

# *In the Name of Adat: Regional Perspectives on Reform, Tradition, and Democracy in Indonesia*<sup>1</sup>

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## **Abstract**

This article examines the revival of *adat* (custom) in post-Suharto Indonesia, a movement which few Indonesia-watchers predicted. Four general reasons for the rise of *adat* revivalism are identified. The first is the support, both ideological and concrete, of international organizations and networks committed to the rights of indigenous peoples. The second is the uncertainty, together with the opportunities, attendant on the processes of democratization and decentralization which followed the end of Suharto's authoritarian rule. The third is the oppression of marginal population groups under the New Order. The fourth root is historical, having to do with the positive role which *adat* has played in the country's political imagination since the beginning of Indonesian nationalism. *Adat* as a political cause involves a set of loosely related ideals which, rightly or wrongly, are associated with the past: authenticity, community, order, and justice. These ideals have been invoked in varying proportions to pursue a wide variety of political ends, including the control of resources and the exclusion of rivals as well as the protection, empowerment, and mobilization of underprivileged groups.

<sup>1</sup> This article is based on a longer essay entitled 'Radical conservatism—the protean politics of adat' in Jamie S. Davidson and David Henley (eds.), *The Revival of Tradition in Indonesian Politics: The Deployment of Adat From Colonialism to Indigenism* (London: Routledge, 2007), pp. 1–49.

## Introduction

This article examines the revival of *adat* (custom, tradition) in post–New Order Indonesia, a movement which few Indonesia-watchers predicted and many have continued to ignore. Decentralization and the dismantling of the authoritarian state after the fall of Suharto, most foreign observers hoped, would initiate a process of democratization, in which local commitments to upholding human rights would play a key role alongside a maturing civil society. Some pessimists suspected, openly or privately, that the main outcome would be disorder and disintegration. But few expected the great experiment of reform (*reformasi*) to produce a frantic rediscovery – or reinvention – of pre-modern sources of order and identity in the form of villages, tribes, and sultanates. Our article traverses many regional manifestations of this trend, and assesses their aggregate significance.

Two overarching questions are addressed. First: what are the origins of the current enthusiasm for a return to *adat* in Indonesia? What gives *adat*, as a political cause, its ability to attract and mobilize support? Four factors are examined here. The first is the support and inspiration of international organizations and networks committed to the rights of indigenous peoples. The second is the prominent role which *adat* has played in the Indonesian political imagination since the early 20th century. The third is the oppression of marginal population groups under the New Order, and the fourth the transition from authoritarian developmentalism to the volatile and opportunistic state–society relations of the post-Suharto era.

The second half of the essay critically assesses *adat* revivalism by turning to a second question: to what extent is the *adat* revival a constructive contribution to Indonesia’s new political pluralism, and to what extent a divisive, reactionary force? What does it tell us about the current condition of society and politics in Indonesia, and what are its implications for the development of democracy, human rights, civility, and political stability in the future? Do the divisive and illiberal tendencies of the movement outweigh its potential to emancipate marginalized groups, remedy injustices, and create grounds for stability in a time of change? Is it, in short, a good thing?

## *Adat and Its Transformations*

In Indonesian, the term *adat* carries connotations of sedate order and consensus. Yet in the last few years it has suddenly become

linked with activism, mobilization, protest, and violent conflict. In the post-Suharto state, communities and ethnic groups across Indonesia have publicly, vocally, and sometimes violently, demanded the right to implement elements of *adat* or *hukum adat* (customary law) in their home territories. In the name of *adat*, Balinese villagers have rejected ‘mega-tourism’ development projects and, in an atmosphere of mounting xenophobia, revived customary regulations forbidding the sale of land to outsiders and denying residence in the village to anyone not participating in its Hindu religious life. In the name of *adat*, a cultural and political awakening among the long-marginalized Dayaks of West Kalimantan has spawned a self-empowerment movement and led to mass violence against migrants to the province. In the name of *adat*, small-scale farmers in Sulawesi and Flores have challenged the legitimacy of national park boundaries, while local elites have hijacked the growing potency of *adat* for personal gain. In the name of *adat*, Jakarta-based and regional activists have combined forces to form Indonesia’s first national indigenous peoples’ lobby, AMAN or *Aliansi Masyarakat Adat Nusantara* – literally, the ‘Alliance of Adat Communities of the Archipelago.’

*Adat* revivalism is not the same as *adat*, and it is traditionalism, rather than tradition itself – either in specific local contexts or in general – which is our main focus here. But this is not to say that the ‘*adat* rights’ advocated by today’s *masyarakat adat* (*adat* community) movement are necessarily ‘invented traditions’ in the sense popularized by Hobsbawm and Ranger.<sup>2</sup> Particularly when it comes to land rights, the most important single issue in the current revival, the continuity between contemporary claims and past practices is often real. Before colonialism, many local communities and polities already defined, managed and defended distinct communal territories. Today, much of the way societies are organized, rights allocated, and disputes resolved in Indonesia still has little to do with the state or its law. Even in the context of contemporary *adat* revivalism, then, one way in which the term *adat* is used is simply to refer to particular time-honoured practices and institutions, inherited by communities rather than imposed by the state, which are seen as having continuing relevance to current political concerns.

There are also two other, more abstract ways in which the term *adat* is used in contemporary political contexts. The first is to

<sup>2</sup> Eric Hobsbawm and Terrence Ranger (eds.), *The Invention of Tradition* (Cambridge: Cambridge University Press, 1983).

refer to a complex of rights and obligations which ties together three things – history, land, and law – in a way that appears rather specific to Indonesia. The essence of this linkage is that laws and rights are historical inheritances rather than artifacts of government, that the most important domain of law is the control of land, and that the historical control of land is, in turn, the most important source of land rights. At a second level of abstraction, *adat* also represents a vaguely defined but powerful set of ideas or assumptions regarding what an ideal society should be like. As even *adat* activists concede, in many modern contexts *adat* refers not so much to a concrete body of rules and practices inherited from the past, nor even to a coherent discourse concerning history, land, and law, but rather to a set of loosely related ideals which, rightly or wrongly, are associated with the past: authenticity, community, harmony, order, and justice. These ideals are invoked in varying proportions, and with varying levels of sincerity, to pursue ends that range from the disempowerment of rivals to the protection and mobilization of the underprivileged – all in the name of *adat*.

There is no doubt that the revival of *adat* is, in many ways, an act of empowerment. Besides underwriting local claims to land and resources previously appropriated by the state, *adat* is also being used to circumvent Indonesia's notoriously corrupt and ineffective formal legal system, and to promote more democratic forms of village government. Groups identifying themselves as *adat* communities have demanded, and in many cases secured, greater representation in local government bureaucracies. By combining their forces to create AMAN, they have even acquired a new voice in national politics. But the choice of 'custom' and 'customary law' as vehicles of empowerment also brings with it inherent restrictions and dangers.

For one thing it is a choice from which millions of Indonesians, including migrants in rural areas as well as city-dwellers, are effectively excluded. Much of the recent violence in Kalimantan has involved local peoples asserting what they regard as traditional rights of territorial control against the interests not of the state and its cronies, but of poor Madurese migrants, and indeed their Kalimantan-born children. Here and elsewhere, *adat* has served as a rationale for ethnic exclusion and a justification for ethnic violence. A second problem concerns the political implications of *adat* for '*adat* communities' themselves. To what extent can communities governed by tradition (still) be said to exist in Indonesia, and to what extent do those who claim to speak for them really represent their members?

How are tradition and traditional rights defined, and by whom? In the past, the social order in Indonesia was seldom egalitarian. Even among stateless peoples, individual interests were often subordinated to those of collectivities dominated by traditional elites. The informal, uncodified character of most ‘adat law,’ moreover, makes it vulnerable to political manipulation, as does the idealization of order and stability with which *adat* is associated. Not surprisingly, then, *adat*-based movements often become bandwagons for the pursuit or defense of private wealth and power. The role of *adat* in political ideology at national level can readily be interpreted in the same way.

### Roots of Revival

#### *International Influences*

The rise of the indigenous peoples movement is often thought of as the continuation at sub-national level of an old tradition of anti-imperialism.<sup>3</sup> But it has also reflected something new: a ‘cultural turn’ in the intellectual life of what had been the political left, leading to a shift in practical politics toward the defense of cultural diversity.<sup>4</sup> In the last decades of the 20th century, a growing postmodern disillusionment with universalistic models of human progress, and with grand political projects like nationalism and socialism, led in the rich countries to a new sympathy for the predicament of underprivileged groups defined essentially by ethnicity and indigeneity rather than by poverty, class, or nationality. At the same time, environmentalist movements were emerging as guardians of a new type of political idealism to replace the old egalitarian idealism of the left. Turner writes of the emergence in this period of a new triad of ‘post-national citizenship rights’: ecological, aboriginal, and cultural.<sup>5</sup> In the previous era of high modernism (from, for argument’s sake,

<sup>3</sup> See Marcus Colchester and Larry Lohmann (eds.), *The Struggle for Land and the Fate of the Forests* (Penang: World Rainforest Movement, 1993); and Franke Wilmer, *The Indigenous Voice in World Politics: Since Time Immemorial* (Newbury Park, California: Sage, 1993).

<sup>4</sup> David C. Chaney, *The Cultural Turn: Scene-Setting Essays on Contemporary Cultural History* (London: Routledge, 1994); and Fredric Jameson, *The Cultural Turn: Selected Writings on the Postmodern, 1983–1998* (London: Verso, 1998).

<sup>5</sup> Bryan S. Turner, ‘The erosion of citizenship’ in *British Journal of Sociology*, Vol. 52 (2001), pp. 189–209, esp. p. 207.

1789–1968) it had been civic, electoral, and welfare rights which were deemed central to citizenship. Now these were eclipsed in the eyes of many by the right to a safe environment, the right of access to ancestral land, and the right to an authentic cultural heritage and identity.

Out of this change in the ideological orientation of political altruism in the developed countries emerged a movement for the defense of what have variously been called indigenous, tribal, or ‘Fourth World’ peoples. In the United States, a political awakening of Native Americans, inspired by the black civil rights movement, was already under way in the early 1960s. It was followed by the establishment in other parts of the First World, partly on the initiative of professional anthropologists, of proxy movements on behalf of indigenous peoples in the developing countries. In the tropics the already marginal situation of these peoples had, in many cases, deteriorated rather than improved following the formal decolonization of the countries in which they lived. Typically inhabitants of rainforest areas under threat from commercial logging, or from agricultural colonization by migrants, they were readily perceived as stewards of nature and repositories of ‘indigenous environmental knowledge,’ as well as bearers of unique and vulnerable cultural traditions.

For practical reasons as well as out of a postmodern scepticism toward the institution of territorial sovereignty, indigenous rights campaigners have stopped short of advocating separate statehoods for what remain of the world’s tribal peoples. But they have called for forms of ‘self-determination’ and ‘autonomy,’ consistent with Turner’s ‘post-national citizenship’, within the existing framework of states. The unprecedented ease of global communications has enabled them to interact directly with the intended beneficiaries of their campaigns, whose own political ideals and struggles have been shaped by that interaction and by the access to economic resources and media attention which it provides. Within the developing countries, new non-governmental organizations (NGOs), connected with their foreign and transnational counterparts, have also emerged to advocate indigenous rights. The result is the oxymoronic phenomenon of international indigenism, a cosmopolitan nativism embracing indigenous peoples from Inuit to Iban.<sup>6</sup> Access to an indigenous identity today, some commentators go so far as to argue, is, in practice, determined

<sup>6</sup> See Ronald Niezen, *The Origins of Indigenism: Human Rights and the Politics of Identity* (Berkeley, California: University of California Press, 2001).

less by ancestry, culture or marginality than by familiarity with the international discourse and politics of indigenous rights.<sup>7</sup>

Although the movement was initiated partly by outsiders, representatives of some indigenous populations, particularly in the Americas, participated at an international level from the beginning. A World Council of Indigenous Peoples, founded in 1975, quickly seized on the United Nations (UN) as an arena in which to lobby for its principal demands: the recognition of traditional land rights and the right to self-determination. A UN Working Group on Indigenous Populations (from 1996, Peoples) was formed in 1982, publishing extensive studies on the question of indigenous rights. In 1989, the International Labor Organization passed ILO Convention 169, the first international instrument to reject the assimilationist approach to indigenous populations and call instead for 'the full realization of the social, economic and cultural rights of these peoples with respect for their social and cultural identity, their customs and traditions and their institutions' (Article 2/2a). Across Latin America, governments began to abandon policies of forced integration. In 1992, the High Court of Australia recognized aboriginal land rights in the landmark Mabo case, and the Nobel Peace Prize was awarded to Maya activist Rigoberta Menchú. In the following year, the UN announced an International Decade of the World's Indigenous People to begin in 1995. A second such Decade was inaugurated in 2005.

As this prolongation of the UN campaign suggests, the cause of indigenism is far from won. Many governments are still reluctant to recognize its legitimacy: ILO Convention 169, for instance, has been ratified by 17 countries including many in Latin America, but not by Indonesia or any other Asian state. A 1994 UN Draft Declaration on the Rights of Indigenous Peoples, which includes even stronger provisions, particularly with regard to land rights, remains just that – a draft. To this day indigenous peoples in many parts of the world are among the most obvious 'victims of progress,'<sup>8</sup> facing systematic discrimination, high rates of poverty and illiteracy, and continuing loss of traditional livelihoods as the land on which they live is auctioned off to logging and mining interests. Nevertheless, by the time indigenism

<sup>7</sup> Courtney Jung, 'The politics of indigenous identity: Neoliberalism, cultural rights, and the Mexican Zapatistas' in *Social Research*, Vol. 70 (2003), pp. 433–462; and Tania M. Li, 'Articulating indigenous identity in Indonesia: Resource politics and the tribal slot' in *Comparative Studies in Society and History*, Vol. 42 (2000), pp. 149–179.

<sup>8</sup> John H. Bodley, *Victims of Progress* (Mountain View, California: Mayfield, 1999, 4th edn.).

found resonance in activist circles in Indonesia in the early 1990s, a political sea-change had taken place in the world at large whereby indigenous peoples had 're-entered the arena of power'.<sup>9</sup>

In Indonesia today the most important institutional advocates of indigenous rights are the environmental NGO WALHI (Indonesian Environmental Forum), dating from 1980, and the indigenous people's federation AMAN, founded in 1999. Both have been frequent recipients of foreign donor funding, and both are effective users of international media. Much of the literature produced by AMAN, for instance, is linked to the website of Down to Earth, a transnational group promoting 'environmental justice' in Indonesia. AMAN is also involved in international indigenous rights advocacy organizations, including IWGIA (Copenhagen) and the Asia Indigenous Peoples Pact, a Thai-based confederation established in 1992. Local and regional organizations have similar overseas links. In West Kalimantan, for example, the Institute of Dayakology Research and Development (IDRD), an NGO at the centre of the Dayak self-empowerment movement, has received direct grants from the Ford Foundation and the Dutch Catholic aid organization Cebemo. It plays host to foreign activists and concerned scholars, its own activists participate in international conferences, and its bookstall sells a range of critical, anti-development literature.

Indigenism as an ideology was pioneered in the Americas, Australasia and Scandinavia, where in recent centuries European settlers and their descendants have conquered and displaced pre-existing 'aboriginal' populations. In Indonesia, as in most Asian contexts,<sup>10</sup> the business of distinguishing 'indigenous' from 'non-indigenous' groups is more complicated. Under Suharto, the Indonesian state used the truism that almost all Indonesians are indigenous to Indonesia as a pretext for refusing to accept the terms and implications of the international debate.<sup>11</sup> Indonesian political

<sup>9</sup> Siegfried Wiessner, 'Rights and status of indigenous peoples: A global comparative and international legal analysis' in *Harvard Human Rights Journal*, Vol. 12 (1999), pp. 57–128, quotation from p. 58.

<sup>10</sup> Andrew Grey, 'The indigenous movement in Asia' in Robert H. Barnes, Andrew Gray, and Benedict Kingsbury (eds.), *Indigenous Peoples of Asia* (Ann Arbor, Michigan: The Association for Asian Studies, 1995), pp. 35–58; and Benedict Kingsbury, "'Indigenous peoples" in international law: A constructivist approach to the Asian controversy' in *American Journal of International Law*, Vol. 92 (1998), pp. 414–457.

<sup>11</sup> Gerard Persoon, 'Isolated groups or indigenous peoples: Indonesia and the international discourse' in *Bijdragen tot de Taal-, Land- en Volkenkunde*, Vol. 154 (1998), pp. 281–304, esp. p. 281.



activists, by contrast, did not hesitate to use the English expression 'indigenous people' even in Indonesian-language publications. *Masyarakat adat* was chosen as the preferred Indonesian equivalent at a landmark meeting of indigenous leaders which took place in Tana Toraja (South Sulawesi) in 1993, and which can be said to mark the birth of today's Indonesia-wide indigenist movement. If the international discourse of indigenous rights has influenced the contemporary conceptualization of *adat*, so too have environmentalism and the idea of 'community-based natural resource management,' which provides in the 'managed commons' a new way to model, idealize, and justify communal land and forest tenure.

The support and inspiration of the international indigenist and environmental movements, then, is an important part of the background to the *adat* revival. Nevertheless, it is not the whole story. Not all exponents of post-Suharto *adat* revivalism see themselves as falling into the category of 'indigenous peoples.' The restoration of pre-New Order *nagari* (village) political institutions and land rights in West Sumatra, for instance, is the work of the Minangkabau ethnic group, which enjoys a position of unchallenged demographic and political dominance within its own province and is influential beyond its numbers on the national stage. The powerful traditionalist movement in Bali shows no strong foreign inspiration, and is not connected with AMAN or related *masyarakat adat* advocacy organizations. Nor does international indigenism have anything to do with the attempts currently being made to revive, in the name of *adat*, dozens of traditional kingdoms and sultanates across Indonesia.

Those local *adat*-based movements which do fit into the 'tribal slot',<sup>12</sup> it is equally important to note, often originated at the height of the New Order out of concrete conflicts between local farmers and state-backed big business over land, only later coming to recognize themselves as components of a wider struggle for indigenous rights. The seminal 1993 *masyarakat adat* meeting in South Sulawesi, for instance, was attended by local leaders whose activism had been forged in the crucible of opposition to land appropriation by the state pulp, paper, and timber plantation company Indorayon Utama in North Sumatra, by plantation companies in the Ketapang district of West Kalimantan, and by the massive Freeport copper mining

<sup>12</sup> Li, 'Articulating indigenous identity in Indonesia: Resource politics and the tribal slot' in *Comparative Studies in Society and History*, Vol. 42 (2000), pp. 149–179.

concern in West New Guinea.<sup>13</sup> The roots of today's *masyarakat adat* movement, then, lie in domestic Indonesian politics as well as in international activism. It may be true that for some activists, as Avonius alleges,<sup>14</sup> *adat* as such is little more than 'a handy tool' in the struggle against globalization. But without what Tsing calls the 'friction'<sup>15</sup> of engagement with local concerns, the international bandwagon of indigenism, for all its range and power, would still have gone nowhere on Indonesian terrain.

### *Ideological Inheritances*

The effectiveness of *adat* as a political rallying cry in modern Indonesia has to do partly with the way in which tradition, in the course of the 20th century, became intertwined with state ideology and national identity. A key element of this story is the history of colonial law in Indonesia. Throughout the Dutch period the situation was one of 'legal pluralism,' a term which is now used in many contexts but actually has its origins in the historiography of Dutch colonial law.<sup>16</sup> There were three dimensions to this plurality of legal systems. Native Indonesians, firstly, were not subject to European law. Dutch legal codes were formally introduced for Europeans in 1848 and 1849, and in 1854 Dutch commercial law was extended to cover the 'Foreign Oriental' (mainly ethnic Chinese) part of the population, which was heavily involved in trade. But Dutch law was never applied systematically to the Indonesians who made up more than 95 percent of the population as a whole. The effect of this 'vertical' dimension of legal pluralism was to reinforce the system of racial castes which Furnivall euphemistically called the 'plural economy' of the Netherlands Indies.<sup>17</sup> Within the

<sup>13</sup> Sandra Moniaga, 'From bumiputera to masyarakat adat: A long and confusing journey' in Jamie S. Davidson and David Henley (eds.), *The Revival of Tradition in Indonesian Politics: The Deployment of Adat From Colonialism to Indigenism* (London: Routledge, 2007), pp. 275–294.

<sup>14</sup> Leena Avonius, *Reforming Wetu Telu: Islam, adat, and the Promises of Regionalism in Post-New Order Lombok* (Ph.D. dissertation, Leiden University, 2004), p. 112.

<sup>15</sup> Anna L. Tsing, *Friction: An Ethnography of Global Connection* (Princeton: Princeton University Press, 2005).

<sup>16</sup> Franz von Benda-Beckmann, 'Citizens, strangers and indigenous peoples: Conceptual politics and legal pluralism' in *Law and Anthropology: International Yearbook for Legal Anthropology*, Vol. 9 (1997), pp. 1–42.

<sup>17</sup> John S. Furnivall, *Netherlands India: A Study of Plural Economy* (Cambridge: Cambridge University Press, 1939).

native category, secondly, different ethnic groups and communities were supposed to be governed according to their own diverse laws and customs. Cross-cutting this indigenous diversity, thirdly, Islamic law, based on internationally authoritative interpretations of the Koran and Hadith, also received institutional support from the colonial state for inheritance and family law purposes in some predominantly Muslim regions.

Periodically calls were heard in the Netherlands, and among Europeans in Indonesia, for the elimination of this diversity in favour of a unitary legal code along Western lines. A crucial issue here was that the introduction of a Western system of land ownership and titling would allow the permanent acquisition of customary land by non-native parties. At the beginning of the 20th century, however, customary land rights found a formidable defender in the legal scholar Cornelis van Vollenhoven, professor at Leiden University from 1901 and father of the 'Leiden School' of *adat* law studies. A cornerstone of *adat* law, for the Leiden school, was the *beschikkingsrecht* – 'right of allocation' or 'right of avail' – enjoyed by each '*adat* law community' (*adatrechtsgemeenschap*) over its territory. Like today's international advocates of indigenous rights, Van Vollenhoven was concerned with the protection of traditional common property against private business and the state.

How successful he and his supporters ultimately were in this endeavour is difficult to say. By the late 1920s, when the *adatrecht* school finally triumphed over the unificationists in the long debate over colonial legal policy, the Great Depression was, in any case, about to eliminate much of the demand for land from plantation and other business interests. At an ideological level, nevertheless, the conceptual identification and legal recognition of *beschikkingsrecht* – usually translated back into Indonesian using the Minangkabau term *hak ulayat* – left an important mark. So too did the Orientalist assumption, implicit or explicit in much of the work of the Leiden School, that law, custom and society in the Indies were governed, and should continue to be governed, by principles radically different from those informing their counterparts in the West. 'He who turns from the law of the Netherlands to the law of the Dutch East Indies,' begins Van Vollenhoven's *magnum opus*, 'enters a new world.'<sup>18</sup>

<sup>18</sup> Cornelis van Vollenhoven, *Het Adatrecht van Nederlandsch-Indië*. 3 volumes (Leiden, Netherlands: E.J. Brill, 1918–33), Vol. 1, p. 3.

Some of Van Vollenhoven's scholarly disciples, notably his successor as professor of *adat* law in Leiden, F. D. Holleman, and above all his most influential Indonesian student, Raden Supomo, were to make the Orientalism and idealism implicit in Van Vollenhoven's work more explicit. By doing so, they rendered *adat* fit for incorporation into Indonesian nationalist ideology. The central theme here was the so-called 'communal trait' in *adat*, its emphasis on harmony, solidarity and the 'good of the community as a whole' above the protection of individual rights.<sup>19</sup> In addition, the authority of *adat* was portrayed as resting ultimately on cosmic or spiritual foundations rather than on rules of human manufacture.<sup>20</sup> *Adat*, then, was spiritual, community-oriented, humane, and protective of poor Indonesian farmers; Western law, and by extension Western culture, was mundane, individualistic, inflexible and supportive of rich foreign capitalists. These ideas inspired a powerful current of political thought which identified 'communalism' or 'collectivism,' as opposed to Western individualism, as the key to the Indonesian 'national personality.'<sup>21</sup> Besides invoking *adat* as its historical foundation, this Orientalism was also associated with such prescriptive concepts as *gotong-royong* or 'mutual aid,' *musyawarah dan mufakat* or 'consultation and consensus,' and the *asas kekeluargaan* or 'family principle.' It served as what Tania Li, following Laura Nader,<sup>22</sup> calls a 'harmony ideology,' a means of promoting national unity and obedience to authority.<sup>23</sup> Under Sukarno's Guided Democracy (1959–65) and especially Suharto's New Order (1965–98), it found expression in, or was used to justify, policies and

<sup>19</sup> F. D. Holleman, *De Commune Trek in het Indonesisch Rechtsleven: rede uitgesproken bij de aanvaarding van het ambt van buitengewoon hoogleraar in het Adatrecht van Nederlandsch-Indië aan de Rijksuniversiteit te Leiden, op 10 Mei 1935* (Groningen: J. B. Wolters, 1935).

<sup>20</sup> Peter Burns, *The Leiden Legacy: Concepts of Law in Indonesia* (Leiden: KITLV Press, 2004), pp. 114–115.

<sup>21</sup> David Bouchier, *Lineages of Organicist Political Thought in Indonesia* (Ph.D. dissertation, Monash University, 1996); and 'Totalitarianism and the "national personality": Recent controversy about the philosophical basis of the Indonesian state', in James Schiller and Barbara M. Schiller (eds.), *Imagining Indonesia: Cultural Politics and Political Culture* (Athens, Ohio: Ohio University Center for International Studies, 1997), pp. 157–185.

<sup>22</sup> Laura Nader, 'Harmony models and the construction of law' in Kevin Avurch, Peter W. Black, and Joseph A. Scimecca (eds.), *Conflict Resolution: Cross-Cultural Perspectives* (New York: Greenwood Press, 1991), pp. 41–60.

<sup>23</sup> Tania M. Li, 'Adat in Central Sulawesi: Contemporary deployments' in Jamie S. Davidson and David Henley (eds.), *The Revival of Tradition in Indonesian Politics: The Deployment of Adat From Colonialism to Indigenism* (London: Routledge, 2007), pp. 337–370, quotation from p. 364.

institutions designed to disempower or co-opt opposition, suppress conflict and prevent public discussion of economic inequality or other 'divisive' issues.

*Pressure and Oppression Under the New Order*

The New Order was an authoritarian developmentalist regime with a heavy-handed approach to nation-building. While Indonesia's cultural diversity was acknowledged in accordance with the national motto 'Unity in Diversity' (*Bhinneka Tunggal Ika*), no political rights were allowed to follow from cultural difference or ethnic identity. Official celebrations of national diversity, most famously in the 'Beautiful Indonesia in Miniature' theme park (*Taman Mini Indonesia Indah*) in Jakarta, had an abstract, symbolic quality, reducing local cultures to a standardized spectacle of picturesque 'adat houses' and 'adat costumes.'<sup>24</sup> Political – as opposed to cultural – discourse concerning *adat* was restricted largely to the national level where the traditional ideals of harmony and solidarity were deployed in propaganda designed to promote national unity and legitimate the suppression of disunity. Actually functioning traditional institutions of local governance, meanwhile, were swept away by new laws on regional and village administration (most importantly Laws 5/1974 and 5/1979) which replaced *adat* leaders, elected or otherwise, with elected but state-screened village headmen operating within a uniform nationwide bureaucratic structure.<sup>25</sup>

Religious orthodoxy, ironically given Indonesia's legendary reputation for religious tolerance, also became a matter of direct state concern. The first of Sukarno's Pancasila or 'Five Principles' of Indonesian nationhood, *Ketuhanan yang Maha Esa* or 'Belief in One God,' was interpreted as proscribing not only atheism and Javanese syncretism, both of which were directly identified with communism, but also all the traditional polytheistic or 'animist' beliefs of those marginal, formerly tribal groups, subsequently identified as *masyarakat adat* or indigenous peoples, which had not yet converted to Islam

<sup>24</sup> Greg Acciaioli, 'Culture as art: From practice to spectacle in Indonesia' in *Canberra Anthropology*, Vol. 8 (1985), pp. 148–174; and John Pemberton, 'Recollections from "beautiful Indonesia": Somewhere beyond the postmodern' in *Public Culture*, Vol. 6 (1994), pp. 241–262.

<sup>25</sup> Tsuyoshi Kato, 'Different fields, similar locusts: Adat communities and the village law of 1979 in Indonesia' in *Indonesia*, Vol. 47 (1989), pp. 89–114.

or Christianity. Inhabiting inaccessible or border areas and 'lacking religion,' these groups were regarded as vulnerable to communism and other forms of sedition. Many were literally forced to make an immediate choice between Islam and Christianity: 'I don't care which religion they have,' as one regional commander in West Kalimantan put it, 'as long as they have one.'<sup>26</sup>

In other respects too, New Order development and 'national integration' priorities placed particularly heavy pressure on indigenous peoples. State policy toward such communities was essentially a continuation of the colonial 'civilizing mission' in its crudest forms, including the forced relocation of swidden farmers in new settlements where they were obliged to adopt intensive agricultural techniques. Many of the areas inhabited by indigenous peoples were also prime targets of the state transmigration program, designed primarily to relieve population pressure in poor parts of Java and Bali, through which over the course of the New Order more than 5 million people were relocated to sparsely populated tracts of land in the outer islands.<sup>27</sup> Abundantly funded in its heyday by the World Bank and other international donors, transmigration led in many places to serious tensions between the migrant and indigenous populations. Sometimes the officially supervised settlement was matched or exceeded by an additional inflow of 'spontaneous' (unorganized) transmigrants, especially Madurese in Kalimantan and Bugis throughout eastern Indonesia. As long as the repressive apparatus of the New Order was still strong, the ethnic and resource conflicts associated with domestic migration mostly remained latent. But beginning in 1997, some of Indonesia's 'settler frontiers' became scenes of violence on a scale that made international headlines. In West Kalimantan, *adat* revivalism was directly implicated in the process of accelerated political self-organization among Dayaks, which immediately preceded the killings.<sup>28</sup>

Even more important than transmigration as an incubator for today's *masyarakat adat* movement, and for the *adat* revival in general, was the alienation of ancestral land by the government for conversion into logging and mining concessions, oil palm and

<sup>26</sup> 'Agama dan perut', *Tempo*, 26 October 1974.

<sup>27</sup> Patrice Levang, *La terre d'en face: la transmigration en Indonésie* (Paris: Éditions de l'Orstom, 1997).

<sup>28</sup> Jamie S. Davidson, 'The politics of violence on an Indonesian periphery' in *South East Asia Research*, Vol. 11, No. 1 (2003), pp. 59–89.

pulpwood plantations, and national parks. The New Order, it is often said, placed greater value on the vast natural resources of the outer islands than on their sparse populations. Village heads and others who balked at surrendering *adat* land to the state for ‘development’ purposes were subject to intimidation, detention, or worse. The land was appropriated – in cases of communal or uncertified ownership, typically without any compensation payment – and delivered into the hands of politically connected logging, mining, and plantation concerns. The resulting profits flowed overwhelmingly to Jakarta and on overseas. What little ‘trickle-down’ there was trickled mainly into provincial capitals, and local people themselves were often left with little but denuded hillsides and poisoned rivers.

In the logging sector, much of this activity took place entirely outside the law.<sup>29</sup> A great deal of land alienation, nonetheless, also took place in technically legal ways. The Basic Agrarian Law passed under Sukarno in 1960, although designed partly to protect smallholders, already indicated that all land rights were alienable if they conflicted with the ‘national interest.’ While this provision was included partly with a view to redistributive land reform in favour of the rural poor, the law also provided explicitly for the leasing of state land to business organizations. More specific enabling legislation with respect to forestry and mining leases was subsequently enacted by the New Order itself, and the Basic Forestry Law of 1967 (Law 5/1967) is generally interpreted as giving all rights over forests to the state.<sup>30</sup> This situation of legalized land-grabbing meant that indigenous land claims were bound to explode back into the open whenever political conditions made it less difficult and dangerous to pursue them. It also meant that customary rights, not the law of the state, would be seen as the just and appropriate basis on which to pursue such claims.

In part, these developments were paralleled in the (at first sight) very different setting of Bali, where it was tourism, rather than timber, which drew the unwelcome attention of outside power and capital. On Bali during the last decade of the Suharto regime, a steady stream of unpopular large-scale tourist resort and real estate

<sup>29</sup> John F. McCarthy, ‘Turning in circles: District governance, illegal logging and environmental decline in Sumatra, Indonesia’ in *Society and Natural Resources*, Vol. 15 (2002), pp. 867–886; and Krystof Obidzinsky, *Logging in East Kalimantan, Indonesia: The Historical Experience of Illegality* (Ph.D. dissertation, University of Amsterdam, 2003).

<sup>30</sup> Rachel Haverfield, ‘*Hak ulayat* and the state: Land reform in Indonesia’ in Tim Lindsey (ed.), *Indonesia: Law and Society* (Sydney: The Federation Press, 1999), pp. 42–73, esp. p. 63.

projects, often located in the immediate vicinity of temples or at other sites of ritual significance, offended local religious sensibilities and created resentment among those who involuntarily lost land or access to it. A related concern was the growing number of non-Balinese migrants attracted by the economic opportunities generated by the burgeoning tourist industry. The newcomers were perceived as a source of unwelcome competition in economic life and a burden on the infrastructure of the urban areas where they mostly lived. Many Balinese also associated them with criminality. At the same time Jakarta's intrusive administrative reforms were creating tension between Bali's traditional institutions of village governance, which depend heavily on intricate systems of religious leadership and ritual cooperation, and the superimposed national grid of *desa dinas* or 'official villages'.<sup>31</sup>

During the New Order period, there were already cases in which communities dared to contest the loss of their land in sustained protest campaigns. In 1993 and 1994, for example, the construction of a resort complex facing the iconic temple of Tanah Lot provoked unprecedented local protest in Bali, although ultimately the project went ahead as planned. Besides village people, this and subsequent campaigns against 'mega-tourism' projects also involved members of the Balinese political elite, which had profited substantially from tourism in the early Suharto years, but now found itself taking a smaller and smaller share of the economic benefits. Losing control over tourism themselves, Balinese leaders looked increasingly to ethnicity and *adat* as a basis on which to mobilize resistance to the onslaught of non-Balinese capital.

On Indonesia's remote and sparsely populated forest frontiers, the odds against effective resistance to state-backed business interests and unwanted immigration were even higher than in Bali. Yet here too, as noted, some organized local movements against land-grabbing by logging and mining concerns did emerge even at the height of the New Order. One of these achieved rare success in 1995 when a hydroelectric dam plan for Lake Lindu in Central Sulawesi was cancelled after protests in the province and lobbying in Jakarta.<sup>32</sup>

<sup>31</sup> Carol Warren, *Adat and Dinas: Balinese Communities in the Indonesian State* (Kuala Lumpur: Oxford University Press, 1993).

<sup>32</sup> Greg Acciaioli, 'Grounds of conflict, idioms of harmony: Custom, religion, and nationalism in violence avoidance at the Lindu Plain, Central Sulawesi' in *Indonesia*, Vol. 72 (2001), pp. 81–112, esp. pp. 93–94; and Greg Acciaioli, 'Re-empowering



*Opportunities and Exigencies of Reformasi*

The real florescence of *adat* revivalism came in the new-found political freedom of the *reformasi* era, immediately following the downfall of Suharto in May 1998. Farmers dispossessed for the sake of mining, logging, and other forms of ‘development’ now dared to demand (fairer) compensation, or their land back, in the name of customary rather than state law. There was also a delayed reaction against the suppression of *adat* itself under Suharto: a rejection of modernity, in so far as the modernity promoted by state policies from 1965 to 1998 had entailed the demise of old and locally respected institutions. Individuals eligible for positions of leadership in traditional institutions, meanwhile, saw in the revival of *adat* an unexpected opportunity to realize personal ambitions. Particularly in the sparsely populated outer islands, the question of who controlled the local resources made accessible by the retreat of the central state became one of great significance and urgency. *Adat*, then, became both a means of redressing past injustices and a way of securing an advantageous position in the post-Suharto scramble for power in the regions. At the same time, weakening central authority, deliberate administrative and fiscal decentralization, and economic slowdown made it both possible and necessary to find bases for political order other than the bureaucratic hierarchy, economic patronage, state propaganda, and military force of the New Order. The difficulty of creating new democratic institutions at the local level, the prevalence of social injustice, the weakness of the existing legal system, and the threat of violence and disorder inclined people in many places to look to tradition as a source of both consensus and justice.

This was a time of almost uniquely rapid change in Indonesia. In the last New Order general election in 1997, three (tame, state-approved) parties took part; in the first election of the *reformasi* era in 1999, forty-eight did. The estimated number of NGOs in Indonesia rose sevenfold between 1996 and 2000.<sup>33</sup> The First Congress of Indigenous Peoples of the Archipelago, during which AMAN was founded in March

“the art of the elders”: The revitalization of *adat* among the To Lindu people of Central Sulawesi and throughout contemporary Indonesia’ in Minako Sakai (ed.), *Beyond Jakarta: Regional Autonomy and Local Societies in Indonesia* (Adelaide: Crawford House, 2002), pp. 217–244.

<sup>33</sup> Bob S. Hadiwinata, *The Politics of NGOs in Indonesia: Developing Democracy and Managing a Movement* (New York: RoutledgeCurzon, 2001), p. 1.

1999, symbolized the radical changes which were taking place. Held in Jakarta amid considerable media attention, it featured impassioned discussions on military repression and the right of indigenous peoples to self-determination. It also confronted the government with a variety of outright demands, including the return of all customary territory to *adat* communities and the abolition of the New Order organs of village governance (LMD and LKMD) in favour of *adat* councils.<sup>34</sup> Its dramatic high point was a public threat, by more than 200 representatives of *adat* communities scattered across Indonesia from Aceh to Papua, not to recognize the authority of the Indonesian state if the state did not recognize theirs. Less than a year earlier such things would have been almost unthinkable and if they had been planned, security forces would certainly have nipped the event in the bud before it could begin. In 2003, a second congress was held in Lombok, in contrast to the site of the inaugural event in Jakarta, reflecting the spirit and degree of political decentralization that had taken place in Indonesia.

At local level it was a similar story. In West Sumatra, preparations were quickly made to revive the *nagari* as a unit of governance and restore to it full jurisdiction over the communal lands formerly under its control.<sup>35</sup> In Papua, where *adat* likewise showed ‘signs of evolving into a political ideology,’ the Freeport copper mining company and other major extractive enterprises came under redoubled pressure to acknowledge obligations arising from their use of *adat* land.<sup>36</sup> In Bali, there was what Warren describes as ‘an explosive reassertion of *adat* claims of authority over the local customary domain.’ In one case, ‘pressure’ from villagers forced a construction company to remove hundreds of cubic meters of limestone that had already been dumped in an estuary to reclaim land for the site of a hotel.<sup>37</sup> If the New Order had tolerated *adat* only as cultural spectacle, its collapse ‘allowed the

<sup>34</sup> Greg Acciaioli, ‘Re-empowering “the art of the elders”’: The revitalization of *adat* among the To Lindu people of Central Sulawesi and throughout contemporary Indonesia’ in Minako Sakai (ed.), *Beyond Jakarta: Regional Autonomy and Local Societies in Indonesia* (Adelaide: Crawford House, 2002), pp. 217–244, esp. pp. 218–219.

<sup>35</sup> Franz and Keebet von Benda-Beckman, *Recreating the nagari: Decentralisation in West Sumatra* (Halle: Max Planck Institute for Social Anthropology, 2001, Working Paper 31).

<sup>36</sup> International Crisis Group, *Indonesia: Resources and Conflict in Papua* (Jakarta: International Crisis Group, Asia Report 39, 2002), quotation from p. 13.

<sup>37</sup> Carol Warren, ‘Adat in Balinese discourse and practice: Locating citizenship and the commonweal’ in Jamie S. Davidson and David Henley (eds.), *The Revival of Tradition in Indonesian Politics: The Deployment of Adat From Colonialism to Indigenism* (London: Routledge, 2007), pp. 170–202, quotation from p. 187.

return of the repressed, the other side of adat, the claims to provide a normative base for a local *political* community independent of the state.<sup>38</sup>

Under the short presidencies of B. J. Habibie (May 1998–October 1999) and Abdurrahman Wahid (October 1999–July 2001), the state itself took to underwriting, at least in theory, new political roles for *adat* at local level. The regional autonomy laws passed in 1999 (22/1999 and 25/1999) allowed specifically for internal institutional reform at village level, highlighted the importance of local *adat* in village governance, and obliged administrators at *kabupaten* (district) level to ‘recognize and honor the rights, origins and customs and traditions of the village.’<sup>39</sup> In the same year, the government adopted the term *komunitas adat terpencil* – ‘isolated *adat* communities’ – as its official designation for the groups previously known as *masyarakat terasing* or ‘marginalized/estranged communities’.<sup>40</sup> In 2001, the Supreme Parliament (MPR) decreed that all laws and policies on natural resource management and land tenure were to be revised in accordance with principles that ‘recognize, respect and protect the rights of *adat* law communities.’<sup>41</sup> In the Special Autonomy Law for Papua (21/2001) also passed that year, a bloc of seats in the planned Papuan People’s Assembly (MPR) was reserved for representatives of *adat* communities. The same law also recognized the communal ownership of land in Papua, and obliged outside investors to negotiate with local communities over land use.<sup>42</sup>

While AMAN and other national groups have generally stuck to their oppositional stance, at regional and local levels the process of decentralization has facilitated various kinds of accommodation

<sup>38</sup> John R. Bowen, *Islam, Law and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge: Cambridge University Press, 2003), p. 255, emphasis in original.

<sup>39</sup> Greg Acciaoli, ‘Grounds of Conflict, idioms of harmony: Custom, religion, and nationalism in violence avoidance at the Lindu Plain, Central Sulawesi’ in *Indonesia*, Vol. 72 (2001), pp. 81–112, quotation from p. 88.

<sup>40</sup> Christopher R. Duncan, ‘From development to empowerment: Changing Indonesian government policies toward indigenous minorities’ in Christopher R. Duncan (ed.), *Civilizing the Margins: Southeast Asian Government Policies for the Development of Minorities* (Ithaca: Cornell University Press, 2004), pp. 86–115, esp. p. 90.

<sup>41</sup> John F. McCarthy, ‘Between *adat* and state: Institutional arrangements on Sumatra’s forest frontier’ in *Human Ecology*, Vol. 33 (2005), pp. 57–82, esp. p. 58.

<sup>42</sup> Rodd McGibbon, ‘Between rights and repression: the politics of special autonomy in Papua’ in Edward Aspinall and Greg Fealy (eds.), *Local Power and Politics in Indonesia: Decentralisation and Democratization* (Singapore: ISEAS, 2003), pp. 194–213, esp. p. 200.

between *adat* advocates and the state. Immediately after the fall of Suharto, priority was given to restoring a healthier political balance between Jakarta and the regions – and deflecting criticism and discontent – by devolving administrative and financial powers to provincial and (especially) *kapupaten* levels. The resulting decentralization program was the biggest administrative reorganization in the history of the Indonesian state, and transformed one of the most centralized countries in the world into one of the more decentralized. By opening up, and at the same time raising the economic stakes of, local politics, it has precipitated intense struggles for control of the local state, struggles from which *adat* leaders and advocates have not remained aloof. In Kalimantan, for instance, *adat*-oriented NGOs have actively backed particular candidates for *bupati* posts,<sup>43</sup> and many *adat* leaders have pursued what Acciaioli calls ‘officializing’ strategies, using formal and informal relations with local administrators to seek official recognition for *adat* claims.<sup>44</sup> In Aceh, before the devastating tsunami of 2004 brought rebels and government to the negotiating table, it was the provincial government that initiated a range of legislation focused on revitalizing *adat*-based institutions as a means to undercut the Free Aceh Movement (GAM) insurgency and promote itself as the true guardian of Acehese tradition.<sup>45</sup> GAM, by contrast, had been diligently seeking recourse to the international discourse of human rights (and law) to legitimate its secessionist cause.<sup>46</sup>

Since 1998, in fact, *adat* revivalism at the local level has increasingly been driven less by the state’s failure to respect specific *adat* rights than by its failure to maintain conditions of peace and order, in the eyes of very many Indonesians the central task and function of government and *adat* alike. The ethnic violence which broke out in Kalimantan, the Moluccas, and elsewhere was only the most dramatic aspect of a general deterioration in security of life and property caused

<sup>43</sup> Gerry van Klinken, ‘Indonesia’s new ethnic elites’ in Henk Schulte Nordholt and Irwan Abdullah (eds.) *Indonesia: In Search of Transition* (Yogyakarta: Pustaka Pelajar, 2002), pp. 67–105.

<sup>44</sup> Greg Acciaioli, ‘From customary law to indigenous sovereignty: Reconceptualizing masyarakat adat in contemporary Indonesia’ in Jamie S. Davidson and David Henley (eds.), *The Revival of Tradition in Indonesian Politics: The Deployment of Adat From Colonialism to Indigenism* (London: Routledge, 2007), pp. 295–318.

<sup>45</sup> Edward Aspinall, personal (e-mail) communication, 2 April 2006.

<sup>46</sup> Edward Aspinall, ‘Sovereignty, the successor state, and universal human rights: History and the International Structuring of Acehese Nationalism’ *Indonesia*, Vol. 73 (2002), pp. 1–24.

partly by the economic crisis of 1997–98, and by the withdrawal of military power from the civil sphere. In some areas the disorder was exacerbated by private militias which, although set up ostensibly to help remedy the situation, developed criminal tendencies themselves and became embroiled in violent conflicts with one another.<sup>47</sup> One widespread reaction among the public was a yearning for the order of ‘adat and its rituals.’<sup>48</sup> There were more concrete attempts, too, to deploy *adat* as a force for the restoration of peace and order. In Bali, the existing institution of *pecalang* or ‘adat police,’ strongmen charged with enforcing ritual and community regulations, was developed into an island-wide security apparatus.<sup>49</sup> In Kalimantan, Sulawesi, and the Moluccas, attempts have also made to resolve ethnic and religious violence using *adat* reconciliation and peace ceremonies. In August 2000, for instance, President Wahid himself attended what Aragon describes as a ‘neo-traditional *adat* ritual,’ involving the burial of a buffalo head, which it was hoped would restore peace between warring Christian and Muslim parties in the Poso area of Central Sulawesi.<sup>50</sup>

In its ambiguous and protean character, by turns progressive and reactionary, emancipating and authoritarian, idealistic and manipulative, *adat* revivalism in some ways epitomizes the paradoxes of the post-Suharto era. This, after all, has been an era in which unprecedented political freedom and strikingly successful formal democratization – in the free and peaceful national legislative election of 2004, voter turnout was 84 percent – have gone hand in hand with ethnic violence outside the electoral sphere, burgeoning corruption, continued radical failure of legal and judicial institutions, and strong persistence of New Order military, bureaucratic and business interests in most areas of political life.

<sup>47</sup> International Crisis Group, *The Perils of Private Security in Indonesia: Guards and Militias on Bali and Lombok* (Jakarta: International Crisis Group, Asia Report 67, 2003), pp. 14–22.

<sup>48</sup> Leena Avonius, *Reforming Wetu Telu: Islam, adat, and the Promises of Regionalism in Post-New Order Lombok* (Ph.D. dissertation, Leiden University, 2004), p. 214.

<sup>49</sup> International Crisis Group, *The perils of private security in Indonesia: Guards and Militias on Bali and Lombok* (Jakarta: International Crisis Group, Asia Report 67, 2003), pp. 2–11.

<sup>50</sup> Lorraine V. Aragon, ‘Communal violence in Poso, Central Sulawesi: Where people eat fish and fish eat people’ *Indonesia*, Vol. 72 (2001), pp. 45–79, quotation from p. 70.

## Critical Assessment

### *Between Protection and Domination in Adat Politics*

In the colonial period, *adat* as a political force – a force, that is, within the corridors of colonial power – was initially about protection. Its proponents were concerned, at least in principle, to protect the indigenous weak against the exogenous strong: capitalists who would take away their ancestral land, and bureaucrats who would take away their ancestral customs. Inherent in the desire to protect Indonesians against capital and the state, however, was an assumption of benevolent power, and with that assumption came a conviction that if necessary the weak should be protected not only against outsiders, but also against themselves: specifically, against any temptation they might feel to dispose of their land or their customs voluntarily. If *adat* land could not be stolen, neither could it be sold outside the *adat* law community which controlled it, and in the name of which the colonial state would intervene, if necessary, to restrict the freedom of its members. Even in the context of indigenous rights, then, *adat* was already an ideology of state control as well as state protection.

Custom, in Dutch colonial discourse, was also associated with the reinforcement by the state of internal hierarchy within the ‘*adat* communities’ themselves. The practice of ruling via existing leaders, backing up their authority with the power of the state in return for their compliance in using that authority for the state’s purposes, was of course not new, and far from unique to Dutch colonial practice. Nevertheless, the intellectual study and admiration of *adat* gave the Dutch, toward the end of their sway in Indonesia, a rationale and a terminology with which to make a particular virtue of indirect rule. Client (or puppet) leaders were cast as *adathoofden* or ‘*adat* chiefs,’ whose right to rule – and judge according to *adat* law – rested neither on the state nor in a direct way on the popular will, but rather on the authority of custom, a more abstract source of legitimacy located somewhere beyond the fickle preferences of individuals who might be tempted to betray it by endorsing non-customary leaders instead.

Although the causal link was perhaps not direct, it is no accident that the eventual ‘victory’ of *adat* law and the Leiden School over the proponents of legal unification in the late 1920s coincided with the end of the so-called ‘ethical’ or emancipatory period in Dutch

colonial policy.<sup>51</sup> The rise of Indonesian nationalism and other popular movements, and in particular the alarm created by a communist-inspired insurrection in 1926, led to the onset of a more repressive political climate in which indigenous hierarchy and tradition were seen as useful bastions against anticolonial radicalism. It is ironic – and very indicative of the protean, paradoxical character of *adat* as a political cause – that whereas Van Vollenhoven himself had always seen the promotion of *adat* law as an integral part of the ethical endeavour, within his own lifetime (he died in 1933) it had become an excuse for abandoning that endeavour.

After independence, and especially after the breakdown of liberal democracy in 1959, *adat* continued to be an ideology of control rather than protection. While real *adat* rights and institutions at the local level were deliberately undermined by nationwide legislation, at the national level the idea of an *adat*-based ‘collectivism’ as the source of Indonesia’s ‘national personality’ provided the state with a way of promoting, and if necessary justifying the enforcement of, obedience among its citizens.<sup>52</sup> Toward the end of the 20th century, and especially after the fall of Suharto in 1998, the wheel came in some respects full circle when public voices were once again heard defending local communities against external threats, including the state itself, in the name of *adat*. In part this endeavour was, as it had been a century earlier, an external and indeed non-Indonesian initiative. A major difference, however, was that the new *adat* politics involved mobilization as well as protection: members of ‘*adat* communities’ took up their own causes in ways that in earlier periods would have elicited swift and sure repression. Today *adat* politics takes the paradoxical form of a radical conservatism in which marginal, dispossessed people themselves demand justice, not in the name of marginality and dispossession, but in the name of ancestry, community and locality.

The Achilles’ heel of the ‘cultural survival’ school of thought which idealizes custom and indigeneity is its failure to address the question of

<sup>51</sup> Harry J. Benda, ‘The pattern of administrative reforms in the closing years of Dutch rule in Indonesia’ in *The Journal of Asian Studies*, Vol. 25 (1966), pp. 589–605, esp. p. 604.

<sup>52</sup> David Bourchier, ‘Totalitarianism and the ‘National Personality’: Recent controversy about the philosophical basis of the Indonesian state’ in James Schiller and Barbara M. Schiller (eds.), *Imagining Indonesia: Cultural Politics and Political Culture* (Athens, Ohio: Ohio University Center for International Studies, 1997); and David Reeve, *Golkar of Indonesia: An Alternative to the Party System* (Oxford: Oxford University Press, 1985).

‘customary’ inequality. *Adat* revivalism has often tended to strengthen the political hand of local elites. Many old hierarchical sultanates and kingdoms, for instance, have been revived in the name of *adat*, in various forms and with varying degrees of success, during the post-Suharto period.<sup>53</sup> The recombination of New Order *desa* into larger *adat*-based *nagari* in West Sumatra has moved the lowest tier of formal government further away from village people, and ‘*adat* elders’ have been given automatic sitting in the *nagari* assemblies.<sup>54</sup> At local and national levels, concludes Tania Li, appeals to *adat* as a basis for political legitimacy and organization ‘tend to privilege elites, especially senior men, who are empowered to speak on behalf of a presumed whole.’<sup>55</sup> That Li refers to men here is telling. Traditional patterns of gender relations in Indonesia are typically considered more egalitarian than in many other parts of the world, and protests by ‘*adat* women’ have played a role in the *masyarakat adat* movement at national level.<sup>56</sup> Locally, nevertheless, the disempowerment of women is often a particularly visible – and for international supporters of the movement, particularly embarrassing – by-product of its enthusiasm for traditional institutions and ways of thinking. In the Lombok villages where *adat* revivalism has been strong, for example, fewer women occupy leadership positions now than under the New Order, and proposals from ‘indigenist’ NGOs to reverse this trend are rejected by male leaders as being ‘against Lombok’s *adat*.’<sup>57</sup> Even in Minangkabau West Sumatra, with its well-known matrifocal kinship patterns, the

<sup>53</sup> Gerry van Klinken, ‘Return of the sultans: The communitarian turn in local politics’ in Jamie S. Davidson and David Henley (eds.), *The Revival of Tradition in Indonesian Politics: The Deployment of Adat From Colonialism to Indigenism* (London: Routledge, 2007), pp. 149–169.

<sup>54</sup> Franz and Keebet von Benda-Beckman, ‘Recreating the *nagari*: Decentralisation in West Sumatra (Halle: Max Planck Institute for Social Anthropology, 2001, Working Paper 31), pp. 17, 20–21.

<sup>55</sup> Tania M. Li, ‘Adat in Central Sulawesi: Contemporary deployments’ in Jamie S. Davidson and David Henley (eds.), *The Revival of Tradition in Indonesian Politics: The Deployment of Adat From Colonialism to Indigenism* (London: Routledge, 2007), pp. 337–370, quotation from pp. 365–366.

<sup>56</sup> Greg Acciaioli, ‘Re-empowering “the art of the elders”’: The revitalization of *adat* among the To Lindu people of Central Sulawesi and throughout contemporary Indonesia’ in Minako Sakai (ed.), *Beyond Jakarta: Regional Autonomy and Local Societies in Indonesia* (Adelaide: Crawford House, 2002), p. 219; and John R. Bowen, *Islam, Law and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge: Cambridge University Press, 2003), p. 59.

<sup>57</sup> Leena Avonius, *Reforming Wetu Telu: Islam, Adat, and the Promises of Regionalism in Post-New Order Lombok* (Ph.D. dissertation, Leiden University, 2004), p. 143.



appointment of female *nagari* heads is said to be problematic according to *adat*.<sup>58</sup>

To the extent that *adat* revivalism reinforces political hierarchy, it also tends to promote economic inequality within the ‘*adat* community.’ Biezeveld describes how *adat* leaders in West Sumatra, having supported the revival of *nagari* land rights on the grounds that the recovery of territory expropriated by the state would benefit the poor and landless within their communities, took to appropriating much of the recovered land themselves when the depreciation of the Indonesian currency after 1997 suddenly enhanced the profitability of agricultural production for export. Just as the New Order had justified private timber concessions on state land in terms of their efficient contribution to national income and development, so Minangkabau village elites now justified their preferential use of *nagari* land partly by arguing that their access to capital and labour put them in the best position to use that land productively.<sup>59</sup> In effect, then, the same injustice which the Basic Agrarian Law had made possible at national level in the name of a generic national *adat* was now made possible at local level by the revival of a specific communal *hak ulayat*.

### *Between Ethnic Rights and Ethnic Cleansing*

If the association – however partial – of *adat* with inequality and unfreedom is problematic in relation to democracy and human rights, even more problematic, in some ways, is its association with ethnicity, genealogy and territoriality. Today’s international indigenous people’s movement, for all its technological modernity, its global reach and its radical credentials, is essentially concerned with *Blut und Boden*. Membership, observes Niezen, is determined not by commitment or commonality of purpose, but by accident of birth: ‘it is mostly blood and place of parentage that determine who belongs and who does not.’<sup>60</sup>

<sup>58</sup> Franz and Keebet von Benda-Beckman Benda-Beckman, *Recreating the Nagari: Decentralisation in West Sumatra* (Halle: Max Planck Institute for Social Anthropology, 2001, Working Paper 31), p. 17.

<sup>59</sup> Renske Biezeveld, ‘The many roles of *adat* in West Sumatra’ in Jamie S. Davidson and David Henley (eds.), *The Revival of Tradition in Indonesian Politics: The Deployment of Adat From Colonialism to Indigenism* (London: Routledge, 2007), pp. 203–223.

<sup>60</sup> Ronald Niezen, *Origins of Indigenism: Human Rights and the Politics of Identity* (Berkeley, California: University of California Press, 2001), p. 13.

The modern politics of *adat* is inevitably a ‘politics of difference’<sup>61</sup>: the difference between outsiders – whether to the *masyarakat adat* or to the Indonesian nation – and insiders.

One important dimension of the current *adat* revival at local level, then, is always the exclusion of the outsider, even if that outsider is a poverty-stricken migrant from another part of Indonesia. At its worst the movement has been about boundaries, chauvinism, and xenophobia, and it has ignored the rights, destroyed the livelihoods, and taken the lives of innocent people unlucky enough to be perceived as outsiders in the wrong place at the wrong time. In Kalimantan, where indigenous Dayaks have participated in a series of pogroms against migrant Madurese communities, acts of horrific violence have been carried out – or, at least, justified – in the name of *adat*. Bloodletting rocked West Kalimantan in early 1997 and again in early 1999, when tens of thousands of Madurese settlers were expelled from the Sambas district in the province’s northwestern corner. In mid-2001, similar riots took place in Central Kalimantan, leading to the exodus of more than 100,000 ethnic Madurese. The scale of these events was such as to call into question the whole notion of a single Indonesian citizenship conveying residence and other rights throughout the nation. *Adat* revivalism in Kalimantan, moreover, seems to have derived additional momentum from the violence, which has strengthened communal bonds and polarized ethnic identities, and indeed from the slaughter of outsiders itself, which has proved the lethal potency of *adat* as a rallying-point. In this region, in other words, violence and empowerment have fed off each other, as violence has become an integral part of the revival movement.<sup>62</sup>

A further disturbing aspect of the Kalimantan violence is the role played in it by *adat*-oriented and ethnic NGOs. The riots in Central Kalimantan in 2001 were partly the result of an orchestrated anti-Madurese campaign by a Dayak NGO led by an intellectual and former university rector who aimed to become provincial governor.<sup>63</sup> NGO leaders in West Kalimantan have written a passionate plea in defense

<sup>61</sup> Edwin N. Wilmsen and Patrick McAllister (eds.), *The Politics of Difference: Ethnic Premises in a World of Power* (Chicago: University of Chicago Press, 1996).

<sup>62</sup> Jamie S. Davidson, ‘The Politics of Violence on an Indonesian periphery’ in *South East Asia Research*, Vol. 11, No. 1 (2003), pp. 59–89.

<sup>63</sup> International Crisis Group, *Communal Violence in Indonesia: Lessons from Kalimantan*,” (Jakarta: International Crisis Group, Asia Report 19, 2001); and Gerry van Klinken, ‘Indonesia’s new ethnic elites’ in Henk Schulte Nordholt and Irwan Abdullah (eds.) *Indonesia: In Search of Transition* (Yogyakarta: Pustaka Pelajar, 2002).

of the anti-migrant riots, justifying the violence in terms of *adat* itself as well as in terms of Dayak marginalization. ‘The conflict,’ they argue, ‘is based on beliefs and practices that are the heart of the Dayak, central to what it is to be a Dayak.’ Seen from this vantage point, the violence ‘came about as the need for the Dayak to fulfill the obligations and demands of the *adat*, or indigenous laws.’<sup>64</sup> Equally troubling is the conspicuous silence of the transnational advocacy networks that support Indonesia’s *adat* movements. To draw attention to the role of Dayaks as perpetrators of ethnic cleansing, even by condemning it, would be to cast dangerous doubt on the politically valuable, and for many activists almost sacrosanct, image of indigenous peoples as ‘victims of violence perpetrated by vicious regimes, corporations, or settlers intent on grabbing their land.’<sup>65</sup>

At a local level, traditional, non-state institutions, even in revived and modified forms, can and do help maintain social order and integration. The recent revival of *adat* mechanisms for resolving disputes, punishing crimes and compensating victims, for example, has enjoyed some success in relatively closed community contexts. Acciaioli describes how in upland Central Sulawesi in 2001 a case of assault, which would previously have been dealt with unpredictable consequences by the police, was resolved to general satisfaction by local *adat* leaders who imposed a traditional fine. In this case, the litigants came from villages in neighbouring valleys which were linked with each other by ties of kinship and common culture.<sup>66</sup> Attempts to halt ethnic violence in Sulawesi (and elsewhere) by means of *adat* reconciliation ceremonies, by contrast, have seldom led to more than a temporary respite. One obvious reason for this failure is that in the absence of a shared cultural background, success would tend to require that one party recognize the *adat* of the other as a framework for arbitration that transcends the interests of both, whereas in fact

<sup>64</sup> Institute of Dayakology Research and Development, ‘The role of *adat* in the Dayak & Madurese War’ in *Kalimantan Review*, English Edition, Vol. 2 (1999), pp. 39–44.

<sup>65</sup> Tania M. Li, ‘Ethnic cleansing, recursive knowledge, and the dilemmas of sedentarism’ in *International Social Science Journal*, Vol. 173 (2001), pp. 361–371, quotation from p. 361.

<sup>66</sup> Greg Acciaioli, ‘Re-empowering “the art of the elders”’: The revitalization of *adat* among the to Lindu people of Central Sulawesi and throughout contemporary Indonesia’ in Minako Sakai (ed.), *Beyond Jakarta: Regional Autonomy and Local Societies in Indonesia* (Adelaide: Crawford House, 2002), pp. 221–226.

the territorial claims made by the indigenous party in the name of its own *adat* are themselves at the heart of the conflict.<sup>67</sup>

The development of ‘social capital,’ in the sense of habits of mutual trust and cooperation conducive to efficient political and economic organization,<sup>68</sup> tends to be promoted by traditional and neo-traditional institutions at a local level, but is impeded by the same institutions on a larger scale. Social capital ‘is both product and premise of village activity’<sup>69</sup> in Bali, where a rich variety of ritual, artistic, agricultural (irrigation) and credit associations, as well as *adat* councils at hamlet and village level, provides for the intensive mutual interaction and surveillance which generates trust. This trust, in turn, has assisted in the creation of new, non-traditional institutions such as Bali’s unusually successful credit cooperatives. Yet social capital also has its dark side, particularly when it emerges from one particular social and cultural milieu in a context of interethnic tension. This is well illustrated by the recent history of the *pecalang* or ‘adat police’ in Bali. As noted, the transformation of the *pecalang* from temple guards and local strongmen into an island-wide security force had to do in the first place with public concern over rising criminality following the end of the New Order. In 2001, the responsibility of the *pecalang* for ‘security and the maintenance of order within the village’ was officially confirmed by provincial government ordinance.<sup>70</sup> Since, however, crime was associated with immigration, and *adat* with Balinese resistance to disruptive outside forces, the primary role of the *pecalang* quickly became one of deterring migration by imposing fees and other burdens on non-Balinese residents. Inevitably, this led to further exacerbation of ethnic tensions and increased potential for conflict.<sup>71</sup>

<sup>67</sup> Greg Acciaioli, ‘Grounds of conflict, idioms of harmony: Custom, religion, and nationalism in violence avoidance at the Lindu Plain, Central Sulawesi’ in *Indonesia*, Vol. 72 (2001), p. 103.

<sup>68</sup> Robert D. Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton: Princeton University Press, 1993); and *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon and Schuster, 2000).

<sup>69</sup> Carol Warren, ‘Adat in Balinese discourse and practice: Locating citizenship and the commonweal’ in Jamie S. Davidson and David Henley (eds.), *The Revival of Tradition in Indonesian Politics: The Deployment of Adat From Colonialism to Indigenism* (London: Routledge, 2007), p. 179.

<sup>70</sup> Jean Couteau, ‘Bali: Crise en paradis’ in *Archipel*, Vol. 64 (2002), pp. 231–254, esp. p. 241.

<sup>71</sup> International Crisis Group, *Perils of Private Security in Indonesia: Guards and Militias on Bali and Lombok* (Jakarta: International Crisis Group, Asia Report 67, 2003), pp. 2–11.

In situations like this, what is needed is not what Putnam calls the ‘bonding’ form of social capital, which *adat* and *adat*-based movements can certainly provide, but rather the ‘bridging’ form which makes possible cooperation between people of different ethnic origin. In Indonesia, historically speaking, the most effective bridge between local cultures has arguably been Islam, which as it spread helped diverse peoples to live, trade and make politics together in multiethnic contexts,<sup>72</sup> and which, some would argue, still plays the kind of civilizing role in Indonesian political life which Weber and De Tocqueville attributed to Christian churches in 19th-century America.<sup>73</sup> Certainly the legalistic emphasis in Islam has provided Indonesia with a judicial framework – reflected in the Arabic origin of such terms as *hak* (rights), *hakim* (judge), *adil* (just), and indeed *adat* (custom) – which transcends the diversity of *adat* without being (fully) dependent on the coercive power of a colonial or national state. Islam, however, unifies by conversion – that is, by changing at least part of people’s culture and identity – and its law is essentially only for Muslims. The current *adat* revival, not coincidentally, is concentrated in areas where the progress of Islam is blocked by Christianity or Hinduism, or where Islamic conversion has taken place but pre-Islamic elements (although in the Minangkabau case few of the protagonists would put it this way) remain unusually important in social life.

Among Muslim Indonesians, the burgeoning Islamic revivalist (*dakwah*) movement and its attempts to promote the implementation of *shari’ah* (Islamic law) show some striking parallels with the *adat* revitalization we have surveyed. One parallel is that the political freedoms of the post-Suharto era, including decentralization and the devolution of authority to local officials, have contributed to the rise of both movements. Equally significant is that the two are both grounded in the notion that the Western-inspired project of modern state law in Indonesia has fundamentally failed, and that only through the

<sup>72</sup> Christine Dobbin, ‘Islam and economic change in Indonesia circa 1750–1930’ in James J. Fox (ed.), *Indonesia: The Making of a Culture*, (Canberra: Research School of Pacific Studies, The Australian National University, 1980), pp. 247–262; and Anthony Reid, *Southeast Asia in the Age of Commerce, 1450–1680*, 2 volumes (New Haven: Yale University Press, 1988, 1993).

<sup>73</sup> Martin van Bruinessen, ‘Post-soeharto muslim engagements with civil society and democratization’ in Hanneman Samuel and Henk Schulte Nordholt (eds.), *Indonesia in Transition: Rethinking ‘civil society,’ ‘region,’ and ‘crisis’* (Yogyakarta: Pustaka Pelajar, 2004), pp. 37–66; and Robert Hefner, *Civil Islam: Muslims and Democratization in Indonesia* (Princeton: Princeton University Press, 2000).

pursuit of radical alternatives can peace, order, and justice prevail in a democratizing Indonesia.<sup>74</sup> These convergences, however, do not mean that the two movements are in harmony. Where non-Muslim groups involved in conflict with Muslims have seized upon *adat* partly as a symbol of identity and solidarity, *adat* revivalism inevitably involves a strong anti-Islamic element. In the Poso conflict in Central Sulawesi, which essentially has pitted indigenous Pamona Christians against migrant Bugis Muslims, the politics of *adat* are hopelessly intertwined with those of religion.<sup>75</sup> The same is true of West Kalimantan, where tensions between Christian Dayaks and Muslim Malays have risen due to acute competition over prized positions in the local bureaucracy. Although the recent bouts of mass violence have been directed against Madurese people rather than against Muslims in general, it is of the 'Islamization' of the province, and of the pressure put on Dayak civil servants to convert to Islam for the sake of career advancement, that Dayak elites (and NGO activists) complain. Meanwhile in Bali, thefts from Hindu temples and the building of mosques have become explosive issues.<sup>76</sup> There, to quote the frank words of one local informant interviewed by Warren, *adat* is 'synergetic' (*sinergis*) with Hinduism and 'can't be mixed with Islam.'<sup>77</sup>

### *Between Escapism and Pragmatism*

In almost all contexts, talking about *adat* seems to involve an element of wishful thinking. Even in its most fundamental form, as a set of norms governing social life in rural communities, it tends to reflect the way things 'ought' to be done more than the way they actually are done in everyday practice. If for members of village communities

<sup>74</sup> Arskal Salim, 'Epilogue: Shari'a in Indonesia's current transition,' in Arskal Salim and Azyumardi Azra (eds.), *Shari'a and Politics in Modern Indonesia* (Singapore: ISEAS, 2003), pp. 213–232.

<sup>75</sup> Tania M. Li, 'Adat in Central Sulawesi: Contemporary deployments' in Jamie S. Davidson and David Henley (eds.), *The Revival of Tradition in Indonesian Politics: The Deployment of Adat From Colonialism to Indigenism* (London: Routledge, 2007), pp. 337–370.

<sup>76</sup> Jean Couteau, 'Bali: Crise en paradis' in *Archipel*, Vol. 64 (2002), pp. 237, esp. p. 240.

<sup>77</sup> Warren, 'Adat in Balinese discourse and practice: Locating citizenship and the commonweal' in Jamie S. Davidson and David Henley (eds.), *The Revival of Tradition in Indonesian Politics: The Deployment of Adat From Colonialism to Indigenism* (London: Routledge, 2007), pp. 170–202, quotation from p. 176.

the contrast between ideal and actuality is usually clear, city-dwellers looking outward at the countryside or backward in time are more likely to confuse the two, leading to a romanticized vision of traditional life. Cultural commentator Sutan Takdir Alisjabanah once wrote that if in Indonesia a ‘man of the modern world’ praises *adat*, his adulation very often reflects ‘a confused mind’ and ‘the nostalgia of a tired man for a more peaceful archaic society.’<sup>78</sup> Historical research, where it is feasible, tends to reveal conflict and instability even in the most apparently idyllic rural settings, confirming that the idea of *adat* as a guarantee of peace and harmony is misleading not only as a prescription for the future but also as an interpretation of the past.<sup>79</sup>

In recent years, *adat* revivalism, largely via the *masyarakat adat* movement and its connections with international indigenous rights advocacy, has become a vehicle for environmentalist as well as collectivist ideals. In the 1990s, many experts came to see the solution to environmental problems as lying partly in decentralized forms of natural resource management by local communities drawing on local traditions.<sup>80</sup> This prescription derived additional momentum from the growing popularity in the developed world of ideas about the inherited environmental (and other) wisdom of tribal peoples.<sup>81</sup> Both the idea of ‘community-based natural resource management’ and the stereotype of the ‘ecologically noble savage’<sup>82</sup> have been subject to intensive critical interrogation, not least by Southeast Asianists.<sup>83</sup> On the one hand, there is no doubt that tribal peoples often possess rich environmental knowledge, and that in the past they have often managed forest, soils, game, and other resources sustainably for long

<sup>78</sup> Sutan T. Alisjabanah, ‘Customary law and modernization in Indonesia’ in D. C. Buxbaum (ed.), *Family Law and Customary Law in Asia: A Contemporary Legal Perspective* (The Hague: Martinus Nijhoff, 1968), pp. 3–16, quotations from p. 6.

<sup>79</sup> Terrence W. Bigalke, *Tana Toraja: A Social History of an Indonesian People* (Singapore: Singapore University Press, 2005); and Henk Schulte Nordholt, *The Spell of Power: A History of Balinese Politics 1650–1940* (Leiden: KITLV Press, 1996).

<sup>80</sup> Dharam Ghai (ed.), *Development and Environment: Sustaining People and Nature* (Oxford: Basil Blackwell, 1994).

<sup>81</sup> David Maybury-Lewis, *Millennium: Tribal Wisdom and the Modern World* (New York: Viking, 1992).

<sup>82</sup> Kent H. Redford, ‘The ecologically noble savage’ in *Cultural Survival Quarterly*, Vol. 15 (1991), pp. 46–48.

<sup>83</sup> Roy Ellen, ‘What Black Elk left unsaid: on the illusory images of green primitivism’ in *Anthropology Today*, Vol. 2, No. 6 (1986), pp. 8–12; and Tania M. Li, ‘Engaging simplifications: Community-based resource management, market processes and state agendas in upland Southeast Asia’ in *World Development*, Vol. 30 (2002), pp. 265–283.

periods. Nor is there much doubt that this achievement had to do partly with adaptive traditional institutions from which it is still possible to learn.<sup>84</sup> The emergence and reproduction of such institutions, on the other hand, is predicated on circumstances in which small and relatively homogenous groups depend continuously and predictably on specific renewable resources for their livelihood.<sup>85</sup> When economic, demographic, and technological conditions change, and when social conditions are affected by trade, government, and migration, local patterns of resource management change too – often by deliberate local choice – so that sustainability is no longer guaranteed.

The economic interests of indigenous communities, to complicate matters further, may be directly at odds with those of state-based nature conservation. A significant proportion of the *adat* land claims which burst into the open after the end of the New Order targeted not plantation or logging concessions, but national parks and other protected areas, found mostly in remote regions which were also the homelands of *masyarakat adat*. The exclusionary ‘fortress conservation’ approach to nature protection which had prevailed under the New Order was now denounced by some activists as ‘eco-fascism,’ and conservationists came under pressure to accommodate indigenous claims to protected land and resources – especially when such claims were accompanied by promises to manage the resources in question sustainably.

In 1999, the manager of the Lore Lindu National Park in Central Sulawesi, in an act of what Li describes as eco-populism,<sup>86</sup> recognized the right of several local communities to use *adat* land located within the park for agriculture. The rationale for this concession was that as traditional swidden cultivators, the farmers in question would cause little or no permanent damage to the forest – an assertion which was supported by their NGO allies. Having secured access to their community land, however, many of the villagers turned to planting it with permanent stands of the lucrative export crop cocoa – and of course promptly ‘fell from ecological grace,’ as Li puts it, both with the

<sup>84</sup> Fikret Berkes and Carl Folke (eds.), *Linking Social and Ecological Systems: Management Practices and Social Mechanisms for Building Resilience* (Cambridge: Cambridge University Press, 1998).

<sup>85</sup> Arun Agrawal, ‘Common property institutions and sustainable governance of resources’ in *World Development*, Vol. 29 (2001), pp. 1649–1672.

<sup>86</sup> Tania M. Li, ‘Adat in Central Sulawesi: Contemporary deployments’ in Jamie S. Davidson and David Henley (eds.), *The Revival of Tradition in Indonesian Politics: The Deployment of Adat From Colonialism to Indigenism* (London: Routledge, 2007), p. 350.



park management and with international observers. In Kalimantan, likewise, some indigenous groups – whether out of opportunism, or because they perceive that in the long run they are powerless to stop the destruction and so might as well have some benefit from it – have grasped new opportunities provided by decentralization to profit from the commercial logging of their forests.<sup>87</sup> The alliance between indigenism and environmentalism, as Keebet von Benda-Beckmann has observed, is a tricky one which may well become a Trojan horse for indigenous communities when they fail to live up to their assigned roles as stewards of the environment, and enchantment turns to disenchantment among their international supporters.<sup>88</sup>

But if some of the ideals associated with it are unrealistic to the point of escapism, *adat* and its current resurgence remain matters of real and pragmatic concern. Whether or not they have come to define their identity in terms of *adat*, a great many Indonesians still live lives which are influenced by *adat* in the straightforward sense of customary institutions. One illustration of the tenacity of such institutions is the fact that outside Java, locally respected community land rights – forms of Van Vollenhoven's 'right of avail' (*beschikkingsrecht, hak ulayat*) – remain widespread (just how widespread is not known) despite decades of hostile neglect on the part of the legislature.<sup>89</sup> Another is the successful revival in several regions of traditional units of local governance (such as the Minangkabau *nagari*) which have been cut off from state support for a generation. Some local communities – notably the Balinese villages and hamlets described by Warren<sup>90</sup> – do

<sup>87</sup> Anne Casson and Krystof Obidzinski, 'From new order to regional autonomy: Shifting dynamics of "illegal logging" in Kalimantan, Indonesia' in *World Development*, Vol. 30 (2002), 2133–2151, esp. p. 2141; and International Crisis Group, *Indonesia: Natural Resources and Law Enforcement* (Jakarta: International Crisis Group, 2001, Asia Report 29), p. 12.

<sup>88</sup> Keebet von Benda-Beckmann, 'The environmental protection and human rights of indigenous peoples: A tricky alliance' in *Law and Anthropology: International Yearbook for Legal Anthropology*, Vol. 9 (1997), pp. 302–325.

<sup>89</sup> Renske Biezeveld, *Between Individualism and Mutual Help: Social Security and Natural Resources in a Minangkabau Village* (Delft: Eburon, 2002), pp. 81–83, 123–141; and John F. McCarthy, 'Between Adat and the state: Institutional arrangements on Sumatra's forest frontier' in *Human Ecology*, Vol. 33 (2005), pp. 57–82.

<sup>90</sup> Carol Warren, *Adat and Dinas: Balinese Communities in the Indonesian State* (Kuala Lumpur: Oxford University Press, 1993); and 'Adat in Balinese discourse and practice: Locating citizenship and the commonweal' in Jamie S. Davidson and David Henley (eds.), *The Revival of Tradition in Indonesian Politics: The Deployment of Adat From Colonialism to Indigenism* (London: Routledge, 2007), pp. 170–202.

still manage to settle internal disputes and maintain, indeed enforce, fairly well-defined rules of behaviour among their members without help from the state apparatus.

Where *adat* works as a way of resolving conflicts, or indeed managing resources, it usually involves hierarchy and the exercise of power as well as the application of norms and values. In pre-colonial Indonesia it was often the authority of local aristocrats, exercised explicitly in the name of the community as a whole, which protected traditional forest reserves and other valuable natural resources from destruction.<sup>91</sup> As in any hierarchical polity, such authority always brought with it the possibility of abuse of power. Dutch *adatrecht* scholars, despite their tendency to idealize, recognized the danger of ‘personification’ (*verpersoonlijking*) of the community right of avail in an overly powerful *adat* chief who would avail himself, rather than his community, of the resources under his control.<sup>92</sup> Traditionally this problem was overcome partly by virtue of the small size of the typical polity, which ensured that its leaders remained under some degree of direct social control. The fact that the scope of *adat* jurisdictions was so narrow, however, is one reason why today, *adat* cannot function as a sovereign authority for adjudicating disputes among parties of different origin. Moreover, in modern Indonesia only a rapidly shrinking proportion of disputes, especially serious ones, is conducted between parties who are inclined to obey the same local rules of conduct and the same traditional authorities. The creation of an effective nationwide rule of law, capable of transcending ethnic boundaries, depends on the establishment of a more sophisticated kind of social contract between the state and its citizens.

<sup>91</sup> Cristina Eghenter, ‘Imagined models versus historical practices: Tana ulen and community-based management of natural resources in the interior of Indonesian Borneo’ in Gerard A. Persoon, Diny M. E. van Est, and Percy. E. Sajise (eds.), *Co-Management of Natural Resources in Asia* (Copenhagen: NIAS, 2003), pp. 198–214; and David Henley, ‘Of sago and kings: Sustainability, hierarchy and collective action in precolonial Sulawesi’ in Peter Boomgaard, David Henley, and Manon Osseweijer (eds.), *Muddied Waters: Historical and Contemporary Perspectives on Management of Forests and Fisheries in Island Southeast Asia* (Leiden: KITLV Press, 2005), pp. 235–258.

<sup>92</sup> Barend ter Haar, *Beginnselen en stelsel van het adatrecht* (Groningen: J. B. Wolters, 1939), p. 69.

## Conclusion

The current interest in *adat* is not just a national offshoot of international discourses on indigenous rights. Nor are the forms taken by *adat* revivalism fully explained by the pressures experienced by the groups concerned during and after the New Order period. The revival also reflects a specifically Indonesian ideological tradition in which land, community and custom – rather than, say, blood, language, class or state law – provide the normative reference points for political struggles.

Customary land tenure is one area in which the *adat* revival may have real benefits. Millions of Indonesians access the land and natural resources on which they depend through customary rights which are locally recognized and respected, but undocumented and unrecognized according to state law. This situation has legitimated the appropriation of land, the forced removal of populations, and the destruction of livelihoods by the state, its agents, and their corporate allies. Firm legal acknowledgement of customary land rights, together with restitution of already alienated *adat* land or proper compensation for its former owners and users, are matters of simple justice. They are also obvious preconditions for the development of a healthy relationship between society and state, and particularly between society and the law of the state, in the future. The problem of insecure land tenure, moreover, is not limited to remote *masyarakat adat* groups, or even to areas where collective and community land tenure is important. Most of the individual and household landholdings in Indonesia, urban as well as rural, are also unregistered.

Fitzpatrick recommends a concrete way of remedying this situation: by ‘allowing limited rights to arise through automatic operation of law from the fact of occupation itself,’ and by recording land rights and transactions ‘through simple decentralized processes’ rather than insisting on the slow and expensive procedure of central land registration. A more favourable pathway of development with respect to land law, Fitzpatrick argues, has been followed in Malaysia, where ‘village-based systems for recording possession, and the introduction of standard form documentation for recording land transactions, have played an important role in producing a system with markedly less conflict and insecurity.’<sup>93</sup> In British Malaya, state-backed individual

<sup>93</sup> Daniel Fitzpatrick, ‘Land, custom, and the state in post-Suharto Indonesia: A foreign lawyer’s perspective’ in Jamie S. Davidson and David Henley (eds.), *The Revival*

rights to peasant smallholdings were established from 1897 onward by entry in a local Mukim (sub-district) Register, and in 1926 these rights were converted into unambiguous legal titles of possession.<sup>94</sup>

This prescription, however, does not specifically address the question of communal *adat* tenure, which as we have seen remains common outside Java, and which presents special problems for registration. Legislating for community land tenure inevitably involves prescribing just how membership of the entitled community, in the future as well as in the present, is to be determined. A still more serious limitation of legal ‘solutions’ to problems in which *adat* plays a role is that in practice these tend to be political and organizational problems rather than matters of misconceived or inadequate legislation. The prominence of *adat*-based movements and the resurgence of traditional political institutions at the local level since 1998 are due in part to the sheer weakness of central government authority. Under these circumstances, national legislation is increasingly irrelevant to local developments, and *adat* has been caught up in a kaleidoscope of local conflict and contestation which for the moment is largely beyond legal or institutional control. Even when the central government was strong, lack of legislation to protect customary rights was far from being the central shortcoming of the Indonesian legal system, which was notorious for its general inefficiency, corruption and lack of political independence.

With respect to the aspects of contemporary local *adat* politics which are not directly connected with land law and land rights, but rather reflect the general ‘communitarian turn’<sup>95</sup> in Indonesian politics since the end of the New Order, many observers are strikingly sceptical. Attempts to make *adat* an enduring basis for political organization are fraught with the dangers of ethnic conflict, of enhancement and legitimation of inequality, and of denial of individual rights and freedoms. The history of how *adat* has been deployed in state ideology during the 20th century gives additional pause for thought here, and

*of Tradition in Indonesian Politics: The Deployment of Adat From Colonialism to Indigenism* (London: Routledge, 2007), pp. 130–148, quotations from pp. 135, 143, 144.

<sup>94</sup> Paul. H. Kratoska, ‘The peripatetic peasant and land tenure in British Malaya’ in *Journal of Southeast Asian Studies*, Vol. 16 (1985), pp. 16–45, esp. pp. 25–26.

<sup>95</sup> Gerry van Klinken, ‘Return of the sultans: The communitarian turn in local politics’ in Jamie S. Davidson and David Henley (eds.), *The Revival of Tradition in Indonesian Politics: The Deployment of Adat From Colonialism to Indigenism* (London: Routledge, 2007), pp. 149–169.

events in Kalimantan show that the tendency of *adat* revivalism to promote ethnic conflict is far from theoretical.

The national *masyarakat adat* movement has contributed to the development of civil society, supported local land rights, and brought pride and a political voice to a marginalized and maltreated section of the Indonesian population. There is hope that it will now consolidate alliances with organizations championing the interests of other underprivileged social groups: in other words, that it will orient itself increasingly toward issues of class rather than ethnicity. The urban and intellectual leaders of the movement, at least, show signs of following this path, which has become a less risky one now that *reformasi* has reduced the need to cloak leftist social radicalism in cultural and environmental garb. Some activists have long argued that any group of people who 'manage their land and resources in an orderly way,' regardless of their history or culture, can qualify as an *adat* community,<sup>96</sup> and it is possible that land issues will provide common ground for an agrarian alliance linking indigenism with the farmer (*petani*) organizations which have emerged in Java and Sumatra.<sup>97</sup>

There are other signs, too, that the recent levels of political activity surrounding *adat* issues as such will not be sustained. In West Sumatra, enthusiasm for *adat* solutions quickly waned once the 'return to the *nagari*' was a reality, shortcomings and all, rather than an aspiration founded on ethnic pride and (often exaggerated) hopes of economic advantage.<sup>98</sup> In the abovementioned apologia by NGO leaders defending Dayak violence against Madurese settlers in West Kalimantan, there is a fascinating passage stating that Dayaks have no alternative but to resort to *adat*-sanctioned violence, 'given the lack of recourse to substantive law or international conventions to support their rights.' If 'substantive law' had been available as a means of obtaining justice, in other words, neither violence nor the appeal to '*adat* law' might have been necessary. Few Indonesians today are

<sup>96</sup> Tania M. Li, 'Articulating Indigenous Identity in Indonesia: Resource politics and the tribal slot' in *Comparative Studies in Society and History*, Vol. 42 (2000), p. 156.

<sup>97</sup> Anton Lucas and Carol Warren, 'Agrarian reform in the era of reformasi' in Chris Manning and Peter van Diermen (eds.), *Indonesia in Transition: Social Aspects of Reformasi and Crisis* (Singapore: ISEAS, 2000), pp. 220–238; and Anton Lucas and Carol Warren, 'The state, the people, and their mediators: The struggle over agrarian law reform in post-New Order Indonesia,' in *Indonesia*, Vol. 76 (2003), pp. 87–126.

<sup>98</sup> Renske Biezeveld, 'The many roles of adat in West Sumatra' in Jamie S. Davidson and David Henley (eds.), *The Revival of Tradition in Indonesian Politics: The Deployment of Adat From Colonialism to Indigenism* (London: Routledge, 2007), pp. 203–223.

optimistic about the practical prospects of establishing a national rule of law (*negara hukum*) in their country, and few historians would claim to know exactly how the same thing has been achieved in other countries in the past. But if William Riker, approvingly quoted by North in his classic *Institutions, institutional change and economic performance*,<sup>99</sup> is right to argue that what really matters in this process is ‘the law that is written in the hearts of the people,’ then it must be significant that even the most virulent supporters of *hukum adat* come close to conceding that the revival of *adat* is desirable only by default, for want of something better, maybe even: for the time being, until real law is in a position to take over.

Whatever the political future of *adat* in Indonesia, the changes already wrought in its name have been great. The new pluriformity in village governance will not easily be undone, nor the bloody triumphs of indigenous sovereignty in Kalimantan quickly forgotten, nor the new-found political voices of the ‘*adat* communities’ easily silenced. Indonesia’s *adat* revival also offers some lessons for those interested in processes of democratization more generally. It shows that in urbanizing, industrializing countries, protest movements among rural populations left behind or victimized by development can still make their mark, with international help, on national politics. It underlines the fact that rapid devolution of power in a previously centralized state can lead to exclusion, conflict, and even authoritarianism at the local level. It confirms the salience of what Yashar, in her exploration of democratization in Latin America, calls the ‘post-liberal challenge’: the dilemma of grounding individual rights in a governmental framework that at the same time accommodates group interests and local diversity.<sup>100</sup> And it shows that in times of change and uncertainty a nation’s history, in the form of institutions, ideas and ideologies that have seemed all but forgotten, can come back to haunt it in dramatic and unexpected ways.

<sup>99</sup> Douglas North, *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press, 1990), p. 60.

<sup>100</sup> Deborah Yashar, ‘Democracy, indigenous movements, and the postliberal challenge in Latin America’ in *World Politics*, Vol. 52 (1999), pp. 76–104.