Democratizing Decentralization: Local Initiatives from Indonesia

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Noer Fauzi dan R. Yando Zakaria
KARSA (*Lingkar untuk Pembaruan Desa dan Agraria* – Circle for Rural and Agrarian Reform)

Jalan Blimbing Sari CT IV, No. 38 - Yogyakarta, Indonesia
Telp: (62-274) 561847, Fax: (62-274) 561847
Email: noer@indo.net.id; yando@indo.net.id; bsbb@indosat.net.id

> *Governance* (pemerintahan *in Indonesian, a derivative of the word* perintah – *to command*) *is a set of guidelines describing how to manage resources, people, commodities, and money, with the state as the main actor on the stage, and communities as the paying audience. The people's participation, at most, is confined to the role of commentator or critic. Calls for reform are a noisy choir from below the stage. But the roles remain the same – there are those who govern, and who are governed.*
>
> *Management* (pengelolaan) *is another concept, closely related in Indonesian usage to the former term, but grounded in a basic concept that is somewhat different –* kelola *means to manage, execute or organize. Our history has shown us that trying to manage change without the people's participation – as has been the case for the past 30 years – has not succeeded. If we simply replace the actors, change the set, or modifying the script, we face the same risks as before, for as long as the people themselves are not permitted to play an active role in determining the conditions of their own lives.*
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> (adapted from Hendro Sangkoyo, 2000)

Introduction

Advocacy is defined by Topatimasang (2000: 14) as "the endeavor to improve or alter public policy in accordance with the wishes and interests of particular groups pressing for change." During the period of the authoritarian New Order regime (1967-1998), the advocacy efforts of Indonesian NGO activists were often labelled as "attempts by anti-establishment groups and individuals to undermine the legitimate government of the people." From the viewpoint of the activist themselves, on the other hand, it was considered to be "an heroic striving, fraught with difficulty and challenge, requiring a radical attitude," (Fakih, in Topatimasang 2000: iii).

In fact, the majority of advocacy work carried out during the 1980s and 90s in Indonesia can was hardly "radical." It consisted mainly of peaceful demonstrations to petition government agencies and the national legislature, and attempts to settle cases through the (tightly controlled) legal system. NGOs assisted by preparing written chronologies and analyses, in an attempt to amplify the people's voice so that policy makers might hear it – if they chose to listen. With the changes in the structure, function and tone of government in Indonesia today,

NGOs now have the opportunity to engage in new, more sophisticated and innovative means of advocating change.

One of the fundamental problems facing activists attempting to advocate for local communities' rights is the great distances – both social and spatial – between the oppressed communities and the individuals and agencies producing the policies that allow or encourage oppression to occur. This is even more the case if the analysis is broadened to include the relationship between state policy and global capitalism (Mas'oed 1989; Fakih 1996). This reality informs the slogan "think globally, act locally" and its corollary "think locally, act globally."

This essay chronicles three examples of advocacy work currently being undertaken by local NGOs and communities in different parts of Indonesia since the fall of the authoritarian regime, from the viewpoint of the implementing organizations themselves. Taking advantage of what can be called the "framework of opportunities" created as the result of changes in the national political system, NGOs and communities are now able to work directly to influence policy outcomes. This is largely due to the policy of decentralization and regional autonomy initiated during the brief presidency of Ir. B.J. Habibie, and the incipient democratization agenda that has been gaining momentum since the collapse of General Suharto's authoritarian New Order regime during the first quarter of 1998.

After a brief introduction, the paper addresses the following topics: (i) the origins and essence of Indonesia's decentralization/regional autonomy policy; (ii) tensions (and opportunities) that have arisen as a result of the implementation of this policy; (iii) initiatives undertaken by the Implementing Agency of the Agrarian Reform Consortium (BP-KPA) together with a few of its local partner organizations to develop a training curriculum and program for local parliaments (DPRD) in three *Kabupaten* (districts); (iv) the post-training dynamic and transformative processes in these three districts; and (v) a review of experiences and lessons learned from these NGOs' interventions in local communities' efforts to influence policy within the context of decentralization/regional autonomy.

Decentralization and Regional Autonomy Policy in Indonesia

During the New Order Period, Indonesian NGO activists found it difficult to imagine changes in the national development paradigm that would allow for the elimination of oppression and exploitation, short of a complete change of the country's political system. Therefore, they enthusiastically greeted the changes that were initiated by President Ir. B.J. Habibie after the resignation of President Suharto on 21 May 1998. These dramatic events were the culmination of a political groundswell spearheaded by student demonstrations in the wake of the 1997 national election and Asian economic meltdown (see R.S. Adnan and A. Pradiansyah in Sumardjan 1999).[1]

Initial steps toward creating a liberal democratic political system initiated by President Habibie allowed for a public evaluation of the errors of his predecessor's government, evidenced in People's Consultative Council (MPR) Decree No. X/MPR/1998 on the Basic Principles of Reform for the Normalization and Preservation of National Life as Guidelines for State Policy.[2] Hastening to rectify past mistakes, the MPR passed Decree No. XV/MPR/1998 on Regional Autonomy; Just Distribution and Utilization of National Resources; and Fiscal Relations between the Center and Regions within the Context of the Unitary Republic of Indonesia.[3] These two decrees provide the conceptual guidelines that were then elaborated in Basic Law No. 22 on Regional Government, passed into law on 7 May 2001, and becoming effective on 1 January 2001.

Since independence, successive Indonesian governments have wrestled with the issue of center-regional relations. Decentralization is conceptualised and structured along two different

axes – territorial and administrative delegation (Hoessein 1993). The doctrine of territorial decentralization grants sub-national units (Provinces or Districts [*Kabupaten*]) autonomy over management of their internal affairs. The administrative delegation model accords regional governments specific responsibilities in three realms – politics, administration and finance. Under the present system, regions now hold authority to decide policy on nearly all matters, with except for foreign policy, national security, justice, fiscal and monetary policy, and "certain other matters." Regional governments are now empowered to establish the bodies and agencies they need in order to carry out these responsibilities. In the realm of fiscal/financial management, regional governments are now empowered to manage revenues and budgets, both for routine matters and for regional development, as set out in Basic Law No. 25 of 1999 on Fiscal Relations between the Center and Regions, and Basic Law no 34 of 2000 Revising Basic Law No. 18 of 1997 on Tax and Regional Government User Fees.

The current model of decentralization differs from deconcentration or "assistance" (Indonesian: *Pembantuan*; Dutch: *Medebewind*), in which the center retains a large measure of control over decision-making and allocation of resources. Under the decentralization model, the distance between communities and policy-makers is greatly reduced, opening the possibility that policies will better accord with the situations and desires of local communities. It is hoped as well that the political process will become more open – that local communities will be able to participate actively in policy discussions and decisions.

Three Types of Center-Region Relationship

	Principle	Nature of Delegation of Authority	Authority of Respective Levels of Government		
			Center	Province	District
1	Decentral-ization	Transfer	Supervision Management Oversight	Coordination Supervision	Policy Planning Implemen-tation Finance
2	Deconcen-tration	Delegation	Policy Planning Finance Supervision	Coordination	
3	Assistance	Inclusion	Policy Planning Implemen-tation Finance Supervision	Coordination	(Assist) Imple-men-tation

Adapted from A. Syafruddin, in Moh. Mafud MD (1998) *Politik Hukum di Indonesia*. Jakarta: LP3ES

According to Lay (2000), the political landscape in Indonesia today can be better understood by considering five inter-related trends:

a) Numerous problems and contradictions that grew and deepened during 32 years of New Order authoritarianism and hyper-centralism have now come bursting to the surface in regions throughout the country. These problems include the regions' dependence on the central government guidance and the concomitant withering of local political initiative; the dominance of instructions from the center and inability of regional governments to formulate their own policies and programs; excessive uniformity and the dilution and/or marginalization of local cultural forms and norms; and the uncontrolled exploitation of natural resources to feed the needs of the center, and resulting damage to local communities livelihood and way of life in many regions. All of these issues are the result of decades of centralized control of political processes in the country.

b) The trends and problems described above in fact reflect global trends, characterizing the experiences of many Third World countries throughout the world since the 1970s. Social and regional disparities have widened in developing countries as power, technology and economic assets become increasingly concentrated in the hands of a small

elite, while most communities and regions are left further behind. In other words, the "trickle-down" model has not performed as expected.

c) There has been a sudden shift in the *tenor* and *character* of politics in Indonesia, from authoritarian toward the development of more democratic approaches and institutions. This has been accompanied by an equally profound shift in the attitudes and actions of communities throughout the country. The Indonesian people, having had a taste of freedom, now hope for a more thorough transformation of state-society relations.

d) The center has lost control of the political process, as events of the late 1990s deprived it of both the "sticks" and "carrots" that had been so effectively deployed during three decades of New Order rule. The economic crisis and concomitant collapse of Indonesia's system of crony capitalism due to rampant corruption and nepotism means that the leadership in Jakarta no longer possesses the material incentives that were used to maintain the loyalty of regional leaders. One of the great ironies of the New Order period was that the regions financed their own subjugation, as the central government's system of control was financed using profits garnered from the exploitation of the regions' natural resources (in combination with aid and loans from Western governments and multilateral development organizations). These moneys financed the powerful armed forces, whose primary responsibility throughout this period has been the suppression of local dissent. With the collapse of the New Order, the extent and severity of the Indonesian military's abuse of privilege and power has come to light, resulting in the erosion of the armed forces' legitimacy as a political force in the country. Evidence of the systematic abuse of human rights throughout the New Order period reinforces the sentiment in many regions to resist Jakarta's bidding.

e) There has been a groundswell of "ethno-nationalism" in many regions throughout Indonesia, as an expression of local cultural identity. This trend certainly gained impetus as communities and local leaders taste freedom of expression after years of loyally parroting Jakarta's development mantras. The capital Jakarta is no longer viewed as the "center" by many communities, but rather as "Java." Terms such as "neocolonialism" and "neofeudalism" are frequently used now to criticize state structures, policies and relations that still retain some New Order characteristics. Leaders in many regions are increasingly expressing their desire – and ability – to manage their own affairs.

The most significant changes affected by Law No. 22 of 1999 take place at the *Kabupaten* (District) level. According to Gaffar (2000) the primary differences between the 1999 law and its predecessor, Law No. 5 of 1974 on Regional Government,[4] are as follow:

- There is a clear division of roles and authority between Regional People's Consultative Assemblies (DPRD) and the Heads of Regional Government, to prevent duplication or confusion between the responsibilities of the executive and the legislative branches. The Head of Regional Government executes policy, while the DPRD sets policy. DPRD are empowered to set policy and oversee implementation, acting as a channel of the people's aspirations. The legislative process in the regions has changed as well. District (*Kabupaten, Kota*) regulations no longer require approval from the Ministry of Home Affairs to become law. So long as it does not contradict national law, once a decree is passed by the DPRD and signed by the head of regional government, it becomes a Regional Government Regulation.

- Regional autonomy encourages the growth of democratic institutions at the local level, and will increase initiative, creativity and communities' participation in government policy-making and implementation, to produce policies that better accord

with needs and conditions in the respective regions. This is reflected in the language of Law No. 22 of 1999 on Regional Government on the form, membership, rights and responsibilities of the DPRD, and the conduct, election and appointment, dismissal, term length and accountability of the Head of Regional Government.

- In the 1999 Regional Government Law, the section on the DPRD appears before that relating to the Head of Regional Government. This reflects the intention of the central government to guarantee the people's sovereignty, by prioritizing the role of the DPRD as legislative body.
- To further strengthen the role of the DPRD, the law stresses the rights and responsibilities of this body. These include the right to (a) request accountability reports from the Head of Regional Government in carrying out his/her duties in implementing the functions of Regional Government; (b) request clarification from the Head of Regional Government on proposed regulations or policy, impact of policy and programs, and legal and ethical issues that arise relating to the conduct of the Head of Regional Government; and (c) conduct investigations, including the right to subpoena regional government officials or citizens to provide explanations on matters of importance to local communities and people. As well, the DPRD is required by law to (a) guide democratic life in the conduct of regional government affairs; (b) improve people's livelihoods through democratic management of the regional economy; and (c) understand and strive for the fulfilment or settlement of the people's needs, aspirations, complaints and challenges. In addition, the DPRD should defend the interests of the Region and its citizens vis-à-vis the national government, including petitioning the national People's Representative Council (DPR).
- Criteria for appointment of the Heads of Regional Government are simple and concrete. The recruitment process is carried out entirely by the regional government, free of intervention from central government (except for the office of Governor, which still requires consultation with the President, since the Governor functions as the President's representative in the province in addition to his role as Head of Provincial Government). Selection and appointment of Heads and Assistant Heads of District (*Kabupaten*) Governments are delegated fully to the local DPRD.
- The Head of Regional Government is responsible to the DPRD, and must deliver an accountability speech before this body at the end of each fiscal year. The responsibilities of the Head of Regional Government are clearly set out in the law. The Head of Regional Government is thus no longer the sole source of political power in the regions.

Door Number One: Tensions Between the DPRD and District Government

According to Law No. 22 of 1999 on Regional Government, and further elaborated in Law No. 4 of 1999 on the Structure and Function of the MPR, DPR and DPRD, the role and function of the DPRD is clearer and more substantial than under the previous system. While commendable, this could also permit possible abuse of power by newly empowered regional parliament members. Beside to the positive aspects of the new law outlined above, Lay (2000) discusses several possible negative consequences that could arise:

- There is a very real possibility of power struggles and conflicts of interest between the DPRD and the bureaucratic elite within the regional government. This possibility stems from (a) the inclusion of new members who are not from the same socio-economic groups as entrenched local government leaders – and who might not share the same views, use the same language and symbols – i.e., individuals who are not the

traditional "partners" of the local bureaucratic elite. Disagreement was almost unheard of under the previous system, when the legislative and executive members of regional government all derived from (or who quickly integrated into) the same ruling "clique." Currently, there is a multiplicity of voices and viewpoints represented in the DPRD, that will inevitably lead to a measure of disagreement and conflict. (b) Many of the new generation of politicians hail from the NGO and student movements, and experienced discrimination and suppression during the New Order period. A measure of residual enmity from that era still pertains. (c) Many of the new politicians represent social groups who were marginalized or victimized during the past three decades, and their attitude toward more entrenched political actors is often influenced by bitter experience. As well (d), the new generation of politician tends to view their counterparts in the bureaucracy as thieves and rogues, who cannot be trusted. Meanwhile, (e) most of the bureaucrats and officials from the executive branch are far more experienced at the "rules of the game" and political manoeuvrings than their counterparts in the legislature, and can be contemptuous of what they view as inexperienced upstarts.

- There will naturally be a tendency for "overacting" among politicians. This is a consequence of the sudden leap from the earlier oppressive, controlled political system to more open forms, also perhaps a measure of overcompensation to mask a general lack of competency and experience.
- Another possibility is backlash from members of the bureaucracy, who may be unwilling to take direction from politicians they feel are less educated or experienced than then. The new laws explicitly provide opportunities for "traditional" powerholders – i.e. members of the bureaucratic elite – to hold elected office, but a portion of the post-New Order political leadership comes from outside these circles. Such a mix gives rise to the possibility of boycotts, passive resistance, and unofficial dealmaking as bureaucrats attempt to retain their power and influence. Various allegiances – ethnic, personal connections, party affiliations, collusion and nepotism, will be brought into play, that can weaken or undermine nascent democratic institutional structures and processes.
- The "spoils system" that rewarded loyalty and submissiveness throughout the New Order period is still deeply engrained in Indonesia's political culture. It will take time to replace this with a system and culture that rewards merit, particularly given the weakness of checks and balances within the new system, and the general power vacuum that has appeared in the wake of the collapse of the old regime.

The situation described above is full of risk – particularly the risks of political gridlock, or the hijacking of regional governments by members of the old political elite intent on retaining its power and privilege. New mechanisms to transparently and democratically formulate policy, manage budgets, supervise development and increase accountability are still largely untested in Indonesia. There is a very real danger that decentralized regional governments may end up acting merely as smaller, localized versions of the top-down, paternalistic and feudalistic state structures that have pertained in Indonesia over the past several decades.

On the other hand, it is a situation rich with possibilities. The changes described above open the door to a new political space – an arena for advocacy, negotiation, lobbying and coalition building that did not exist during the previous era.

Door Number Two: Tension between the Regions and the Center

Besides the potential for conflict between the legislative and executive branches of regional government, Law No. 22 of 1999 does not successfully address issues of possible conflict of

interest between the central and regional governments. These tensions are still evident in the text of the law dealing with the division of authority between the central and regional governments. In Article 7, the law stipulates:

1) Regions' authority includes the authority to manage all tasks of government, except for foreign affairs, peace and security, justice, monetary and fiscal policy, religious affairs, and other special affairs;

2) Other special affairs, as mentioned in clause (1) above include policy on national macro-scale planning, fiscal equalization, national administration and national economic institutions, guidance and empowerment of human resources, utilization of strategic natural resources and high technology, conservation and national standardization. Government regulations on the management of these special affairs will be forthcoming.

There can be many interpretations of the above stipulations. Some regional politicians take this to mean that regional autonomy comprises the "leftovers" of what is not still controlled by the central government. Most regions argue that the center's authority is still too great. Many in the central government, on the other hand, feel that already too much authority has been delegated to the regions. Local politicians fear that there still exist too many "loopholes" in the law that permit central government intervention in their affairs, a sentiment deeply engrained from the "trauma" of 32 years under New Order command structures. They feel the centralistic tendency is still mirrored in the language of Law No. 22 of 1999, even more so Government Regulation No. 25 of 2000 on Authority of the Central and Provincial Governments. In Paragraph 112, Law No. 22 still assigns the role of "supervising" and "facilitating" regional autonomy to the central authorities. The text goes on to explain that "supervising" and "facilitating" mean providing guidelines, guidance, training, direction and supervision.

Besides the issue of administrative authority, the tension is particularly evident in the matter of state financial mechanisms. Each region has its own resources and local revenues, which differ considerably between regions. So to do the financial needs of the different regions differ considerably. Law No. 25 of 1999 on Fiscal Balance between the Center and Regions attempts to address these disparities. Examining this law indicates that the center still retains a large measure of control over the collection, distribution and utilization of state budgets. The stated goals of assuring equitable distribution of financial resources between the regions to protect national integration, and to promote prosperity for all Indonesian people, accord to the central government considerable power over budget management, and reinforce centralized control over revenues and budgets (Baswir 2000).

Division of Revenues between the Center and Regions (according to Law No. 25 on Fiscal Balance)

Source	Center (%)	Regions (%)
Land & Building Tax	10	90
Land and Building Leaseholding	20	80
Forestry, mining and fisheries	20	80
Petroleum (after taxes)	85	15
Natural gas	70	30
State revenues (general allocation fund)	75	25

Again, these intrinsic tensions provide an arena for organizing, motivating and coalition building. It is a delicate matter – pushing too hard, too fast, carries with it the danger of fo-

menting secessionist sentiments, which would in turn invite a harsh backlash from the central government. However, used effectively, regional chauvinism can be a powerful political tool.

Door No. 3: Tensions between Regional Governments and Villages

One of the most controversial aspects of the previous system of government was the extension of government control to the village level, embodied in Law No. 5 of 1979 on Village Government. Under Law No. 22 of 1999 on Regional Government, villages now have the right to remove themselves from the state structure, to become autonomous units possessing what are called "natural" or "original" rights (*hak asal-usul*). The retraction clause in Law No. 22 notes that Law No. 5 of 1975 was "not in accordance" with Indonesia's 1945 Constitution.[5] While this is a major stride, many view the language as being euphemistic. According to Zakaria et.al. (2001) a more apt choice of terms would be that the old law "violated" the constitution. The phrase "not in accordance" implies that the deviation was unintentional. Using the term "violated" would clarify this, and imply a responsibility to make reparations for the damage done to village societies throughout the country, and would send a clear message to policy makers that they can no longer violate the people's sovereign rights through the promulgation and implementation of inappropriate laws and regulations.

The authors of Law No. 22 of 1999 were acutely aware that the state's attempt to regulate people's lives at the local level was facing – indeed, was creating – numerous problems, and that the core of this dilemma could be found in Law No. 5 of 1979 on Village Government. This law forced regional governments to completely alter the structure of village government to accord with the national model, based on a [highly idealized] model of the Javanese village. By standardizing village government structure throughout the Republic as required by the 1979 law, the state was ignoring – indeed, delegitimizing – local forms of government that were grounded in local traditions, such as the *Nagari* of Minangkabau, *Dusun* and *Marga* of Palembang, *Gampong* in Aceh, *Huta*, *Sosor* and *Lumban* in Mandailing, *Kuta* in Karo, *Jorong* in West Sumatra, *Negeri* in North Sulawesi and Maluku, *Kampung* in Kalimantan, Central and South Sulawesi, *Temukung* in West Nusa Tenggara, the *Yo* of Sentani, Papua, and countless other local forms. This was far more than just a change of terminology, rather, the law created entirely new organizational forms and territorial units, that were often larger or smaller than the autochthonous units and that already possessed their own sets of rules, regulations and supporting social norms.

The bureaucratization of the "*Desa*" (village) throughout the Republic caused immeasurable harm to local cultural forms and institutions (Zakaria 2000). Although the 1975 Law did mention villages' autonomy, in fact it radically altered the conceptualization of the village community from a "legal community" to become "a group of people living in proximity" who were under the jurisdiction of a "government administrative unit" known as the *Desa*. While generally comprised of local people, this new village bureaucracy was an entirely foreign entity in the lives of most rural Indonesians.

There is a profound difference between the village as a social unit and the village as a government administrative unit. The relations and institutions that inform village life extend far beyond the rules, regulations and development programs that comprise village government per se. However, the implantation of these artificial forms and their elevation as the sole source of authority in the village had the effect of stunting or eliminating entirely the process of social reproduction that was deeply ingrained in the traditional forms and practices they replaced. The process of psycho-political integration was disrupted, as communities were jerked out of "old society" and integrated into the "new state" (see Geertz 1963).

The changes introduced by Law No. 22 of 1999 regarding village government are the first time in Indonesia's history where a national law has been pronounced unconstitutional by a subsequent law. The authors of Law No. 22 were motivated by a desire to rehabilitate and reinvigorate the role of the village in national life. The first step in this process is to sever the link between the village and the state/government. The language of the new law explicitly recognizes the village as a legal community that possesses its own "original rights," norms and relations.[6]

It is thus clear that the promulgators of Law No. 22 of 1999 intended to restore villages' autonomy, acknowledging that the basic requirements for constructing a democratic society are found in the village. The law requires the formation of some sort of "Village Representative Council," or "village parliament" in accordance with local norms and traditions.[7] The law delegates the task of implementing these changes to regional (*Kabupaten*) governments, who are empowered to produce appropriate regulations on village governance in accordance. The law makes clear that these regulations must recognize and respect the "*hak asal usul*" ("natural rights") of village communities.[8]

The prospect of liberating village government from the constraints of the state bureaucracy depends on the intentions and actions of the newly empowered district governments. Herein lies one of the most important arenas of reform in Indonesia. Recognizing this, NGOs and local traditional leaders throughout the country are engaged in efforts to "take control" of the village government reform initiative. Likewise, conservative political forces in many localities recognize the vital role of village government in controlling resource allocation and decision making, are busily trying to "hijack" the process.

Stepping Through the Open Doors

The Consortium for Agrarian Reform (KPA) is an affiliation of Indonesian NGOs working for the transformation of agrarian and natural resource rights law and government policy throughout many regions of the country. KPA members have formed a Working Group (BP-KPA) that provides technical assistance and other forms of support to affiliates, and undertakes lobbying and advocacy efforts on their behalf. Based on the considerations discussed above, BP-KPA has entered the arena of local lawmaking, to help assure that country's decentralization proceeds in a democratic manner. BP KPA is aware that delegating authority to local government bodies without assuring that local communities will be included in the political process could easily end up creating a situation wherein all of the shortcomings of the prior centralized system are merely be replicated on a smaller scale by local government authorities, without any meaningful changes to state-society relations. BP-KPA's primary agenda is to assure that regional political processes proceed in a manner that will address the needs and desires of local communities, and that the ongoing reform process not be "hijacked" by local politicians who use their new power to carry on with the same exploitative, repressive and exclusionary politics of the previous regime.

Democratizing decentralization involves redefining the roles and performance of local parliamentary bodies. One approach to this is through capacity development of local parliament members, carried out in conjunction with grass-roots community organizing. The strategy set out by Zakaria et.al. (2001:126-127) comprises the following steps: (i) collaboration with parliamentarians to accurately assess constraints, opportunities, resources and capabilities. This is intended to produce an awareness of capacity-building needs, and a willingness to take necessary steps to address these needs. The process stresses engendering a willingness (and ability) to analyse and support the wishes of local communities; while (ii) increasing local communities' access to parliament members and processes, so that this body becomes more

responsive to the needs and desires of its constituencies. Forging strong ties between local communities and their legislators is a key component of this strategy.

The program began with a training course for members of the district (*Kabupaten*) parliament. In order for this to be successful an appropriate training curriculum and a team of capable facilitators must first be prepared. Training topics include national agrarian policy and law, village livelihoods, and village government. Training modules encourage hands-on participation (Fauzi and Zakaria 2000). Draft copies of the training curriculum were circulated to local activists in several regions where the Consortium hoped to implement the program, who were later invited to attend a three-day workshop to refine the curriculum and develop action plans.

BP-KPA conducted assessments in several districts to identify the most appropriate pilot sites. The choice of appropriate pilot sites focused on identifying local partner NGOs who were committed and capable of staying with the process for an extended period, as this sort of process will require patience and stamina.

The site surveys attempted to answer two basic questions: (i) are local NGOs and community organizations capable of carrying out this sort of intervention; do they possess the skills, legitimacy and "political capital" to influence local politicians and decision-makers? and (ii) Who will become the local facilitators who can organize and conduct the training program, then provide follow-up support for campaigns to reform local government natural resource and agrarian policy?

The group originally produced a list of 22 districts (*Kabupaten*) for further assessment. BP-KPA teams visited each of these sites. Local partners were requested to assess agrarian issues and problems in their respective areas, and of local village and district government performance, attitudes, capabilities and constraints. Based on this preliminary survey, the list of candidate *Kabupaten* was reduced to ten.

BP-KPA was only able to initiate activities in five of these *Kabupaten*, with the remaining five being postponed or dropped, due to logistical difficulties or problems in securing support from both the executive and legislative branches of the *Kabupaten* government. This was followed by a series of meetings with local government officials to discuss and evaluate preparatory activities. Based on an assessment of local governments' responses, the list was trimmed again to three *Kabupaten* where the program would be carried out: *Kabupaten* Sanggau in West Kalimantan, Garut in West Java, and Tana Toraja in South Sulawesi.

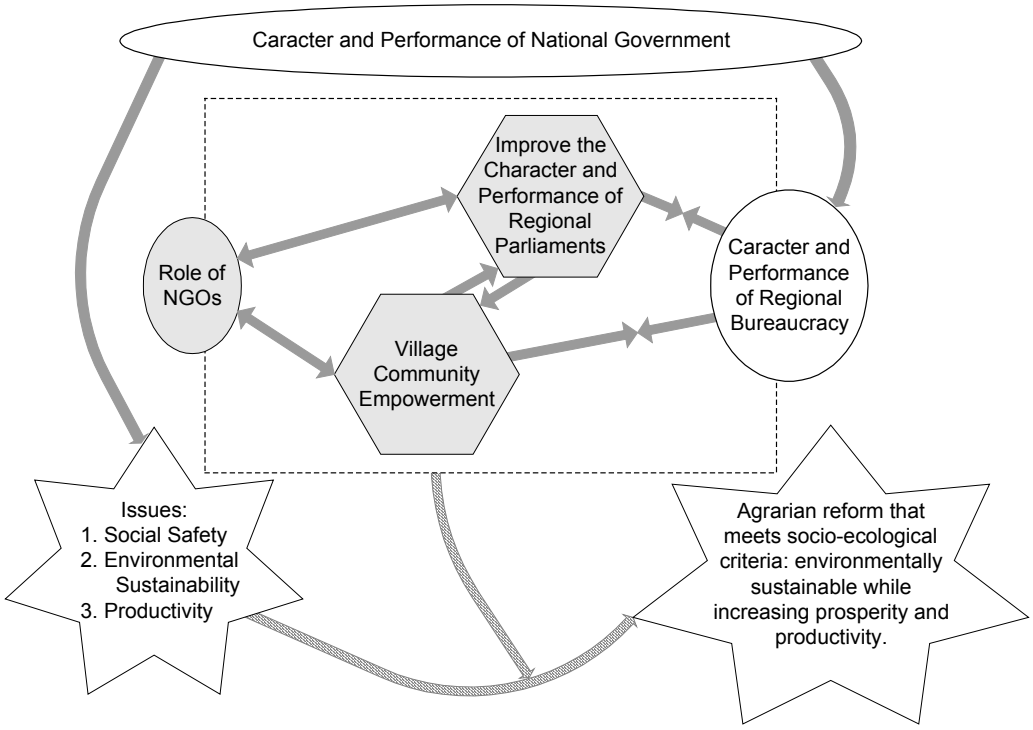
No.	Local NGO Partner	Scope of Activity	Beginning Date
1	YPK, Pontianak, West Kalimantan	Credit Union; Community-Based Natural Resource Management; Legal Assistance; Dayak Cultural Revival	January 2000
2	YAPEMAS, Garut, West Java	Farmer Organizations; Land Reform; Village Renewal; Community Forestry	August 2000
3	WALDA, Tana Toraja, South Sulawesi	Social Forestry; Sustainable Agriculture; Toraja Cultural Revival	February 2001

The three *Kabupaten* were selected primarily because of the existence of competent local NGOs who were KPA members, and where local parliamentarians had demonstrated a critical awareness of the problems stemming from the implementation of Village Government Law No. 5 of 1979, and an interest in addressing these problems. Two neighboring *Kabupaten* – Bengkayang in West Kalimantan and Donggala in South Sulawesi – could not be served directly by this program due to time and funding limitations, but were invited to send some local representatives to participate in the training and other follow-up activities in *Kabupaten* Sanggau and Tana Toraja.

The Process: Into the Arena

Changes that have come about as a result of the national *reformasi* agenda and implementation of regional autonomy has allowed local NGO activists to press forward with an agenda of agrarian reform focusing on three primary issues: improvements in social safety and resiliency of local communities; environmental sustainability; and increasing prosperity, that together comprise a socio-ecological approach for promoting sustainable livelihoods. The three conflicts outlined above – between the regional legislative and executive branches; between the regions and the center; and between villages and regional governments – offer open doors into a new political space where NGOs can access local political processes and institutions. Whereas before, NGOs' role in the political process in Indonesia was largely limited to amplifying local communities' voice – but still "shouting from the outside" – now, the dramatic changes that have taken place have created new opportunities to become actively involved in the political process, where they can advocate and push through an agenda of change.

DPRD leaders and members in all three *Kabupaten* reacted enthusiastically to the invitation from BP-KPA to participate in a training program. DPRD leaders in these areas were acutely aware of the need for political education of their members, hoping to gain a better grasp of the "ins and outs" of decentralization and regional autonomy, and its implications for their respective constituencies and local governments. In each case, the *Kabupaten* DPRD consisted of a majority of newly elected members, many representing political parties that had not even existed before the 1999 elections.



The training curriculum consisted of three packets: agrarian reform, village livelihoods and governance, and regional government. In each case, the material and approaches were adjusted to take into account local issues and considerations. The approach taken was participatory and "hands-on," and included assistance in the preparation of draft *Kabupaten* government policies and regulations as a core component of the training program.

Agrarian Reform

Based on the preliminary assessment carried out by BP-KPA (and later published, see Sankoyo 2001), in each of the three pilot locations, communities were facing three types of crisis: (i) social safety – primarily the expropriation of communities' natural resource assets and territories, and the granting of exploitation rights to powerful outside commercial interests; (ii) environmental sustainability – the degradation of local ecosystems and loss of environmental services due to large-scale commercial exploitation of forest and other resources; and (iii) productivity – stemming from a combination of an unsuccessful transition from subsistence to market-based production systems, and deteriorating terms of trade for local commodities.

The training course began with an attempt to describe and analyze the local situations as pertain to these three critical topics, and an examination of the resource entitlements and use patterns and productive systems that have given rise to the interconnected crises above. A consensus emerged that the majority of problems faced had their roots in the development paradigm pursued throughout the New Order period, and its local manifestations in the form of forest and mining concessions and other schemes that allowed large-scale ventures to take control of local territories and exploit local natural resources. In the eyes of local communities, most of these legal arrangements were in violation of their *adat* law, which had mediated local communities' access and use of these territories and resources for many generations. The expropriation of local usage rights and their transfer by the state to large-scale commercial ventures directly affected not only community well-being and security, but directly impacted environmental sustainability and the ability of local ecosystems to provide a variety of important services and commodities (e.g., watershed protection, erosion control, wild game, non-timber forest products, construction materials) vital to the livelihoods of local communities. The national government had employed a variety of tactics to affect this transfer, including legal instruments (policies, regulations, contracts), but also manipulation, intimidation and physical force. This, in turn, had spawned local resistance – such as demonstrations and blockades – that sometimes escalated into violence and sabotage. Local communities had demonstrated their strong desire to retain their traditional usage rights, but had long been frustrated in their attempt to protect them through legal channels in the face of an authoritarian government that clearly favored large commercial interests over their needs and customary rights.

In each location, group discussions explored the issue of how the state had expropriated local property rights, through the use of the label "State Land" for lands previously managed by local communities under a variety of common property arrangements, and how various national laws – the Basic Agrarian Act, Basic Forestry Law, National Mining Law, and others – had legalized this appropriation, and how various government departments (Forestry, Mining, Agraria, etc.) had facilitated (and benefited from) the process.

Policy advocacy at the national level remains an important activity for NGOs and representatives of local communities, because numerous national laws affecting agrarian issues are still extremely statist, centralistic, ambivalent and sectoral in character. Except for the 1960 Basic Agrarian Act No. 5, nearly all other national laws on natural resource management are

strongly biased against the concept of local, communal control and management of territories and resources (Fauzi 1997, 1999). This is even more evident in the scores of government regulations produced by various sectoral agencies (i.e., National Land Board, Department of Forestry and Plantation Crops, and Department of Mining) throughout the New Order period.

It emerged during the training courses that establishing new regional government policies on the management of property and resource rights, and productive activities was a priority issue. The existing national policies had severely damaged or destroyed local communities' territories and resources, and deprived them of decent livelihoods.

By increasing the area under community management, and strengthening communities' rights to land and resources, it becomes possible to foster coexistence between communities and large-scale commercial ventures. For those regions experiencing ongoing territorial or property rights conflicts, mechanisms must be created for conflict mediation and settlement, and the clear delineation of boundaries and property rights.

Village Government

The deterioration of socio-ecological conditions in rural areas in Indonesia cannot be considered separately from the erosion of the institutions of local governance. This problem has its roots in the arcane realm of custom versus law, "received rights" as opposed to "conferred rights," and the very nature of authority itself.

The state uses its authority, derived from the constitution, to produce laws and enter into contracts. This is quite different from the "received rights" of communities, that have emerged over generations of interaction with the local environment and with neighboring communities, traders, and a succession of states, and that is institutionalized and embedded in local cultural practice and norms (whether or not the state chooses to recognize this). Indonesia's 1945 constitution explicitly recognizes such rights in paragraph 18, which addresses "territories with special characteristics" possessing "original or natural rights."

Law No. 22 of 1999 on Regional Government revisits this issue with its stipulations about the village ("*Desa* or whatever other name is employed"). The authors of this law were acutely aware that Law No. 5 of 1979 on Village Government had created a host of problems, and strained relations between the state and local communities. The 1979 law forced regional governments to adopt a village government form quite different from what previously existed in many parts of the country (Zakaria 1999, 2000). In each of the five *Kabupaten* involved in the training program, local governments had instituted *Desa* government structures to replace pre-existing village government institutions – such as *Kampunk* and *Banua* in Sanggau, *Desa* in Garut, and *Lembang*, *Bau'* or *Penanian* in Tana Toraja. This was more than just a change of nomenclature, it represented a radical reformation of the institutions of local governance in each of these areas (and much of the rest of the country as well). In regions outside of Java and Madura, this transformation often involved changing the boundaries and territorial units in order to meet the criteria set out in the 1979 law. These new forms came to be known as "New Order Villages."

In each of the pilot areas, there was an enthusiastic response to the possibility of restoring traditional roles and forms of local government. This included severing the ties between villages and the state government structure, and restoring the management of local affairs to local communities. This was viewed as the best means of encouraging the development of democratic values at the "grass roots" level. In order for this to take place, new regional regulations were required to replace the obsolete and inappropriate laws and regulations that had been issued based on the 1979 Village Government law.

Regional Government

At each of the training courses, participants were invited to discuss the word "government." In the Indonesian language, the core word of "*pemerintah*," the term for "government," is "*perintah*," meaning "command" or "order." It is hardly surprising, therefore, that the perception of government-society relations that pertains in Indonesia tends to consider the public as political "outsiders," and "objects" of governance, to be guided by laws, policies and regulations which they themselves have no part in creating. Within this context, the concept of "public participation" can be little more than people playing a scripted part in somebody else's drama, or at most providing commentary.

"Region" or "regional" ("*daerah*") is another term that was held up for scrutiny, particularly how it us used in combination with "*pemerintah*." The participants grappled with the difference between "government in the regions" and "regional government" (or, "government of the regions"). The discussion proceeded to the different conceptualizations of regional government embodied in the 1974 and 1999 Laws on Regional Government – the one envisioning regional government as an extension of the national state, while the latter lays open the possibility of developing regional governments that are "of, by and for" the regions themselves. The participants discussed the implications and possibilities inherent in this change of concept.

Another topic of discussion was the worrying trend of regional governments competing to attract large-scale investment into their regions, as autonomous district and provincial governments focus solely on revenue generation. (This is not difficult to comprehend, given that Indonesia is still in the grips of the extended financial crisis that brought the New Order government crashing down less than three years ago.)

The facilitators very carefully broached the topic of the reconsolidation of national capital that had played such a major role in bringing the country to its knees during the New Order period. While many of the notorious "crony conglomerates" had gone bankrupt, much of their capital had been shifted abroad, and there are now signs that the same cast of characters is reasserting their control of sectors of the national economy. Nonetheless, it appears that regional governments throughout the country are tripping over themselves to invite these bandits back, to finish the job. Local communities were generally quite unhappy with their presence before, it is certain that local resistance will be even stronger if the same firms attempt to return now that the people have been promised reform and autonomy.

At the same time, *Kabupaten* governments have been given control of much greater budget resources than they used to command under the centralized system of government, when nearly all allocations were decided and disbursed by the national government. Now, the regions receive block grant allocations called "General Allocation Fund." There are few mechanisms in place to assure that these moneys are not squandered on the same sort of wasteful, self-serving development programs and projects that characterized the previous regime, with little or no regard for the needs, desires, nor impact these practices have on local communities. It is already evident that (i) A very large proportion of the General Allocation Fund goes to pay salaries and routine costs of the bureaucracy; (ii) Nearly all development programs in the regions are still supported using national (and some provincial) funds; (iii) Technical agencies have retained a measure of control over the allocation and use of government funds.

The training participants' analysis of constraints and opportunities raised a few important points: (i) The needs of officials have been given precedence over those of the community; (ii) There are not as yet any effective mechanisms to take into account issues of public inter-

est during budget deliberations; and (iii) There are no mechanisms to assure accountability or public participation in the budgetary process. There are already incipient signs of cynicism on the part of communities – including non-payment of local taxes and fees – while few positive ideas have emerged to engage the public in the planning, utilization and monitoring of local government budgets.

Democratizing Local Lawmaking

Newly empowered regional governments are still on a steep learning curve, and at present they seem mainly preoccupied with internal affairs – in particular, the issue of devising new relationships between the local legislature and executive branches, working out protocols and taking care of requirements of higher (national and provincial) government. Little time or energy has been giving to forging new relationships between regional governments and their local constituencies.

One of the primary tasks has been to produce a whole new set of regional regulations to enable *Kabupaten* governments to implement the numerous new national laws that have been issued from Jakarta to shape and guide the decentralization process. As part of the hierarchy of law in Indonesia, most of these new regional regulations are little more than direct adaptations of the national laws and regulations, replicating the language of the national laws almost to the word.[9] Local parliamentarians for the most part lack the experience and expertise that would allow them to develop new regulations based on local initiatives and conditions. To date, most regional government regulations issued since the advent of the new decentralization policy have been prepared without any public consultation. Most of these regulations can be characterized as follows: (i) Implementing instructions for laws originating from higher levels of government; (ii) Regulations to legalize various sources of regional government revenues (taxation, user fees, etc.); (iii) Regulations defining the structure and roles of regional government agencies. What is needed now is a fourth type: regulations that recognize, protect and support local communities' property, resource management and cultural rights.

Regional governments must be creative if they are to reduce tensions with local communities, and engage communities in the lawmaking process. Local parliaments should make use of their new power – and freedom – to devise policies and regulations that stem the destructive tide that has weakened local community institutions and expropriated their resources. For this to come to pass, they will have to develop new democratic processes for the preparation of regional regulations and government budgets. The purpose of this training program is to devise and demonstrate participatory models that engage the community in the lawmaking process.

Entering the Arena Together?

As a result of this training program in the three pilot *Kabupatens*, a dynamic was established wherein members of local parliaments became more acutely aware of their responsibilities to carry out their lawmaking functions in a conscientious and democratic fashion – as were their constituents.

From the standpoint of the NGOs, the training provided them the contacts, experience and momentum needed to effectively facilitate local democratic processes, and they can now continue to bridge the gap between regional parliaments and their constituents. In all three cases, the leadership of the *Kabupaten* DPRDs have asked that KPA and its local partners continue to provide facilitation and consultation services to build upon the momentum established during the training process, and to continue to improve parliamentarians' performance. The eventual success or failure of this program will now depend on the local NGO's ability to

take advantage of the opportunities that have opened up, to advocate specific policy issues, help draft legislation (including alternative drafts to counter bills submitted by the *Kabupaten* government), build coalitions, lobby, negotiate, and organize public relations campaigns and public pressure groups.

Case No. 1: The Dynamic in Sanggau

Circumstances in Sanggau are predominantly shaped by large-scale natural resource extraction and exploitation, carried out by large commercial firms and facilitated by the national and provincial governments. In addition, cultural leaders of the Dayak community are embittered by what they perceive as the co-optation and marginalization of their cultural traditions by the national government, to support the state's agendas of modernization and "unity in diversity." Local NGOs have been working with community leaders to resist exploitation by the state and private capital on the one hand, and to revitalize local traditions through documentation, mapping, and the study and teaching of customary resource management and livelihoods. These groups have met frequently with local government leaders to discuss the implications of the new decentralization policy and laws, and how the decentralization process can be supported through the intensification of the cultural revitalization activities already underway.

Two months before initiating the training course for district parliament members, Yayasan Pancur Kasih held a three-day workshop with local cultural and community leaders to discuss the regional autonomy law and how it could affect village governance. The workshop participants prepared a declaration of intent to reenact their traditional forms of *Kampung* government.[10] One local community leader named L.C. Sareb, cited in Rona (2001) said:

> It is like the tale of the ape that wanted to help the fish during the dry season by lifting the poor creature onto the land. The ape's intentions were good, but the results were disastrous for the poor fish. The fish died, of course. The ape could not be expected to understand, he does not live in the water, like the fish does. The Village Government Law of 1979 was like this – it was intended to help people and increase prosperity, but it jerked us out of our habitat and into a new and entirely foreign world. Our river – our life – is the *Kampung*, that is where we belong.

Yayasan Pancur Kasih was encouraged to note that the local movement to return to traditional *Kampung* government forms was supported by many local parliament members. The *Kampung* revitalization drive received an unintended boost when the *Kabupaten* government circulated a draft decree to institute the *Desa* government system, identical to the system established by the 1979 law. (Because Law No. 5 of 1979 on Village Government was superseded by Law No. 22 of 1999, provinces and districts were required to prepare new regulations on village government. The government of *Kabupaten* Sanggau had elected to continue with the existing command structure, ignoring the wishes of local communities.) In response to a packet of 13 draft *Kabupaten* decrees, Mona (2001) reports:

> We began holding meetings in every *Kampung* to discuss the 13 draft decrees. In almost every case, local communities and traditional leaders voiced their opposition to the draft decrees. They overwhelmingly declared their intention to return to the traditional *Kampung* system of local government, and lent their support to a declaration that: (i) The *Adat* Community of Sanggau rejects the *Desa* system; (ii) The *Adat* Community rejects the 13 draft decrees from the Sanggau *Kabupaten* government; (iii) The *Adat* Community is prepared to struggle for the reinstatement of the *Kampung* system of village government in

> Sanggau, and will prepare their own draft regulation on the form and function of *Kampung* government. This led in turn to the preparation of a new proposed decree, originating from the community itself. The new draft was circulated among *Kampungs* for discussion and revision, a task that continued over the next 14 months.

Next, Yayasan Pancur Kasih together with a few other local NGOs embarked on a three-part strategy, consisting of (1) Facilitating the formation of an Sanggau Regional *Adat* Community Working Group (KKMA Sanggau)[11]; (2) Facilitating the distribution of the draft decree to *Kabupaten* Sanggau government officials and parliament members; and (3) Monitoring developments and lobbying with members of parliamentary special commissions.

The establishment of the special parliamentary commission in mid-2001 was an important event in this campaign. The commission's first act was a study tour to *Kabupaten* Solok in West Sumatra, where the legislature had already passed a new regulation on *Nagari* to replace the *Desa* government with customary Minangkabau forms. Upon their return, the commission prepared a draft decree on "*Banua* as a replacement for the *Desa* Government System" that was nearly a word-for-word copy of *Kabupaten* Solok's regulation.[12]

Contestation between proponents of these three draft laws was a novel experience for the politicians of *Kabupaten* Sanggau, one that frightened and confused many commission members. They were overwhelmed by the NGOs' public relations campaign, that employed a variety of media including public meetings, workshops and radio broadcasts to criticize the special commission's version as well as the *Kabupaten* government's draft. Eventually, on 17 January 2002, the Kabupaten Sanggau *Adat* Community's version of the Decree on *Kampung* Government was passed into law by the DPRD of *Kabupaten* Sanggau.

Whatever the eventual outcome, this event represents an important turning point in the political history of *Kabupaten* Sanggau and the province of West Kalimantan, being the first time ever that an initiative originating from local people held sway in the government policy making process.

Case No. 2: The Dynamic in Garut

The situation in Garut is dominated by broad-based farmer resistance to large-scale land development schemes, particularly plantation agriculture and commercial forestry. Local farmers' campaign for recognition of land use rights been met by repressive responses from the authorities. As the winds of reform sweep across the country, these local conflicts have become more acute. Prior to initiating the parliamentary training program, BP-KPA's local NGO partner Yayasan Pengembangan Masyarakat (YAPEMAS) and its affiliate farmer group Serikat Petani Pasundan (SPP) were already actively organizing and campaigning around these issues, including organizing mass demonstrations at *Kabupaten* and Provincial government offices to protest state brutality and violence. In conjunction with BP-KPA, YAPEMAS and SPP have proposed that the problems in Garut be addressed through a program of comprehensive land reform.

The training program was designed to address the agrarian conflict, which had risen to dangerous levels in the region due to the central government's pro-big business and anti-farmer policies and practices. Many local DPRD members were quite angry about what they perceived to be the central government's problem, which they had "inherited" as a result of the decentralization law. They felt that *Kabupaten* Garut had enjoyed none of the benefits of the government's programs and policies, but were left "holding the bag" when the system ceased functioning. Another primary agenda of the training program was to address public discontent with the *Desa* government system, which was perceived to be authoritarian and oriented

toward the national bureaucracy. Two months after the parliamentary training program was completed, the DPRD of *Kabupaten* Garut formed two Special Commissions, responsible for Land and Property Conflict Resolution and Village Government Reform, respectively.

The Village Government Reform Commission began its work first, studying and discussing a packet of draft decrees that had been prepared by the *Kabupaten* government. The Special Commission joined together with BP-KPA and YAPEMAS to conduct a workshop to revise and improve the draft decrees. Two fundamental changes that were introduced into the language of the new decree were (1) that the *Desa* is an autonomous entity, not structurally linked to the state government hierarchy; and (2) formation of village-level parliamentary bodies, called *Desa* Representative Councils (BPD) whose members are to be elected. These changes were very much in keeping with the campaign undertaken by YAPEMAS and BP-KPA to foster democratic institutions at the grass-roots level. Soon after the draft decree was passed into law, several SPP farmer members submitted their nominations to run for BPD office.

In the ensuing elections, SPP members were able to win a majority of seats in some 30 of the nearly 300 *Desa* in *Kabupaten* Garut. This alone was not enough to counter the inherent conservatism of village government in the region, in fact, conflict soon developed between some of the bureaucracy-oriented Village Heads and the farmer-dominated BPD, that led to stagnation and gridlock in many villages. These conflicts will probably reach a climax when the current Village Heads term expires, and new elections will be held. Only once these conflicts are resolved will it become possible to alter the outlook and behavior of village government in the Garut region.

The Special Commission on Land and Property Dispute Resolution developed its operational framework at a workshop on Land Dispute Resolution held in November 2000. The process began with identification and investigation of outstanding cases, followed by an analysis of the factors that caused the conflicts in the first place, and that prevented their successful resolution. They encountered three basic types of conflict: (i) Conflicts between local farmers and the State Forestry Firm (*Perum Perhutani*); (ii) Conflicts between farmers and commercial plantation firms (both private and state owned); and (iii) Conflicts between citizens and the National Land Board, mostly cases of manipulation and graft.

The commission members were motivated by the awareness that if left unchecked, these conflicts would continue to erode the government's legitimacy in the eyes of local communities. They were, however, also acutely aware of their limitations, particularly in the era of regional autonomy, given that the most powerful stakeholders in these conflicts – most prominently the Ministry of Forestry and National Land Board – were national government agencies. Under law, regional governments have no authority over contracts that have been granted by national government agencies, until the contract period expires.[13] The role of local governments was further weakened when the government issued Presidential Decree No. 10 of 2001, perceived by many local politicians as being a retraction of regional governments' autonomy in the matter of land rights. The new decree basically annulled district governments' authority as set out in Paragraph 7 of the 1999 Law No. 22 on Regional Government.[14]

Cognizant of the limitations of local government to settle these matters, YAPEMAS and SPP decided to take their case directly to the National Land Board and Ministry of Forestry in Jakarta, through a campaign of lobbying, workshops and meetings, and, if necessary, demonstrations. YAPEMAS and SPP encouraged members and supporters to come to Jakarta to join mass demonstrations in support of a draft MPR Decision on Agrarian Reform and Natural Resource Management, both when it was being discussed at the Ad Hoc Commission level,

and later when it was debated and voted into law as TAP MPR RI No. IX/MPR/2002 in November 2001.

The MPR Decision gives the President the mandate to "Reformulate the control, ownership, and use of land in a just manner, giving attention to the matter of land ownership for the people;" also "Settle conflicts over agrarian matters and strive to prevent new conflicts, stressing the implementation of and enforcement of the law;" and "Endeavour to provide the necessary (financial) support for a program of agrarian reform and agrarian dispute resolution." The mandate is be carried out by the President and his assistants – including *Kabupaten* officials who have been granted authority in these matters.

Even though the mandate has been formulated, and the President has been assigned to carry it out, the gap between the actual situations in the countryside and the envisioned solutions is still vast. In various regions throughout the country, grass roots action – such as the ongoing campaign being conducted by YAPEMAS and SPP in *Kabupaten* Garut, have created new opportunities to develop appropriate local solutions to these problems. The campaign for agrarian reform must be carried out simultaneously at multiple levels.

Case No. 3: The Dynamic in Tana Toraja

In Tana Toraja, opportunities created by Law No. 22 of 1999 on Regional Government elicited a solid response from *adat* leaders. With the drastic decline in tourism income due to the protracted economic and political crisis in Indonesia, communities in Toraja were able to pause and reflect on the matter of the commodification and commercialization of local culture. Traditional *adat* leaders, who had been marginalized during the years of rapid growth of the local tourism industry, took a leading role in forging a new consensus about the role and significance of local cultural institutions, that quickly began gathering momentum. A Toraja woman was elected as the Head of the National Alliance of *Adat* Peoples, adding even greater impetus to the drive to revitalize Toraja *adat* and restore it to its rightful place in the life of the region and its people. *Adat* was a major factor during the election of the Bupati of Tana Toraja, and a coherent "voice" in debates about local government policies and regulations during the first months and years of the decentralization process.

This dynamic paved the way for local NGOs to champion a *Kabupaten* regulation on village government that recognized and supported traditional forms and functions. The training program for DPRD members – also attended by several *Kabupaten* government officials from the executive branch – became the medium in which the plan to "return to the *Lembang*" could mature and evolve. Within two months after completion of the training course, the DPRD of *Kabupaten* Tana Toraja had passed the new regulation into law without any serious dissent or argument.

The implication of this new regulation is the territorial reorganization of the region and the structure of government at the community level. The autochthonous unit of "*Lembang*" is far bigger than the New Order *Desa* unit; one *Lembang* can comprise as many as seven to ten *Desa*. The "command structure" and decision-making processes are quite different as well. Although the draft regulation had encountered no significant resistance during discussions in the DPRD, as it came time to implement the new regulations, stiff resistance began to emerge from Village and Subdistrict Heads (*Kepala Desa* and *Camat*), who stood to lose their power and privilege under the *Lembang* system. Several *Camat* attempted to convince people that each *Desa* should become its own *Lembang*, avoiding the issue of territorial reorganization, and retaining the role of the *Camat* one tier up, between the village and the *Kabupaten*. Another new factor was how to accommodate the national law's stipulation that each village should have a Village Representative Board. The traditional forms did not have a democrati-

cally elected "parliament," but rather a clan-based system of deliberation. Indeed, some communities and political leaders in Tana Toraja viewed the *Desa* system based on the 1979 law as liberation from the bonds of feudalism, and feared that the "return to the *Lembang*" marked a return to an earlier, feudal-genealogical form of government.

For Toraja's *adat* leaders, the return to the *Lembang* system presents a challenge – to show that they can develop a modern system of village governance that is more effective, and more democratic, than the New Order's *Desa* system. Local ethnic Toraja NGOs are playing an active role in this effort. While they prevailed in the law-making process, they still have a long way to go to implement a system of local government that is in the people's best interest.

Lessons Learned, and Looking Ahead

The three case studies presented above describe the efforts of local NGOs and the national Consortium for Agrarian Renewal to take advantage of opportunities that had opened up as a result of changes in national policy. The NGOs were constrained by their limited understanding and experience in the political arena, and had to "learn as they go" and encountered resistance and manoeuvring by numerous powerful groups, each with their own vested interests. Political process is an accommodation of many different interests.[15]

Each of these case studies represents an important victory in the effort to create a more democratic and accountable system of local government in Indonesia. However, the challenges still facing communities in each of the three pilot areas are considerable.

- In Sanggau, the ecological and political landscapes have been completely transformed since the days before the *Kampung* system of village government was replaced by the New Order *Desa* system. Now, these old institutional forms must develop entirely new sets of relationships, rules and norms to deal with the altered situation. Will they still be relevant? Can they adapt?
- In Garut, local progress is constrained by national policies, and by deeply entrenched conservative elements who still retain considerable power in the local political scene. YAPEMAS and SPP cannot sit back and enjoy their victory, but must actively campaign to influence the outcomes of Village Head elections as the old guard's terms come due, and must also vigorously support the efforts of national organizations pushing for change in national agrarian and forest policy.
- In Tana Toraja, care must be taken to guide the transformation to the *Lembang* system of local government to assure that new participatory and democratic institutions and processes are allowed to develop. Rehabilitating traditional cultural forms can hardly be considered progress, if these forms are deployed to constrain and exploit the people.

Based on the experience gained through these pilot activities, there are two matters that merit further exploration:

First is the matter of institution building at the grass-roots community level. The "natural autonomy" of villages as provided for in the 1999 Law on Regional Government sets the stage for devising new institutional forms – and reviving old ones – at the community level. This is most germane to attempts to reform village government. The autonomous village community can become a "prime mover" in the effort to build a new vision of Indonesia from the bottom up. It is very important to note that many customary *adat* structures, institutions and practices are neither democratic nor emancipatory. Indeed, some of the old feudal structures are as oppressive as the centralistic state structures that created so many problems dur-

ing the New Order period. A primary concern should be how to take advantage of the opportunities provided by the new national policy of regional autonomy to build new institutions that are democratic, and that promote local people's interests and betterment.

Although villages are now officially autonomous, they still have to interface with the state bureaucracy. Village governments must develop the capacity to negotiate these treacherous waters, to strike a balance between the needs and desires of their constituents and the requisites and prerogatives of the bureaucracy. Local institutions need to be developed that can meet the needs of local communities, protect their interests, and enable them to acquire the support and assistance they need from government and private sector agencies. The central issue is about local communities taking control of the pace and direction of change in their own lives and territories.

Grass-roots, community-level transformation cannot be confined solely to local problems and issues. A broad contextual view is required, because local changes require support – or at the very least, opportunities – that require similar transformations take place at higher levels of government, from the *Kabupaten* to the national. It is a dialectic in which local change drives the transformative process from below, but at the same time must be pushed and pulled by changes taking place at the extra-local level.

Second, is the issue of improving and reorienting the character and performance of local parliamentary bodies. These organizations must be empowered to take advantage of the opportunities created by changes in the structure and operation of the national state, and at the same time must become more accountable to their local constituencies. Increased local power, without accountability, is hardly an improvement over the pre-*Reformasi* situation in Indonesia. There are numerous examples of local parliaments in Indonesia deteriorating into rough-and-tumble "horse trading" arenas, that are so busy squabbling over the "spoils of decentralization" that there is little or no time left for the people's business. In other regions, the new political landscape is shaped by the tug-of-war between the legislative and executive, again with the result that the people's needs and desires are ignored. Ideally, the district parliament should become a watchdog, making sure that the executive implements policies and carries out programs that benefit and protect local livelihoods.

Indonesia's electoral system is still in the midst of changing. Presently, the public are exhorted to choose between different party symbols, leaving the task of selecting candidates for both regional and national office to the parties. There is a movement afoot to shift to a system of district elections, that would allow for direct election of individual candidates. This should lead to greater accountability and a more direct relationship between politicians and the populace. This would go a long way toward improving the character and performance of parliaments at the district, provincial and national levels.

The nature of the relationship between the legislative and executive branches of government must be reformed as well. The mentality of "chain of command" must give way to a new relationship of equal partnership (although not "parthership" in the manner of "collusion," as has frequently been the case in the past). The government must learn to accept constructive criticism, and parliamentarians, NGOs, the press, and other stakeholders must learn how to criticize constructively.

The experiences garnered from these three case studies indicate that the attitudes, patterns, and behaviours of an earlier epoch still retain deep roots in the Indonesian political scene, including an unhealthy measure of paternalistic, patron-client attitudes and relations. The doors have been thrown open, but we have to learn how to walk through them with our heads up and our eyes open.

ENDNOTES:

1 The New Order's collapse was precipitated by the economic crisis set in motion by the collapse of the Rupiah's exchange value against the US Dollar and other currencies. The Rupiah's value began to slide in July 1997 and reached its lowest point in May 1998 (see Subandoro in Sumardjan 1999). The highly distorted nature of Indonesian capitalism and its distorted integration into the global capitalist system led to a "snowball effect" that eventually impacted all sectors of the national economy. Mounting problems included the inability to meet foreign debt obligations – both government and private investors' – the interruption of most economic activity in the country (excluding some export-oriented enterprises), and a sudden and massive increase in poverty and unemployment. A complete breakdown of this nature and magnitude had not occurred in Indonesia since the events that brought the New Order government to power in to replace the "Old Order" regime during the 1960s. It can be argued that Indonesia's bankruptcy was the combined result of "the shoddy construction of the vessel and the strength of the storms that blew up around it, until a point was reached where the speed and scope of events overwhelmed the government's hasty and belated attempts to repair the damage" (Subandoro in Sumardjan 1999:77).

2 MPR Decree No. X/MPR/1998 on the Basic Principles of Reform for the Normalization and Preservation of National Life as Guidelines for State Policy states "the political system that pertained over the past thirty years gave us peace and stability. However, paternalistic and neofeudalistic influences led to the creation of a system that did not allow the public to participate in the political process. (…) Executive power that was concentrated and closely controlled by the office of president eventually led to a structural and systemic crisis that precluded normal political and social processes, and the effective and proportional role of other branches of government. Widespread corruption, collusion and nepotism were the direct result of the closed and centralized nature of the previous regime. (…) Relations between the center and regions were characterized by the center's control of decision-making that was wholly inappropriate to the geographic and demographic conditions in the regions. This, in turn, precluded achievement of just and equitable distribution of the benefits of development, as well as progress toward broad, clear and responsible autonomy in the regions. (…) Processes of human resource development, mental and character development, and establishment of a cadre of national leaders were stunted. The centralized and neofeudalistic nature of government had the effect of drawing qualified officials to the center, to the clear detriment of the regions. This in turn led to the creation of a system of government that did not heed issues of acceptability and legitimacy."

3 MPR Decree No. XV/MPR/1998 on Regional Autonomy; Just Distribution and Utilization of National Resources; and Fiscal Relations between the Center and Regions within the Context of the Unitary Republic of Indonesia states that, "Implementation of regional autonomy that grants broad, clear, and responsible authority to the regions in a proportional manner includes providing appropriate guidelines, allowing for just division and utilization of national resources, and assuring fiscal balance between the center and the regions" (Article 1); "Implementation of regional autonomy is based on the principles of democracy, and takes into account variations between regions" (Article 2); "Division, distribution and utilization of national resources between the center and the regions will be carried out in a just manner, for the prosperity of people in the respective regions and the national community as a whole" (Article 3, Clause 1); and "Management of natural resources is to be carried out in an efficient and effective manner that is responsible, transparent, open, and done in such a way as to provide maximum opportunities to small and medium-sized enterprises and cooperatives" (Clause 2); "Fiscal balance between the center and regions will take into account the potential, size, geographic conditions, population, and prosperity of communities in the regions" (Article 4); "Regional governments have the authority to manage utilization of national resources in their respective regions, and are responsible for environmental conservation" (Article 5); and "Implementation of regional autonomy; just regulation, distribution and utilization of national resources; and fiscal balance between the center regions are undertaken within the framework of preserving and strengthening the Unitary Republic of Indonesia, based on the principles of sustainable social justice, further strengthened by the supervision of Regional People's Assemblies (DPRD) and communities themselves" (Article 6).

4 In Section 4 of the elucidating document of Law No. 22 of 1999, it states, "Regional government consists of the Regional People's Consultative Assembly (DPRD) and the executive branch of government. The DPRD is separate and independent of the government, so as to empower the DPRD to assure the responsibility of regional government toward its people. For this reason the DPRD is accorded broad and significant rights in order that it may receive and channel the people's wishes regarding regional government policy, and to effectively exercise their oversight role."

5 The introduction of Law No. 22 of 1999 states, "Law No. 5 of 1979 on Village Government, by standardizing the nomenclature, form, structure and role of village government, is not in accordance with the intent of

the 1945 Constitution, and the 'original' (or 'natural') role of these special territories must be recognized and respected, hence the law must be changed."

6 Chapter 1, Paragraph 1, Clause o, of Law No. 22 of 1999 states that, "The *Desa* or whatever other name the community chooses to apply, henceforth called village, is a legal community that possesses the right to manage its own affairs and the interests of local people based on the traditions and structures that exist and are acknowledged by the National Government and located are in the district (*Kabupaten*)."

7 In the General Descriptions Section, number 9, it states that, "(1) Villages according to this law are *Desa* or similar entities known by other names that are a legally recognized community that has its own structure based on local norms and traditions possessing specific status, as set out in paragraph 18 of the 1945 Constitution. The basic concepts that inform village governance are diversity, participation, autonomy, democratization and community empowerment; (2) Implementation of village governance is a subsystem of governance that allocates the right of village communities to manage their own affairs. The Village Head is responsible to the Village Representative Council and should submit reports to the District government; (3) Villages can produce their own rules and regulations, can own assets, and can be sued or can bring suit as a legal entity. For this purpose, the Village Head has the authority to make rules and regulations and enter into contracts and agreements; (4) As an expression of democracy, Village Representative Councils (or similar bodies of a different name) should be formed in accordance with local norms and traditions that exist in the community, that functions as a legislative and oversight body in the implementation of village regulations, village budgets and decisions of the Village Head; (5) Villages may also form other organizations and bodies in accordance with their needs. These bodies shall function as partners of the village government in the role of empowering village communities; (6) Villages possess financial resources drawn from village income, government assistance, other legal sources, third party endowments and donations, and loans; (7) Based on the "original rights" of the village, the Village Head possesses the authority to settle disputes among village members; (8) In order to meet the needs of urban populations, in these areas will be formed *Kelurahan* units that are under the authority of District or City governments.

8 Paragraph 93 of Law No. 22 of 1999 states that "(1) Villages (*Desa*) may be formed, disbanded, and/or combined with other units based on the original forms, in accordance with the community's initiative and with the agreement of the *Kabupaten* government and DPRD. (2) Formation, disbandment or combining villages … will be legalized through Regional Regulations."

9 According to MPR Decree no III/MPR/2000 on Sources and Hierarchy of Law, regional regulations are regulations to carry out the law that take into account the conditions of the local community;

1. Provincial regulations are prepared and issued by the Provincial DPRD and Governor.
2. *Kabupaten/Kota* regulations are prepared and issued by the *Kabupaten/Kota* DPRD and *Bupati* or Mayor.
3. Village regulations are prepared and issued by the Village Representative Council, and the protocols and methods for doing this is to be laid out in *Kabupaten/Kota* regulations.

10 Reasons provided during consultation included: (i) that the traditional system of Kampung government in effect before regrouping more effectively promoted people's prosperity; (ii) that Law No. 5 of 1979 resulted in an undesirable standardization of local government; (iii) many perviously autonomous kampungs had been demoted to RT (neighborhoods); (iv) complicated the day-to-day business of village governance, because many of the kampung units that had been amalgamated into larger *Desa* were located quite far apart. This represented a burden for villagers each time they had business with the government; (v) many villagers did not even know their Village Head under the new system; and (vi) traditional institutions and self-help traditions declined under the new system, since all matters were controlled by the state (see Rona 2001).

11 KKMA was established by the *Kabupaten* Sanggau *Adat* Community in February 2001 to oversee the campaign for appropriate regional regulations on village (*kampung*) government. Members were divided into two groups: the Kampung Team and the Lobbying Team. The *Kampung* Team was responsible for (i) Publicizing the KKMA's efforts with traditional *adat* leaderships and communities in *Kampungs* throughout the region; (ii) Organizing and motivating mass support for the campaign to pass the draft regulation into law; and (iii) Organizing a petition and letter drive in support of the campaign. The Lobbying Team was responsible for: (i) Meeting with *Kabupaten* Sanggau government officials to solitic their support the draft decree; (ii) Monitor discussions of the draft decree; (iii) Lobbying with *Kabupaten* Sanggau DPRD members so that they would invite KKMA as witnesses to discuss the draft decree (and the government's packet of 13 draft decrees); (iv) Collecting and preparing information about the lawmaking process for dissemination to

adat leaders and communities throughout the *Kabupaten*; (v) Participating in discussions and meetings about the draft decree; and (vi) Coordinating with the *Kampung* Team and community groups to press for passage of the draft decree.

[12] Ironically, the draft decree for Sanggau even still used the West Sumatran term "*Nagari.*"

[13] As set out in Government Regulation No. 25 of 2000 on the Authority of Government and Provinces as Autonomous Regions, Chapter VI, Paragraph 8, which states: "Permits and contracts between the government and third parties that were made before this regulations takes effect, remain in effect until the end of the license or contract period."

[14] This Presidential Decree was distributed by the National Land Board with a Circular Letter from the Minister of Agrarian Affairs which stressed, "all prior agrarian law, beginning with the Basic Agrarian Act No. 5 of 1960 and including all Ministerial Decrees and Decisions that have been issued subsequently, are deemed to be still in effect."

[15] As Waldon Bello (1994) describes, "what transpires is a complex social dynamic in which ideology is used to build bridges between different interests and interest groups. An ideology is a belief system – a combination of theory, beliefs and myths with an inherent internal logic – that attempts to universalize the interests of a particular social group so that it can apply to an entire community.

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