation of an authoritative organisation. Nonetheless, the meeting managed to empower its board to engage with relevant political issues in the province.

In 2003, the PDKT board asked the Dayak to vote for a specific pair of candidates – Suwarna and Ngayoh – in the provincial governor and vice-governor elections. The pair won, putting the PDKT in a good position with the provincial authorities but, paradoxically, in a poor light with its young supporters. Many young urban Dayak, fresh out of the protests and turmoil that ended the New Order regime, considered a close link to government officials too similar to the patronage they had just protected against. Moreover, they argued, such links made it impossible for the PDKT to speak out on issues that were crucial to its grassroots support, but sensitive to the government (Thung et.al. 2004:59-63). Urged on by these urban activists smaller regional Dayak organisations began to oppose the influence of the PDKT. They maintained that the organisation had become estranged from its rural roots by engaging with the government rather than supporting the Dayak subsistence farmers affected by government land usage. The PDKT board attempted to counter this development by inviting regional Dayak leaders and adat specialists on its board or in its advisory panel, yet to its young critics this strategy again brought associations of New Order policies, which also frequently used incorporation as a means to silence opponents, to mind.

Internal Division
In 2001 the DADK was established. Among its founding members were the rector of Balikpapan University, the founder of Balikpapan’s chapter of the Evangelical Gereja Injil Church, and an influential adat leader of the Dayak Lundayeh who also was a retired, but still connected, police officer. Working through the church, the student community, and the network of adat leaders, the DADK swiftly became well-known throughout the province. Initially the DADK and PDKT existed side by side. The DADK focussed on solving issues among the Dayak population according to Dayak adat and did not involve itself with district politics. However, as many of the issues they had to deal with
involved government authorities, contacts between government officials and the DADK became frequent. The DADK explicitly referred to the prominent violence in West and Central Kalimantan and their abilities to control tempers in East Kalimantan. This made East Kalimantan authorities decide to involve the adat-touting DADK, rather than the less outspoken PDKT, in mediating conflicts. The DADK carefully managed its image and contacts. In 2004, the chair of the DADK board had a meeting with then President Megawati Soekarnoputri, during which the nature of Dayak identity and the commitment of the DADK to the unity of the Indonesian state were discussed. In 2005 a similar visit was paid to her successor President Susilo Bambang Yudhoyono. Both occasions were covered in East Kalimantan media, ensuring the DADK of a reputation as an organisation that had contacts in the highest regions. East Kalimantan police and military already had begun making incidental request for DADK mediation in potential conflicts, Dayak parties now followed suit as well.

In 2004, the DADK board decided to honour its name and formally establish its Kalimantan-wide scale. Under the chairmanship of the board, delegations from Dayak adat organisations from all four Indonesian Bornean provinces joined to discuss issues related to the Dayak community in a formal conference in Balikpapan in November 2004. The meeting encountered problems similar to those which Schiller observed at the 1999 PDKT meeting. Again the participants’ cultural and religious diversity, as well as the problem of suitable symbols and the number of each group’s representatives dominated the discussions. However, East and Central Kalimantan’s representatives had already reached agreements in a series of meetings preceding the conference. Conference participants received a list of decisions which the board proposed on the composition of the DADK (including deciding the members of the board), and combined Central and East Kalimantan support ensured a swift passing.

A main obstacle was the absence of West Kalimantan’s representatives whose flight had been gravely delayed, and who only arrived halfway through the meeting. West Kalimantan’s contingent sought – and received – a review of passed decisions, thus distinctly showing the world the lack of Dayak unity.

Such a lack was also apparent in the absence of a fair number of local or regional Dayak organisations. Board members of the PDKT had cautioned against joining the DADK since the organisation could destabilize Dayak-government relations. Critics claimed that the PDKT board simply feared to be eclipsed by the DADK, but other large Dayak organisations shared the PDKT’s reservations. The general secretary of the powerful National Dayak Adat Community (Masyarakat Adat Dayak Nasional) from Central Kalimantan had joined the DADK’s founding board, yet the influential leader of the National Dayak Adat Council (Majelis Adat Dayak Nasional), Agustin Teras Narang – a

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13 Cases included disputes over land, natural resources, and the matter whether non-Dayak should be allowed (or forced) to settle disputes with Dayak according to Dayak adat.
member of the national parliament and a heavyweight in Central Kalimantan’s Dayak society – refused to join a potential competitor to his own organisation. The founding board took great care to emphasize the organisation’s all-Dayak character. A new chair originating from West Kalimantan was elected and the organisation of a follow-up conference in that province was planned.

*External Unity*
Whereas the PDKT largely refrained from references to Dayak as ‘family’ or ‘relatives’ and limited itself to speaking of ‘the Dayak’ without explaining who they meant by this, the DADK restyled kinship-symbolism to fit the Dayak imagery. Rather than as siblings, the Dayak were depicted as a ‘tribe’ (suku) that consists of various sub-tribes. Dayak relations were not those of a ‘family’ but rather resembled those of a Dayak long-house, of which part of the population would move away when too many inhabitants had to share the same accommodation and found a new long-house. The houses were independent, but would maintain relational ties. The constellation thus was far looser than that of a family, but nonetheless implies relatedness vis-à-vis the rest of Indonesian society. Inter-Dayak relations connected all Dayak communities, but not within the straight, authoritarian framework of the ‘family’ metaphor. The ‘tribe’ and ‘long-house’ symbolism also contained a message to the nation: the Dayak were part of the Indonesian state as fellow-citizens and neighbours, but not as children subservient to non-Dayak parents.

The DADK 2004 conference showcased a new addition to Dayak movements that emphasised this independence; five men dressed in military camouflage outfits wearing red berets guarding the entrance and exit doors of the meeting room. Although unarmed, their authority was clear. These five were the first members of the Kalimantan Dayak Adat Defence Command (*Komando Pertahanan Adat Dayak Kalimantan*). A group established to safeguard and regulate adat related meetings, to police the Dayak adat community and discipline perpetrators of adat rules. A large founding ceremony for this group, which would resort under the command of the DADK, was announced for the next year. In the light of the violent developments in West and Central Kalimantan, one would expect the Adat Command to be met with suspicion from the authorities. This hardly was the case. A day before the conference, the head vicar of the Samarinda episcopacy publicly urged the DADK chair to fight ignorance, neglect and poverty. The chair replied that the *Adat* Command would have an important role in controlling Dayak in case of social unrest and thus contribute to the safeguarding of the peace in East Kalimantan. Basing themselves on this statement, the provincial government and provincial police forces stated their support for the Dayak Command.¹⁴ Whereas the *Adat*

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¹⁴ The official founding ceremony of the KPDK in Balikpapan in February 2006, was attended by representatives of the city council and the mayor, the provincial army command and provincial police forces, all congratulating the DADK on the establishment of this security wing. In Balikpapan alone the KPDK had 400 enlisted members.
Command became a social force in conflicts throughout East Kalimantan and Dayak prominence was clearly on the rise, the link with government was steadily maintained.

In 2006 things took a sour turn when West Kalimantan Dayak leaders decided to start yet another all-Dayak organisation and declined to continue working within the framework of the DADK. The West Kalimantan Dayak argued that the DADK had grown too close to the government, and could no longer be seen as an independent organisation with Dayak interests at heart. Division threatened, and came to the fore in 2008. In a new round of elections for East Kalimantan’s governor and vice-governor, the DADK and the PDKT – which was supported by the new West Kalimantan organisation –, urged their supporters to vote for different pairs of candidates. The Dayak vote was splintered and both organisations’ aspiration of getting a Dayak governor in office failed to materialize.

**Negotiating Normativity**

Dayak attempts to ensure recognition of *adat* normativity and *adat*-based claims by greater Indonesian society are furthered using three quite different discourses which are interwoven or separated as circumstances require. First, claims are formulated in the universal terms of indigenous rights. The *Putra Daerah* concept strongly appeals to native status; who can be more indigenous than those who have the land itself as their (symbolic) parents? The problem with this discourse is that it appeals to an international moral argument, but that indigenous status is not a concept that brings special status in Indonesian law. Claims stand a better chance if they are phrased in terms of official law as well, not the least because framing claims in this way implies adherence to the official legal system and acceptance of the state as the highest authority (Minow, 1997:355). Dayak organisations do not threaten to leave the unity of Indonesian society; in fact they submit their grievances to its judgement. But do they? In another, more sceptical reading of affairs it can be argued that organisations’ strategies concern the harnessing of state authority to serve the interests of the Dayak community rather than those of society as a whole. The discourse of adherence to the state thus symbolises unity and belonging, but in practice it may also signify awareness of modern power-relations and the usefulness of control over the state’s authority. The third discourse, which engages with national reform, makes use of both these other lines of reasoning. It refers to the ousting of corrupt New Order politicians from government and their replacement by new officials who will do better in representing the interests of society. Dayak organisations publicly support reform politicians and presidents, and encourage their membership to vote for reformists. Obviously this is also where Dayak opportunities are located. The closed elite under the New Order would not allow ethnically inspired and non-aligned movements to gain influence at any level of government, whereas reformed administrative procedures and makeup of local government allow considerable possibilities for Dayak interests to enter the previously reserved circles of government officials.
Yet these various discourses, essentially three different roads to the same destination of greater space for Dayak adat and interests, must take two especially problematic aspect in their stride. First is the official legal stance towards adat. As stated before, adat rules and claims are mentioned in various national laws. Ostensibly as a source of rights, but as Bedner and Van Huis conclude (2008:186-190), this is no forgone result. In order to remain valid and relevant, customary norms are as much subject to change as national law is. The adat of a century ago was not concerned with group rights vis-a-vis the state or fellow Indonesians. Nor was there much need or – during the New order, space – to rephrase adat rules in the context of the modern state. Whereas reform provided the opportunity to demonstrate the continued existence and viability of adat rules in communities throughout Indonesia, this was often not the adat described in the tomes of the adat scholars of the colonial era. Custom and customary authority are vulnerable to abuse. A strong argument which government authorities frequently field against the recognition of adat is that they are dealing with opportunistic ‘invented traditions’ (cf. Hobsbawm, 1983:1-2), or with a reification of outdated and sidelined customs for the potential benefit of a select group at the expense of a majority of the population. Strong arguments against the recognition of adat claims, notably when considered from a governmental perspective.

The second problem is the nature of the two organisations discussed above. Both presented themselves as representing Dayak adat interests, yet neither engaged adat experts. Whenever either of the two was called upon by the government to assist, negotiations would be conducted by board members and officials while limiting parties’ involvement to a minimum. If the organisations contacted a private party on behalf of a Dayak community or wronged party, this would usually be done by a senior member accompanied by a fair number of the organisation’s members. A request made to a plantation company for financial compensation because of unallowed usage of adat land becomes a sort of ‘offer one cannot refuse’ if delivered by thirty uniformed members of the adat command. The interpretation of adat displayed is certainly different from the open meetings aimed at consensus that are practised in rural villages. What goes on here is not unlike the coercion exercised by bands of thugs, or blackmail in the name of adat.

Against these stand arguments that the practice of national law can be as unfair and elitist as opponents fear adat to be. The New Order, with its select and pragmatic appliance of official law stands as a strong example, while Indonesia is probably as famous for tourist-paradise Bali as for the corruption of its bureaucracy. Both adat and official law have their drawbacks, but adat

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16 For 2008 Indonesia shared position 126 out of 180 (together with Eritrea, Ethiopia, Guyana and Honduras) on Transparency International’s corruption perceptions index. Scoring a 2,6 out of a maximum of 10. See
implies autonomy from the national government that goes beyond what the
decentralisation legislation allows. Yet as adat requires support from within the
local administration if it is to operate on a relatively large scale and next to
official law, strong political and social links between the two are essential.

Arguing Traditional Values within Modern Indonesia

Looked at from the perspective of the indigenous peoples’ movement, the nature
of the Dayak claim is relatively twofold and relatively conventional. First, adat-
derived rights are claimed, which are mainly rights to land, forest and other
natural resources. Second, honouring of these claims implies the recognition of
the validity of adat rules by the government, and therefore of a certain degree of
Dayak autonomy. Whether adat is to be seen as a law in itself or creates a
measure of autonomy within official law is open for negotiation. Imagined
results could be the establishment of reserves, or the remittance of indemniﬁca-
tions for adat resources in use by the state. However, chances of this are slim as
Indonesian law does not recognise a special ‘indigenous peoples’ status. For the
law all Indonesians are indigenous, so this argument is likely to fail.

Reform, with its emphasis on greater democracy, more freedom for the
population and greater autonomy for the regional level of government, does
however allow for a greater demonstration of diverse identities within the
Indonesian nation. Provided that what is asked for is not cast in formulations
that contravene national law or directly threaten national unity, emphasis on
regional identity is considered an acceptable and lawful aspect of regional
autonomy. Successfully ﬁelding adat as a legal source of rights thus is not
impossible, but it requires a careful and mediated approach that at times is
reminiscent of New Order policies.

The reputation of Dayak throughout Kalimantan has been substantiated by
the ousting of the Madurese. To non-Dayak Indonesians, Dayak have shown
themselves to be capable of uniting in order to defend their interests. A
worrysome thought for the diverse migrant population of Kalimantan. Yet
havoc is not what the Dayak are after. Both the DADK and the PDKT aspire to
the role of intermediaries capable of bringing Dayak grievances to the attention
of powerful ofﬁcials before actual unrest has place. Both organisations
emphasize the place of Dayak within the nation, and present the Dayak as
Indonesian citizens who have been wronged by the previous New Order regime
that gave away their lands to the criminal and violent Madurese.17 To Dayak
spokespersons, seeking legal satisfaction from the wrongs suffered from the
regime and at the hands of the Madurese, the removal of the corrupt regime was
an opportunity to remedy the situation.

http://www.transparency.org/news_room/in_focus/2008/

17 Perceptions of Madurese as rude and violent people exist throughout Indonesia. A
frequently poorly educated group that mainly engages in poorly-paid manual labour,
the Madurese are overrepresented in crime, violent or otherwise, and shunned by
large parts of society.
However, both organisations are very much part of 21st century regional politics. They carefully operate on the thin line between legal and illegal and claim their authority from a source – adat – that is beyond the control of the government. Both have strong links to government authorities, and both carefully undermine the other’s popular credibility. The young Dayak protesting against the PDKT, for instance, largely joined the DADK which in turn established links with government officials. Neither organisation will go as far as to block agreement when negotiating over government plans for adat land, but each ensure to keep the notion of Dayak violence glowing. As a result, many Kalimantan regional governments are susceptible to Dayak desires and have accepted the presentation of the dispersing of the Madurese as just and legal.18 The validity of Dayak adat norms thus gained an important foothold in official law. As yet, no government authority has publicly disputed the organisations’ claims to represent the Dayak communities. Dayak division is no secret and easily determined. An informed hypothesis is that government ties into these organisations go deeper than either is prepared to admit. As long as the government deals with these organisations as representing ‘the Dayak’, other candidates for that position will have a tough time getting their foot in.

Concluding Remarks

The arguments brought forward to sustain the recognition of Dayak adat rights are complex and rich. Claiming indigenous Dayak rights referring to violent potential rather than the international indigenous peoples’ discourse, the legal status of which is poor at best in Indonesia, is a strategic success. Dayak representatives use a discourse of Dayak as Indonesian citizens who have been wronged during the New Order and demand redress in this era of reform. Redress is however not requested from the faceless and remote central government, but from the regional officials; the ‘politician next door’. These officials are susceptible to public pressure and with the Dayak’s fearsome reputation in mind, likely to pay attention. Mobilising Dayak ethnicity may bring Dayak influence to bear in official regional legislation. In this way Dayak adat rights can gain official support, either in practice or as official legislation.

The strategy has three major drawbacks. First, it depends at least in part on the Dayak’s fierce reputation, hardly an association suitable to wronged national citizens and one reminiscent of New Order coercion techniques. The strategy thus could make the organisations vulnerable to accusations of extortion and illegal use of force. Second, the strategy requires the various Dayak groups to present a united front to the rest of society, which internal strife threatens to make impossible. Dayak are not one ethnic group, and never have been. Individuals as well as whole communities may well feel that the violent image or the various organisations’ leaders are at odds with their

18 To this day, no Dayak have been prosecuted for the fights or the killing of Madurese, even though a fair amount of photographic and filmed material is available that could be used in identifying individuals.
interests. Whether the successful application of this strategy will continue thus remains to be seen. Third, close ties with local government ensure influence but make the organisations vulnerable to accusations of collusion and patrimonialism which are heavily associated with the New Order regime. Even if they have provided inroads into government, they can work havoc on the grassroots support base. In case of serious conflict government could challenge the Dayak organisations’ legitimacy on these grounds.

This does however not imply that the drive for the recognition of Dayak adat rights was unsuccessful. Looking at the wider effects beyond the threat of violence the broadly themed politicization of Dayak identity – including adat, nationalism, official law and indigeneity – has created inroads into government and Kalimantese society that will be difficult – but not impossible – to undo. Besides as potentially violent and dangerous warriors, Dayak have presented themselves to the outside world as the discussion partner of national presidents, as the unifiers of Kalimantans’ indigenous groups and – notably for the latter – as the actors who opened government eyes to local adat.

The Dayak discourse of indigeneity managed to penetrate into regional and provincial governments. These levels are well-removed from the central government, accessible to grassroots influence and maintain a strong level of administrative autonomy. The result is a local political sustenance of a coexistence of adat and official law that is nowhere in the books, but that is locally considered as the embodiment of Indonesia’s reform since the state and its rulers now take local interests into account.

What sets this result apart from other attempts is that this coalescence of state law and local norms works because of a careful blend of similarities and differences. Dayak are Indonesian citizens and formulate their claims and statements largely within the discourse of Indonesian legitimacy. They are modern, educated and politically conscious. It took machetes and guns to claim traditional rights, but it takes a modern education and a strong political consciousness to get actual recognition.

References


