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Forest conflicts and the informal nature of realizing indigenous land rights in Indonesia

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ABSTRACT

Despite a widening legal scope for indigenous rights, the invocation of indigeneity to claim land rights rarely empowers marginalized communities. This article develops an explanation for why this formal recognition of community rights actually has little substantive impact on local struggles over land in Indonesia. Employing almost two years of fieldwork on how rural communities employ indigeneity-based land claims in South Sulawesi, it argues that claims for land rights on the basis of indigeneity are settled not simply on the basis of law, but also on that of the relative bargaining positions and the character of informal linkages between communities, their mediators and local authorities. Indigenous status therefore must be understood as a privilege most likely to be obtained by those groups with relatively strong connections to influential state actors. In contrast, communities that are in conflict with local state actors tend to be excluded from obtaining the status of indigeneity and hence the state is likely to deny them their land rights claims.

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Introduction

The struggle to secure land rights is one of the most contentious citizenship issues in the global south. Massive land use changes in recent decades have sparked widespread conflicts over control and access to land (Overbeek, Kröger, and Gerber 2012). Rural land conflicts often involve competing claims between local farming populations and powerful coalitions of plantation firms and state actors (Peluso and Lund 2011; Borrás and Franco 2012; Kaag and Zoomers 2014). They tend to be particularly rampant in countries where a weak rule of law allows the formation of informal alliances between state bureaucracies and private enterprise (Schmink 1982; Bavinck, Pellegrini, and Mostert 2014; Lucas and Warren 2013). Local people are generally at a disadvantaged position in such conflicts, often lacking secure land titles that could substantiate their counter claims (Alden Wily 2012). State laws and policies on the allocation of land meanwhile usually favor the politically and economically dominant classes (Borrás and Franco 2012).

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Struggles over land are often framed in terms of ethnicity and indigenous identity. Local people may legitimize their counter-claims in various ways – in terms of the human rights obligations of the state (Aspinall 2004, 82), citizenship rights (Johnson and Forsyth 2002, 1597), or through invocation of religious norms and values (Schmink 1982, 350). A particularly common strategy, however, is the deployment of indigeneity. In a general sense, the term refers to self-identified, culturally distinct and politically non-dominant communities with longstanding ties to a bounded territory (Saugestad 2001, 43; Li 2007, 243).¹ Indigeneity has become a key term in local as well as international debates on land rights. It is often invoked to defend the rights of marginalized groups that have become the victims of state laws and policies on land and natural resource allocation (Holder and Corntassel 2002, 141).

Since the 1970s, a transnational movement for indigenous rights has emerged, composed of a wide range of international advocacy organizations (Yashar 1998, 23–25). Support for indigenous peoples also gradually gained ground in international law, for instance in the 1989 United Nations ILO convention (nr 169), which provides for the protection of indigenous and tribal peoples. In 2008, the UN adopted the Declaration on the Rights of Indigenous Peoples. These developments helped bolster the legitimacy of indigeneity as a basis for land claims (Assies 2000). In response, many states have adopted laws and policies that provide a measure of recognition of indigenous communities and their land rights. National governments and multilateral development institutions such as the World Bank now appear to support the notion that indigenous groups are entitled to specific collective rights (Hale 2002; Li 2010). In short, on paper both national and international recognition of the rights of indigenous communities has strengthened considerably.

This article discusses to what extent this formal recognition of community rights actually impacts local struggles over land in Indonesia. Since the fall of the authoritarian New Order regime in 1998, demands for indigenous rights have been accompanied by legal reforms that significantly widened the scope for recognition of indigenous lands. The actual recognition of these rights is in the hands of local state authorities. As a result, the struggle for such collective rights is not only a struggle over state policies taking place in the halls of parliament. The actual on-the-ground struggle for indigenous land rights also takes place in the offices of local governments and regional parliaments, which – in the case of Indonesia – have considerable discretionary power to decide whether or not particular communities get recognized as ‘indigenous.’ Focusing on how rural communities in South Sulawesi (Eastern Indonesia) invoke indigeneity in their struggles over land, this paper explores the processes through which claims to indigenous land rights succeed or fail to be recognized: Why has it, despite the adoption of extensive laws and regulations, remained so difficult for many communities to obtain recognition of their claims to indigenous land rights?

This article argues that claims for land rights on the basis of indigeneity are settled not simply on the basis of law, but also on the basis of the relative bargaining positions and the character of relationships between communities, their mediators and local authorities. The latter group ultimately makes formal decisions on who is indigenous and who is not. The outcome of such decisions is not only contingent on the formal conditions of indigeneity, but also on the personal benefits that local power holders might obtain as a result from such recognition. Indigenous status therefore has to be understood as a privilege that is most likely to be obtained by those groups with relatively strong connections to influential state actors. In contrast, communities that are in conflict with local state actors tend to be

excluded from obtaining the status of indigeneity and hence, their claims to land rights are likely to be denied by the state.

I develop this argument on the basis of an extensive period of ethnographic fieldwork conducted between 2013 and 2016 in two neighboring rural districts in the province of South Sulawesi. The article is structured in the following way. The next section presents a more elaborate discussion on the literature concerned with indigenous rights, particularly in relation to the capacities of citizens to secure such rights. Subsequently I will zoom in on the context of Indonesia and elaborate on the Indonesian legal framework on indigenous land rights. The article will then take an ethnographic turn by delving into state-citizen interactions at the local level in the context of indigenous land rights claims in South Sulawesi.

Indigeneity and changing notions of citizenship

Many scholars attribute the rise of indigenous movements to the widening opportunities offered by state reforms, most notably democratization and decentralization policies (Yashar 1998; Assies 2000; Li 2001). National transitions to democracy and the implementation of liberal economic reforms in the 1980s and 1990s opened the door for ‘the politicization of indigenous identity’ (Assies 2000, 3). Democratization and economic liberalization were paralleled by the demise of state development policies such as agrarian land reform programs.

The shift toward neoliberalism, according to Assies, did not only involve political and economic reforms, but also ‘a transformation of civil society and a new discourse on citizenship’ (Assies 2000, 10). Local identity and a ‘primordial cultural connection’ have become increasingly important, while the role of the state in local governance appears less prominent (Fay and James 2008, 2). This created space for indigeneity to be claimed from below, while simultaneously being fueled from above by NGOs and donor organizations that provide local communities with legal and political tools to frame their counter claims and resistance (Hale 2002; Alfred and Corntassel 2005).

In recent decades, a significant ‘paradigm shift in the state legal centralist ideology’ occurred (Prill-Brett 2007, 16). National governments have accommodated the demands of indigenous movements by implementing legal reforms, and multilateral institutions like the World Bank supported this development (Persoon 1998; Li 2010). Laws on indigenous peoples’ rights, for example, now include the provision that communities may obtain title to communal land once indigeneity is proven. Such laws stand in contrast with land policies of earlier phases of post-colonial states, when governments routinely dismissed cultural diversity and granted rights solely on the basis of citizenship (Hooker 1978, 64; Hale 2002, 490; Berenschot, Schulte Nordholt, and Bakker 2016, 23).

Some scholars view the claim to indigeneity as a potential tool to empower marginalized communities, especially when it allows them to regain access to lands appropriated by the state or corporations (Barnard 2006; Rachman and Siscawati 2016). Other observers criticize the divisive elements of indigeneity as a rights discourse. They contend that policies that grant land rights to communities on the basis of genealogy or traditional ties to a territory might empower some, but simultaneously will exclude large numbers of people who are not able to qualify as indigenous (Kuper 2003; Hale 2004). Assies notes that when distinctiveness becomes a prerequisite for particular rights, conflicts will emerge with more ‘broadly defined citizen’s rights’ (Assies 2000, 19).

Because the articulation of indigenous identity is highly contextual and dependent on historical, political and economic factors, Li stresses that ‘one of the risks that stems from the attention given to indigenous people is that some sites and situations in the countryside are privileged while others are overlooked’ (Li 2000, 151). In her renowned article on the ‘tribal slot’ (2000), Li looks at the circumstances in which rural communities identify themselves as indigenous. A factor that appears particularly important is the collective experience of resource competition with external forces. For instance, when communities are at risk of being dispossessed by the state or plantation corporations, the collective articulation of a bounded identity becomes more urgent. What also matters is the capacity of community elites and external intermediates to adopt a language that resonates well with national and international depictions of indigeneity (Li 2000, 169).

In this regard, Li notes that

self-identification as tribal or indigenous people is not natural or inevitable, but neither is it simply invented, adopted, or imposed. It is, rather, a *positioning* which draws upon historically sedimented practices, landscapes and repertoires of meaning and emerges through particular patterns of engagement and struggles. (Li 2000, 151)

A question that emerges in light of the above is, who actually benefits from laws that grant collective land rights on the basis of indigeneity? By design, such laws are limited in their scope, given that they only grant rights to those groups who qualify as indigenous. Indigenous land rights are thus conditional rights. Often, laws make the realization of land rights contingent on the decisions of government agents. Doing so, states reserve a degree of control over the allocation of land (Ribot and Peluso 2003, 163). According to Ribot and Peluso, such laws in fact ‘leave resource users in the position of having to invest in relations with state agents to maintain access’ (Ribot and Peluso 2003, 163).

Hence, indigenous land rights can only be realized when the provider of these rights, usually the state, decides that a community meets the criteria of indigeneity. In order to assess how such decisions are made, it is necessary to move beyond the legal framework and look at state-citizen relations at the local level. This is where the realization of indigenous rights takes place and local actors engage directly with the state. By focusing on the interaction between local land claimants, their NGO mediators and regional state actors at the district level, I survey both the deployment and the reception of claims to indigeneity. Before doing so, it is necessary to first briefly consider the context of the indigenous movement and legal framework of indigenous rights in Indonesia.

Indigenous forest rights in Indonesia

Since the fall of the authoritarian regime of President Suharto in 1998, the indigenous movement in Indonesia has steadily grown into a political force. Under Suharto’s highly centralized New Order, racial, ethnic or religious identities were ‘illegitimate ground for politics’ (Li 2001, 654). Shortly after the era of *reformasi* began, regional autonomy laws were implemented and Indonesia became highly decentralized. The locus of political power made an important shift toward the regional level. These developments provided the space for mobilization on the basis of the distinct cultural and political identity of Indonesia’s many ethnic groups (Bowen 2000; Li 2000).

The protagonist in the Indonesian indigenous movement is the Alliance of Indigenous Peoples of the Archipelago (*Aliansi Masyarakat Adat Nusantara*, henceforth AMAN). AMAN

was established in 1999 in Jakarta as an umbrella network organization for Indonesia's indigenous *adat* communities. Although the word 'adat' has many meanings in Indonesian, it is generally used to refer to custom, traditions or local norms and morals. In recent years, the organization has grown extensively to become an important political player in the domain of rural and environmental justice activism (Avonius 2009). Advocates of indigenous rights hold that there are 50–70 million indigenous people in Indonesia, accounting for roughly 20 to 30 percent of the country's population (Safitri 2017). As of 2017, AMAN has 2304 member communities, reportedly comprising 17 million people.²

AMAN defines adat communities as

communities who live on land that has been passed down from generation to generation. They have a territory and natural wealth. Their social and cultural life is governed by customary law and customary institutions that have continuously sustained them as a community. (Faye and Denduangrudee 2016, 95)

Since its inception, the term adat community has in practice been used mostly to refer to marginalized groups and not to, for instance, regional sultanates (which are arguably also customary institutions with some contemporary relevance). Activists have strategically deployed the term as a political discourse to strengthen land claims by vulnerable local communities. These claims challenge state laws and policies that allocate land and natural resources to the domain of the state.

AMAN's advocacy for indigenous rights has achieved considerable success, especially at the national level (Faye and Denduangrudee 2016). To understand the local claim-making in the subsequent sections of this paper, a particularly important achievement to address here is ruling 35/2012 of the Indonesian Constitutional Court, which altered the legal regime on forestry. In 2012, AMAN and two of its member communities submitted a case before the court, arguing that the limited recognition in the 1999 Basic Forestry Law of communal forests belonging to adat communities contradicted the Indonesian Constitution. The Court agreed and decided on an alteration of the law. In May 2013, it ruled that communal adat forests would no longer be part of the state forest zone, but were to become collectively owned by adat communities.³ Many considered the ruling a groundbreaking landmark for rural communities across the archipelago (Butt 2014, 59). Rachman and Siscawati believe that the ruling offered 'an opportunity for changing the trajectory of systematic agrarian conflicts' (Rachman and Siscawati 2016, 225).

Three years after the ruling, in December 2016, the Ministry of Forestry and Environment for the first time formally recognized a number of adat forests. The initial transfer of land title however constituted only 13,000 hectares. In comparison, there were 450 serious agrarian conflicts nationwide in 2016 involving the contestation over almost 1.3 million hectares of state-owned land. The majority of this land, 600,000 hectares, concerned plantation concession land (mostly palm oil plantations) while another 400,000 hectares was disputed land administered as 'state forest'. Viewed from this perspective, 13,000 hectares constitutes a mere fraction of the land under dispute. Some therefore wrote the land transfer off as merely a political gesture to boost the legitimacy of President Joko Widodo's administration.⁴

A significant hurdle to the recognition of adat forest is that the Constitutional Court ruling did not alter the two main conditions underlying such recognition (Safitri 2017). The first is that only adat communities can obtain adat forest rights. In order to qualify as such, communities must prove that they dispose of a number of defining characteristics, namely the existence of a traditional communal territory, of well-functioning traditional

institutions, and of a clear leadership hierarchy.⁵ Second, the law states that before the Ministry can transfer indigenous forest rights, an adat community needs to be recognized by its district government. Only then can the Ministry of Forestry and Environment release adat forests from the state forest zone.⁶ In practice, the latter condition provides regional authorities with large discretionary decision-making authority (Bedner and van Huis 2010). Safitri states that in Indonesia, regional governments are hesitant to recognize adat forests and ‘prefer to allocate the land to plantation or mining corporations’ (2017, 42).

I argue that in order for the recognition of indigenous land rights to materialize, applicants of such rights have to cultivate firm relationships with regional government actors. In practice, the social embeddedness of communities in influential networks of local and regional power holders is a great asset to realize the recognition of indigenous rights. The two case studies below will show this.

Seeking recognition of adat forests in South Sulawesi

The Indigenous Territory Registration Unit (*Badan Registrasi Wilayah Adat*), a mapping agency created by AMAN and other NGOs, has registered more than a 1039 territories belonging to adat communities throughout Indonesia. So far, regional governments have granted a measure of legal recognition to only 48 of these.⁷ A quarter of these territories are located in South Sulawesi.⁸ With 12 regionally recognized territories, the province at present counts the most recognized indigenous domains of all Indonesian provinces.⁹ More than 80 communities from South Sulawesi are nevertheless still struggling to acquire government recognition of their lands.¹⁰ So far only one community, the Ammatoa Kajang, in Kajang sub-district east of South Sulawesi’s provincial capital Makassar, has managed to obtain recognition of its adat forest at the national level.¹¹

The successful recognition of the Ammatoa Kajang is the first case to be discussed below. As a relatively harmonious group with longstanding traditions, the Ammatoa Kajang community fits the ‘tribal slot’ remarkably well. Their adherence to a system of oral customary rules, the continuing importance of adat leaders and adat institutions, and the existence of a sacred communal forest also made them one of Indonesia’s most obvious candidates to meet the legal criteria of adat community stipulated in the 1999 Basic Forestry Law. Moreover, the politicization of indigenous identity in Kajang by NGO advocates goes back to 2003. After a conflict between a plantation company and local farmers resulted in violence, NGOs began to invoke the distinct identity of the community to claim back land located inside the company’s concession (Tyson 2010; Van der Muur and Bedner 2016; Van der Muur 2018).¹²

The process of recognizing the Ammatoa Kajang involved the cooperation of community leaders, NGOs and government officials. It is sometimes mentioned as a ‘best practice showcase’ that could lead the way to the recognition of other communities. Together with a handful of other groups spread across the country, the Ammatoa Kajang is one among the few exemplary groups often mentioned in the reports of NGOs, multilateral development banks and other promoters of indigenous land rights. However, rarely do such reports take note of the well-established relationship between Ammatoa Kajang leaders and the local and regional state. This sets the Ammatoa Kajang apart from many other communities in the region and greatly facilitated the recognition of the community’s communal forest.

The second case to be discussed is the Turungan community in the South Sulawesi sub-district of West Sinjai, just north of Kajang. Anthropologists stress that there were

historically many similarities between the indigenous communities of Kajang and West Sinjai, such as the importance of a traditional belief system that prescribes a modest and egalitarian lifestyle (Rössler 1990, 297, 300, 302). In contrast to Kajang, however, rural communities in West Sinjai have only recently begun to receive attention from advocates of indigenous rights. Rural collectives in West Sinjai began to identify as adat communities in the context of a recent conflict with the regional forestry department. However, regional government officials involved in the conflict strongly opposed the recognition of indigenous rights in West Sinjai. What impact did the nature of community-state relations have on these two campaigns for the recognition of indigenous land rights? That is the central question to be discussed next.

The legal recognition of the Ammatoa Kajang

Since the late colonial era, the Ammatoa Kajang community has been renowned for its traditional sociopolitical organization (Cense 1931). Today it is located in Kajang sub-district, in the northeast of Bulukumba district. The community consists of people who adhere to the spiritual cult of a living moral leader whose office is known as Amma Toa.¹³ They number around 5000 people of which the great majority are farmers. The Amma Toa upholds a set of unwritten customary rules called *pasang*. These clearly prescribe social behavior within the community, as well as the relation between humans and the natural environment. If a community member violates a customary rule, a trial will take place in the Amma Toa's house, where he will decide on the appropriate sanction.

Ammatoa Kajang adherents consider their land sacred. Until this day the community has a traditional adat territory known as *rembang seppang*, which spans a number of villages. The Amma Toa lives inside the *rembang seppang* and is never allowed to leave it. Here there are no paved roads, no electricity connections, no modern houses such as mosques or schools, and no one is allowed to use footwear. The *rembang seppang* consists of several traditional housing complexes, rice fields and farming gardens, old burial sites and a dense, 313-hectare forest. The forest is considered the most sacred place of all and has to be preserved by any means.

Although the Ammatoa Kajang people are often depicted as a closed community, they do not live in isolation. In fact, it was not isolation, but active engagement with modern state institutions that helped to sustain the traditional culture of the Ammatoa Kajang. The community has a longstanding, well-maintained relationship with government authorities. For many decades, the community's adat institutions functioned in cooperation with modern government institutions. In this way the community managed to maintain its distinctive character.

During a period of fieldwork in 2014 I stayed with a local Ammatoa Kajang family. The head of the household, Jumarlin, came from a prominent family. He was known to possess great knowledge of local adat. Simultaneously, Jumarlin also worked as a forest ranger for the district forestry department of Bulukumba. His older brother was both a local adat leader and a member of the Bulukumba regional parliament (*DPR-D*). In 2015, the brother ran as one of four candidates for district head (*bupati*) in the district direct elections.

While staying in Kajang, I soon observed how community leaders combined traditional leadership positions with modern government administration. For instance, the village head, an elected government position, is automatically appointed to the traditional adat position

of *Galla Lombo*, a function that locals interpret as ‘Minister of External Affairs’. Once the village head term ends, the position of *Galla Lombo* will be transferred to his or her successor. Thus, whoever gets elected as village head, obtains not only a formal government position, but also a traditional adat office.

In Kajang, combining adat leadership functions with government positions goes back decades. It has been a strategic way to preserve the traditional sociopolitical organization while at the same time recognizing state authority. At the height of the New Order in 1978, the Indonesian scholar Usop wrote that in Kajang ‘local adat leaders automatically become the local government’ (Usop 1978, 26). Conflicts between traditional authority and modern government positions, once so common elsewhere in Indonesia, appear to have been a relative non-issue in Kajang. One of the community’s customary rules even explicitly prescribes that the community should always follow the government. This rule signifies the long history of Kajang’s subjection to external political authority. The Kajang have been subject to the rule of several regional kingdoms since the seventeenth century; the colonial Dutch exercised direct rule over them (Goedhart 1920). Usop wrote that the Ammatoa Kajang people were ‘very obedient to the government’ and always willing to accept ‘guidance’ from higher authorities’ (Usop 1978, 25). Usop’s remarks were made during the New Order, yet they remain relevant today. During my fieldwork in 2014, community leaders often emphasized that acceptance of government authority was a customary rule in Kajang.

The community’s recognition of government authority also works the other way around. Usop explained that although the introduction of formal government administration (intensive since the early 1970s) had decreased the political significance of adat, the South Sulawesi government still respected and acknowledged the Ammatoa as a ‘special informal leader’ (Usop 1978, 25). Referring to the situation in the 1970s, he wrote that both the district head of Bulukumba and the governor of South Sulawesi usually paid a visit to the Ammatoa at the end of their terms. That such mutual recognition is still in place today becomes evident when considering the appointment of the sub-district head (*camat*) of Kajang. It is an unwritten rule that the district head (*bupati*) of Bulukumba has to appoint a member of the Kajang nobility as the sub-district head of Kajang. This reflects a continuing tradition dating back to colonial times, when traditional noblemen were appointed as indigenous officials in the colonial administration (Goedhart 1920, 4).

In recent times, the supreme illustration of the good relations between adat leaders and the regional government is their longstanding cooperation in forest management. As noted, land – especially the sacred forest – plays an essential role in the belief system of the Ammatoa Kajang. There are strict rules with regard to the preservation and utilization of the forest. Although the state designated the area as part of the state forest zone in 1994, de facto authority over the forest has consistently remained with Ammatoa Kajang leaders, due to their good relation with the Bulukumba regional forestry department. Since the 1990s, an arrangement of co-management between the regional forestry department and the community has come into place. This generally entailed that the management of the forest remained in the hands of the community, and was exercised in accordance with customary rules.

To summarize, community relations with the state, particularly with the regional government, are characterized by mutual respect and loyalty. The overlapping system of adat and government positions enables the Ammatoa Kajang people to participate in the modern political and legal realm, while maintaining their traditional institutions.

During the process of formally securing adat forest rights, the community's longstanding relationship with the government was a considerable advantage. In 2013, several months after Constitutional Court ruling 35/2012, regional government officials, NGOs and community leaders formed a task force to draft a district regulation that formally gave the Ammatoa Kajang the status of adat community. The regulation also recognized the sacred forest as communal adat forest. The work of the task force was financially supported by the Canadian International Development Agency (CIDA) and implemented by the Center for International Forest Research (CIFOR) (Fisher et al. 2017). A number of departments of the Bulukumba district government joined the task force, including the regional forestry department, the bureau of legal affairs, and the department of culture and tourism. The Ammatoa Kajang community was represented by the *La'biria*, a noble community leader who, as the sub-district head of Kajang, was also a regional government official.

In November 2015, the district government of Bulukumba approved the regulation.¹⁴ As such, the community became the first indigenous group to have their adat forest rights recognized by a regional government since Constitutional Court ruling 35/2012. Regional recognition was followed by national recognition in December 2016. Through a decree by the Minister of Forestry and Environment, the communal adat forest was released from the state forest. Together with a number of other communities in Java, Sulawesi and Sumatra, a delegation of the Ammatoa Kajang was invited to the Presidential Palace. In the presence of national media, it was the sub-district head of Kajang who, dressed in traditional black Kajang clothing, ceremonially received the adat forest decree personally from President Joko Widodo.

National recognition could not have materialized without the preceding enactment of the regional regulation. That this regulation had come into being with relative ease cannot only be explained by the strong support from civil society actors, but also by the political will at the district level. The regional forestry department saw no problem in recognizing the community forest as adat forest: for decades it had already done so informally through co-management with the community. The department of culture and tourism was moreover happy that the regulation drew much attention from outside. It helped to promote Bulukumba as a tourist destination. The adat territory now sees visitors on a daily basis. Fully aware of these potential benefits, district government officials actively promote the Ammatoa Kajang community as one of Bulukumba's flagship attractions. Finally, that the adat community leader who joined the taskforce was also part of the government greatly facilitated the process toward recognition.

Seeking recognition in a conflict situation: the Turungan community of West Sinjai

Around the same time that the Ammatoa Kajang community obtained legal recognition of its adat forest, farmers from nearby West Sinjai applied for the same rights, but were significantly less successful. West Sinjai is a sub-district of the district Sinjai, and it directly borders on sub-district Kajang to its south. Despite many historical similarities between the respective rural communities in West Sinjai and Kajang, the circumstances under which adat forest rights were claimed in West Sinjai were very different from those in Kajang. In contrast to the longstanding relationship of mutual respect and cooperation between the regional government and the Ammatoa Kajang community, there have been serious

conflicts about land ownership between local farmers and government authorities in Sinjai since the mid-1990s.

Many villagers in Sinjai live and farm in areas designated as state forest, where they cultivate rice, coffee and cloves. Local farmers contend that the state forest zone in Sinjai extends over farming land that was formerly recognized as community land during the colonial era. Between 2009 and 2015 more than 15 local farmers have been arrested by the regional forestry police and faced criminal charges for illegal logging in state forest areas. All were convicted and sentenced to at least a year's imprisonment.

Student activists from Sinjai assert there was an underlying reason that the regional forest department reported local farmers to the police. According to them, the department's strong action against these farmers was first and foremost related to the personal benefits that regional forestry officials obtained from annual reforestation funds. These funds are allocated by the central government to replant deforested state forests with new trees and are transferred to the districts every year.¹⁵ The student activists reasoned that forestry officials used the cases of illegal logging to 'prove' to the central government that large funds were needed to reforest the state forest area in the district. In 2014, the head of the Sinjai forestry department was accused of corrupting parts of the annual reforestation funds and became an official suspect in a corruption case.¹⁶

When another local farmer was arrested for illegal logging in the state forest zone in 2014, local student activists were eager to help. This time, a farmer named Bahtiar from the village of Turungan Baji (West Sinjai) was criminally charged with cutting down 40 trees in a state forest area near his house. Bahtiar contended that he was the customary owner of the land, and claimed to have planted the trees a decade earlier. He had cut them down and removed them in order to make way for more valuable clove trees, which need lots of space to grow.

To support Bahtiar, local activists aligned with AMAN came up with the idea of registering Bahtiar's village community as a member of AMAN. Doing so would create the possibility of providing Bahtiar with legal aid from AMAN lawyers. The activists informed Bahtiar about the legal definition of an adat community, which requires a number of characteristics – adat laws, adat institutions and a communal adat territory – to be in place. According to Bahtiar, it was not hard to prove that these existed in his village. He stressed that the community still abided by community-based rules, that there still was an adat forest, and that whenever there was conflict in the village, the solution was sought in accordance with adat. Bahtiar said that although most adat leaders did not hold formal government positions they were still respected by the villagers.

During my fieldwork in Turungan Baji village, I observed that many villagers supported Bahtiar, particularly younger people. So Bahtiar was by no means engaged in a one-man struggle. Some of them helped Bahtiar and the activists to map the traditional adat territory.¹⁷ Inside this territory, the land claimed by Bahtiar as his individual farming garden had a size of approximately two hectares.

However, not all villagers strongly supported the deployment and politicization of indigeneity. Some, including female priests and ritual performers, preferred not to speak about customs and village traditions in public. They appeared to hold the view that these were issues only to be shared within the community. One villager even denied altogether to me that an adat community even existed in Turungan Baji. As the hamlet head (*kepala dusun*) he was part of the local state. He emphasized that matters of land and forest rights were to be regulated by the government, not by the community itself. According to him, traditional

customary rules were something that belonged to an ancient past and had no place in today's modern and pious society.

Student activists have advocated for years for the enactment of a regional regulation recognizing adat communities in Sinjai. However, the lack of strong connections to influential local officials obstructed these efforts. Initiatives to lobby and persuade government officials to push for the enactment of adat rights legislation had no effect. In December 2015, for example, student activists organized a focus group discussion in the district capital of Sinjai on the rights of adat communities. Although they invited numerous district parliamentarians to join the meeting, none showed any interest in the event. It appeared that the only support came from a former district parliament member who lived in Turungan Baji village, but the support of this single connection was not sufficient to make an impact.

To no surprise, the strongest adversary against a district regulation on adat communities in Sinjai was the regional forestry department. In an interview, the head of the department explained his opposition to the recognition of adat community claims:

When the state forest zone was designated here in Sinjai, fewer than 100,000 people lived here, it was still full of trees. Now, the people have multiplied and they all need land, that's why they claim to be adat communities and claim to own land in the state forest zone. We just have to follow the law. There are many people that claim to be an adat community here, but actually they are not. They are just claiming this so that they can get access to land.¹⁸

The adverse position of government officials at both the local and regional level not only complicated the realization of an adat community regulation, it also paved the way to the criminal conviction of Bahtiar. During the court hearings, the hamlet head and several forestry officials testified against Bahtiar, stating that there was no adat community in Turungan Baji. The AMAN lawyers in turn pleaded that Bahtiar, as a member of the Turungan adat community, was entitled to cultivate his customary land. The judges were however not convinced by this defense. They emphasized that even though the people of Turungan Baji still had adat traditions and norms, it followed from the testimonies that there was no adat forest. They further held that an adat community can only be recognized by a court when their existence is proven by a district regulation. Herewith, the judges implied that the authority to recognize the existence of adat communities was in the hands of government actors, not the judiciary. The court found it proven that Bahtiar was guilty and sentenced him to one year imprisonment and a fine of 50 million Indonesian rupiah (approximately USD 5000, a huge sum for a farmer).

Indigeneity, support-networks and the relation with government actors

The two claims to indigeneity discussed above were made under very different circumstances. Comparing them helps us understand when such claims can be successful and when they lead to a dead end. A first aspect to compare is the extent to which both groups could actually qualify as an adat community. Obviously, the continuous adherence to a traditional lifestyle made the Kajang group a better candidate to fit the 'tribal slot' than West Sinjai, where the importance of adat was less univocally embraced. However, the argument that the Ammatoa Kajang community was recognized because they were more traditional and communitarian does not tell the whole story. In contrast to the situation in Sinjai, staying traditional in Kajang went hand in hand with adapting to the modern state. Combining adat positions with government offices helped to maintain the traditional sociopolitical

order. This shows the paradoxical result of making indigeneity a basis for rights: Many of the traditional leaders of the group formally recognized as indigenous were state officials.

A second aspect to compare is the level of support from external actors. In both cases, there was significant support from AMAN. In the case of Kajang, there were also other organizations involved to facilitate the process of drafting a regulation. However, the support of these organizations only began after it had become clear that many regional government departments were willing to participate in the drafting process. That various government departments joined the task force gave the draft regulation a legitimacy boost from the outset. In West Sinjai, on the other hand, many villagers and student activist supported the claims of Bahtiar, but none of them were connected to the government.

This leads to the final aspect to compare: The relation of both communities with the local and regional government. In Sinjai there was a conflict over land use, whereas in Kajang there was not. The conflict over land in West Sinjai not only involved contestation over land ownership, but also over land use. Bahtiar wanted to use the land for agricultural purposes, while forestry officials wanted to maintain it as state forest, albeit driven by ambiguous personal motives. In Kajang, there was consensus between the Ammatoa Kajang community and the forestry department that the sacred forest was to be preserved. The potential for tourism also contributed to the government's political will here.

Hence, where the Ammatoa Kajang case revolved mainly around formalizing a small community forest that the regional government already de facto recognized, the claims to indigenous lands in West Sinjai were contested by the regional government. Here, local land claims conflicted directly with the interests of the regional forestry department. These differences underpin how difficult it is to obtain recognition of claims to indigeneity in conflict situations. Good will between the regional government and the community therefore appears to be of crucial importance.

Conclusion

Scholars are divided about whether the expansion of indigenous rights can be an empowering tool for marginalized communities or whether this will only marginalize communities even further. This article contributes to the debate by focusing on how negotiations take place between indigenous communities and local state officials. It seeks to explain why the Indonesian state so rarely provides formal recognition of adat communities – despite having adopted various laws that allows the state to do so. In the cases discussed, the paradoxical outcome of making traditions and cultural distinctiveness a prerequisite for certain rights is that the group most well connected to the regional government could most easily realize such rights.

I conclude that informal connections to the state are just as important as formal laws and regulations in shaping the outcomes of attempts to realize indigenous community rights. While indigenous status is presented as a right of communities that meet a number of formal criteria, to be recognized as such requires claimants to seek external support and cultivate relationships with regional power holders.

The findings from the case studies suggest that at the local level, claims to indigeneity in fact strengthen and reinforce the power of the state. By conferring on itself the authority to determine who is indigenous, the state maintains its tight grip on land governance. Meanwhile the realization of people's land rights is insecure and to a large extent dependent

on their connections to local authorities. These dynamics reinforce both the informal and mediated character of citizenship in post-colonial states like Indonesia. As a result, predominantly the better-connected groups are able to secure land rights, while the more marginalized and politically non-dominant groups that lack such relations are likely to be excluded.

Notes

1. Although indigeneity as a legal concept has become grounded in international law, it remains a highly contested and challenged term with many meanings and interpretations. See for instance the work of Kuper 2003; Barnard 2006; Fay and James 2008.
2. <http://www.aman.or.id/profile-kami/> last accessed October 12, 2017.
3. The state forest zone is state land administered as forest and comprises around 63 percent of Indonesia's landmass (Safitri 2017).
4. For a critical account of the government's 'adat forest' policy, see for instance: <https://geotimes.co.id/opini/menindaklanjuti-pengakuan-hutan-adat>, last accessed October 10, 2017.
5. Stipulated in the elucidation of Article 67 of the 1999 Basic Forestry Law.
6. Article 6 of Ministerial Regulation 32/2015 of the Ministry of Forestry and Environment on private forest rights (*hutan hak*).
7. From statistics published on <http://www.brwa.or.id/stats>, last accessed January 07, 2018.
8. From statistics published on http://www.brwa.or.id/stats_pengakuan, last accessed January 08, 2018.
9. These communities are spread across the province and are located in various districts, including Bulukumba, Enrekang and Tana Toraja.
10. <http://amansulsel.or.id/anggota-aman-sulsel/>, last accessed November 20, 2017.
11. With 'national level' recognition I mean the enactment of an adat forest decree by the Ministry of Forestry and Environment.
12. For elaborate discussions on the trajectory of this conflict, see Tyson (2010) and Van der Muur (2018).
13. When I use the term 'Ammatoa Kajang' I refer to the community as a whole. When I use the term Amma Toa, I specifically refer to community's highest moral leader.
14. The traditional territory extended over 20,000 hectares, while the communal adat forest comprised 313 hectares. For a more elaborate discussion on the drafting process of the recognition, see Van der Muur and Bedner 2016, as well as Fisher et al. 2017.
15. Since 2016, the regional forestry departments have been abolished and recentralized at the provincial level.
16. <http://makassar.tribunnews.com/2014/08/28/kejari-sinjai-mulai-dalami-kasus-reboisasi-2012>, last accessed October 10, 2017.
17. According to brwa.or.id, the traditional territory of Turungan Baji covers almost 6000 hectares. <http://brwa.or.id/wa/view/Um02VU1DSzBIZWc>, last accessed January 10, 2018.
18. Interview with the head of the regional forestry department of Sinjai, conducted on December 14, 2015.

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