RCSD Politics of the Commons: Articulating Development and Strengthening Local Practices in Chiang Mai, Thailand July 11-14, 2003.

Decentralization and the Emergence of Volatile Socio-legal Configurations in Central Kalimantan

Dr John McCarthy, Research Fellow, Asia Research Centre, Murdoch University, Western Australia. (jmcarthy@central.murdoch.edu.au)

Abstract

International discourses on good governance articulated by multi-lateral donor agencies advocate decentralization to promote democratization, and to improve the effectiveness and responsiveness of government. Indonesia passed a new decentralization law in 1999, but it remains uncertain to what extent decentralization will further these objectives. During the 1998-9 period, political actors in the center took up the decentralization concepts and, to suit specific political agendas, crafted umbrella laws that adjusted key governance concepts to Indonesian circumstances. Subsequently, actors at different levels have engaged in a struggle to shape the outcomes. Contrary to the stated objectives of governance and decentralization, institutional arrangements both within and outside the state have become increasingly fragmented and contested. As described here, this process has helped generate emergent socio-legal configurations governing access to resources at the village and district level in Central Kalimantan that are shifting and volatile. At the same time these transformations also provide some limited space for re-assertive villagers to re-assert their own customary (*adat*) orders.

1) Introduction

The transnational move towards decentralization has made democratic decentralization somewhat of a *sine qua non* of State public sector reform (Edmiston 2002). In administering to this move, the donor agency and development administration literature considers the types of decentralization, the dynamics leading governments to embark on decentralization programs, the set of programmatic objectives that these reforms seek to address, and the associated problems that emerge as State administrations attempt to implement their decentralization blueprints.[1] By taking such a global comparative perspective and attempting to locate patterns among diverse variables, this literature to some extent tends to homogenize decentralization into "a process". In contrast, a social scientist attempting to understand how decentralization is affecting a specific local context is likely to come across a muddled and rather chaotic state of affairs that hardly seems to resemble the neat patterns described in the development administration and donor led discourse. One problem is that, as decentralization is just one element in wider processes of socio-economic and political transformation, it is difficult to isolate this process from wider changes. Moreover, at least in the case of Indonesia, decentralization is a dynamic and highly uneven process of change that is generating quite specific local socio-legal configurations.[2]

This paper considers how a transnationally inspired but nationally specific decentralization process helps generate particular socio-legal configurations in the districts of Kapuas and South Barito within the Indonesian province of Central Kalimantan. Here I am concerned with how the international decentralization discourse – interpenetrating with national and district legal processes – affects administrative practices and local social fields governing patterns of access and use of forest resources. This discussion necessarily focuses on the productive role of the decentralisation laws, considering how these laws and the various legal innovations that follow, reflect and have the power to structure the discourse within which issues and conflicts are framed.[3] This paper examines how emergent socio-legal configurations develop as actors interact in a dynamic situation where increasingly heterogeneous State and district legal regimes combine with volatile district social fields and re-assertive customary normative orders.

This paper forms a part of on-going research in fast evolving circumstances, and the conclusions represent current understandings of what remains a rapidly changing situation. I undertook initial research over 3 months during 1999. I then interviewed national decision-makers in Jakarta during July-August 2001 before returning to Central Kalimantan in July-August 2002. The first section concerns the process whereby the prevailing global ideology that supports economic and political liberalization intersects with domestic political agendas to inspire a national process of administrative reform. Then I consider the struggle over the direction of the decentralization reforms and its effect upon the relationship between emergent district socio-legal regimes and State attempts to retain some control over the decentralization process. This serves as the background for the third section, an analysis of how – within these emergent district regimes in Central Kalimantan – different actors engage in struggles over forest property. I also consider the reassertion of the customary normative field, its effect on patterns of resource use, and its relationship to the other normative fields. Finally, I will discuss the particular socio-legal configuration that has emerged

through these parallel processes.

2. Transnational inspiration

If this recent wave of decentralization is clearly "transnational in inspiration", this inspiration is drawn from multiple sources (Merry 1992). Since the late 1970s dominant neo-liberal ideological prescriptions have attested to the efficacy of markets and promoted internally and externally decentralized forms of organizing production. Managerial experts have imported these radically decentralized methods into state administration (Burns, Hambleton et al. 1994: p84). With the collapse of communism, critiques of highly centralized state regulation gained currency (Meenakshisundaram 1999). As multilateral agencies began to hold poor governance in the recipient countries responsible the failure of structural adjustment programs, they became interested in institutional reform. The "revitalization of civil society" through "democratic decentralization" came to be seen as a solution to the social and political side of the same set of problems to be addressed by market reforms and downsizing the state. In the wake of the East Asia economic crisis and the fall of Suharto, as in other developing countries, multilateral agencies tied lending to the implementation of governance programs that support "institutional strengthening" and "capacity building". (Jayasuriya 1999: 445). . As the IMF bailed out the country's economy, the World Bank and other donors bankrolled market reforms along with a governance program that included decentralization reforms. Of course, in so far as the IMF and other donors became deeply involved in actively shaping and directing reforms, as observed during similar processes in Africa, "the internal and the external have become interwoven in complex ways, so much so that we cannot with any degree of certainty say where one begins and the other ends" (Abrahamsen 2000: 11).

The transnational dimension of decentralization articulates with a domestic logic of State transformation. But, as in other cases, the internal logic driving decentralization reforms is clearly over-determined (Manor 1999). National legal change took place in a particular political context: the economic crisis of 1998 also constituted a crisis of legitimacy for state institutions. State decrees and policy documents from this period emphasize the need for a system of regional government that provides for authority and the allocation of resources to be built upon the main concerns of regional communities (Warren and McCarthy 2002).[4] Indonesian policy makers decided to give away key powers to the regions to reassert the legitimacy of a national polity fraying at both the edges and in the center.

As in other cases of rapid reform, an important element here was the existence of state actors with the willingness and capacity to initiate and pursue their own interests in reform together with a national political equation where the decentralization program fitted into the short-term political calculations of the key politicians (Fox 1993: 16)Eaton 2001). The reforms tied in with the political ambitions of the ruling party Golkar, and it is possible to see the laws as part of an effort to increase the appeal of Golkar in regional electorates (Forrester 2001). The team within the Ministry of Internal Affairs (*Tim Tujuh*) that has been identified with pushing the new law included key Golkar figures from the outer island of Sulawesi, an area with long held ambitions for more autonomy.[5] The team was reported to be motivated by an interest in modernizing and reforming Indonesia's government structures, and improving the effectiveness and responsiveness of government in order to help Indonesia to face the challenges of globalization (Forrester 2001). As *tim tujuh* comprised of a number of U.S. trained political scientists schooled in contemporary

political and administrative theory, it proved capable of mediating the international ideological decentralization discourse with local agendas. If *Bahasa Indonesia* (the national language) lacked a term for governance as well many of the "four pillars" of governance (accountability, transparency, predictability in the enforcement of laws and regulations, and public participation), Indonesia's decentralization laws (UU 22 & 25/1999) reflected the good governance discourse (Tambunan, 2000).

In contrast to the pervious round of decentralization reform which emphasized deconcentration (Niessen 1999), the new key law (Laws No. 22/1999) aimed to delegate several key decision-making powers to district and municipality administrations who – via newly provided mechanisms of accountability – are to be held accountable to local constituencies. The intent of the law was consistent with "democratic decentralization" which entails the devolution of powers and resources to lower level authorities who are to varying degrees independent of higher levels of government and who are held accountable by local populations (Agrawal and Ribot 1999; Manor 1999). While implementation of the decentralization blue print might be seen as a technical exercise in administrative reform, the process involved more encompassing problems.

2) Decentralization and internal pluralism.

If the central agencies of the state wished to retain some control in the regions, central actors needed to carefully organize the process of decentering the state. This would involve finding some delicate balance between self-government by locally accountable district and municipal administrations and central government management of the process. Yet, for a number of reasons, the central government has had trouble operationalizing the monitoring and supervisory mechanisms set out in the framework law.

The first set of problems derived from the lack of clarity in the framework legislation (Act 22/1999). In part this seems to be a natural consequence of the fact that the framework laws bear the traces of a political compromise. The advocates of decentralization within the transitional Habibie presidency had a limited window of opportunity and needed to pass the decentralization laws quickly before the immanent 1999 election. Through complex formulations legislators managed to accommodate the views of a range of actors. This was only at the price of precision: the law left many issues outstanding for determination by lower regulations. As an official within the Department of Home Affairs noted in an interview during 2001, umbrella acts are painted gray and regulations and decrees "turn what is gray into black and white".[6]

The second set of problems emerged for, as described in the literature, decentralization is a highly contested political process. This is particularly so because higher level politicians and bureaucrats are typically antagonistic to decentralization processes that involve curtailing their powers over lower levels of government (Manor 1999; Eaton 2001). In the case of Indonesia, the period 1999-2002 has been marked by the transition between three presidents and several cabinets. As political actors and State institutions have engaged in a struggle over the stewardship and direction of the regional autonomy process, the architects of the decentralization law within the transitional Habibie presidency were swept aside (Tajuk 14 December 2000; Dijk 2001). Under the Megawati presidency more conservative forces within the bureaucracy controlled the implementation process. While these more conservative bureaucrats failed to rewrite the framework law (UU 22) and have

so far been too weak to reverse it politically, they have gained primary authorial control over the formulation of important implementing regulations and this has had a significant impact on the consistency of the legal framework.[7]

With respect to the legal framework governing natural resource management, it has long been observed that the Ministry of Forestry has a vested interest in the centralized control of the nation's vast forestry estate (Barber, Johnson et al. 1994). Accordingly, it is hardly surprising that the laws crafted under the influence of this Ministry failed to harmonize with the regional autonomy act. The decentralization law (Act No 22/1999) worked on the assumption that districts and municipal governments would attain extensive discretionary powers with the central government only retaining powers over setting policy, guidelines and standards. In contrast a new basic forestry law (Act No 41) passed in the same year as the regional autonomy act retained the notion of central control of the forest estate and kept the assumption of a hierarchical relationship between levels of government, .[8] It also allowed the Forestry Ministry to retain decision-making powers over large-scale decisions regarding the forestry estate. Subsequent implementing regulations in the forestry sector accentuated this trend, emphasizing forestry ministry wishes to leave only operational matters in the hands of the districts and municipalities (Menteri Kehutanan 2002).

When the government proclaimed the key implementing regulation (PP25/2000) for the decentralization act, this only specified areas of responsibility of provincial and central governments. By implication, all remaining responsibilities were left in the hands of district and municipal governments. This approach left room for diverse interpretations. This was exacerbated because, during 1999 the supreme parliament (MPR) passed a decree that allowed regional governments to establish their own regional regulations (*perda*) for matters that were yet to be regulated by implementing regulations issued by the central government.[9] As a result, individual regions established regulations that ran counter to decisions prepared by other levels of administration, including those relating to the forestry sector.[10] Therefore, "many regulations concerning implementing authority regulating forest were overlapping and contradictory, with the result that responsibilities for regulating the forest became unclear" (Menteri Kehutanan 2002). Conflicts emerged over the resolution of these ambiguities, and the resultant ambiguity left district agencies would have significant discretion over the allocation of access rights in the field (Ribot and Peluso 2002: 20).

With political transition in Jakarta, the central government has been slow to develop an effective administrative apparatus for monitoring and supervising districts and municipalities. Consequently, the Ministry of Internal Affairs has not operationalized effectively powers granted in the framework law. This has hampered the process of delivering timely policy guidance, and efforts to monitor and to supervise the process (Nicol and McCarthy 2001). Moreover, under the decentralization model that provided for district based forms of service delivery, the central government has faced the problem of developing new ways of implementing policy in the regions, particularly since the central government departments no longer have line agency offices (*kanwil*) in the regions.
Consequently, despite the ideology of a unitary Indonesian legal order, the state legal system is increasingly heterogeneous and far from coherent. Even when state laws are clear, with the retreat of monitoring and sanctioning agencies of the central government, district agencies have increased discretion over how they implement them. Within the state there are competing and seemingly

uncoordinated processes of rule formation leading to contradictions between regulations created in the centre. Consequently, when district government agencies use their enhanced discretionary powers under decentralization to create district regulatory regimes, they can ignore some laws and choose to base district regulations only on those higher laws that suit their agenda. There is also the problem of consistency over time: laws have been changing and a district needs to make a political decision over which ones it wishes to implement.[11] After making use of the widened opportunities to make choices in deciding how to proceed, district governments may then explain their decisions as though they followed inevitably from the existence of the higher laws cited in the district regulation or policy.

Some authors have argued "that effective decentralization requires a strong and confident centre" (Burns, Hambleton et al. 1994: p83). The capacity of central government actors to play "their roles of delivering timely and accurate policy guidance, monitoring, mentoring, compliance verification and so forth" can significantly improve local government performance (Ribot 2001: 32). Moreover, if a confident central government can clearly define the responsibilities of all actors involved, this can significantly support a decentralization process (Manor 1999). For the reasons discussed above, the central government agencies have failed in these respects. As different state actors and levels of administration create laws and administrative rules according to local or agency specific aims and agendas, we see the coexistence of different logics of regulation. This exacerbates what Santos (1992: 134) has described as "internal pluralism". As we will see, this heterogeneity has had significant implications for the development of local socio-legal configurations in Central Kalimantan.

3) Diverging Interpretations: District responses in Central Kalimantan.

When, during 1999, district governments in Central Kalimantan reacted rapidly to the decentralization legislation, they embarked on their own legislative programs. Clearly several dynamics shaped district responses.

During the New Order, those with the capital and connections necessary to open and operate timber concessions tended to be Javanese and ethnic Chinese politico-business elites in Jakarta. Undoubtedly a Dayak elite enjoyed benefits under this system, finding privileged positions in the New Order power structure.[12] Yet, for most rural people, the centrally controlled process of resource exploitation left them bearing the environmental consequences, marginalized and resentful. Post-Suharto, Dayak elites mobilized this resentment, pointing to the ethnic and social division between the outsiders who profited under the previous system and the marginal "children of the region" (*putra daerah*) (ICG 2001). What might be called the *putra daerah* discourse served to strengthen the sense of entitlement of local ethnic groups in many areas of provincial life. Dayak organizations and individuals who associated themselves with the Dayak cause agitated for promoting *putra daerah* into key positions in administration. *Putra daerah* resentment helped mobilize rural Dayak in the ethnic cleansing of Madurese populations during 2001 (ICG 2001). And the *putra daerah* discourse naturalized forest exploitation by actors with a regional identity, shaping emerging patterns of access by allowing for particular "Dayak" patterns of resource use and undermining the legitimacy of others. This regional discourse has found expression in district regulations, helping to support district laws that contradict aspects of higher regulations. As the

districts of Central Kalimantan remain predominately rural societies where remotely situated and impoverished communities can rarely affect district decision making, key Dayak figures at the district level who could make the most of the new opportunities provided by decentralization.

Of course districts have pressing problems, including the challenge of coping with pressing fiscal problems that in part derived from the budgetary constraints facing a heavily indebted central government beholden to international donors. With low amounts of self-generated revenue, districts now have to fund an increased range of devolved functions as well as the salaries of staff transferred from central government. As districts had to use the vast majority of the allocation from the central government to pay for staff and other routine expenditures, they now had less revenue available for development activities, reducing the already weak capacity of government to deliver services or fulfill functions on which the legitimacy of district governments ultimately depended.[13] In addition, district heads (*bupati*) needed to find revenue to support their political machines, and to pay for the political support of key factions in the district legislature.

Under the decentralization laws, districts had limited powers over forest administration, such as the authority to issue small-scale concession permits (HPHH or IPHHK) to log production forest, the power to issue licenses to transport timber as well as the power to issue annual timber cutting plans (RKT) of large-scale concessions. The Forestry Ministry and provincial authorities retained authority over a range of other areas, including concession licenses and spatial planning. Yet, significant powers in specific areas have flow on affects, impinging on other domains of action of local bodies that may be restricted by law (Agrawal and Ribot 1999). These discretionary powers create opportunities for regional government innovation beyond those suggested by a reading of formal laws. District governments could work around legal or administrative obstacles or justify their actions within the labyrinth of conflicting regulations. [14] For instance, in drafting their own regulations, districts could selectively invoke areas of legislation to be found in overlapping and contradictory collection of laws and government regulations that supported their particular policy. Officials that moved forward quickly and energetically would make the most of the opportunity to shape the future and establish a reputation for successfully managing the district for local interests. Where the legal situation was subject to different interpretations, district actors who could establish an interpretation of higher laws on the ground would help "bind the future", making it more difficult for a weak central government to undo what had already been done (Benda-Beckmann 2002: 31). As much as anywhere else this applied to establishing patterns of resource access. In addition, as far as the monitoring and the enforcing of higher government regulations at the local level are in the hands of decentralized administrations, district governments retain some powers over the way rules – which they have no power to alter – are implemented. Each district embarked on its own particular strategies, making use of delegated powers, including extended powers to create with their own legal regimes through district regulations (*perda*), as well as discretionary powers over raising revenue and spending district budgets, and powers to develop their own administrative arrangements. As in the past, these policies generally served the twin objectives of capital accumulations for local actors tied into local networks of accommodation and exchange as well as raising revenue for the district government (McCarthy, 2002).

Kapuas policy concentrated on controlling access to local timber reserves by using the limited authority districts enjoyed to issue small scale timber exploitation licenses. In 1999, Kapuas district government passed five district regulations (*perda*) relating to forestry issues, setting up a

regulatory regime that would enable the district to raise district income (PAD) from the forestry sector. [15] By July 2000 there were more than 150 small-scale concession licenses in process under these laws. The ministry of forestry resisted this policy, both because the Ministry of Forestry did not wish to lose control of the forestry estate and because, it was argued, while district governments were concentrating on raising revenue, the policy was leading to deforestation.[16] Despite Ministry of Forestry letters rescinding the power to issue these licenses, the district continued with the policy.

Along with other districts, Kapuas no longer felt obliged to fall into line with a ministerial decree that suspended authority to grant HPHHs. The district could argue that a supreme national parliament (MPR) decree issued in 2000 supported this position by lowering the status of ministerial decrees,[17] ant that it needed to proceed with existing requests because they were already in process under earlier regulations. While the district subsequently slowed down the process, it continued with earlier HPHH concession requests while "waiting for clarification". By July 2002, the administration had granted some 200 HPHH. As a result policy making at the district and provincial/central levels remained at odds with the districts, leading to conflicts over who exactly had rights in a particular area.[18] Provincial and central government authorities failed to notify district administration before issuing timber concessions (HPH). In some cases the district issued small HPHH concessions inside the boundaries of large HPH concessions issued by the central government. In some cases these overlapping conflicts led to protracted disputes.

While the Kapuas administration set about controlling access by granting exploitation permits, initially policy in the neighbouring distict of South Barito concentrated on controlling access to market. Given the large amount of logs shipped down the Barito River both from the district itself and the upstream areas, district policy paid attention to the control of timber exports from the region: under a new regulation the district focused on generating as much revenue as possible from levies on timber. The regulation allowed timber to be exported from the district on the understanding that those involved pay taxes due to the central government as well as a newly created district levy on forest products. In other words, attention would be paid to whether the timber had been subject to taxes rather than whether it had been harvested in concession areas according to national law.[19]

In South Barito significant difficulties emerged during the implementation of this policy, by generating horizontal and vertical conflicts within that local state, and again exacerbating the heterogeneity of the state at the local level. Under regional autonomy act, the police remained a national force under the authority of the central government. Acting under national laws, the police possessed the authority to sanction those infringing regulations of the central government under the penal code, including those relating to timber. For instance, the police could arrest illegal timber operators and confiscate timber harvested outside the national legal framework and auction it. According to a military official, district police liked this system "because for sure there were a few open doors."[20] For example, it is an open secret that they could profits by underestimating the amount of timber confiscated or by selling it on at lower than the market price. Or perhaps they could enter into arrangements with loggers, allowing illegal timber to pass after payment of extra-legal fees.

To pursue its objectives, the district government employed district forestry and taxation agencies under their control. Consequently, these actors began to compete with the local police to gain the benefits from discretionary control over the implementation of forestry regulations. With competing institutional agendas and interests in rent seeking, different lines of accountability, and a view that the different agencies have duties under different bodies of law, the police and the forestry agency at the district level vied for control of the benefits to be derived from the local timber industry. To some extent this dynamic also operated in neighboring Kapuas, where at times the police acted independently. For instance, a figure involved in the timber sector in Kapuas noted that, a timber operator might make arrangements with district authorities to facilitate taking timber out of the district – for instance, by obtaining some documentation in return for requisite payments. However, an entrepreneur could never be assured that the police would not suddenly come down, thoroughly check the documentation, and even confiscate the timber.

While the vertical allegiance of the police upwards to the president gave the police independence at the district level, it also clearly suited central or provincial government interests who could use the police to try to apply national laws. For instance, higher levels of government could use the police against timber operators who – although having found a way to operate in the district – actually extracted timber against national laws. In one operation, the national police headquarters in coordination with the Ministry of Forestry and the Military Headquarters in Jakarta sent a team to Central Kalimantan to clamp down on timber extraction which – although permitted by the district – the Central Government considered to be illegal logging.[21] However, in most cases, provincial police operated teams directly against district timber entrepreneurs. On at least one occasion, this has led to disputes between police and other district government agencies.

As noted earlier, the regional autonomy laws left the respective legal and administrative roles and areas of responsibility of different levels of government rather ambiguous. This ambiguity allows state actors in the regions greater discretion in the allocation of access rights, enabling them to invoke various laws to assert the legitimacy of local policies. Actors occupying positions in various levels of administration can control access either by granting permits or by the threat to apply sanctions. As far as decentralization altered the authority of different levels of administration to issue licenses or enforce laws, it changed the ability of actors occupying positions in the administration to mediate others' access or exert power over their ability to enjoy benefits (Ribot and Peluso 2002: 11). The struggles that emerged between different agencies are at once about power and jurisdiction, the interpretation of different laws, as well as over the capacity to extract benefits from controlling others' access to resources. As discussed elsewhere, the strategies local politico-bureaucratic actors use to accumulate benefits needs to be understood in terms of their political and economic interests (McCarthy 2002; McCarthy 2002). Dependent as they are on subjective interpretations of laws, these strategies are attempts to shape the socio-legal configuration with which other actors have to contend.

The processes I have discussed so far means that in the field actors have to face a dynamic and heterogeneous socio-legal reality encompassing both the district and village levels. I will first consider the re-assertive customary (*adat*) order at the village domain.

4) Reasserting the *adat* order.

The social field associated with the village domain has evolved in parallel and somewhat at odds with developments at the central and district level. As noted earlier, during the *reformasi* period has seen the eruption of previously latent conflicts and the reassertion of the *adat* customary orders (Colfer and Resosudarmo 2002; Warren and McCarthy 2002). During 1999-2000 villages made claims against timber concessionaires (HPH) who had operated over enormous areas of the province, ignoring the customary property rights of surrounding Dayaks. This lead to resource scarcity and left a heritage of bitterness, ultimately leading to widespread and protracted conflicts as villagers took actions to gain redress for past injustices and gain a greater share of on-going exploitation of local forest resources. In some incidents confrontations with logging companies culminated in the destruction of company property or even the burning down of a company's base camp. These actions increased the difficulty and expensive of concession operations, in some cases ultimately helping to compel some companies to leave the area.[22]

Across Indonesia, there have been efforts of recreate customary (*adat*) institutions (Acciaioli 2000; Benda-Beckmann and Benda-Beckmann 2002). In Central Kalimantan the provincial government has sponsored efforts to begin reviving the role of the *damang*, the primary *adat* head during the colonial period. This institution had fallen into neglect over the previous thirty years, and now proved unable to mediate relations between government and Dayak communities or disputes between villages and outside actors. Yet, during 2000-2, the tensions associated with unjust patterns of resource use continued to animate village actors in most parts of the province. During the "ethnic cleansing" of the Madurese population heavily involved in the exploitation of natural resources, remote villagers in the hinterland mobilized around traditionalist *kaharingan* beliefs. At the same time, villagers continued to reassert customary claims over surrounding areas. As we will see, these dynamics created new village level controls over surrounding forest resources.

Before proceeding further, it is important to discuss local property rights. As elsewhere in rural Central Kalimantan, the signs of former habitation and cultivation mark the landscape, indicating the territorial rights of villages and the tenurial rights of villagers (Peluso 1996). The former longhouses (*rumah betang*), sacred forest areas and the burial grounds of villages denote the common property rights of villages. At the same time, among the Ma'anyan and other ethnic groups of the South Barito area, villagers recognized the rights of the first person to cultivate in an area. A right known as a *jungungan* encompasses the former swidden areas (*ladang*) and surrounding areas planted with fruit or rubber trees by the ancestors and dead relatives of current villagers. The boundaries of a *jungungan* is usually marked by a rubber or fruit tree and generally extends from 300 to 500 metres from a cultivated area. Under the *adat* rules governing swidden agriculture, if someone wishes to open a plot (*ladang*) land in this area, they need ask permission of whoever has a *jungungan* there.

While during the New Order timber concessions systematically ignored these *adat* rights within their concessions, after 1999 the territorial and tenurial rights of villagers have become increasingly important. Villages have corporately laid claim to the territories surrounding their villages under various terms for village inherited rights (*hak desa* or *hak luhur*). Interviews suggested that the boundaries of these territories tended to correspond with the village boundaries found in state maps. Under *adat* the *jungungan* concept applied within the villages; now, under the unwritten rules that have emerged, the *jungungan* concept has been extended and applied to logging operations. Those wishing to extract timber – either companies or logging teams – have to negotiate first with village

leaders, those living close by, and especially those with *jungungan* rights. In July 2002 the going rate is 50,000 Rupiah per cubic meter near areas over which someone has a *jungungan*.

According to a district official, the system has arisen spontaneously. As villagers watched timber being extracted, they felt left behind and impoverished as outsiders profited from the exploitation of surrounding forests. Now clearly the days of sitting by and watching their resources being taken away without any benefit were over. Even if a local entrepreneur obtains a small-scale concession (IPHHK) from the district administration, they now needed to negotiate access from local landholders. Yet, the state law has failed to keep up with these developments. The assertion of *adat* rights depends on negotiations in the field rather than on the agrarian or forestry law, or on an agreement with the company or the government over where the boundaries of *adat* lands lie.

The state has failed to develop appropriate state legal rules dealing with adat rights over forest and land areas. While there have been some legal innovations in this area, these reforms have been constrained by the principle of state control of forests that is enshrined in the constitution and the umbrella forestry act (Down to Earth 2002). Even for areas outside the forestry estate the basis for *adat* rights within the state remains constrained. While the regional autonomy law granted authority to the districts and municipalities over land affairs, in 2001 a presidential decree (Keppres 62/2001) re-centralized this authority. In the absence of new legal initiatives to deal with *adat* customary laws, villagers exert control according to a resurgent *adat* "legal order" without obtaining recognition under state law. As they have to defend their rights without any forms of legal redress under the state law, as we will see, villages have to depend on "people's justice" (*keadilan rakyat*).[23]

Access to the forest can be negotiated: a district official noted that "Dayak like to compromise". Under these conditions, actors with a concession have developed ways of gaining access. For instance, an actor with a small scale (IPHHK) concession obtained from the district government will usually work closely with villagers, using a broker with inside connections to negotiate a fee with the village and with local landholders beforehand. To gain access to forest areas between villages and involving numerous *jungungan*, brokers often need to participate in long, complex negotiations. An alternative is to pay villagers to take timber from their own lands. Villagers extracting the timber then enter into negotiations with other villagers with *jungungan*. In these ways large concessions gain access to timber in village areas, between cultivated areas (*ladang*), and outside their scheduled logging blocks (RKT).

In Central Kalimantan local villagers have often described how logging concessions generally fail to meet agreements for compensation (McCarthy 2001; McCarthy 2001). In the absence of institutional arrangements enforcing agreements, villagers have learnt that, only through demonstrations, blockades and other planned actions can villagers enforce agreements, improve their bargaining position and otherwise ensure that they can gain a (short term) share of the benefits from the extraction of timber. For instance, as a local official described, if a problem emerges with a logging company, the villagers concerned will place a string across the road, blocking access to the area. Five or six people will stand by this improvised roadblock. If the problem is not resolved, the villagers may mobilize family and friends, descend on base camp and burn it down. An observer in South Barito described how, in one case a HPH accessed timber this way, entering into arrangements with a village brokered by a local figure also organized timber shipments (*expedisi*).

At one stage, the village threatened violence against the company. Finally the company come to an arrangement whereby villagers extract the timber and sell it on to the company. However, if loggers move ahead without an agreement, this can lead to conflict. A district official described how in a number of instances such conflicts had descended into violence. For example, this can occur if a company or a broker fails to involve everyone with rights in an area in negotiations over access, or if villagers feel the survey was manipulated, or if thugs (*preman*) are used to impose an agreement. These can lead to violent conflicts in which people often get killed. He described how, "if someone is not there when the timber is extracted close to a *jungungan*, the person goes looking for the party involved, carrying his machete (*parang*) to defend his rights". In other cases the leader of a logging team can become a victim. If, for instance, the person concerned "enters with workers from outside, ignoring existing *jungungan,* thinking "I'm strong, I've got backing" [from *preman*]. This can lead to a camp being burnt down or broker attacked (*dibacok*)". However, horizontal conflicts within the village over access are usually solved by customary mediation processes (*musyawarah adat*).[24]

The re-emergent *adat* normative rules vary remarkably from State law, affecting routes of access in areas now subject to *adat* claims. While villages may be able to mediate or contain disputes between villagers, there is clearly a lack of functioning institutional arrangements and dispute resolution mechanisms pertaining to access by actors from outside the villages. To gain access to resources at the village level, outsiders negotiate deals at the village level. Clearly, outsiders also attempt to impose their will in the field, for instance by deploying thugs (*preman*) in the field. At the same time village actors defend their interests by resorting to intimidation and force. Given the uncertain consequences, it is hardly surprising that disputes often end in violence.

As far as the activities of autonomous indigenous groups did not affect commercial or state interests, during the colonial period "customary law communities" constituted through the colonial process of indirect rule were allowed space within a colonial state formation (Sonius 1981). During the post-colonial period, especially under Suharto, commercial and state interests together with state policies increasingly narrowed or even denied this space. The current transformation has created room for village actors in Central Kalimantan to pursue local agendas and, to some extent, re-impose or re-create their own orders. To a limited degree the benefits are being redistributed in the course of changing social relations and legal frameworks: in the interactions of district brokers, local government officials, outsider entrepreneurs, to a limited extent villagers are now less marginal to the process. Yet under regional autonomy it is more powerful district actors who primarily benefits. When timber interests obtain licenses for exploiting forest lands under district government regulations, there is also a lack of transparency and accountability with respect to how these exploitation rights are negotiated or allocated. Timber operators and their brokers only need to obtain field level *ad hoc* permission from villagers at the point of exploitation. Villagers are faced with the choice of making a deal at this point or else losing out altogether and are readily co-opted with payments.. In many cases weak villagers are manipulated in the process and divided by deal making that only involves some members of the village elite, leading to conflicts both within villages and between villagers and timber brokers, entrepreneurs and concession holders. The process has contributed further to the degradation of national forests and the resource base of forest dependent villagers..In contrast to the narrative of top-down decentralization processes, here we see decentralization process taking on meaning in the context of local power configurations. At this

point the consequences and durability of the partial transformations wrought by these processes remain unclear.

5) District Socio-legal Configurations and Struggles over Access.

Actors wishing to obtain benefits from the region's forest need to operate effectively within the district administrative domain. For even when actors work outside the national, provincial or district regulations, these regulations both structure the setting within which actors choose strategies and limits the possibility of action. Of course actors operate at the intersection of laws and administrative arrangements, and the whole assemblage of regulations and arrangements provide a large repertoire of permits and licenses that can be manipulated to help legitimise access.[25] Clearly the type of permit or license an actor has obtained legalizing the profitability of an actor's activity has significant consequences. The more documents and permits an actor has, and the more secure the legal standing of these documents, the more options an actor has is the local networks of exchange and accommodation. Conversely, the fewer documents the more illegal and hence the less certain are their operations, and the less able they will be extract benefits from the timber sector.[26]

Before beginning a timber operation, prospective actors need to invest in relations with state agents who can grant a permit to exploit an area. Before regional autonomy politico-business interests primarily made investments in the central administration to obtain large timber concessions (Barr 1998). After regional autonomy the Ministry of Forestry, with a recommendation from the provincial administration, retains the power to issue large scale (HPH) concessions. Over recent years, many of these permits have either expired or are still in process, and the legal status of many areas of the forest estate is now uncertain. At the same time, regional autonomy has provided local actors with more district legal/administrative routes to access local timber resources. For instance, in addition to the small scale licenses (HPHH and IPHHK), following regional autonomy local forestry offices have the authority over transport permits (SKSSH) and annual cutting schedules (RKT), as well as permits for operating sawmills.

Besides providing a permit, these agents can help find a way around problems, obtain information regarding opportunities and strategies, and access to the person who can grant a particular document. Alternatively, as discussed below, these state agents can put an operator in touch with another entrepreneur who might have the license that an actor needs to operate.

Even after decentralization, obtaining a permit requires considerable capital. For instance, counting both official and "unofficial payments", a sawmill operator will have to pay 700 million rupiah to obtain the timber export license (RPBI).[27] Alternatively, an entrepreneur will pay 10 million for recommendation for a small (HPHH) district concession area from the district forestry office as well as other expenses, including procuring an aerial photograph of the area and paying for forest surveys together with other operational expenses, including the cost of obtaining labour and procuring machinery.[28]

Recent district regulations (*perda*) pertaining to small-scale concessions typically allow that only local people (*putra daerah*) can obtain these licenses. While local people may have a web of social

relationships across the district and down to the village level, they generally lack the kind of capital required. Consequently, they can act as a broker for actors with capital and machinery. Referred to in Central Kalimantan as a counterpart (*mitra*), these include brokers working for timber factories down river, employees of large scale concessions searching for extra timber to meet their production targets or perhaps working without an annual cutting schedule (RKT) while their large scale HPH concession is "in process" with the ministry of forestry, or other local entrepreneurs wishing to disguise the extent of their operations. Alternatively, a business with capital and machinery may choose to operate behind a co-operative functioning in the name of villagers. [29] Although the name of the local broker or village co-operative may appear on the permit, these actors only gain a small share of the benefits. As a local observer noted, the permit holder "could be a *putra daerah* who needs to hire the motorcycle (*ojek*) that takes him to the office where he applied for the permit".[30]

While there are a large variety of permits or licenses, we can generally distinguish two types of licenses. A timber concession permit grants a territorial right over timber resources found in a specific area of forest for a specific period of time. In contrast, other licenses allow actors to carry out specific forms of business in the forestry sector, such as operating a sawmill or transporting logs or sawn timber out of an area. The particular type of licence may both provide opportunities and problems. For instance, large corporations who have HPH permits can log their area, or alternatively can use their license to buy logs from other actors operating illegally. Where sawmills have the capital to obtain a (RPBI) license, they can obtain permits to transport timber out of the district, and they can buy timber from those without such permits.[31] But then their business will depend upon finding an on-going source of timber. In contrast, an operator who obtains a concession to harvest a 100 ha area (a HPHH or IPHHK permit) from the district government may have a legally guaranteed source of timber (or "stock area"). However, before they can legally transport the timber anywhere, they need to obtain a transport permit (SKSSH), and to do they need to pay a (PSDH) tax even before they have sold the timber.[32] Given the considerable expense involved, local operators who lack capital may not be able to operationalize their permits in this fashion. In this sense they may have to operate without a proper license to transport timber. Like someone working without any permits at all, they need to make payments at every forestry or police post along the river or major road, and would operate with the constant risk of confiscation. To avoid this problem, an actor with a "stock area" or a sawmill license can choose to just sell transport permits issued under the license to those working without permits.

Actors who lack particular permits can find strategies either to surmount particular problems or capitalize on the strengths of their particular documents. For instance, someone with a small scale timber concession but lacking the capital to process a transport (SKSSH) permit may be able to procure documents in some other way, for instance by buying "flying documents". Alternatively they may obtain one in the neighboring province of South Kalimantan, where forestry officials grant documents without paying attention to whether these fees have already been paid.[33] To avoid the risk of having their timber confiscated, those operating without documentation can sell the timber at the first opportunity to a buyer who can straddles the next level of the chain of buyers and sellers linking logger with the final market. As they sell lower down the chain of buyers and sellers, they will obtain a lower price: access to documentation affects the profit that an actor can extract.

In many respects regulations together with the areas of responsibility and authority of different agencies remain somewhat ambiguous, conflicting and in a state of flux. Meanwhile, agencies at each level compete for control over the right to control access, and consequently to extract benefits from that access. This uncertainty leads to considerable conflict. In addition to administrators, other actors including NGOs, journalists, and gangsters also attempt to extract benefits from the system. Those occupying this position that links the networks of district based timber operators with the main market downstream in the city of Banjarmasin, can extract considerable profits, but to do this they need to be able to straddle several aspects of the socio-legal formation. To do so, these actors need to command multiple resources, including access to officials and permits, capital, and the capacity to impose their will in the field, for instance by deploying their own forces. Even with this array of force, there is a lack of guarantees.

Conclusion

In this article I have analyzed decentralization in Indonesia in terms of four parallel narratives: the interpenetration of international good governance discourse and national decentralization reforms; the central government's attempt to implement the decentralization blueprint; the emergence of district legal regimes in Central Kalimantan; and, the reassertion of customary property rights. Finally, I have considered how these dynamics come together of redraw local socio-legal configurations.

At the national level, the economic and political crisis that began in 1998 offered international agencies an opportunity to promote neo-liberal economic reforms and governance programs. The policy makers ascendant at this time turned to foreign-trained political scientists who were able to craft decentralization reforms that, by mediating pressing domestic political agendas and the international governance discourse, attracted foreign aid for state reform and helped the state find a new legitimating narrative.

In organizing its own decentering, the state has to perform the rather paradoxical act of devolving areas of responsibility while retaining some control over the decentralization process and the emergent district legal regimes. The struggle that emerged within the national bureaucracies in Jakarta over the decentralization compounded the contradictions inherent in the process. Some state actors – such as the Ministry of Forestry – clearly retained their aspirations of establishing the primacy of state principles set out on a nation-wide scale. To the extent that these actors worked in contradiction to the umbrella decentralization law, they undermined the coherence of State action. At the same time districts utilized the space created by power struggles in the centre together with their greater discretionary powers to extend their control over the legal means of controlling access to district forests. District administrations now combined revenue raising measures to fund local services with rent-seeking to meet political and entrepreneurial goals, in this fashion leveraging significant benefits from their extended control over forest access.

As decentralization and associated political changes affect the district level, a range of actors find new opportunities to change the arrangements governing access to the region's natural wealth. District government agencies, the local legislative, local entrepreneurs, national corporate interests, villagers and other actors have adapted or even developed new strategies to secure their various

interests, whether this be to redress past grievances, raise revenue, extract timber for profit or merely to subsist. Through the interaction of these actors – and through their recourse to legal norms and other resources – we see the appearance of particularly volatile socio-legal configurations. Here the pluralism of rule-making processes is more explicit and institutional arrangements increasingly fragmented and contested. At the one time actors can invoke rules associated with different national, district, and customary legitimizing discourses and normative orders to support their position in struggles, which are at once conflicts over power and over access to resources.

To illustrate how these four parallel processes generate particular socio-legal configurations on the ground, I explored how different actors seek to obtain control over property rights under these shifting circumstances. National politico-bureaucrats and concession operators have adjusted to the current transformation by forming alliances with political and economic interests at the district level who can broker access within the district administrative field. In addition, they employ village level brokers who can negotiate access at this level. To gain and then maintain access, they also invest in sustaining relationships with those who have power. At the same time, district entrepreneurs, who have significant advantages within the district and village fields, need to be able to make alliances with outside actors capable of supplying capital, machinery and outside markets. Clearly, unless they are to remain passive subjects of outside strategies, villagers have to mobilize and apply "community justice" initiatives to assert their positions and to ensure their livelihood needs. But villagers are only able to defend their interests by "taking the law into their own hands" (*main hakim sendiri*), thereby heightening the possibility of violent conflict.

In this heterogeneous situation, actors have particular advantages in terms of the resources that they can deploy at a specific level. These include the capacity to invoke the appropriate national, district, customary or local normative orders to support their interests, the ability to form alliances employ brokers, deploy capital, machinery and their access to permits, licenses and outside markets, or the threat of force. Successful actors need to develop the capacity to negotiate across these several fields at once. To enjoy the benefits of resource extraction under the emergent socio-legal configuration, as far as possible such actors need to draw on a wide repertoire of social, economic, and legal resources, deploying the appropriate resource in the appropriate field at the appropriate time.

A case in the neighbouring province of East Kalimantan illustrated how, as this is typically beyond the capacity of most actors, it leads to particularly unstable outcomes. Here, a retired lieutenant general who happened to head the national intelligence agency (Badan Intelijen Negara or BIN) obtained a concession license from the provincial government. At the same time two district entrepreneurs had obtained small concessions in the same area from the district government. They had also entered into an agreement with local villagers whereby villagers obtained payments in return for guaranteeing access to areas held to be subject to customary claims. When the intelligence head realized that local entrepreneurs were logging "his area" he contacted his police counterparts in Jakarta. Subsequently, the provincial police arrested the district entrepreneur for "illegal logging". However, his control over the area remained insecure: newspaper reporters who visited the area now found that the villagers were angry because the head of the national intelligence agency had not negotiated access at the village level.[34]

In these kinds of situations we see a range of actors left competing and insecure. As brokers and entrepreneurs interviewed in the provincial capital of Palangkaraya noted, even if they sort out permits and access to the community, there are always "extra factors" beyond their control that can confound their operations. For instance, one businessman described how at considerable effort he obtained a concession area rich in the valuable timber, *ramin*, in the swamps of Kapuas district. Consequently, after he made the investment, under international pressure resulting from the felling of national park forests in an neighbouring area, the government in Jakarta changed the law, banning the export of *ramin* and confounding his investment. In other cases, the central government changed laws, such as that pertaining to small scale concessions, just when the district administration was beginning to implement them. But clearly there are other contiguous factors. For many years villagers who experienced the contrariness of timber operators who failed to live by agreements that village heads had made in good faith. Complaining of this lack of consistency, villagers now increasing took recourse to force. A businessman in the provincial capital described how, despite all the negotiations undertaken and permits obtained, his logging operations were hampered when a band of villagers who felt left out turned up with machetes (*parang*) to demand work in the logging operation. In other cases, brokers can make a deal with villagers, only to return to the village to find that a competitor has made a better deal. Or, if villagers hear that others are getting higher payments, jealousy can lead them to renege on a deal. In response, to improve their security and enforce agreements, timber operators usually have their own teams of bodyguards and thugs (*preman*). Even so, an investor or broker sometimes fails to guarantee continued access.

The lack of certainty derives from the overlapping and shifting legal and administrative arrangements that fail to provide clear sources of authority and lines of accountability and lead to inconsistent law enforcement and unclear roles and responsibilities of different government agencies; the insecure economic position of villagers living without a steady source of livelihood and constantly looking for opportunities; an environment of distrust, competition and violence where there is a lack of institutional fora for handling conflicts and enforcing agreements between parties; and the insecure basis for *adat* rights within the state law. Here the emergent socio-legal configurations – what Indonesians call the "rules of play" (*aturan main*) – governing access to resources by outsiders remain tentative and subject to dispute. This perception of risk for those engaged in extracting timber from the district forests generates a set of incentives that favours rapid liquidation of resources where the rational logger, legal or illegal, cut as much as they can as fast as they could, without regard for future options.[35]

In Europe, the 19th century may have seen the emergence of the idea of the State at the exclusive centre of authoritative decision-making with a unitary "monistic" legal order. During this period the colonial process involved the transfer of a metropolitan legal system to the regions. As the colonial powers also relied on a system of indirect rule, they created dual legal systems. This history left post-colonial Indonesia – as elsewhere – wrestling with the legacy of legal pluralism (Merry 1991). In the case of Indonesia, particularly under Suharto, state modernists attempted to fashion a unified legal system out of this duality, largely neglecting the remnants of *adat* and colonial indigenous law (*adatrecht*). However, the intent of state policy itself combined with the widespread abuse of state power under the New Order, especially in outer island Indonesia, undermined the legitimacy of this unitary order. If these dynamics create the background for a decentralization process, the transnational discourse on governance and decentralization provides ready-made recipes and solutions for these particular national problems. Subsequently, as governing institutional

arrangements have become increasingly fragmented and contested, this has made the pluralism of rule-making processes more explicit, creating an increasingly heterogeneous or fragmentary state. This has opened space for villagers to regain customary rights: to a limited extent villagers are now more able to re-impose their own orders and extract benefits from the on-going loss of local forests.

Yet, there is arguably a significant need for state agencies to guarantee at least a minimum level of social security, to provide legitimate institutional frameworks for negotiating access to resources, to help local villagers safeguard the ecological basis upon which local livelihoods ultimately depend, and also resolve conflicts in a fashion that avoids explosive and violent conflicts. However, while the state had become more heterogeneous under decentralization, neo-liberal reforms and fiscal constraints have also undermined its capacity. As far as the reforms find their roots in a normative international governance discourse, the decentralization laws may be reminiscent of earlier waves of legal reform where "foreign" legal innovations were imposed on local social fields with uneven results (Griffiths 1995). Yet, we also need to remember the overdetermined logic driving the process, and that these outcomes also derive from the Indonesian situation: decentralization also reflects the need for a new narrative of state legitimacy. To some extent this narrative entails a withdrawal from the previously extravagant aspirations of the unitary state.

While in the past the unitary state have existed more as an ideological construction than a reality, decentralization has clearly elaborated state pluralism, leading to a new configuration of competing national and district forms of legality. This has further undermined the coherence of the state legal system, leading to "greater heterogeneity of state action" (De Sousa Santos 1992). These forms of legality interact and interpenetrate with the reassertion of customary normative orders and the more visible operation of local social fields. This creates what might broadly be considered the evolving socio-legal configurations determining access and use of resources at the village and district level. Given the precarious interconnections between these multiple coexisting legal and normative systems, these emergent socio-legal configurations are volatile forms that heighten insecurity. It is still an open question whether these configurations will evolve into more stable forms or an even more fragmented and violent state of affairs.

Bibliography

Abrahamsen, R. (2000). Disciplining Democracy. Development Discourse and Good Governance in Africa. New York, Zed Books.

Acciaioli, G. (2000). The re-emergence of customary claims to land among the To Lindu of Central Sulawesi: The revitalisation of Adat in the era of Reformasi in Indonesia. Paper presented at the Annual Conference of the Australian Anthropological Society, 19-23 September 2000,, The University of western Australia, Perth.

Agrawal, A. and J. C. Ribot (1999). "Accountability in Decentralization: A Framework with South Asian and African Cases." Journal of Developing Areas **33**(Summer 1999): 473-502.

Barber, C. V., N. C. Johnson, et al. (1994). Breaking the Logjam: Obstacles to Forest Policy Reform in Indonesia and the United States, World Resources Institute.

Barr, C. (1998). "Bob Hasan, The Rise of Apkindo, and the Shifting Dynamics of Control in Indonesia's Timber Sector." Indonesia **65**.

Benda-Beckmann, F. v. and K. v. Benda-Beckmann (2002). Recreating the nagari: decentralisation in West Sumatra, Unpublished paper.

Burns, D., R. Hambleton, et al. (1994). The politics of decentralization. Revitalising local democracy. Houndmills, Macmillan.

Casson, A. (2002). Decentralisation of Policies Affecting Forests and Estate Crops in Kotawaringin Timur District,Central Kalimantan. Bogor, CIFOR.

Colfer, C. J. P. and I. A. P. Resosudarmo, Eds. (2002). Which Way Forward? People, Forests, and Policymaking in Indonesia, Resources for the Future.

De Sousa Santos, B. (1992). "State, Law and Community in the world system: an introduction." Social and legal studies **1**: 131-42.

Dijk, K. v. (2001). A country in despair. Indonesia between 1997 and 2000. Leiden, KITLV Press.

Down to Earth (2002). Forests, People and Rights, A DTE special report.

Eaton, K. (2001). "Political Obstacles to Decentralization: Evidence from Argentina and the Philippines." Development and Change **32**: 101-127.

Edmiston, K. D. (2002). "Fostering subnational autonomy and accountablity in decentralized developing countries: lessons from the Papua New Gunea Experience." Public Administration and Development **22**: 221-234.

Forrester, G. (2001). Decentralization in Indonesia. Options for Australian Aid, Unpublished report.

Fox, J. (1993). The politics of food in mexico: state power and social mobilization. Ithaca NY, Cornell University Press.

Griffiths, J. (1995). Legal Pluralism and the Theory of Legislation - With Special Reference to the Regulation of Euthanasia. Legal Polycentricity: Consequences of Pluralism in Law. H. Peterson and H. Zahle. Aldershot, Dartmouth: 201-234.

ICG (2001). Communal Violence in Indonesia: Lessons from Kalimantan. Jakarta/Brussels, International Crisis Group.

Jayasuriya, K. (1999). "Globalization, Law and the Transformation of Sovereignty: The Emergence of Global Regulatory Governance." Indiana Journal of Global Legal Studies **6**(2): 425-455.

Manor, J. (1999). The Political Economy of Democratic Decentralization. Washington, D.C., The World Bank.

McCarthy, J. F. (2001). Decentralization and Forest Management in Kapuas District, Centre for International Forestry Research. http://www.cifor.cgiar.org/

McCarthy, J. F. (2001). Decentralization, Local Communities and Forest Management in Barito Selatan, Centre for International Forestry Research. http://www.cifor.cgiar.org/

McCarthy, J. F. (2002). "Power and Interest on Sumatra's Rainforest Frontier: Clientelist Coalitions, Illegal Logging and Conservation in the Alas Valley." Journal of Southeast Asian Studies **33**(1): 77-105.

McCarthy, J. F. (2002). "Turning in Circles: District Governance, Illegal Logging and Environmental Decline in Sumatra, Indonesia." Society and Natural Resources **15**(10): 867 - 886.

Meenakshisundaram, S. S. (1999). Decentralization in Developing Countries. Decentralization and local politics. S. N. Jha and P. C. Mathur. New Delhi, Sage Publications India.

Menteri Kehutanan (2002). Revitalisasi kebijakan Pembangunan Kehutanan untuk Mensuksekan Pelaksanaan Otonomi Daerah. Arahan Menteri Kehutanan dalam rapat kerja kepala daerah seluruh Indonesia Tahun 2002 Department Dalam Negeri 29 Januari 2002.

Merry, S. E. (1991). "Law and Colonialism." Law and Society Review **25**(4): 890-922.

Merry, S. E. (1992). "Anthropology, law and transnational processes." Annu. Rev. Anthropol. **21**: 357-79.

Nicol, B. and J. McCarthy (2001). Strengthening and Promoting the Democratization and Unity of Indonesia through Best Practice in Regional Governance. Jakarta, TAMF.

Niessen, N. (1999). Municipal Government in Indonesia: Policy, Law and Practice of Decentralization and Urban Spatial Planning. Leiden, Leiden University: CNWS Publications.

Peluso, N. L. (1996). "Fruit Trees and Family Trees in an Anthropogenic Forest: Ethics of Access, Property Zones, and Environment Change in Indonesia." Comparative studies in society and history. **38**(3): 510-548.

Ribot, J. (2001). Local Actors, Powers and Accountability in African Decentralizations: A Review of Issues, Paper Prepared for International Development Research Centre of Canada Assessment of Social Policy Reforms Initiative, To be published by United Nations Research Institute for Social Development (UNRISD),.

Ribot, J. C. and N. L. Peluso (2002). A Theory of Access. draft manuscript submitted to Rural Sociology.

Sonius, H. W. J. (1981). Introduction. Van Vollenhoven on Indonesian Adat Law. J. F. Holleman. The Hague, Nijhoff.

Tajuk (14 December 2000). "Prof. Dr Ryaas Rasyid. Saya Bukan Job Seeker." Thn III (21): 68-74.

Warren, C. and J. McCarthy (2002). Adat Regimes and Collective Goods in the Changing Political Constellation of Indonesia. Shaping Common Futures: Case Studies of Collective Goods, Collective Actions in East and Southeast Asia. S. Sargerson. London, Routledge.

[1] See Frerks and Otto (1996); Ribot (2001).
[2] See Benda-Beckmann 2002.
[3] Cf Merry, 1995.
[4] State Planning Guidelines (GBHN 1994-2004); Decrees of the supreme national parliament, TAP MPR IV/2000.
[5] The Sulawesi influence reflected the fact that President Habibie himself also came from Sulawesi.
[6] Interview, Department of Home Affairs, July 3 2001.
[7] The Jakarta Post, August 11, 2001, "Government revising law on regional autonomy"; AFP, July 9 2001, "Megawati warns provinces not to use new autonomy for ethnic interest".
[8] RUU Kehutanan dinilai sentralistik Republika, 10/12/98.
[9] Ketetapan Majelis Permusyawaratan Rakyat Republik Indonesia Nomor IV/MPR/2000 Tentang Rekomendasi Kebijakan Dalam Penyelenggaraan Otonomi Daerah.
[10] Regional Autonomy policy may end in Chaos, the Jakarta Post 21/12/00.
[11] The author is grateful to Keebet Von Benda-Beckmann for this particular point.
[12] The term Dayak is here used as a short-hand for the many indigenous ethnic groups found in the interior of Central Kalimantan including the Ot Danum, Ma'anyan and the Ngaju who are linguistically distinct.
[13] Jakarta Post, 28/11/01, "Provinces, regencies deny embezzling development funds". The Jakarta Post 20/8/2002. "Autonomy benefits officials but not people'. See also Benda-Beckmann, 2002, McCarthy, 2001a, 2001b.
[14] see McCarthy 2001a, 2001b.
[15] For details, see McCarthy 2001a
[16] Izin Pemda Keluarkan HPH Ditinjau Ulang, Tempo Interaktif, 8/2/01.
[17] TAP MPR NO.III/MPR/2000 Tentang Sumber Hukum dan Tata Urutan Peraturan Perundang-undangan.
[18] Interview, Buntok, 22/7/00.
[19] See also Casson, A. (2002). Decentralisation of Policies Affecting Forests and Estate Crops in Kotawaringin Timur District,Central Kalimantan. Bogor, CIFOR..
[20] Confidential source, Buntok, 25/7/00.
[21] Tim Mabes Polri "Obok-Obok" Kobar, Dayak Post, 20 March 2002.
[22] See McCarthy (forthcoming).
[23] Jawa Post 08/04/02 Daerah Dinafikan, Pusat Kian Ngotot Revisi UU Otda.
[24] Interview, 27/7/00.
[25] Here I draw on Ribot and Peluso's (2002) framework for mapping access.
[26] see Ribot and Peluso, 2002.

[27] Interview, 27/7/00.
[28] Interview, 11 August 2002.
[29] Interview, 11 August 2002.
[30] Interview, Buntok 24/7/02.
[31] *Rencana Pengurus Bahan Baku Indistri.*
[32]
[33] Interview with timber operator, Barsel, 12 August 2002.
[34] *Forum Keadilan,* 19/11/01, "Antara Maling dan Beking".
[35] Brian Belcher , personal communication.