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Pasi is the southernmost district of the province of East Kalimantan, comprised of a flat coastal plain and a mountainous area with a mountain containing 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, Pasi 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 huts, many have known扩 families, legal (and illegal) logging and land development and farming are the main economic activities. Local customs and all agreements between communities, rather than national law or government policies, regulate access to land.

Pasi’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 and logging of 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 less in influence and even disappear in the mountainous area. Government law and local practice usually coexist peacefully because both enforcers or practitioners ignore, or remain oblivious to, the other's stricures.

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 interests and land governance, adat has for years been a useful instrument in tying local cultural vari- ety to matters of national economic interest, such as the procurement of forest or land or forest management, however, local adat and national policy-making are frequently at odds. According to Indonesian law, adat is based on the practice of ancestors. Government land or forest law, however, has often superseded the local authority of adat. In 1999, during the New Order, those 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 lands are proclaimed by adat communities. The Minister of Agriculture/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; Saka 2001). The regulation aims at safeguarding the interests of adat communities to investigate whether communal land claims exist within their district.

The Pasi government enlisted a team of researchers from Universitas Hasanuddin in Makassar to conduct four days of field research in 2002, mainly over the coastal plain. Government officials have 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 is a breakaway 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 Pasi.

You’re not the state, we are
This, to many, did not reflect ‘local ways’. Three local NGOs, claiming to represent Pasi’s adat communities, immediately challenged the district government. The first was LAP (Lembaga Adat Pasi, or Foundation for Adat in Pasi), whose mission is to improve religious, medical and education facilities for all of Pasi’s population. The second, PEMA (Persatuan Masyarakat Adat Pasi, or Association of Adat Communities in Pasi), is a small Gunung Lumut organisation that puts its considerable knowledge of local circumstances to work in just about anything it finds relevant. The third, PABA-PDB (Persatuan Benuaq Adat – Paser Dayak Bumiputera Pe- sanan, or United Adat People – Dayak Pasi Division), attempts to strengthen the political 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 PABA-PDB. Also based in Tanah Grogot, PABA-PDB instead tries to attract the attention of the government, newspapers, and Pasir society through demonstrations. Although both claim to represent adat groups, they in fact have in little contact with them and rely on third party information to pursue their goal of influenc- ing 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 politi- cal influence, both opt for the latter and take possible inconsistencies with ‘local ways’ for granted. Only PEMA still links with the adat communities where 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 govern- ment.

All three NGOs voiced their concern at a meeting organised by the district govern- ment to discuss the 2003 draft regu- lation. 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 pragmat- istic 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-oper- ate with.

State? What state?
For the Orang Pasir of the Gunung Lumut mountains, the debate on com- munal adat lands was as irrelevant as every government official who ever passed through to confirm the existence of such lands. However, as in govern- ment-NGO relations, Gunung Lumut communities treat messages from ‘the other party’ pragmatically. When decen- tralisation 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 recentralised to the districts’ Department of Forestry offices, some communities continue to issue their own logging permits. Similarly, the borders of a national forest reserve des- ignated by the Ministry of Forestry over- lap adat lands; some communities rec- ognise its protected status while others hold their communal rights higher, depending on their ideas about preser- vation or exploitation.

A second example of this pragmatism is the size of territories claimed. Pasi’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 est claim at around 150 ha per family, no community has yet agreed to registra- tion. Moreover, the BAL mentions their protected status while others hold their communal rights higher, depending on their ideas about preservation or exploitation.

Reconcilable differences?
Negotiations on the size of adat territory are common ways of dealing with land issues in Pasi’s mountains. Mountain communities consider the district gov- ernment as only one of many sources of authority, while the government’s admin- istrative 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 dis- trict politics, its relation to ‘local ways’ is not necessarily clear or direct. The phys- ical 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 PABA-PDB.

On the upside, district politics are cer- tainly more influenced by local circum- stances than they were before decen- tralisation. Local NGOs have gained a platform for local politics and are regarded as such by local governments. However, in spite of what some politicians and planners might claim, the districts’ role in 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. Pasi’s politi- cians appear to be evolving toward the for- mer, but it is too early to conclude that a new style of district government has been established.

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Indonesian-Netherlands studies of decentralisation in the Indonesian ‘reformasi’ and its impact on ‘Adat’ (a) are a Dutch-Indonesian socio-legal research project focusing on institutions of the new decentralised administrative structure on the role of law and local levels in Indonesia. The project studies how ‘guardian institutions’ such as courts and government institutions (‘local government’) are dealing with adat-legitimised land claims.

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