Laurens Bakker

Research

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 practices often differ: in Pasir, government and society are looking to tradition, national law and Pasir identity to redefine authority over land.

Pa ris is the southernmost district of the province of East Kalimantan, comprised of a flat coastal plain and a mountainous interior. Gunung Lumut is the most important peak of the Gunung Lumut mountains. 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 to migrants from throughout Indonesia. In the mountains, where communities of subsistence farmers live in villages comprised of a small number of related families, legal (and illegal) logging and land-grab slash-and-burn farming are the main economic activities. Local customs 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 unilateral management of logging and mining projects in Gunung Lumut as dictatorial and unjust, leaving them suspicious of all government initiatives and national law. As a result, official regulations are implemented along the coast, but lessen in influence and even disappear in the mountains. Because communication and administrative control are lacking, government allows for the communities’ authority over land to be politicized by outsiders, such as the LAP and rival PBA-PDB.

When it comes to land, I am the state

Gunung Lumut communities govern land and forest according to local ways usually referred to by the umbrella term adat, translated as ‘custom’ or ‘tradition’. Depending on the context, adat is both adored and rejected in national politics.

In representing local identity and tradition, adat has for years been a useful instrument in trying local cultural variety to matters of national economic interest, such as the implementation of national land or forest management, however, local adat and national policy-making are frequently at odds. According to the Indonesian Basic Agrarian Law (Indonesian: Undang-undang Dasar Kehakiman Agraria), parts of adat law of 1960, national law is adat law, but the BAL does not define adat; it merely provides five broad qualifications under which the validity of adat land claims may be overruled (see also Haverfield 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 rights are proclaimed by adat communities. The Minister of Agricultura/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 states that adat communities must 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 Gunung Lumut’s coastal plains, with the aim of making claims appear insignificant. Thus, in 2003, the district government drafted a regulation stating that communal land rights were no longer effective in the mountainous Gunung Lumut, thereby nullifying the research. The Pasir government, having rejected the researchers’ findings, investigated the question of communal land claims again in 2006, for the first time in history.

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’s decision. 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, PEMFA (Persatuan Masyarakat Adat Pasir, or Association of Adat Communities in Pasir), is a small Gunung Lumut organisation that puts its considerable knowledge of local practices to work in an effort to better understand local government initiatives and national law. As a result, official regulations are implemented along the coast, but lessen in influence and even disappear in the mountains. Because communication and administrative control are lacking, government allows for the communities’ authority over land to be politicized by outsiders, such as the LAP and rival PBA-PDB.

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 regionalised 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 claim at around 150 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 legitimisation of the communities. Most communities express a keen interest in formal registration, but on a communal basis and for all of the territory.

Reconcilable differences?

Negotiation and selective ignorance 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 community 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 journalists believe, the real issue is not the local government’s identity, but the new style of district government in Pasir. 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 toward the former, but it is too early to conclude that a new style of district government has been established.