

Local Voice in Shifting Modes of Decentralised Resource Control in Central Kalimantan, Indonesia

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RESOURCE MANAGEMENT IN ASIA-PACIFIC

Working Paper 65, 2007

ISSN 1444-187X

SERIES NOTE

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The correct citation for this publication is:

McCarthy, J.F., 2007. 'Local Voice in Shifting Modes of Decentralised Resource Control in Central Kalimantan, Indonesia.' Canberra: Australian National University, Research School of Pacific and Asian Studies, Resource Management in Asia-Pacific (Working Paper 65).

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Cover page photo: Children arrange log rafts in Central Kalimantan.
(Photographer: Amir Sodikin, *Kompas*, 2 March 2004)

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Abstract

This paper sets out to understand how the dominant modes of resource control shifted following the inception of decentralisation reforms in Central Kalimantan. It argues that the formal mechanisms of public participation and representation bear little resemblance to the actual arrangements determining who gains access to resources. Here the 'voice' of influential actors focuses on participating in the distribution of benefits rather than the core policy-setting functions of local government. At least in this context, the normative model of how 'good governance' should occur remains remote from the practical realities of what can be achieved on the ground. In contrast, a policy intervention that builds on the logic guiding local governance systems might have more hope of improving the position of disadvantaged actors within shifting networks of accommodation and exchange.

Acknowledgements

I am particularly grateful to the many people in Central Kalimantan who made this research possible but who may not wish to be acknowledged by name. Thanks also to Gerry van Klinken, Henk Schulte Nordholt and other project participants in the KITLV/Royal Netherlands Institute of Southeast Asian and Caribbean Studies project 'Renegotiating Boundaries: Local Politics in Post-Suharto Indonesia' for their comments. Initial research was carried out in Central Kalimantan for the Australian Centre for International Agricultural Research (ACIAR) funded Centre for International Forestry (CIFOR) research project concerned with the evolution and impact of the decentralisation of policy making on forests and other sectors. The author carried out further research in Central Kalimantan under a fellowship from the Van Vollenhoven Institute, Leiden University. The article was written under an Australian Research Council grant at the Asia Research Centre, Murdoch University. The author is also grateful to seminar participants from the Resource Management in the Asia-Pacific program at The Australian National University for insightful criticisms on an earlier version of this paper.

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Introduction

Decentralisation, or regional autonomy, aims to shift the locus of government decision-making to a place 'where civil society can work its magic better' (Tendler 1997). The idea is that government responsiveness and accountability will improve if local government that is closer to and more accountable to local civil society takes decisions.¹ The success of decentralisation has been seen to be largely contingent on the capacity of local constituents to hold decentralised authorities accountable for their actions. Put most simply, if accountability mechanisms are working effectively, constituents have the capacity to oversee political actors. For this to occur, overseeing actors need to have the capacity to sanction political actors if they disapprove (Ribot 2001). Effective accountability entails the establishment of some authoritative source of control by or for local populations (or 'civil society')—a capacity to hold local government accountable downwards. Consequently, decentralisation programs aim to increase the ability of local civil society to monitor and pressure local government.² However, what happens when the analytical categories that the turn to civil society assumes and on which the prospect of successful decentralisation depends are absent?

This paper examines how decentralisation and the subsequent recentralisation affected the exercise of public powers over nature in the local domain in Central Kalimantan to advance a number of arguments. First, the turn to and away from decentralisation in Indonesia over 1998–2004 involved a struggle over resources that reveals a particular trajectory of politico-legal change. In common with other areas subject to decentralisation reforms, elites undoubtedly benefited disproportionately in the course of these struggles. Yet, rather than seeing this as another case of 'elite capture', this article argues that these changes can more readily be understood in terms of a swing between two well established modes of resource control that are both connected and competing. Before decentralisation, localised or 'decentralised' modes of exchange and accommodation were well established but less salient.³ During the high season of regional autonomy these modes became more autonomous of the previously dominant centralised mode of resource control. As these decentralised modes flourished, rents were more widely distributed. While this allowed a wider range of strategically situated local actors to benefit, due to the structural disadvantages they faced, poor rural actors only gained short term and limited benefits. Over time the older system became more apparent: as corporate interests adjusted, they incorporated district elites and administrative structures as well as key rural actors into their processes of resource access. Just as colonial regimes inevitably incorporated local elites, predominant economic interests found ways to cooperate with and incorporate local strongmen, administrative and village elites emboldened by the changes. In this way the decentralised modes of resource extraction, which have received so much bad press, articulated with still dominant (but largely ignored) centralised modes.

Second, the literature suggests that democratic decentralisation requires for its success a civil society capable of holding the state agencies that have gained devolved powers downwardly accountable. This provides a conceptual framework for those aspiring to channel and order popular demands on the state. Critics have noted difficulty in universalising the concept of decentralisation, as founded in modern Western Europe, and its application to political developments elsewhere. In Central Kalimantan, power is localised and often naked in its expression. In the past the state system in Central Kalimantan had a quite predatory character. Even under a decentralised system, remote and impoverished communities still faced significant obstacles to holding district administrations accountable or participating in policy making. In the absence of formal modes of accountability, taxes extracted from local resources have tended to be channeled away from service delivery and other conventional state activities into clientelist systems of exchange and distribution. Consequently, the key protagonists of modern associational life have focused on extracting a share of resources. While this ensures that resources are more widely distributed, the system remains distant from normative models of good governance. In contrast, the policy discourse regarding decentralisation requires the existence of a healthy civil society. However, in remote places like Central Kalimantan this policy narrative sets itself up for disappointment. Theoretically and practically, a better understanding of the assumptions guiding *existing* systems of resource control would increase the likelihood of finding interventions that might increase the bargaining position of disadvantaged actors within persistent, localised modes of exchange and accommodation.

To understand the impact of regional autonomy on patterns of resource use, the concept of *access* is central. Access has been defined as the ability to derive benefits from natural resources (cf. Ribot 1998: 308). As actors struggle to benefit from the productive use of natural resources, they make use of a range of social, economic, and legal mechanisms. In particular, legal frameworks, institutional power, group membership, social or ethnic identity, social status, dynamics within a resource-controlling group, as well as access to the state, capital, material resources, customary authority, markets, knowledge and the ability to use institutional mechanisms are all factors that affect the process of gaining access to resources (Berry 1989; Ribot 1998; Ribot and Peluso 2002). The main point is not whether access is considered legal, extralegal, legitimate or illegitimate according to various normative views (Ribot 1998) but rather depends on an actor's ability to dominate or influence other actors. Patterns of resource access can ultimately be understood in terms of how power is allocated and exercised within a society (cf. Berry 1989).

This article analyses how regional autonomy in Central Kalimantan has affected relations of power, encompassing both the legal and de facto loci of control. As such, it documents: first, the changing prescriptions of law regarding property, permits, licenses, titles and official structures of

authority; and second, the changes to the whole ensemble of mechanisms shaping access—‘the structural and relational forces’—that exist ‘prior and parallel to’ socially recognised rules (Ribot 1998). Consequently, we need to understand how the change associated with decentralisation or regional autonomy has affected the structure of political, economic and legal relations that govern conditions of access. As dominant discourses and the structures of power change, institutionalised mechanisms governing resource access adjust. When the existing institutional arrangements and social relations restructure, new nodes of identity and action are created, and new categories of people may rise to pre-eminence (cf. Berry 1989: 43–4). Yet, such a structural analysis needs to be supplemented by an actor-oriented approach, because, within the changing patterns of political representation, participation, and power under regional autonomy, actors take up new strategies. As they attempt to shape conditions for their own ends, this in turn affects patterns of access and use.

This article proceeds in three sections. First, I will briefly consider the period immediately before regional autonomy before discussing, second, the high water mark of autonomy (2000–02), before finally tracing developments from 2002.

The Late New Order

The New Order system of governance that operated before regional autonomy has been analysed in terms of horizontal and vertically integrated networks of power and interest largely financed with extralegal revenues, including those derived from the timber sector.⁴ Under this system powerful politico-bureaucrats pursued entrepreneurial activities and extracted rents where possible, either for self enrichment, to command the loyalty of others both within and outside the pecking orders, and/or to sustain the political interests of the institutions in which they were embedded.

This was particularly apparent in the forestry sector where an apparently centralised state system controlled access to resources. Under the *Basic Forestry Act* (No. 5/1967) the State—viz the Ministry of Forestry and its line agencies—controlled access to benefits via a concession licensing system (McCarthy 2000). As is well known, actors with access to key decision makers within the regime, such as top military officials or cronies of the president, obtained legal timber concession permits (HPH) (Barr 1998). Given the close relations between the politico-bureaucrats controlling access and the corporate actors mining the forests, the legal strictures pertaining to state control over forest access remained primary to obtaining access during field operations. In parallel with these legal rules there existed a well established but unwritten set of rules regarding how the benefits of resource access were divided in obtaining licenses and permits, working forest areas, transporting logs downriver, and exporting timber overseas; similar to that described by Harriss–White (2003).

During this time Central Kalimantan became the 'kitchen' of the concession system; as described by a local academic. In opening the area to exploitation, a state forest mapping exercise (TGHK) classified 75 per cent of the province's surface area (20.2 million hectares) as 'national forest estate' and some nine million hectares of this area as 'production forest'. The Ministry of Forestry granted 108, 20-year concessions to exploit these areas, disregarding indigenous property rights. According to one estimate, concessions operating in these areas supplied 40 per cent of the annual national log supply.⁵

Common practice during this time was for companies holding timber exploitation licenses to pay the cost of processing licenses and permits as well as formal taxes and duties on legal timber. Then, even after meeting these requirements, they still faced the expense of making well established payments to police, military, forestry and local government officials whose concurrence was needed for smooth operations in the field and for transport of timber to market along the river. In order to maximise profits, timber operators sought to reduce formal taxes and duties paid as well as the cost of obtaining permits. They did this by extracting timber in excess of their legal quotas and expanding operations to areas adjacent to their permit areas. As a result they transported timber downriver well in excess of the amount for which they had legal documents.

Under the concession system, companies with official HPH concession licenses along the Barito River usually ran integrated operations that encompassed logging large areas, transporting timber downriver, and exporting sawn timber or plywood. However, these actors holding concession licenses also subcontracted various functions to other operators. In parallel with the vertically integrated concession system, other actors sold their services to concessionaires, who provided shipment of timber downriver. According to sources involved in these shipping operations, if the concessionaire had full documents for a shipment, they would use company barges (*tonggakang*). However, if the shipment lacked full documentation they would engage the services of what had become known as *expedisi*; a subcontractor to ship the timber downriver. On average, *expedisi* would only obtain permits for approximately 30 per cent of the timber they transported. Given the significant taxes thereby avoided, ample funds were left over to make the payments required to navigate the informal system.⁶

In parallel with the institutional order working down from Jakarta, as I described elsewhere (McCarthy 2006), during the New Order, a system of primary institutional arrangements characterised the resource extraction that operated in Indonesia's outer islands. These self regulating networks of exchange and accommodation determined access to and use of key local resources, refracting state policy and laws. The logic of this system is clear: over long periods of time state decision makers in distant Jakarta had developed nation wide organisational rules pertaining to the local domain—

specifically in areas of state forest. Yet, these rules failed to accommodate the interests of diverse actors and the variety of situations found in the local area. These included the extra budgetary needs of local political actors and officials to maintain the local state apparatus, sustain political loyalties, and meet personal economic ambitions. Also the state order failed to meet the ambitions of local entrepreneurs disadvantaged by regulations that privileged those able to obtain forest exploitation permits in distant Jakarta, as well as provide labour and economic opportunities for villagers disadvantaged by a state concessions system that allowed unjust and inequitable logging of customary lands.

Under the localised system of resource extraction that emerged, local entrepreneurs operated quasi legal timber operations, sometimes in cooperation with outside concessionaires. They could do so as long as they conformed to a system of reciprocities that involved extra legal gifts, payments and political support and other exchanges with key local politicians and state functionaries. These systems of extraction worked under the blind eye of local officials who were otherwise loyal to the regime. As they evolved, they grew into encompassing webs of exchange and accommodation that included forestry staff, army personnel and other key local functionaries while reaching out into the wider society to encompass village and customary leaders (*adat*). In many cases the local bosses with access to capital and contacts and kinship relations within state agencies, worked with the agents of centralised concession operators, local police and military officials, playing key roles within these institutional arrangements. While state legal sanctions would not be applied against those conforming to the reciprocities regulating this system, the state legal domain and those empowered by it remained central to the system. Officials within these networks derived power from their capacity to use discretionary powers over permits, to enforce state regulations and to apply state sanctions. Within complex evolving situations, the institutional arrangements governing access to resources both reflected and refracted customary local notions of rights, clientelist patterns of exchange and accommodation, and state laws within an institutional matrix working in an overlapping, and complicated fashion across these three institutional orders (McCarthy 2006).

With the police under the armed forces, the military was a leading agency in these processes. According to one source, the head of the Regional Military Commander (*danrem*) appointed lower Military District Commanders (*kodim*), taking into account their promises regarding the amount they would 'store' upwards to the military command. This was just one of the unofficial ways the military financed their existence. In Central Kalimantan under this system, well before regional autonomy, well connected entrepreneurs and local timber interests at the district level found a place in the interstices of New Order state.

Regional Autonomy

Even before the key autonomy law (UU 22/1999) came into force, district governments had gained greater legal authority in the forestry sector, for example, gaining power to grant small scale logging licenses.⁷ In addition to such formal powers, under regional autonomy, districts set up district forestry offices (*dinas*) that were accountable only to the district head and these now operated according to new district regulations (*perda*) rather than the directives of the Ministry of Forestry in distant Jakarta. These formal changes, combined with the discretionary powers gained by district administrations following regional autonomy, meant that districts gained a large degree of de facto control over the way resource policy worked in their districts. From 1999, district administrations in Central Kalimantan, began to issue timber licenses to local people operating in their own name or that of a community group incorporated into a cooperative or 'farming group'. District entrepreneurs also began to formalise their operations by obtaining more extensive licenses for timber mills, which had until then worked outside the law to various degrees.⁸

Under this system, the forestry department lost its capacity to operate as a vertically integrated agency with full technical responsibility for forests. As such, regional autonomy entailed a significant change in the locus where those wishing to gain access had to invest, pay a fee or exchange a service, in order to gain access. To the mortification of the Ministry of Forestry, after 1999, it became more effective than ever to secure access within the district domain, and district officials became important gatekeepers governing access to forest resources found in their district.⁹

Yet, many permits could still be obtained from provincial and central government agencies, indicating how decentralisation led to the diversification of control over access to forest areas and access to market. Competition intensified between different agencies and levels of government as well as between actors who had invested in relationships at a particular level to control access.¹⁰ Consequently, the state was less able to maintain the pretence of operating as a unitary actor and now, more than ever, it emerged in a plural guise (McCarthy 2004).

In Central Kalimantan the New Order had a rather predatory character, extracting large rents from the province's forests, despoiling the patrimony of the indigenous people while providing very little in way of collective goods, especially in remote rural hamlets. Now, with the demise of Jakarta's authority in law and public discourse, repressed grievances came to the fore. Local Dayak identity discourses and territorial modes of resource control became important as rural people and district elites alike openly challenged the mining of the forests by outside actors. Such factors as group membership, as well as social and ethnic identity became more important in determining who could legitimately gain access to resources in the local domain. In villages across the province anger boiled to the surface

at the way outside interests had over ridden *adat* property rights, the role of immigrants in extractive industries, and the minimal benefits enjoyed by local people (ICG 2001; McCarthy 2001a, 2001b). In numerous disputes those claiming *adat* rights in particular exerted physical control over surrounding areas. Hereafter, this Dayak identity discourse worked against outsiders exploiting resources subject to *adat* claims. Villagers asserted *adat* claims over local resources via demonstrations, blockades, and threatened physical violence. As there was a significant change in the legitimacy and enforceability of *adat* rights, villagers asserted physical control over access to resources in areas around their villages, swiddens and forest gardens.

At the same time, beyond the territorial rights of villages, indigenous Dayak businessmen, politicians and officials expected that Dayak to win favourable positions and opportunities and that their region should advance materially and socially from mining the province's resources. Local elites railed against the way outsiders with connections in Jakarta, or with the military, dominated the timber and mining sector; overstepping the local administration in gaining permits. Grievances also focused the lucrative nature of resource extraction that occurred without adequate funding for the development of local infrastructure, while also denying local entrepreneurs to gain sufficient benefits from resource extraction in 'their area'. Antipathy against outsiders holding key positions within the local bureaucracy translated into moves to indigenise key positions in the bureaucracy. This Dayak identity discourse built on local resentments to legitimise decisions that were seen to favour local Dayak.¹¹

Those Dayak identities close to officials or with the means of winning their favour gained a new prominence, using kinship, village or other contacts in the administration, exchanging favours and offering monies to obtain permits for small scale exploitation, transport and sawmill licenses. District regulations and policies explicitly or implicitly favoured people with local Dayak identity by granting formal exploitation permits (McCarthy 2001a, 2001b).¹² If these brokers and small scale entrepreneurs could help villagers to incorporate as cooperatives or enlist their names on permit applications, they could process small scale timber concessions in the name of village collectives.

With the explosion of resentment and demands by villagers upriver against conglomerates, a large number of disputes emerged between concessionaires and villagers. As concessionaires and outside financiers faced increased threats from local actors, timber conglomerates found they needed to renegotiate how they gained access to resources. At least formally, they could still obtain permits in the old way, but it was no longer sufficient to just obtain exploitation licenses via the central government. Having gained more extensive powers under regional autonomy, assertive district heads began to issue short term exploitation permits to local interests inside concession areas, typically favouring Dayak with kinship affiliations, from the same area, or with political or economic ties.

In this context district heads could put pressure on conglomerates to negotiate access via district administrations. In Central Kalimantan, concessionaires working with local businessmen began to invest in other extraction strategies. Conglomerates worked with local businessmen and brokers, with informal support from the Buapti and Governor, extending the system that had operated during the earlier period.¹³ For example, *Djajanti*, one of largest timber conglomerates in Central Kalimantan, allowed local companies to harvest its concession areas, according to one of its commissioners, 'on the condition they only sell to us'. 'We worked out what our costs would have been if we had been working the areas ourselves. And that's what we've paid the companies now working our concessions,' said Sudrajat. Sudrajat decided to take this course of action because it seemed more advantageous than having to strong arm it with the regent. With their current powers, it is very difficult to get the regents to back down.¹⁴

These conglomerates also needed to negotiate taxation and levies—formal or otherwise—imposed by local government.¹⁵ The system had the virtue of raising significant district taxes (PAD) for local government. Also, given the corruption and collusion within the system, it enriched those occupying positions in the district administration.

As well as working to incorporate district elites and administrative structures into their processes of resource access, entrepreneurs and outside companies also sought to integrate key rural actors. For instance, they preferred to operate through a villager, a local cooperative registered with the district government, or community group who could obtain operating permits from district government. By operating behind a person or group with a local identity, outside actors could more readily legitimise their operations. This also had an added advantage: with many villagers recruited into timber operations in diverse ways, the benefits tended to dissipate emergent 'vertical' conflicts. Conflicts between companies and villagers were often transmuted into conflicts between villagers engaged in cutting timber in their *adat* territories and those who felt left out.¹⁶

The system offered added economic advantages. Government agencies found it difficult to effectively tax informal logging operations without an office and those not formally registered as a company. While many local operators might be able to obtain documents that enabled them to transport timber within the district, they lacked the documentation necessary to market the timber outside the area. Timber without full legal status had a lower price. Conglomerates that had production permits obtained from the central government could buy this timber cheaply from poor villagers, and using their permits, render it legal, and thereby make considerable profits. Further, given that many concessionaires had over harvested their concession areas, they now faced difficulties meeting production targets.¹⁷ Concessionaires avoided the appearance of operating illegally by subcontracting village teams to log surrounding areas, accessing

other sources of timber subject to *adat* rights, and co-opt villagers. Consequently, villagers remained in a weak position after regional autonomy. Even if they could muster the money to obtain forest exploitation permits from the district government, village actors and small time brokers were unable to afford or market timber beyond the local domain. They often lacked the capital required to use heavy machinery, run a sawmill, or obtain the permits required to transport the timber to market. Villagers might log areas under exploitation permits granted by district administrations in the name of individuals or cooperatives set up in the name of community groups. Yet, this logging took place for brokers financed from outside, or on behalf of concessionaires. Even following decentralisation, those with control over capital and permits accrued the largest share of the profits as a result of taking timber through key nodes in the commodity chain where value was added to the timber (Zerner 2000).

We can see these changes affecting the operation of the *expedisi* discussed earlier. By 2000, the Barito River had also become an insecure place: with up to 30 gangs of river pirates operating along the river, timber shipments faced significant risk of hijacking. At the same time government agencies were competing more extensively to extract benefits from the system. By 2004, there were 480 official posts from Puruk Cauh down to Banjarmasin. These posts were operated by a variety of state agencies including: District Police Commands (Polsek); subdistrict Military Commands (Koramil); forestry and local government revenue collection agencies (*dispenda*); marine and port police; as well the navy and villagers who levied 'taxes' on passing shipments of timber.¹⁸ Faced with an uncertain business environment, these interests found it easier to get existing local strongmen to organise operations upriver. In this situation, timber companies used *expedisi* more extensively guaranteeing the arrival of timber downstream. Fundamentally this involved sharing profits to minimise risks.

The actors running these operations required considerable skills and audacity with the amount of profit depending on how they handled these risks. This encompassed arranging all the payments and negotiations with the various administrative areas found along the river. The amount involved was not trivial: an *expedisi* might provide hundreds of millions of rupiah to the head of the security forces in a riverside district each time the *expedisi* passed.¹⁹ The reasons for this were clear: law enforcement authorities who felt affronted by the level of payment had the capacity to seize a shipment or arrest the *expedisi* leader. District government leaders also derived large profits from *expedisi*. As they also could order an *expedisi* to be held up or let go, *expedisi* could not proceed without the agreement of the district government executive. Moreover, if the timber was confiscated, district heads could arrange for it to be processed according to the legal fiction that it had no owner and 'auction' it back to the *expedisi*.²⁰ Alternatively, as a shipment could be lost to hijackers or fall prey to an extortion racket run by a rival port underworld gang, payments were required to rival armed thugs

(*preman*) working the river. On occasion disputes led to casualties, if for instance the *preman* protecting a shipment became involved in a shoot out with river pirates or the police and they engaged in a gun battle.

Given their capacity to bridge this crucial space in the commodity chain, *expedisi* accumulated large amount of capital. By 2002, in addition to working for concessionaires and Banjarmasin based timber mills, *expedisi* carried timber for freelance brokers who went upriver to place orders. Further, *expedisi* worked as entrepreneurs in their own right, overseeing timber operations upriver and taking timber from scores of local timber brokers. At the peak of the *expedisi* system, shipments could be over three kilometres in length.²¹

The risks involved in the system meant that only the strongest *expedisi* could survive. In 1995, according to one source, there were approximately six actors working as *expedisi*. By 2002, only four key figures straddled the link between local timber operators and buyers upriver and the market downriver in Banjarmasin, thereby becoming the key players in the forest sector for this area. As this process of 'natural selection' proceeded, in 2004 only two continued to work the river.

Power, Accountability and Civil Society under Regional Autonomy

There are further issues to consider with respect to this system, the first of which concerns the nature of power in this out-of-the-way and long neglected province. Under regional autonomy the local administration had gained authority over licenses and permits, while the police retained power to enforce the law. At the same time, entrepreneurs, brokers and agents of Jakarta based conglomerates maintained a hold over productive processes through their control over capital and access to outside markets. While a range of accommodations and exchanges between actors oiled the wheels of this system, these arrangements extended way beyond simple transactions between the actors involved. If the system was to continue to operate with such a high degree of corruption and illegality, it needed to protect itself from unwanted scrutiny. Exposure outside the province could lead to law enforcement activities from external actors, or the demand for payments in exchange for turning a blind eye. With a national campaign against illegal logging, those with most to lose from exposing their operations were prepared to intimidate or take violent action against actors who might expose it. For instance, a Non Governmental Organisation (NGO) activist described how some of these thugs had tried to kill him by running his motorcycle off a remote road into some trees. Consequently, power is often naked in its expression in Central Kalimantan.

If democratic decentralisation is about devolving powers to downwardly accountable actors (cf. Agrawal and Ribot 1999), we can understand outcomes in terms of the way accountability relations encompass local government. Indeed, the main mechanisms of accountability set out in

Laws 22/1999 and 25/1999 operated primarily through elected district assemblies (DPRD) with the capacity to hold executive accountable.²² The underpinning assumption seems to have been that the legislative would use mechanisms at its disposal to police and punish government officials—including the head of the region—that misbehaved. But, with only a weak link between people and DPRD members through a poorly designed electoral system, members of the DPRD only represented constituents living in remote areas in the weakest of senses.

Disaffected DPRD members described the collusion between elected representatives and the district heads as causing problems that become apparent at two key time during the year, namely: with annual accountability reporting and budgetary arrangements. Before the revision of the key decentralization law (UU 22/1999), Indonesia's decentralisation laws provided the DPRD with the power to reject the annual accountability reports to enhance the monitoring of executive behaviour and hence improve government performance.²³ In theory, if this report is not accepted, the district head can be forced to resign. According to a number of accounts from Central Kalimantan, the district heads pay money to members of DPRD to ensure the acceptance of their accountability report. Within the system of exchange that dominates district politics, the accountability report becomes a lever to extract business and other concessions from a district head, with DPRD members refusing to pass reports until agreement is reached regarding how district projects will be allocated.²⁴ Expensive deal making also affects the arrangement of the annual budget. In particular, the heads of the district assemblies, agencies, factions in the DPRD, the district head, and secretaries of the district, are the major players in arranging the budget (RAPBD), obtaining projects worth millions of rupiah. In return for their acquiescence, DPRD members obtain projects and sums of money allocated 'for lobbying'.²⁵

According to a disillusioned DPRD member interviewed in 2004, a career in the DPRD has become an object of accumulation both for personal and political ends. Candidates for the legislature need to invest in the party to become a candidate, and once a candidate is elected they need to earn money for the party to support re-election.²⁶ To this end, they need to obtain lots of projects. Consequently, he said, 'people are very disillusioned with politicians, they just see them as being after their own interests'. Given the dominant power of the executive in policy processes and the way collusive practices have corrupted the DPRD, community aspirations fail to be taken up by DPRD. It is hardly surprising that villagers have few expectations and, according to one DPRD member, they are not interested in meeting DPRD members visiting their constituencies.²⁷

Members of the DPRD have also been involved in the timber trade, using their status within networks of exchange and accommodation encompassing the executive to provide operations with a degree of immunity from the law. DPRD members have provided recommendations

for timber to pass through their districts or supported the statements of timber interests in the name of the DPRD. More directly, it has been estimated that more than 60 DPRD members in Central Kalimantan have been directly involved in timber enterprises.²⁸

This clearly demonstrates the degree to which villagers remained disadvantaged under decentralisation. Yet, the system that flourished at this time led to a much wider distribution of benefits than the earlier centralised system. Ironically, this wider distribution of benefits also encompassed the key agents of what is often considered civil society. This became apparent when a reporter noted that virtually all journalists in the provincial capital, Palangkaraya, received monthly payments from a major timber mill not to report on their activities. When villagers burnt down the mill after a prolonged festering dispute, the local press had failed to carry the story.²⁹ Others described how freelance journalists travel around with a press card uncovering illegalities and extracting blackmail money in exchange for suppressing publication. According to one report, a timber operator could face 40 journalists visiting his office, asking for Rp100–200 000 in exchange for not exposing illegalities. In a district along the Barito River, each time an *expedisi* passed, they would be given a list of the names of journalists needing payment (between Rp500 000–5 000 000) to withhold reports.³⁰

District officials and journalists also discussed similar phenomena among NGOs, which they jokingly referred to as 'organisations that like to make requests' (*Lembaga Suka Minta* or LSM); a wordplay on the Indonesian term for NGOs. With hundreds of NGOs emerging after the end of the New Order period, many NGOs in the province also collected information in upriver areas, extracting money from those involved in exchange for silence.³¹ According to a DPRD member, every time an illegal timber shipment passed along the Barito River, in Buntok, several NGOs received a payment.

NGOs and the press may be considered the key protagonists of modern associational life. According to the classical idea of civil society conceived by its original historical exponents, they should act as the torch bearers of 'a moral community, a legitimate political order', (Khilnani 2001). Yet, on first appearances many of these key actors in civil society seemed to be acting like just another group of rent seekers. With journalists and NGOs taking payments from commercial interests, it was hard to envisage the press taking on a critical role. There were also obstacles to the healthy development of what Habermas has called a 'public sphere'—where public opinion formed through free discussion in the press, informs and controls the activities of the state.³²

The conventional account of the emergence of civil society in Europe describes how the mercantile class played a key role in the emergence of democracy in Europe by acting as a popular force to restrict state power.

The underpinning assumption is that with the rise of capitalist mercantile enterprises, capitalist classes followed an anti-absolutist political strategy, siding with popular forces instead of an oppressive state, and supporting restrictions on state power. In contrast to this account, in Central Kalimantan, the entrepreneurs and brokers which we might expect to function like incipient capitalists, seemed to be busy making backroom arrangements with agents of local state agencies rather than attempting to curb the arbitrary excesses of local state power (cf. Kaviraj 2001: 297).

Yet, we need to understand the logic of this system from a different angle. As noted earlier, predatory state arrangements in Central Kalimantan's timber sector were well established before decentralisation and were merely rearranged after its implementation. Even after decentralisation the formal mechanisms of public participation and representation were remote from the actual mechanisms determining who gained access to resources and how they did so. Actors, including those who should act like 'the protagonists of civil society', had a sense of entitlement—enabling local people to benefit from local resources. Yet, given the prevailing political conditions in Central Kalimantan, citizens lacked effective control over politics and the bureaucracy. They had expectations of participating in the core policy-setting functions of local government but in reality they had very little voice. This extended to a lack of control over the way taxation revenues generated from the region's resources were raised and distributed. Given the way benefits from the timber sector were distributed, these actors could hardly expect taxes generated from local natural resources to improve public services or provide public services in any formal way. These conditions provided an environment for corrupt practices.³³ While actors could not control it, they could participate in the system for distributing benefits. And if a sufficient number of influential actors in the areas through which shipments passed participated in this way, this system could obtain a degree of normative 'legitimacy' because enough influential people tacitly participated in it. Meanwhile those who might dissent risked moving beyond the boundaries of local sociability or even placing themselves in danger. Consequently, actors were more likely to express their voice by forcing the system to include them in the distribution of benefits rather than whistleblowing.

Post Autonomy: Changes after 2002

From 2000 changes occurred that were to have far reaching consequences. In July 2000 Abdurahman Wahid separated the police from the armed forces (ICG 2001).³⁴ Prior to the restructuring of the military, the military and police were integrated into a unitary command structure. As the military was the lead agency, 'the police could be leant on by the military, and so they weren't so brave'.³⁵ After the reforms, the police reported directly to the president under a national civilian police chief. As the head of the provincial police now had a rank of brigadier general, the head of the local military command remained a colonel; the local police commander also

had a higher rank. Yet, like the military, the police remained underfunded and, according to one report, obtained only 30 per cent of their operating budget from the government. At the same time the central government made no steps to improve accountability within the force. Despite regional autonomy, there were no formal means of holding police downwardly accountable to the local population.³⁶ The provincial police chief remained upwardly accountable to the central government and the governor; the central representative of the regions. Consequently, as long as the provincial police chief tied up decisions with the governor, the police could operate outside the control of the district administration.³⁷

After 2002, making use of their new powers, the police began to work more autonomously of district civil and military commands. Forestry agencies had long competed with the police to control law enforcement in the forestry sector. While forestry officials had investigatory powers, they needed to report infringements of forestry law to the police whose responsibility it was to process the case until it reached court. Armed with extended authority, the police now increasingly confiscated timber without involving district forestry agencies. This left the district administration primarily in control of permits and licenses and there was little district administrations could do.

In 2001 the new Megawati administration moved to reassert vertical control in remote provinces. In July 2002 the central government issued a new government regulation (PP 34/2002).³⁸ Prior to this there were serious disputes within the districts and between the central and provincial authorities over natural resource decision-making. At this time, the Forestry Ministry regained control over the permit system, timber transport licences, and the collection of taxes on forestry activities, effectively rescinding district authority to issue 100 ha exploitation permits and raise district taxes in the sector.

During this time, the police began to enforce laws that made for excellent public consumption as it coincided with a national campaign against illegal logging. In particular, police concentrated raids on smaller scale sawmills and timber shipments run by local entrepreneurs and brokers, as well as larger timber operations and some *expedisi* operating without legal documents. District officials were faced with arrest by the police for breaking national law. In a well known case in 2003, the head of the forestry agency, the district head, and the head of the DPRD in Barito Utara all faced legal charges for providing transportation documents to an *expedisi* containing uncertified timber. They allegedly issued the documents according to a district decision in contradiction of national forestry laws that require timber without documents to be confiscated and auctioned. Provincial rumour held it that the case involved political competition and unhappiness regarding the division of revenues with other actors.³⁹

Despite this apparent crackdown, according to one forestry official on the Barito River, 'if timber passes through with the flag of the police chief on it, no one is brave enough to touch it. Police can arrest us ...but we can't do anything to them.'⁴⁰ According to a number of sources, a broker close to the provincial police chief operated as the key gatekeeper in the province. Only timber syndicates making payments and linked to this broker had the informal blessing of the provincial police chief and could continue to operate. This led to a further round of natural selection, where actors lacking an excellent working relationship with this gatekeeper, or failing either to make speedy or adequate payments, faced legal sanctions.⁴¹

These practices led to several changes in the field. Before, with competition between the police and the forestry agencies, law enforcement remained somewhat unpredictable. But now, the extraction of timber became easier and more predictable for the few syndicates that now were able to operate. Second, the district bureaucracy could no longer guarantee access to resources in the same way. With small scale timber licenses expiring, many small scale district operators found that they could no longer negotiate new permits. Third, after PP 34, in a similar fashion as before regional autonomy, permits needed to be processed at the provincial level and in Jakarta.⁴² This increased the dependence of local operators on actors who could process permits—such as HPH concessionaires with valid licences—or guarantee taking timber out. Fourth, as districts could no longer apply district regulations, a number of administrative practices for raising district revenues and laundering timber could no longer be used. Accordingly, district revenue from the forest sector fell into decline. And so the high tide of regional autonomy in the forestry sector ebbed.

Conclusions

To sum up, despite shifts in the system, there appeared to be a great deal of continuity in modes of resource access and control. The localised modes of resource control—that were apparent during the New Order period—had become more explicit after decentralisation. In a sense, political decentralisation merely rearranged these already existing decentralised ways of organising production and allowed them to flourish. With regional autonomy, routes of access became more diverse. This allowed larger groups of actors to gain access to forest resources and enjoy benefits. As under the authoritarian New Order, the decentralised regime generated revenue and other benefits for political and other reasons while ignoring the ecological limits of Central Kalimantan's once great forests. From 2000, the pendulum began to swing back towards centralised modes of resource control: by 2004 the mechanisms governing access to timber were back under the control of provincially integrated syndicates. Viewing the shift to regional autonomy as yet another case of elite capture is rather one-dimensional: these changes can more readily be understood in terms of a swing between centralised and decentralised modes of resource control. These modes are not separate, but can be seen as connected and

competing, each working to the relative advance of a particular group of actors.

Yet, appearances can be somewhat misleading. While the system proved to be *very adaptive*, only some actors could survive the continuous shifts in the system. Over the 1998–2004 period actors faced a very fluid situation. Entrepreneurs, brokers, license holders and sawmill owners who had risen to prominence during the New Order period had to ride successive waves of legal, economic and personnel changes if they were to continue to prosper. Successive changes in politics, economics and laws, the restructuring of the district and provincial agencies, changes in agency leadership, and the creation of new districts meant that there was a high degree of mobility in the public sector and changes in the authority and relative power of military, forestry, district and police agencies. Within this process of natural selection only the strongest and most capable figures could survive. These actors could adjust, using their multiple assets to insulate themselves from any particular change in the legal-political constellation.

Even if the logic of state action had been undermined during the messy process of implementing the decentralisation reforms, the role of the state remained central. Within public discourse, the application of state power still needed to be legitimated through the law. Yet at this time the legal system was contradictory. Consequently, state agencies at different levels relied on different areas of law within an inconsistent, rapidly changing legal framework. So legality was first a matter of interpretation and perspective, which (as ever) was shaped for personal and institutional ends. The meaning of a law was coloured by shifting and contested interpretations of state regulations between competing agencies.

Beyond the question of legal interpretation, a state agency—such as a district government, the Ministry of Forestry, or the police—needed to impose its interpretation in the field. A law could be used—through the threat or application of legal powers by a state law enforcement agency—to extract payments, force an accommodation, render an operation uneconomical, or shut it down altogether. This depended on who had the authority or capacity to issue, obtain or manipulate documents, and who had the will or ability to enforce regulations at a particular time, for what reason and how they chose to do this. These applications of power in the field effectively regulated actors' capacity to extract resources from the system. By using this power, state actors in various ways controlled other actors' access to market, to various degrees accumulating revenue and enriching themselves in the process.

The dispute between the Ministry of Forestry and districts over the permitting system illustrated how effective power could resolve the question of legal interpretation. Early in the high season of regional autonomy, districts advanced an interpretation of Law 22/1999 and earlier forestry department decisions that allowed them to issue permits and

timber transportation licenses. Consequently, districts set up their own regimes for handling timber against the policy directives of the ministry, and this helped facilitate a boom in district based timber businesses. While the ministry tried to rescind this policy after 1999, they lacked the capacity to impose these decisions on the ground. Only after the passing of a strong state regulation (PP 34/2002), combined with the emergence of a body (the police) with the authority, power and institutional interest to take action, was this dispute resolved in favour of the ministry. The dispute over legal precedence was resolved because the police could apply the state's monopoly on the legitimate use of force in this area, specifically against nonconforming district administrations. And so the district timber regimes had to crawl back into the interstices of more centralised modes of resource control.

The legitimacy or illegitimacy of the system of resource extraction in local terms depended on how well it distributed benefits and to whom, rather than how it related to any abstract notion of decentralisation or state legality. District administrations set up regulatory systems that creatively used the centrally created legal system: various local actors improvised within the framework provided by these rules and the way they were applied, gaining windfall profits. The de facto control of villages over surrounding territories in the field meant that, for the first time in many years, conglomerates and financiers had to pay those claiming customary rights for access to resources. Moreover, the development of a (limited) system that allowed local people to legally extract resources gave upriver actors a limited chance to market timber resources within the law. To be sure these benefits were unfairly distributed in villages, and the rural poor remained disadvantaged. Moreover, due to the personalistic, clientelist nature of the system, the constellation of actors benefiting shifted as legal-administrative and political changes affected state based patrons in an administration under transition. Nonetheless, the allocation of permits to local actors combined with the de facto control of villagers over surrounding areas to strengthen the bargaining position of villagers, contributing to a wider sharing of benefits, and an increase in the relative value that local people gained from the mining of their forests. However, as elsewhere, decentralisation failed to establish the rights of local users in any enduring way; on the contrary, it only extended privileges (cf. Ribot and Peluso 2002: 163). Consequently, with changes in state laws after 2002, recentralisation abolished these district regimes.

As noted earlier, the literature on good governance accents the role of civil society in 'civilising' the state. While there are competing concepts of civil society drawing on Locke, Hegel, Marx and Gramsci, these traditions of thought all relate to the contextually specific history of the emergence of modernity in Western Europe (Kaviraj and Khilnani 2001). The variety of uses given the term in contemporary political and academic practice drawing on this history leads to a concept of civil society in the form of 'a hydra-headed sign' that 'captures otherwise inchoate—as yet unnamed and

unnameable—popular aspirations, moral concerns, sites and spaces of practice’ (Comaroff and Comaroff 1999). These aspirations and concerns can converge around the idea of creating an authentic political order that can hold the state accountable and help it accomplish overriding common interests (Khilnani 2001). This provides both a normative rationale for embarking on decentralisation reforms and a programmatic view of what should happen afterwards.

Decentralisation has reportedly helped increase the influence of grass root civil society groups over the local state in other contexts (Manor 1999; Mathew 2003). Yet, Central Kalimantan contrasts with the prescribed model. This remote province experienced restrictions on political organisation during the New Order, ethnic divisions, geographical isolation and the poor economic situation of Central Kalimantan’s rural communities, together with the localised, naked and violent expression of power in rural areas. Taken together, these factors seem to have affected the prospects for developing the type of civil society required for good governance. Central Kalimantan seems to lack the type and variety of associational forms—from cultural organisations to ethnic and other groups—that might fulfill the role of a functioning civil society. In particular, the place still requires the critical mass of organised actors who could hold district administrations downwardly accountable. Here the de facto institutional arrangements developed from exchanges within strong networks encompassing the district administration, legislative, and other actors who were somewhat autonomous of rural interest. The voice of what associational life existed tended to orientate itself around the expectation that they could participate in the distribution of benefits in one form or another. These factors worked against collective action to shape official district policy or hold district administrations accountable in ways other than economic distribution.

Yet, if the concept of civil society emerged during the period of modern European state formation, as others have noted, in contexts such as Central Kalimantan, the discussion of civil society is necessarily reduced to a sorry analysis of lack and deficiency. Here the good governance and decentralisation policy approach fails to provide any expectation other than policy failure. It is this perception of policy failure that has legitimised the return to a more centralised mode of resource control since 2002.

However, just as with western forms of modernisation, there is little reason why western models of civil society should be universal. Other forms of political society are possible; other societies can develop their own forms of non governmental organisation and association (Comaroff and Comaroff 1999; Kaviraj 2001). Here the voice of Central Kalimantan’s political society focused on participating in the clientelist system for distributing benefits rather than participating in the core policy-setting functions of government. Viewed from this angle, decentralisation in Central Kalimantan increased the bargaining position of a diverse group of actors. Given the pressure

brought to bear against those extracting resources locally under regional autonomy, this voice seems to have led to a wider distribution of resources in the local domain compared to when actors in far off Jakarta had more control over resource access. To avoid the blind ally that a narrowly conceived decentralisation intervention suggests, attention could first be paid to understanding the logic of *existing* systems. A more modest approach here would begin with how actual systems work, considering how to improve the bargaining position of marginal actors and increase the possibility of collective action within networks of exchange and accommodation and the wider political economy. This might provide more realistic expectations about the possibilities for change, and what is required to ameliorate the conditions of the rural poor.

Endnotes

- ¹ For discussion of how the decentralisation/civil society discourse affected public policy in Indonesia see McCarthy (2004) and Schulte Nordholt (2003).
- ² For discussion see Tendler (1997), Agrawal and Ribot (1999) and Manor (1999).
- ³ For an examination of these well established local modes of resource control over a long historical period see Obidzinski (2002).
- ⁴ For discussion of this phenomenon see Barr (2001), Barr (1998), Robison and Rosser (1998) and MacIntyre (1994).
- ⁵ 'Ampas' Hutan untuk Daerah, Kompas, Senin, 18 Juni 2001.
- ⁶ Interview, Buntok, 24 August 2002.
- ⁷ Undang-Undang Republik Indonesia Nomor, 22 Tahun 1999. Tentang Pemerintahan Daerah.
- ⁸ For descriptions see McCarthy (2001a, 2001b).
- ⁹ See McCarthy (2001a, 2001b).
- ¹⁰ See McCarthy (2004).
- ¹¹ This phenomenon was found also in other areas of Kalimantan. For a good example see 'Rencana Menhutbun tidak Disetujui Wakil Rakyat Kutai', Suara Kaltim, 20 November 2000.
- ¹² See Peluso and Harwell (2001).
- ¹³ Timber interests also contributed large amounts of funds for the governor of Kalteng at the time of the last elections (McCarthy 2001a; 2001b).
- ¹⁴ 'Overlapping in the Timber Trade.' Tempo No 46/24 July 2001.
- ¹⁵ 'Gangguan terhadap investor di kalteng'. Kompas, 16 August 2001.
- ¹⁶ Interview Dinas Cooperasi, Kapuas, 27 April 2004.
- ¹⁷ Popo Madjen, Illegal Logging di Kalimantan, unpublished paper.

- ¹⁸ Interview timber broker, Banjarmasin, 26 April 2004.
- ¹⁹ Popo Madjen, Illegal Logging di Kalimantan, unpublished paper.
- ²⁰ Popo Madjen, Illegal Logging di Kalimantan, unpublished paper.
- ²¹ 'Empat cukong kayu illegal disel', Banjarmasin Post, 8 August 2002.
- ²² Undang - undang Nomor 25 Tahun 1999 tentang perimbangan keuangan antara pemerintah pusat dan daerah.
- ²³ This is one area of DPRD authority that was subsequently taken away in late 2004 by a new local government law (UU 32/2004).
- ²⁴ Interview, 11 August 2002; Interview DPRD member, Palangkaraya 24 April 2004.
- ²⁵ Interview DPRD functionary, Kapuas 27 April 2004.
- ²⁶ Under the electoral system, the position of a candidate on the ballot paper determines the likelihood of obtaining a seat in DPRD. Candidates who failed to gain a seat typically complain of collusive, corrupt practices in determining the position the party allocated them on the ballot paper.
- ²⁷ Interview DPRD functionary, Kapuas 27 April 2004; DPRD member, Palangkaraya 24 April 2004; NGO employee Palangkaraya 23 April 2004.
- ²⁸ Popo Madjen, Illegal Logging di Kalimantan, unpublished paper.
- ²⁹ Interview, Palankaraya, 22 April 2004.
- ³⁰ Popo Madjen, Illegal Logging di Kalimantan, unpublished paper.
- ³¹ According to informants, only a few NGOs and journalists in Palangkaraya remained free of these corrupt influences.
- ³² See Habemas (1989).
- ³³ A recent study of the impact of openness and democracy on the level of corruption that the degree of 'voice', 'the chance to fight corruption by control and participation', contribute to containing the level of corruption. Corruption in Empirical Research—A Review, by Dr. Johann Graf Lambsdorff. November 1999.
- ³⁴ The decision was formalised with the promulgation of the new police law in January 2002. Undang-Undang Republik Indonesia Nomor, 2 Tahun 2002. Tentang Kepolisian Negara Republik Indonesia.
- ³⁵ Interview, Forestry Official Kuala Barito, 25 April 2004.
- ³⁶ USINDO Open Forum Challenges to Police Reform in Indonesia with Adrianus Meliala, Lecturer at the University of Indonsia September 26, 2002 Washington DC <http://www.usindo.org/Briefs/Police%20Reform.htm>
- ³⁷ Interview, Palangkaraya, 22 April 2004.
- ³⁸ PP No. 34 Tahun 2002 tentang Tata Hutan dan Penyusunan Rencana Pengelolaan Hutan, Pemanfaatan Hutan dan Penggunaan Kawasan Hutan.
- ³⁹ Badarudin Belum Pernah Diperiksa, Banjarmasin Post, 3 March 2003.
- ⁴⁰ Interview, Forestry Official Kuala Barito, 25 April 2004.
- ⁴¹ Interview, Journalist Palangkaraya, 22 April 2004.
- ⁴² Interview, Assisten II Kantor Bupati, 25 April 2004.

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