THE REVIVAL DILEMMA: REFLECTIONS ON HUMAN RIGHTS, SELF-DETERMINATION AND LEGAL PLURALISM IN EASTERN INDONESIA[1]

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> Anthropologists analyse competing legal registers, each with its own historical trajectory and historical consequences. They view legal pluralism in the light of historical struggles over sovereignty, nationhood and legitimacy (Vincent 2002: 332).

Introduction

For many reasons, Indonesia provides excellent case studies to discuss the complexity and contradictions of current debates on human rights and cultural self-determination: the country's fragmented and multi-ethnic composition, its political transformation during the last decade, its role in the 'Asian values' debate and its

vivid human rights activist culture.[2] Pressured by internal rebellion and an international human rights lobby, the long-lasting authoritarian president of Indonesia, Suharto, had to step back in 1998, an act which rang in the so-called *era reformasi*. Quite revolutionary laws on decentralisation tried to meet international notions of democracy and human rights and, at the same time, local claims for more self-determination with regard to political representation, culture and resource use. The decentralisation process in Indonesia was thus accompanied by a nationwide trend to revive local traditions, political units and institutions, and traditional leaders. This paper is mainly concerned with the Moluccan islands in Eastern Indonesia, that are especially interesting, since the revival of adat (tradition and customary law) in this area was not only part of the common trend in Indonesia. It was also a strategic move by local people to foster reconciliation after one of the most violent and long-lasting post-Suharto conflicts fought out there from 1999 until 2003, as a result of a strategic mobilisation process, mainly between Christians and Muslims. The Moluccas provide an illuminating case to discuss the challenging and problematic nature of the revival of tradition and the implementation of cultural self-determination in the current democratisation process in Indonesia.

I will outline three levels concerned in the pluralistic legal constitution of the Moluccas and the processes that are of interest for my argument: the international, the national and the local. The closer I get to the local, my field site in the Central Moluccas, the more detailed these analyses get. Only very briefly will I sketch the international rise of collective and cultural human rights and some of the problems involved such as exclusivism. This will serve as a general discussion to the main issues that will be taken up in the national and local sections. Next follow reflections on a national level about the current transition to a more decentralised state, the accompanying re-emergence of 'old elites' (accompanied, in turn, by exclusivism), the human rights situation and the problematic nature of a definition of 'indigenous people' in Indonesia. Most time is then spent on a critical analysis of the implementation of the new laws in the Central Moluccas at the local level (province, district, village). I will first provide some historical background, introduce the conflict situation and the decentralisation process in the Moluccas

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[2] The 'Asian values' debate, among others, revolves around the rejection of a Western human rights imperialism. For details and critique see: Bruun and Jacobsen 2000: 2; Chan 2000: 60; Christie and Roy 2001: Introduction; Cowan et al. 2001b: 6-7; Eysink 2006; Forsythe and McMahon 2003: 306; Horowitz and Schnabel 2004: 9; Jacobsen and Bruun 2000.

and then elaborate on the translation of the new national laws into regional and local contexts and regulations. In focus are the revival and re-recognition of traditional villages (*negeri*) and the reinstallation of traditional village heads (*raja*). The new decentralisation laws enabled village people as cultural collectivities to return to their village adat, an example of the return of (collective) cultural rights to a group of people (in this case 'indigenous people' or rather *masyarakat adat* in the Central Moluccas).[3] Part of the village culture is the return of (in some cases) formerly feudal hereditary leaders and the exclusion, or rather non-equal treatment of cultural outsiders. Both of these contradict the individual's human right on egalitarianism, at least from an international human rights perspective. As the notion of legal pluralism implies, international human rights law, state law, religious law and customary law often coexist, although they might not share each other's (legal) values (F von Benda-Beckmann 2009: 123). Legal pluralism does not necessarily imply peaceful coexistence of the various legal systems that are rooted in different settings (the international, the national, the local), but all come to the fore in the local context where their relationship is constantly negotiated as the case studies presented in this paper illustrate. I will here discuss the challenges of the right to self-determination and culture (embodied in the revival of tradition), addressing questions of representation and agency, codification and essentialisation, authenticity and exclusion. A brief village case study exemplifies not only how some Moluccans try to cope with these challenges, but also how certain groups of people (migrants) who are not (allowed to be) part of these developments are excluded. Drawing on ethnographic fieldwork I conducted during several stays in the Central Moluccas (a district of the Moluccan province) between 2002 and 2008, I aim to move away from a prevailing overly legalistic and political science understanding of human rights, and illustrate and stress the value of an anthropological look at these problems. This article also aims to problematise the static notion of culture involved in these debates. The dilemma of

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[3] For an explanation see below. Although adat is a holistic concept that both denotes the traditional way of life of a cultural group and the law practiced within this group, the second dimension is not explicitly dealt with yet in the new law on decentralisation and its implementation in the regions. There is thus still a lot of uncertainty about how to deal with issues of (criminal) law on the local level. As argued by Lee, law had already been analytically separated from adat by the colonial powers and the attempts of Dutch scholars to write down, but also instrumentalise adat as law "as a means to undercut Islamic law, and also as a useful way to encompass and at the same time keep clear of the administration of local justice" (Lee 1999: 70, also 75).

flexible cultural traits and traditions and the need to fix them in order to codify and (seemingly) protect them is a central theme. The paper concludes with some reflections on cultural flexibility, human rights and legal pluralism that are of importance for the analysis of the processes here described.

The International: Human Rights, Collective Rights, Cultural Rights

With the increasing emphasis in the 1980s and 1990s on the cultural dimension of the human rights debate, collective rights came into the foreground, in particular indigenous rights – the so-called fourth generation of human rights (Messer 1993: 222-223). The International Labor Organization set a first marker in 1989 by formulating Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries (ILO 169). One of the more recent trailblazing achievements in this decade-long debate was the adoption of a Draft Declaration on the Rights of Indigenous Peoples (1994, revised in 2006) by the United Nations General Assembly on September 13, 2007 (UNDRIP), with a majority of 143 votes in favour, four against and eleven abstentions.[4] Apart from indigenous peoples' right to self-determination and autonomy or self-government in matters relating to their internal and local affairs (Article 3 and 4), the UNDRIP emphasizes their right "to practice and revitalise their cultural traditions and customs" (Article 11.1), "to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions" (Article 31.1), and "to determine the structures and to select the membership of their institutions in accordance with their own procedures" (Article 33.2), including juridical systems and customs, as long as they are in accordance with international human rights standards (Article 34) – to mention only a few of the articles that are of interest for this particular paper and its focus on self-determination and the revival of tradition in Indonesia and the Moluccas.

The enormous challenge is "to achieve unity in basic human rights practices without destroying cultural diversity" (Messer 1993: 232). We are caught in an alleged paradox, that we somehow have to translate the human rights system with its original emphasis on individualism, bodily integrity and equality into the

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[4] http://www.iwgia.org/sw248.asp, 14.11.2007. For a very helpful overview of indigenous communities in Indonesian (national) legislation see Bedner and Huis 2008. For a more general recent discussion of the concept of indigeneity see: Barnard 2006; Guenther et al. 2006; Kuper 2003.

frameworks and standards of local cultures and contexts that are often shaped in terms of collective rights, to which individuals have to subordinate themselves (see also Merry 2005: 38-39); collective rights that are now reformulated as human rights. The enforcement of collective rights is necessary for the survival of cultures, but can also bear dangers, especially when they are seen as compatible or even superior to individual rights: Collective rights can become exclusivist rights, marginalizing categories of individuals who are external to a specific local community where they live, but are nonetheless part of the same nation state (Howard 1992: 97-98; compare also Kuper 2003: 390). I will exemplify this later with the migrant population in the area under study.

A major dilemma in the thinking about human rights, according to Franz von Benda-Beckmann, is the problem of their representation. The consequence of opposing human rights identified with 'the West' and culture identified with 'the rest' is "that little attention has been given to the fact that both human rights and culture (however it may be defined) in most parts of the world coexist with a variety of legal forms (legal pluralism)" and that people are forced "into the strategic essentialising that the categories of international law demand from them for 'recognition'" (F von Benda-Beckmann 2009: 122, 125). This has become even more precarious since the international promotion of a human right to culture. As Sieder and Witchell in Cowan et al.'s edited volume on anthropological perspectives on culture and rights show, and what becomes most obvious in the Moluccan case study, both cultural activists or social movements and policy makers tend to essentialise indigenous culture (Sieder and Witchell 2001; Cowan et al. 2001a: 150). The problem is that local communities or indigenous groups often have to prove that they still live their 'traditional lifestyle' by somehow substantiating 'cultural authenticity', which often implies a static and essentialised notion of culture, in order to be accorded collective/indigenous rights.[5] However, a prerequisite for constructing the possibilities of action (Merry 2006: 9) and the successful mediation between a universalistic human rights concept and local culture is the dismissal of culture as something reified and essentialised and the emphasis on an open and flexible notion of culture, as has been promoted by social anthropologists for the last decades.

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[5] See, for instance: Cowan 2001: 171, 2006: 17; Gellner 2001: 177; Guenther et al. 2006: 24; Merry 2001: 39, 42; Sieder and Witchell 2001: 201-207.

The National: 'Unity in Diversity', Decentralisation and Human Rights in Indonesia

> 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-New Order era. ... an era in which unprecedented political freedom and strikingly successful formal democratization ... 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 (Henley and Davidson 2007: 18).

In general, the democratisation process in Indonesia had a rather miserable start. With the stepping down of its authoritarian president Suharto (1966-1998), several long suppressed economic, political, social, ethnic and religious conflicts all over Indonesia erupted. Whilst cases with a separatist background such as Aceh, Papua and East Timor dominate international headlines, large-scale violence that occurred in Kalimantan, Poso (Sulawesi) and the Moluccas are usually only mentioned in passing on an international level.[6] Human rights violations were always part of practical policy in Indonesia, be it the introduction of 'guided democracy' by its first president Sukarno in 1959, the mass killings of 1965 where hundreds of thousands of alleged communists were massacred, the invasion of East Timor in 1975 after the Portuguese had left the country, the Dili massacre in 1991, the restriction on political parties and the freedom of the press, the killing of alleged sorcerers in East Java in the 1990s, or the constant human rights violations in Papua and Aceh – to mention just a few. More implicit violations of human rights were unification efforts. The motto of the Indonesian state *Bhinneka Tunggal Ika* (unity in diversity) only very superficially accommodated the cultural plurality of the country. Important instruments to foster both unification and the

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[6] For analyses of the conflicts in Kalimantan and Poso see, for example: Acciaioli 2001; Aragon 2001; Davidson 2008. Another case that made it into international headlines is the murder of the prominent human rights activist Munir in 2004. For current human rights violations in Indonesia see e.g. U.S. Department of State 2006. For human rights in Indonesia see also Juwana 2006; and Hadiprayitno 2010.

Suharto regime's power were the military as the preserver of national unity, transmigration programmes mainly transferring people from overpopulated Java to the outer Islands, and "a national edifice of territorial control" (Thorburn 2003) that was initiated with Law No. 5 of 1974 on Regional Government (*Undang-undang no. 5 tahun 1974 tentang pokok-pokok pemerintahan di daerah*, UU 5/1974) and culminated in the village law No. 5 of 1979 (*Undang-undang no. 5 tahun 1979 tentang pemerintahan desa*, UU 5/1979), which resulted in the standardisation or javanisation of governmental structures all over Indonesia from the top down to the village level. Reactions in the Moluccas towards the law differed from acceptance to resistance and a very superficial implementation (see e.g. Bartels 1977; Cooley 1961; Pannell 2003: 28; Pariela 1996). After the colonial period had already had severe impacts on the sociocultural organisation of Moluccan society (see below), UU 5/1979 further destroyed local structures and autonomous village units, marginalised traditional functionaries and institutions as well as customary law, and deprived them of their meaning (Fauzi and Zakaria 2002; Kato 1989; Thorburn 2003). Only after the stepping down of Suharto in 1998 did the doors open for the (re)constitution of local communities' autonomy, the introduction of democratic values into the Indonesian state structure, and the opening up towards human rights. This became evident in three instances: the passing of laws on decentralisation in 1999 and 2004, constitutional amendments in 2000, and the passing of the Human Rights Law in 1999.

Decentralisation Law

In the long run, the Indonesian government could not withstand internal and external pressures, which were to a large extent influenced by the international human rights and democratisation discourse. The 1990s in Indonesia saw a decisive opening up of space for social movements which finally resulted in substantive upheavals and the 'resignation' of the authoritarian Suharto regime in May 1998. In 1999 laws on the devolution of political authority (No. 22) and fiscal decentralisation (No. 25) were passed under the interim president B.J. Habibie replacing UU 5/1974 and UU 5/1979, which was declared as not being in accordance with Indonesia's 1945 Constitution (Fauzi and Zakaria 2002: 8-9). The main beneficiaries of the new decentralisation law in Indonesia's territorial government structure were the districts (*kabupaten*) and the villages (*desa*), not the larger provinces (*provinsi*), in order to prevent any separatist tendencies (F and K von Benda-Beckmann 2001: 2; Kreuzer 2002: 25; Schulte Nordholt 2003: 564-565). The authorities started to implement the 1999 laws in 2001 and revised them with law No. 32 and 33 respectively in 2004 (UU 32 & 33/2004). The new

legislation has been one important step on the way to a more democratic Indonesia and towards granting the right to self-determination to the Indonesian people. Chapter XI of UU 32/2004 is dedicated to the village level, the focus of my attention.[7]

As mentioned before, one significant effect of the new decentralisation policies was the emergence of adat revival movements throughout Indonesia. At first glance, it looks as if national and international human rights activists and local people fighting for more autonomy and self-determination and indigenous peoples' rights have finally gained considerable ground. But a closer look reveals that these developments are highly ambiguous and not only an indication of a new and open pluralism in Indonesia, but also of exclusivism and divisiveness.[8] On the one hand, the new law enables the re-strengthening or rediscovery of local traditions, identities, political structures (such as the *nagari* in West Sumatra and the *negeri* in the Moluccas) and traditional local mechanisms of integration and conflict resolution that might both foster peace and democracy. Moreover, it allows for important steps towards a more just access to resources, thus putting an end to the central government's exclusive exploitation of local resources. But, on the other hand, the revival of adat also fosters conflict and exclusion and, in some places, legitimises the re-emergence of authoritarian local elites. The main issue here are campaigns for and self-promotion of local people, the so-called *putra daerah*, "to control local government and secure preferential treatment for their communities in the allocation of economic resources and government positions" (Aspinall and Fealy 2003: 6) – be it the sultans in the Northern Moluccas, Dayak elites in Kalimantan, *nagari* elites in Minangkabau, the Malay elite in Riau or *raja* in the

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[7] For a more general overview of the new legislation, its diverse effects, and a history of decentralisation politics in Indonesia see, for example: Aspinall and Fealy 2003; Bach 2003; Kivimäki et al. 2002.

[8] For a good discussion of the ambiguity of adat revivalism in post-Suharto Indonesia, including case studies from various regions in Indonesia, see Davidson and Henley 2007. Besides this there is now a wealth of material available on revival movements throughout Indonesia, among them, for example: on Maluku, Bräuchler 2007, 2009a, b; on Minahasa (North Sulawesi) Jacobsen 2002a, b; on Minangkabau (West Sumatra), F and K von Benda-Beckmann 2001, 2007a, 2009; on North Maluku, Bräuchler 2007; Bubandt 2002; Klinken 2007b; and another volume comprising more case studies, Schulte Nordholt and van Klinken 2007.

Moluccas.[9] In many cases, the *putra daerah* are seen as the motors for the re-establishment of feudal structures (if such forms did exist before) and hierarchies, the exclusion of non-adat people, the instigation of local conflicts, the undermining of a national Indonesian identity, and the exploitation of natural resources.[10] The traditional leaders, whose revival and reinstallation are now legalised on certain levels, are often not democratically chosen, and genealogy is put before meritocracy, which is, at least at first sight, against any principles of individual equality, the main objective of article 2 of the Universal Declaration of Human Rights of 1948. Having said this, it must be acknowledged that these local leaders are often the most important interface between the local people and the Indonesian government. It is these leaders that can facilitate the empowerment of their people and it is they who have the potential to act as an integrative force in conflict areas through the re-employment of integrative symbols and conflict resolution and peace mechanisms.

Another (seeming) contradiction in the decentralisation process, identified by Franz and Keebet von Benda-Beckmann in West Sumatra, is that

> top-down regulation, in which the centre enacts higher legislation
> to be followed by implementing regulations on ever descending
> and smaller levels of administration goes hand-in-hand with the
> dynamics of relatively autonomous local politics and regulation
> (F and K von Benda-Beckmann 2009: 294).

Villages in West Sumatra as in the Moluccas thus have become somewhat more independent from the central and provincial administration, "yet as the lowest level of state organization, heavily regulated and predominantly funded by the districts,

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[9] For Bangka-Belitung, for example, see: Permana 2002; for Kalimantan, Klinken 2007b; McCarthy 2004; for (North) Maluku, Bräuchler 2007; Bubandt 2002; Klinken 2001a, 2007b; for Riau, Bach 2003; and for West Sumatra, F and K von Benda-Beckmann 2001, 2007a, 2009. Prominent examples of how the revival of traditions and traditional leadership instigated or deepened local conflicts are the sultanates and their traditional guards in Northern Maluku (see Bubandt 2002, Klinken 2001b) and the Dayak elite in West Kalimantan (Davidson 2007).

[10] Schulte Nordholt (2003: 571) even fears "that the environment will turn out to be decentralization's hardest-hit victim." Other researchers arguing for a negative impact of the new laws on the environment include: Lounela 2004; McCarthy 2004; Resosudarmo 2003.

they remain deeply embedded in the wider Indonesian political, financial and social structures" (F and K von Benda-Beckmann 2007a: 441).

What is evident is that "with this new politics of tradition, important changes to the ways local identity is imagined and cultural politics is conducted are likely to occur in the coming years in Indonesia" (Bubandt 2002: 115). What is just as evident is that power, power struggles, competition, and intense negotiations play a prominent role in the implementation processes of the decentralisation law – on all levels. National laws have to be translated into local contexts. The first step is the composing of Government Regulations at the provincial level (Peraturan Daerah Provinsi, Perda Provinsi – e.g. Maluku) that deal with certain aspects of the new law, such, as in our case, the re-establishment of traditional political forms on the village level. This is then further adapted to a certain region through a Government Regulation at the district level (Perda Kabupaten – e.g. Central Moluccas). The last step will be to draft so-called village regulations (Perda *Negeri*, as for the Central Moluccas) that refer to local adat and can thus provide detailed information on how to implement certain aspects of national law. That's where the dilemma of codification will come in most prominently as I will lay out later. On all levels, those in charge bring along their own motivation, knowledge and interest.

Constitutional Amendments

To seemingly prove the serious nature of its efforts to foster democracy and human rights, the post-Suharto government even changed the national constitution of 1945 in 2000 (see also Hadiprayitno 2010). What was later provided in Article 2(9) of UU 32/2004 is in fact a copy of the amended Article 18B(2) of the Constitution (compare also Bedner and Huis 2008: 174):

> The Indonesian state acknowledges and respects the unity of adat law communities and their customary law as long as those are still alive and in line with the evolution of the people and the principles of the Unitary State of Indonesia, as regulated in its laws.[11]

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[11] UU 32/2004, Chapter I, § 2 (9): *Negara mengakui dan menghormati kesatuan-kesatuan masyarakat hukum adat beserta hak tradisionalnya sepanjang masih hidup dan sesuai dengan perkembangan masyarakat dan prinsip Negara Kesatuan Republik Indonesia, yang diatur dalam undang-undang.*

However, this implies that, in case of doubt, the state still has the upper hand. Moreover, it is rather grotesque and contradictory to make "being alive" a condition, since it does not take the destructive forces of both colonialism and the Indonesian government into account and is also based on a rather essentialised concept of culture. The other new provision added to the 1945 Constitution, which is of direct relevance to our discussions, is chapter XA on Human Rights. In Article 28I(3) one reads that "cultural identity and the rights of traditional communities [*masyarakat tradisional*] are respected in accordance with evolution of the times and civilization".[12] This is supportive towards the granting of cultural and collective rights to indigenous people. However, as pointed out by Bedner and Huis (2008: 170), the article avoids the term "*adat* community" (*masyarakat adat*) or "*adat* law community" (*masyarakat hukum adat*), since both terms bear connotations of autonomy.

Human Rights Law

By the end of 1998, Indonesia had ratified the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the International Labor Organization's Convention No. 87 Concerning Freedom of Association and Protection of the Right to Organize. Restrictions concerning the formation of political parties were lifted and the mass media were granted freedom of expression (Christie and Roy 2001: 130). In 1999 the Indonesian government passed law No. 39 on Human Rights, which explicitly mentions that local adat, including traditional land rights, has to be acknowledged and protected by the law, the people and the government.[13] In 2005 and 2006 Indonesia ratified both the Covenant on Civil and Political Rights and that on Economic, Social and Cultural Rights (Eysink 2006: 9). As outlined above, the UNDRIP was also approved by Indonesia.

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[12] UU Dasar Republik Indonesia, Chapter XA, § 28I (3): *Identitas budaya dan hak masyarakat tradisional dihormati selaras dengan perkembangan zaman dan peradaban.*

[13] UU 39/1999, Chapter II, § 6: *Dalam rangka penegakan hak asasi manusia, perbedaan dan kebutuhan dalam masyarakat hukum adat harus diperhatikan dan dilindungi oleh hukum, masyarakat, dan Pemerintah. Identitas budaya masyarakat hukum adat, termasuk hak atas tanah ulayat dilindungi, selaras dengan perkembangan zaman.* For a more detailed analysis of this article see Bedner and Huis 2008: 176-177.

The definition and delineation of indigenous people in Indonesia is, however, highly problematic due to its history and composition. "Indigenous people" is translated as "*masyarakat adat*" (adat community) in the Indonesian version of the UNDRIP as well as in the Indigenous Peoples Alliance of the Indonesian Archipelago (Aliansi Masyarakat Adat Nusantara, AMAN).[14] It is likely that almost nobody in Indonesia would claim not to be an adat person, which would amount to being without culture and uncivilized. More and more groups apply for AMAN membership that multiplied from a handful of members when it was founded in 1999 to more than thousand in 2007.[15] One main criterion for AMAN is that those people have a specific, culturally determined relationship to the land they inhabit that goes back to ancestral times. As argued by Bedner and Huis, "many local movements citing *adat* to legitimize their struggle for more autonomy and resources do not label themselves 'indigenous peoples'"; however, "a large number of such communities would fall within the ILO definitions and some have used the opportunities this offers" (Bedner and Huis 2008: 166). In the UNDRIP "indigenous people" is not defined at all. For this contribution I therefore consider those people in the Central Moluccas as indigenous (including the islands of Ambon, Lease and West Seram), who already inhabited the area I am talking about long before the arrival of European traders and colonial powers, and that claim to originate from a mountain called Nunusaku on the mother island Seram. As outlined above, the more general provincial implementation of the national decentralisation laws is to be translated into the terminology of the various cultural areas, in this case the Central Moluccas (see next section). Since the villages are usually considered the main source for one's (group/cultural) identity in the Moluccan province, those regional regulations are translated again into village regulations. The migrant population, most prominently the Butonese from South Sulawesi, some of whom have been living in Moluccan villages for generations, are not considered to be adat people either from the perspective of local (indigenous) communities or according to the new decentralisation law (for more details on the migrant issue see below).

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[14] For an interpretation of such a translation, though in another context, see Henley and Davidson 2007: 28.

[15] Compare
http://ccmin.aippnet.org/index.php?option=com_content&view=article&id=5&Itemid=8, 16.12.2010.

The Local: Self-Determination and the Revival of Tradition in the Moluccas

Some Historical Background

The Moluccan archipelago is inhabited by slightly more than two million people and has been divided into the Province of the Moluccas (Maluku) and the Northern Moluccas (Maluku Utara) since 1999. The islands became famous as the Spice Islands, since it was the nutmegs and cloves originating in the area that attracted the colonial powers from the 16th century onwards: the Portuguese, the Spaniards, the British, and, the most persistent ones, the Dutch.[16] It was these colonisers who brought Christianity shortly after Islam had been introduced to the area. Political power, economic profits and religion were therefore closely intertwined from the very beginning. Christians were favoured during colonial times in education and bureaucracy, which has been an issue among the Muslim part of the population until today. It was also colonial policies that led to the split of religiously mixed villages to create monoreligious villages, a decisive prerequisite for religion becoming so influential in Moluccan society and enabling people to be mobilised for the most recent mass violence. To provide an idea of how 'traditional' two of the central terms of the decentralisation era in the Moluccas are: *Raja* is a title that was part of a ranking system of village heads introduced by the Dutch, where the *raja* – an imported, formerly Malay title (Fraassen and Straver 2002: 98) – was the highest position, *patih* the second highest, and *orang kaya* the lowest. The term *negeri* was only introduced to the Moluccas through the Dutch in the 17th century, and most of these villages were reconstituted when a large part of the central Moluccan population that lived in the mountainous interior of the islands was moved to the coast in the middle of the 17th century (Leirissa et al. 1982/1983; Pariela 1996: 119; the legislation is contained in Staatsblad 19a, 1824). In this process *raja* positions were often transferred to other lineages, which were more willing to cooperate with the Dutch, and, as Keebet von Benda-Beckmann emphasizes, "territory was redistributed, leading to disputes over land between neighbouring villages that have lasted until the present" (K von Benda-Beckmann 2007: 288). Actually, much of what is currently regarded as adat structures and adat positions was largely fabricated by the colonial government (see F von Benda-

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[16] This, due to restrictions of space, is only a very cursory historical introduction to the area. For more in-depth accounts see, for example: Andaya 1993; Bartels 1994; Chauvel 1990; Fraassen 1972; Knaap 1987.

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Beckmann 1999, K von Benda-Beckmann 2004: 227-228); ever since then "the political organization has been an amalgam of adat principles and government regulations" (F von Benda-Beckmann 1990: 27). The result of this restructuring process was that "many of the new villages were subsequently incorporated as 'adat' by the local population, although they never fully replaced pre-colonial legal notions" (F and K von Benda-Beckmann 2008: 14-15). However, Franz and Keebet von Benda-Beckmann also warn against dangerously stereotypical "notions of colonial creations of customary adat law" as propagated by scholars such as Peter Burns (F and K von Benda-Beckmann 2008: 3; Burns 2004, 2007). This would "underrate(d) the agency of local people and overrate(d) the actual significance of the colonial legal constructions of adat or adat law on the legal life of the population" (F and K von Benda-Beckmann 2008: 4). This admonition should also be kept in mind when we look at adat constructions and/or recreations in the course of the implementation of the new decentralisation law.

The *raja* position underwent tremendous changes over the various epochs (for more details, see Bräuchler 2011). Being a primus inter pares in the village and the village adat council in pre-colonial times, s/he was instrumentalised and turned into an absolute ruler by the colonial Dutch East India Company. After the colonial government had taken over and initiated a decentralisation process in the early 20th century, the *raja* were disempowered and impoverished. Whereas after independence village adat was still kept in place, this tremendously changed during Suharto's New Order (especially after law No. 5/1979 on Village Government). All village heads were uniformly called *kepala desa* then, made head of the village parliament and had thus the final say in village politics (provided that it conformed to higher level politics). Theoretically the position was open to everybody then, although in most villages the *raja* lineages were still decisive in determining the village heads (compare also F von Benda-Beckmann 1988). Although UU 5/1979 had a strong impact on the local level, adat was not doomed to death in the Moluccas. Village people and adat functionaries found ways either to maintain their traditional institutions in parallel to the imposed governmental system (the *raja*'s function then, for example, was restricted to land issues and adat matters not interfering with the central government's structure) or to merge the two systems by, for instance, installing a former *raja* or a descendant of his lineage as the new village head, now called *kepala desa*. Such 'remnants' (which is a problematic expression in itself) of a formerly holistic adat system, where political, economic, social and legal aspects could not be isolated, constitute a necessary basis for current revitalisation efforts based on the new law on decentralisation. This law provides a chance to reinstall the 'true' *raja*, although now with restricted power as I will outline below, but this is quite problematic as

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this brief historical sketch already foreshadows.[17]

Conflict and Decentralisation in Maluku[18]

Despite the early politicisation of religion, there were always family ties, common ancestry and traditional mechanisms to keep the Moluccans united. One of the latter is the *pela* system in the Central Moluccas, that is alliances between two or more villages irrespective of their religion (see in particular Bartels 1977). Unlike the population in most other parts of predominantly Muslim Indonesia, a substantial part of the population of the Moluccas is constituted by Christians.[19] The region was praised for its religious harmony up until December 1998. This is why nobody really expected that a minor quarrel between a Christian bus driver and a Muslim passenger in Ambon city, the capital of the Moluccan province, in January 1999 would end in a bloody and enduring multidimensional conflict,

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[17] If people in Maluku had chosen not to return to the *negeri* system introduced by the colonial powers but to pre-colonial types of settlement (*aman* or *hena*) and power structures, many of the debates and fights involved in determining the proper *raja* line could perhaps have been prevented. I assume, however, that for practical reasons it would not have been an option for Moluccans to leave their villages (*negeri*) at the coast, move back into the mountains and try to re-construct their former ways of life. The cultural community of the *negeri* is what they seem to identify with most although the former settlements still play an important role in constructing the villages' histories and cultural identities.

[18] If not mentioned otherwise, the following paragraphs are based on my field research in the Moluccas in 2002, 2005, 2006, 2007 and 2008, and interviews I conducted there on various levels with jurists, academics, NGOs, *raja*, village people, government representatives, adat functionaries and religious figures. I would like to use this opportunity to thank them all for their support, cooperation and friendship.

[19] The Muslim/Christian proportions of the population in the Central Moluccas used to be 50:50. As a result of transmigration, i.e. the migration of Muslims from other parts of Indonesia to the Moluccas, approximately 60% of the population in the province of Maluku is now Muslim, 40% Christian; in the Central Moluccan district the Muslim percentage is even higher (Badan Pusat Statistik Propinsi Maluku 2007: 108). However, this is still in contrast to a roughly 87% Muslim population in the whole of Indonesia.

which spread over the whole of the Moluccas: hundreds of churches and mosques were destroyed, thousands of people on both sides were killed, and hundreds of thousands, nearly one third of the Moluccan population, had to flee. Moluccan society became divided along religious lines in every respect, both socially and geographically. According to some observers ethnic and religious issues were instrumentalised by the Indonesian military and members of the former Suharto regime in order to mobilise the Moluccan people and agitate Muslims against Christians. Others rather stress local roots of the conflict or investigate the role of fundamentalist Islamic groups from outside the Moluccas, or the media as conflict factors.[20] What added to all this, is that local traditions fostering interreligious harmony had come under increasing pressure through the central government's policies over the last decades, namely, through its unification strategies, and its transmigration and its Islamisation programs (see, for example, Bartels 2003). What is obvious is that the Moluccan conflict was multidimensional and it took many local as well as national peace initiatives to stop the violence. Eventually, the peace meeting organised by the Indonesian government in February 2002 in Malino, South Sulawesi, put an official end to the conflict, or at least to mass violence. The religious borderlines dissolved only gradually. After the conflict, local actors in the Moluccas hope to build up sustainable peace through the revival and/or strengthening of traditions, traditional leaders, structures and customary law that are supposed to overcome religious differences and enable sustainable peace and a harmonious living together. The *raja* as traditional leaders and potential mediators play a central role here.

The new national autonomy law gives such local tendencies legal support. In the explanations to law No. 32/2004 concerning the village level it is stated that diversity (*keragaman*) is to be acknowledged, that villages should be returned their original autonomy (*otonomi asli*), that they should be responsible for and take care of the concerns and interests of the local population in accordance with their ancestry (*asal usul*) and traditions (*adat istiadat*), that they should be allowed to rename the villages and the village heads according to their traditions (that is rename them *negeri* in place of *desa* or *raja* in place of *kepala desa* in the Central Moluccas), and to rename to *saniri* (in the Central Moluccan case) and restructure

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[20] See, for example: Aditjondro 2001; K von Benda-Beckmann 2004; Bertrand 2002; Bräuchler 2003, 2005; Human Rights Watch 1999; International Crisis Group 2000, 2002; Klinken 2001b, 2007a; Pannell (ed.) 2003; Schulze 2002; Spyer 2002. This brief treatment, of course, does not do justice to the complexity of the conflict.

the village parliaments.[21] Article 203(3) of UU 32/2004 is dedicated to the village head election and stipulates that such "elections in a specific law community [*kesatuan masyarakat hukum*] take place according to its traditional rights [*hak tradisionalnya*] as long as they are still alive"; the respective adat law has to be specified in a Regional Regulation (Perda), guided by a Government Regulation. As Bedner and Huis judge, "an important avenue for indigenous communities to implement their own system is opened up, but it remains under the control of the government" (Bedner and Huis 2008: 173).

In the Moluccas, for a long time crippled by the violent conflict, a handful of actors – mainly jurists from the state university in Ambon (Universitas Pattimura) – finally catalysed the initiation of the process and tried to negotiate draft versions for the regional regulations concerning the decentralisation law, in cooperation with some *raja* from Ambon island. This led to the passing of the provincial *negeri* regulation in 2005 and the district regulation for the Central Moluccas in 2006: *Peraturan Daerah Provinsi Maluku Nomor 14 Tahun 2005 tentang Penetapan Kembali Negeri Sebagai Kesatuan Masyarakat Hukum Adat Dalam Wilayah Pemerintahan Provinsi Maluku* (Perda No. 14/2005 of the Moluccan Province about the Return to the negeri as adat law community in the territory of the Government of the Province of Maluku – in the following PerdaP 14/2005) and *Peraturan Daerah Kabupaten Maluku Tengah Nomor 1 Tahun 2006 tentang Negeri* (Perda No. 1/2006 of the Central Moluccan District about the Negeri – in the following PerdaK 1/2006), an umbrella Perda (*Perda payung*) that has been further specified in various sub-Perdas.[22] After PerdaP 14/2005 had been passed, the government of the Central Moluccan District hired a team (at home in various disciplines such as law, anthropology, agriculture and fishery) headed by a retired Ambonese professor of law. Based on their ethnographic knowledge of the area the team drafted PerdaK 1/2006 and 14 other Perdas in order to further elaborate the first.[23] The regulations cover issues such as the election of the *raja*, the functioning

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[21] See the following explanations to UU 32/2004: General Explanations (*Penjelasan Umum*), section I, No. 10 (*Desa*), and explanations to the village chapter No. XI and to article 202 (1).

[22] By 2008 the Village Perdas for the other districts in the Moluccan province had not been passed yet (although for some of them drafts had already existed).

[23] Interestingly, when asked how such a huge variety of adat communities and ethnic groups can be subsumed under one provincial or district Perda that is concerned with local adat, the team head refers to van Vollenhoven who had, at the beginning of the 20th century, divided up Indonesia into 19 adat law areas

of village governments, *negeri* and financial matters and the set-up of the *saniri*. They were introduced and advertised in a meeting with Central Moluccan *raja*, who where then supposed to evaluate them. After villages have been familiarised with the Perda Kabupaten by the team, it is the village representatives' turn to formulate the Perda Negeri, that is to translate the Perda Kabupaten into the local context and elaborate it according to local adat. This will be task of the *saniri*. What local actors in the Moluccas such as the Perda team have to do is a rather difficult balancing act and the most critical level will be the Perda Negeri, since this is expected to be the most detailed one.

Generally, large parts of the Moluccan population on all levels seem to be very enthusiastic about the revitalisation prospects, about the fact that they are granted the collective right to return to their culture, and cultural self-determination which enables people "to exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, languages and religions, within the framework of the States in which they live" (ILO 169, preamble). The conflict background is an important reason for that (see, for example, Bräuchler 2009a, 2009b). In the Moluccas, adat people often claim that the return to a society determined by adat means the return to a civilised, orderly society (*beradab*), which was almost lost due to the developments of recent decades (*biadab*). As Tania Li argues, "to invoke adat is to claim purity and authenticity for one's cause" (Li 2007: 337). Many actors in the revival process in the Moluccas, be they NGOs, *raja* or other adat figures, try to give the impression that they want to revive an authentic, coherent and autonomous culture or a 'harmonious past'. Thus they aim to meet the requirements of the law and legitimise their claims. In the case of the *raja*, these are claims of leadership; in the case of NGOs, they are often the claims of an international human rights community.

What Adat?

Given the quite turbulent past, one needs to ask what adat it is that current revival activists actually refer to? Which traditions do they want to go back to and how 'traditional' are these? This illustrates one of the earlier mentioned central

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(*adatrechtskringen*) – one of them consisting of the islands now constituting the Moluccan province – and argued that each one of them had certain key cultural elements.

problems with notions of 'cultural rights': are they premised on fixed ideals of culture and, importantly, who does the fixing and what are the power dynamics at work? The same issues emerge in other regions of Indonesia, such as in Minangkabau, where there is much discussion about

> to what type of *nagari* one should go back, how the representatives of the village parliament are to be chosen, what the role of the Village Adat Council will be and to what extent rights to village land (*ulayat*) are to be recognised and revitalised and who will hold them (F and K von Benda-Beckmann 2001: 16).

Refining UU 22/1999, UU 32/2004 gives villages a choice and differentiates between genealogical and administrative villages (*desa geneologis* and *desa administratif*):[24] The formers' population is supposed to still have a common history and adat so that they can make the claims just mentioned. Villages with a very heterogeneous population are declared to be administrative villages (with exceptions), as are those that were founded through the division of a village or for transmigrants and which therefore have no adat territory.[25] These villages then can still use the more 'neutral' uniform system introduced by UU 5/1979. In principle it is the village population's choice, how they will declare their village, but the final ratification is made by the district parliament. The question immediately arising out of the differentiation of genealogical and administrative villages is the question of how to determine which village is a *negeri adat*, that is an adat or, in the law's terminology, a genealogical village. The main criteria listed in PerdaP 14/2005 (Article 5 and explanations) are that an adat community (*masyarakat adat*) is bound together by both genealogical and territorial ties and should still adhere to its adat law (*hukum adat*). It must still inhabit its traditional territory (*wilayah petuanan*), and adat institutions such as the *raja* and the traditional village council (*saniri negeri*), as well as adat symbols such as the traditional community hall (*baileo*), must still be in place. This essentially is repeated in the *negeri* definition in chapter 1 of PerdaK 1/2006. In the explanations it emphasises again that all needs to be based on ancestry (*asal usul*) and local customs (*adat istiadat*) as a

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[24] See General Explanations (*Penjelasan Umum*) of UU 32/2004, Section I, No. 10 (Desa).

[25] Depending on the adat community's lobby, there are exceptions to this rule such as Batumerah in Ambon town that was declared to be *negeri adat* although the majority of its population are migrants.

form of authority based on original autonomy (*otonomi asli*). At the same time, however, it is stressed that the adat community needs to be acknowledged and respected by the Government of the Unitary Republic of Indonesia and that the way it runs its governmental affairs has to be in line with national law (see chapter 1 and § 2 in chapter 2).

Not only because of this latter restriction, all this is quite problematic. What is "adat" is defined by those drafting the various regulations, and is heavily influenced by their background and their knowledge. Certain adat elements are inserted into local government regulations, which is, of course, far from a revial of adat in a holistic sense, but rather a selective reconstruction. However, the re-creation of holism is rather illusionary anyway, since it sets modernity apart from tradition. Modernity is not opposed to tradition, but, as in Indonesia, rather provides people with the means to revive their traditions, traditional structures and values as well as customary law. As the contributions to a special journal issue on *The revitalisation of tradition* illustrate, each of these recent revival processes – be it in Asia, Latin America or Africa – is based on complex negotiation processes. These oscillate between the selection of traditional elements from 'the past' and their use or instrumentalisation as future-oriented strategies (Bräuchler and Widlok 2007).

In addition and as mentioned above, forced 'cultural change' (induced by colonial and neo-colonial forces) is not taken into account by the law and the rather static notion of culture used is reminiscent of that which is criticised in connection with the grant of collective (human) rights. Just as the existence of such adat symbols, for example, does not necessarily mean that adat and adat values still determine the village people's life, their non-existence does not have to imply the absence of adat. Fixing local traditions in governmental regulations, a dilemma emerges that occurs whenever flexible and oral traditions and traditional law have to be written down or codified. The people involved in putting together the Perda on the various levels face the same predicament as van Vollenhoven and his colleagues almost a hundred years ago: the problem of codifying oral traditions and, at the same time, preserving their flexibility. What van Vollenhoven had suggested back then, is to abrogate each adat codification automatically after ten or fifteen years "in order to force the administration continuously to adapt the adat regulations to new developments and changed circumstances in native society" (Fasseur 2007: 58). Accordingly, today the Perda team propagates a notion of adat that needs to be open to development and social engineering and allow for variation and flexibility. Its head considers it to be dangerous to take the preservation of flexibility as an excuse not to write down adat and thus deprive the Moluccans of their unique

chance; codification would also prevent the younger generation from forgetting their traditions.

Who are the Raja and how are they Legitimised?

Although adat is not all about *raja* and *negeri,* these are in the centre of current revival activities. They are key issues which are important as the starting-point of a long revival process where many questions still need to be answered. The *raja* are the heads of the local adat system and at the same time part of the national government system, which makes their position very influential. Promoters of the revival process see them as moral forces and means of integration and thus as key figures in the reconciliation and peace process as well as in the decentralisation and revival discourse (for more details see Bräuchler 2011). People in the villages have to collect proof not only of their status as an adat village, but also for the legitimation of *raja* candidates. Article 3 of PerdaK 1/2006 specifies that a *negeri* is led by a village head with the title *raja* or another name that is in line with local custom, customary law and culture (clause 1). It goes on to stipulate that a certain lineage (*matarumah/keturunan*) is entitled to the position of *negeri* head and that it is not to be transferred to another party, unless this is decided in a deliberative meeting (*musyawarah*) of the entitled lineage with the village council (*saniri negeri*) (clause 2).[26] As outlined in the explanations to article 3(2) such an exception would be made if the entitled lineage became extinct, if the entitled person is physically or mentally disabled in such a way that (s)he cannot fulfil the required tasks, or if the person concerned, for example, is prone to drink or gamble, or does not fulfil the legal requirements (such as age and education). In this way a certain kind of flexibility has been explicitly incorporated. If there is only one candidate who fulfils all the legal and adat requirements, s/he will be appointed; if there are two or more, s/he will be elected (article 6(1)). No advice is given, however, on how to deal with the tumultuous past of some *raja* lineages.

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[26] PerdaK 1/2006, § 3 (1): *Negeri dipimpin oleh seorang Kepala Pemerintah Negeri dengan gelar Raja atau disebut dengan nama lain sesuai adat istiadat, hukum adat dan budaya setempat; (2) Jabatan Kepala Pemerintahan Negeri merupakan hak dari matarumah/keturunan tertentu berdasarkan garis keturunan lurus dan tidak dapat dialihkan kepada pihak lain, kecuali dalam hal-hal khusus yang ditetapkan berdasarkan hasil musyawarah matarumah/keturunan yang berhak bersama Saniri Negeri.*

A related question is, who may claim to speak for 'a culture', who constructs this uniform image that enables the community to claim their rights, and out of which interests and with what legitimation. It will always be certain spokespersons of a village, certain adat figures or the *raja* who will try to provide proof to the evaluators. Since the *raja* were only recently reinstalled as village heads, there are still many issues to be solved. Unlike the *kepala desa*, who has been in charge since the law on village unification (UU 5/1979) and who was democratically elected (at least on paper, although in fact often appointed by the central government), the *raja* is a hereditary position. Their reinstallation triggered discussions on democracy issues and who is actually allowed to step into these revived positions – questions of genealogy and descent, but also of political principle. But in most cases it is also a question of power: struggles between those who have been in power before colonial times and those in power during that period, between those elected as village heads (*kepala desa*) when UU 5/1979 was in use and those who now want to reclaim their hereditary positions (for Minangkabau compare F and K von Benda-Beckmann 2001: 21). In many places in the Central Moluccas, *raja* installation ceremonies that have been postponed for periods because of the conflict, are now due. Different attempts to (re)interpret history in order to determine who and which lineage is actually entitled to be *raja* can lead to the splitting of whole villages or cause *raja* candidates to go to court to fight for their alleged rights, as happened in Haria (Saparua island). On the other hand, *raja* installation ceremonies also became important peace events, where the revival of reconciliatory adat, such as *pela*, is put very much into the forefront, and *raja* are celebrated as mediators and peace keepers. (For more details and examples see Bräuchler 2009a.)

What took place in Hulaliu, a village on Haruku Island, can be taken as a rather dramatic instance of what may happen if deliberation about the problematic and ambivalent nature of the *raja* issue does not take place among all sides involved, that is, policy makers, power holders and the common people.[27] In July 2006, the *raja* of Hulaliu was killed in his own village as a result of internal village disputes. He had been living in Ambon city for many years, but belonged to the proper lineage, was educated and experienced, and was therefore asked to return to his

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[27] Just as in Minangkabau, the common village population felt less involved in the deliberation and decision making process and, as Franz and Keebet von Benda-Beckmann put it, "they have cynical views about the political rhetoric which is so strongly emphasising adat values and the 'bottom-up' character of the political process" (F and K von Benda-Beckmann 2001: 22).

village and become *raja* in 2003.[28] One of the issues in the murder was the (seemingly) authoritarian way in which the new *raja* had revived adat, in particular adat sanctions.[29] This extreme case gives expression to the rather tense political situation in many villages in the decentralisation era. It is not only a matter of power struggles, but also a symptom of another phenomenon that impedes the re-empowerment of the *raja*. Respect for and the influence of many Central Moluccan *raja* as moral authorities has declined enormously during the last decades, especially among the younger generation, whether because of the influence of UU 5/1979 or because of urbanisation and modernisation processes. This decline affects issues ranging from smaller issues such as villagers no longer paying proper respect by bowing when the *raja* passes by, to quite dramatic cases such as that in Hulaliu.

Another contentious issue in the struggle for power is article 23(b) of PerdaK 1/2006, which prohibits the *raja* from acting as head of the village council (*saniri negeri*), in order to prevent excessive accumulation of power. According to a lecturer in law at Pattimura University, who was involved in drafting and introducing the district Perdas concerning the *negeri*, almost two thirds of the *raja* agreed with this stipulation in 2007. Nevertheless, this means that a third did not, and showed either overt or indirect resistance. Also there are certain sub-districts where at least half of the *raja* were not ready to accept the clause, that is a sharp break with the past, in UU 5/1979 requiring the village head to be head of the village parliament (*Lembaga Musyawarah Desa*), thus making him an influential representative of the central government on the village level. According to earlier research, the *raja* also used to be the head of the village council before UU 5/1979

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[28] A similar trend was identified by Franz and Keebet von Benda-Beckmann in West Sumatra in the decentralisation era:

> Many (often retired) migrants, who had lost interest in village affairs, have taken a renewed and active interest in their village or origin. Some have taken on office as adat leader, as official advisor, or even as mayor. Wearing several hats at the same time, neither a real insider nor a real outsider, they contribute to the construction of Minangkabau identity and to the more mundane concerns of village administration and politics (F and K von Benda-Beckmann 2007a: 437-438).

[29] There were other issues involved as well, but further analysis would go beyond the scope of this paper.

(Bartels 1994: 308; Cooley 1987: 238), but, as adat elders in a variety of central Moluccan villages affirmed to me, the *raja* was not able then to make any decision without the approval of the *saniri*.

To add to these difficulties, many villages experienced a governmental vacuum because of the coincidence of the Moluccan conflict with the transition period. Some villages had temporary village heads (*penjabat*) for several years, and, when the *raja* had been finally installed but no governmental body formed, there were tendencies in some villages for the *raja* to became autocrats. Often these *raja* claim that this is not their fault, since they were still waiting for a Perda.[30] But in fact the new law gives the villages quite considerable space to decide for themselves. Of course, it is not only passivity that is to be blamed, but also a matter of the familiarisation with and popularisation of the new legislation by the government.

Local Approaches to the Problem: Reconstructing Adat in Honitetu[31]

There are local approaches to solving internal conflicts over some of these matters and to (re)building old government structures anew. Honitetu village in Western Seram is an interesting example and also shows how 'translators' come into the scene, acting as "knowledge brokers between culturally distinct social worlds" (Merry 2005: 2), helping to localise human rights discourses as well as national legislation, and facilitating the transition period. In the Moluccas, the reconstruction of history and genealogy is a crucial element in the rhetoric of the revival era, and the basis for the construction anew of an old collective identity and the restoration of former power structures (for Minangkabau compare F and K von Benda-Beckmann 2001). Since the early 1990s people in Honitetu have been thinking about reviving adat and traditions in order to prevent further moral

[30] While the Perda Kabupaten Maluku Tengah concerning the *Negeri* was passed relatively quickly in 2006 (see above), most of the other districts in 2008 were still waiting for the regulations to be passed by the regional parliaments. Passing, of course, does not yet mean implementation, and all Perda Kabupaten still need to be 'translated' into village regulations.

[31] Since the recent separation of Western Seram (Seram Bagian Barat, SBB) from Kabupaten Maluku Tengah (*pemekaran*), Honitetu is now part of this new kabupaten from an administrative point of view. The Perda Negeri for SBB had still not been passed by 2008.

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'degeneracy'; the lack of sources and the existing variety of versions of history posed major problems. Revival activists in Honitetu have therefore set up three teams of adat functionaries, whose task is to undertake research in the field of culture (*budaya dan kesenian* – mainly material culture and arts), tradition and customary law (*adat-istiadat*) and history (*sejarah*). These efforts are viewed as opening up the possibility for the creation of a consistent version of history, which all can identify with. This is a process not without its problems, since questions of representation and authority play a role, as do also the choice of mechanisms to familiarise villagers with the results.

Crucial to current revival processes is the re-establishment of traditional institutions and symbols, such as the *raja*, the *saniri* and the *baileo*. These efforts of the Honitetu people were facilitated by a local NGO, which entered the area in order to support the village in the matter of logging licences in their territory which the central government had illegally given to an external company without seeking the villagers' permission. The NGO in question is Baileo (in connection with Humanum), which was set up in Ambon in 1993 and has been engaged in adat matters since then.[32] It is one of the few long-lasting and experienced NGOs in the Moluccas, which has served as 'translator' and broker in human rights issues and national legislation in many cases. These brokers also exert their influence on the people they work with, for instance, with their perceptions of 'tradition'. One example occurred in the production of a video about the ceremonial reconstruction process of the *baileo* in Honitetu. The NGO filmmaker complained about people involved not wearing traditional village dresses such as the loincloth, which is rarely, if ever, worn today, but colourful political party shirts or military-style clothes, that is, the clothes of the 'enemy'. One reason for this attitude is that these brokers are torn between two sides: the interest of local populations and lived culture, and the international donors, who are interested in specific topics and who often tend to essentialise culture (see above and also Merry 2005: 15).

Baileo/Humanum also facilitated the reinstallation procedure of the *raja* in Honitetu. In close cooperation with adat representatives and young people from Honitetu enthusiastic to learn more about adat, it set up meetings and helped prepare documents, but generally tried not to influence the deliberation and decision process as such. The process lasted several years, during which

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[32] I would like to thank the Baileo/Humanum crew, who drew my attention to this particular case, for their cooperativeness and their friendship.

representatives and adat functionaries of the two groups of the *raja* candidates often met, discussing history and genealogies, reflecting on adat procedures and asking the candidates to deliver proof of the legitimacy of their candidacies. Following these procedures, a document was released in July 2006 by the *saniri negeri* Honitetu, in which finally one of the candidates was declared the legitimate descendant. However, the decision was then revoked, since the opposition in the village was still too strong. Up to 2008 the situation had not been regularised, and the *penjabat* was still in charge. Depending on one's point of view, this can be interpreted either as a positive example of practised (revived) village democracy or, as Franz von Benda-Beckmann has put it, as "business as usual" (personal communication November 2010). Because of the turbulent past of most villages in Maluku and the complex and ambivalent history of the role of the *raja* described above, time-consuming discussions and contests between various lineages who claim to be entitled to the *raja* post have always been on the agenda.

The Exclusion of Migrants

Migrants, who are still a minority in Honitetu, further complicate the situation. As in most adat villages, immigrants are welcome as long as they accept local adat, follow its rules and do not carry out their own adat ceremonies in public.[33] They are not included in the current local research processes and they cannot be nominated as *raja* candidates. This makes the revival efforts in Honitetu, although they are based on a thorough deliberation process, exclusive and problematic. These 'others', that is, people who have no place in the adat structure of the village they live in, are understandably the main critics of the current revival processes (for Minangkabau see F and K von Benda-Beckmann 2009: 312-313). The collective cultural rights granted to one group (based on national and international law) severely restrict the rights of others not belonging to this adat group and thus their rights as equal citizens of Indonesia and their human right to equal treatment. In Indonesia, as Bourchier argues, adat revival "sharpens distinctions between cultural insiders and outsiders, increasing the potential for horizontal conflict and violence" (Bourchier 2007: 124; compare also Kuper 2003:

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[33] This is supported by jurists involved in drafting the Perda concerning the village reforms. According to one of them this is not a problem, since those migrants are interested only in territorial questions, not genealogical ties. But, one might object, *negeri* are not only bound by genealogical ties, but also by territorial relations that can easily come into conflict with the migrants' land claims.

395). In order to solve the migrant problem, the part of Honitetu where most migrants live (Uraur) has been officially declared to be an independent administrative village, a solution that not all people in Honitetu, especially adat figures, approve. However, when it comes to adat matters such as communal land and marriage sanctions, Uraur is still under the authority of Honitetu. Another migrant issue not solved yet in Honitetu concerns the occupants of the Muslim enclave who migrated to the area in the 1970s from Haruku island following a government scheme. These Muslims have fled predominantly Christian Honitetu during the recent violence and have not returned yet. Debates about whether Honitetu Christians want to receive them back and whether the refugees actually want to return were still ongoing in 2008.

Another category of migrants more gravely affected by the Moluccan conflict were those from outside the area, most prominently the so-called BBM, that is people from Bugis, Buton and Makassar (South Sulawesi). Although some of those families had settled in the Moluccas several generations ago, many of them fled during the first days of the Moluccan conflict. At that time it still looked as if the violence was mostly directed towards them, as has been the case in such places as Kalimantan, where the indigenous Dayak were fighting and expelling Madurese migrants (see, for example, Davidson 2008). The BBM, although Muslim, were never fully integrated into Moluccan Muslim society. The Butonese, as Franz and Keebet von Benda-Beckmann's research in Hila village (Ambon island) illustrates, are not considered citizens in adat terms and do not or only marginally participate in village government:

> Being second class village citizens, they could acquire only temporary rights to agricultural land and cash tree cultivation and were entirely dependent on Ambonese owners for access to land and trees (F and K von Benda-Beckmann 2007b: 23; see also F and K von Benda-Beckmann 1998).

Even during the New Order, when all citizens (so long as their age and education were appropriate) should have had equal rights to become *raja* candidates, for example, adat principles proved to be stronger in Hila, just as in many other Moluccan villages (F von Benda-Beckmann 1990: 31). Ambonese villagers, as Franz von Benda-Beckmann argued,

> use their own law in order to shield themselves against the claims of the state for more extended control over natural and human resources. Simultaneously, Ambonese adat is maintained to

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rationalize and justify relations of dominance and oppression of
the immigrant Butonese (F von Benda-Beckmann 1990: 39-40).

This can easily be transferred to the post-Suharto situation. In the post-conflict era, the immigrants' situation seems to be even more precarious, as Jeroen Adam's study shows. Whereas many went back to Sulawesi triggered by the violence, a considerable part remained on Ambon (Adam 2009: 184).[34] Because of their flight and relocation, oral sharecropping arrangements, which were the only way for non-adat-people to get access to land, ceased to be in force, thus robbing them of their means of subsistence and further increasing their social vulnerability. (For a more extensive report on the situation of selected Butonese settlements on Ambon see Adam 2009.) Alternative income is difficult to find, since "the informal economy in urban and peri-urban regions on the island of Ambon is already overcrowded" and "the squatting of arable land by displaced Butonese communities poses a problem" in many places on post-conflict Ambon (Adam 2009: 177, 185). This hopeless situation pushes some Butonese to become active and assert their right to be recognized "as real Moluccans with the same rights" (Adam 2009: 186). To emphasise this, as Adam argues, in 2005 they renamed a Butonese organisation in Ambon, which had been called *Badan Keturunan Masyarakat Sulawesi Tengara* (Committee of the Descendants of Southeast Sulawesi Society) *Badan Keturunan Masyarakat Maluku – Sulawesi Tenggara* (Committee of the Descendants of Moluccan Society – Southeast Sulawesi). Both stronger political representation and an increasing say in resource management are central to their struggle (Adam 2009: 185-186). Although the power of such organisations is still limited, "it is an undeniable fact that resentment among many ethnic Butonese has sharply increased since the conflict, and will be a factor to be reckoned with in the future" (Adam 2009: 186). For these various reasons, the migrant issue needs to be urgently dealt with in the current decentralisation and revitalisation process, in which arguments for the observance of international standards of democracy and human rights figure so prominently.

Cultural Flexibility, Human Rights and Legal Pluralism

Given the many downsides of the adat revival in the Moluccas, an unconditional

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[34] In the first phase of the violence approximately 160.000 Butonese fled to Buton (Palmer 2004: 89), their "land of origin", although many of them grew up on Ambon and had never been there before.

revival would rather be counterproductive, as shown throughout this article. I would argue that it is crucial to preserve the flexibility of adat in order to adapt it to changing political, social and economic circumstances and to accommodate all people living in such territories, both cultural insiders and outsiders. I therefore end this contribution with reflections on the preservation of cultural flexibility and the challenges arising in a situation where a grant of the right to culture collides with a Western understanding of democracy. These are issues that need urgent attention by policy makers and researchers.[35]

Both scholars and activists, as Cowan et al. argue, should start seeing

> cultural change as potentially positive, as well as inevitable ... An endangered 'culture' is perceived as a pre-existing given which must be defended, rather than as something creatively reworked during struggles to actualise rights (Cowan et al. 2001b: 19).

It helps to call to mind again, that 'traditional' models such as the *negeri* so many revival activists refer to are not eternal concepts, but rather recent constructions. Change, as one of the founders of the Ambonese NGO Hualopu argues, has to be included in all thoughts about revitalisation and future planning, including the use of traditional mechanisms for peace. Customary law, just as human rights, has to be seen as a social construct born out of and developed in a specific socio-historic context. Customary law in post-colonial societies, which people refer to or want to revitalise nowadays, is not an unchanging heritage to be rediscovered from the pre-colonial past, but something that was (partly) constructed, if not invented in the colonial period through the interaction of the colonial powers with the local contexts (see, for example, K von Benda-Beckmann 2007). Revitalisation therefore should not be confused with the literal 'revival of the past'. Instead it should be seen as a process of taking up traditional principles, developing them further, and adapting them to the people's needs and current circumstances.

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[35] Boundaries are blurred. As Otto and Pedersen argue:

> [I]t is not necessary to be a consultant anthropologist in order to become caught up in moral dilemmas and political conflicts when writing about traditions ... Anthropologists get entangled in politics and morality ... because ... the subject matter of anthropology is inherently political, and because researchers cannot avoid being actors in the world they investigate (Otto and Pedersen 2005: 42).

To close the circle, I will now come back to the problematic relationship between collective human rights or the right to culture, and Western notions of democracy that seem to prevail among observers of the decentralisation process in Indonesia. How can the idea of a democratically elected village head and parliament be reconciled with the idea of the *raja* as a hereditary position as implied in the cultural revival process? This is an even more pressing issue, since the Moluccan population seems to be divided over the question as to how far the revival of tradition should go: as to whether it should mainly imply a rather folkloristic revival or whether political institutions and procedures should be reintroduced or re-empowered as well. In the former case advocates of a holistic revival fear the further dilution of local adat; in the latter case the advocates of democratic elections fear the return of feudalism and autocratic-genealogical structures, where individual performance and education as selection criteria come second. But they also fear that adat might be instrumentalised to achieve political goals as in the *putra daerah* cases mentioned earlier.

In order to preserve flexibility and make adat mechanisms fit post-conflict requirements, social engineering, that is, the planned adaptation to current circumstances, has been suggested by a number of people (see above). In reaction to the current omnipresence of democratisation discourses, adat functionaries in Moluccan villages often claim that democracy is already embedded in their adat system, and that their decision-making processes, based on deliberation and consensus (as in the Honitetu case), are even more democratic than the 'Western' idea of the concept (for Minangkabau see F and K von Benda-Beckmann 2007a: 436). Fauzi and Zakaria point to the ambiguity of the current revitalisation processes and give some recommendations in their paper on 'Democratizing Decentralization: Local Initiatives from Indonesia' (Fauzi and Zakaria 2002). They praise the new possibilities provided by the new autonomy law that explicitly recognises the village as "a legal community that possesses its own 'original rights', norms and relations" and greatly reduces "the distance between communities and policy-makers" (Fauzi and Zakaria 2002: 3). But they also emphasize that caution is needed so that the inclusion of local communities in the political process will not "end up creating a situation wherein all of the shortcomings of the prior centralized system are merely replicated on a smaller scale by local government authorities" (Fauzi and Zakaria 2002: 9). Concerning the reintroduction of clan-based village governments, the authors argue that democratic principles (in a Western sense?) still have to be an imperative prerequisite and a compromise has to be found, which presents quite a challenge to adat leaders. Similarly, Merry warns us that human rights programs should be appropriated and translated into local context, but not fully indigenised:

> To blend completely with the surrounding social worlds is to lose the radical possibilities of human rights. It is the unfamiliarity of these ideas that makes them effective in breaking old modes of thought, for example, denaturalising male privilege to use violence against women as a form of discipline (Merry 2006: 178).

Human rights must not be deconstructed by culturally determined arguments. One could conclude from this argumentation that we have to refrain both from a concept of culture as an unchangeable object and from a misunderstood cultural relativism that releases people from any responsibilities, and which is not tolerable any more in a globalised world. This puts anthropologists researching such issues in a difficult situation, since it is their subjects of study that prioritise identity and culture and a specific way of representing it (compare also Guenther et al. 2006: 18).

Despite all objections and despite the serious challenges discussed here, the new law on decentralisation still provides a unique and (in Indonesia) unprecedented opportunity for more self-determination on the local level.[36] Although it is not my objective to formulate detailed policy and implementation guidelines, I nonetheless hope that this article has raised a number of questions and expressed various caveats that urgently need to be taken into account by whoever is involved in that. It is important to take all levels into account: the international, the national, the regional and the local. Although all of them are (seemingly) concerned with the local (with regard to decentralisation, for example), the knowledge about it, the context and the interests involved vary extensively. As argued by Wilson and Freeman human rights set only a minimal standard and do not provide the means to solve all moral, political and economic problems of our times (Freeman 2000: 56; Wilson 2006: 82). What is still necessary is a dialogue on and between all levels, which involves all interest groups, and a lot of work on the ground. In his edited volume on *Human Rights in Cross-Cultural Perspectives* An-Na'im strives to explore "the possibilities of cultural reinterpretation and reconstruction through *internal cultural discourse and cross-cultural dialogue*, as a means to enhancing the universal legitimacy of human rights" (An-Na'im 1992: 3). For the Moluccan

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[36] Analogously, Widlok warns against a rash disposal of the concept of indigeneity, as suggested by Kuper, when certain elites instrumentalise indigenous rights for their advantage at the expense of the indigenous people, since this could rather aggravate the latter's situation (Kuper 2003; Widlok 2007).

case of revitalisation and reconciliation this means internal dialogue in local communities such as in Honitetu, and also dialogue between these communities and 'the others' and with the Moluccan society at large. It also means that local discourses can be influenced externally by international discourses, such as that on human rights, through mediators, brokers and translators such as NGOs. In the future, the way 'the others' (migrants from inside and outside the Moluccas) are dealt with, perceived and integrated into reconstructed local communities and systems will significantly influence the success of the decentralisation and democratisation project. They not only have to be tolerated, but they have to be given a participatory role in the 'traditional' system. A successful dialogue has to guarantee that everybody gets her/his say in the revitalisation and reconciliation process, and the negotiations between individual and collective rights and the legal systems involved – international human rights, state law and local customary law. This would enable us to translate human rights into cultural contexts without taking the risk of restricting 'other' people's rights. The universality of human rights

> should be seen as a *product of a process* rather than as an established 'given' concept and specific predetermined normative content to be discovered or proclaimed through international declarations and rendered legally binding through treaties (An-Na'im 2003: 2).

Ethnographic methods allow social anthropologists to conduct in-depth studies on the local level and analyse its interlinkage with 'the others' and its embeddedness in the larger context. This knowledge can make major contributions to developing strategies for integrating collective and individual human rights and for fostering a revival of tradition that is integrative rather than exclusivist.

References

ACCIAIOLI, Greg
2001   'Grounds of Conflict, Idioms of Harmony: Custom, Religion, and Nationalism in Violence Avoidance at the Lindu Plain, Central Sulawesi.' *Indonesia* 72 (October 2001): 81-114.
ADAM, Jeroen
2009   'Communal Violence, Forced Migration and Social Change on the Island of Ambon, Indonesia.' [PhD dissertation, Ghent University].

_____

ADITJONDRO, George Junus
2001   'Guns, Pamphlets and Handie-Talkies: How the military exploited local
        ethno-religious tensions in Maluku to preserve their political and
        economic privileges.' Pp. 100-128 in Ingrid Wessel and Georgia
        Wimhöfer (eds.), *Violence in Indonesia*. Hamburg: Abera-Verlag.

ANDAYA, Leonard Y.
1993   *The World of Maluku. Eastern Indonesia in the Early Modern Period*.
        Honolulu: University of Hawaii Press.

AN-NA'IM, Abdullahi A.
1992   'Introduction.' Pp. 1-16 in Abdullahi Ahmed An-Na'im (ed.), *Human
        Rights in Cross-Cultural Perspectives: A Quest for Consensus*.
        Philadelphia: University of Pennsylvania Press.
2003   'Introduction: "Area Expressions" and the Universality of Human Rights:
        Mediating a Contingent Relationship.' Pp. 1-21 in: David P. Forsythe and
        Patrice C. McMahon (eds.), *Human Rights and Diversity: Area Studies
        Revisited*. Lincoln/London: University of Nebraska Press.

ARAGON, Lorraine V.
2001   'Communal Violence in Poso, Central Sulawesi: Where People Eat Fish
        and Fish Eat People.' *Indonesia* 72 (October 2001): 45-79.

ASPINALL, Edward and Greg FEALY
2003   *Local Power and Politics in Indonesia: Decentralisation and
        Democratisation*. Singapore: Institute of Southeast Asian Studies.

BACH, Jan-Michael
2003   *Dezentralisierung und Lokalregierung in Indonesien seit 1998: Der Fall
        Riau*. Studien zur Volkswirtschaft des Vorderen Orients 11. Münster:
        LIT.

BADAN PUSAT STATISTIK PROPINSI MALUKU
2007   *Maluku Dalam Angka 2007 (Maluku in Figures 2007)*. Ambon.

BARNARD, Alan
2006   'Kalahari revisionism, Vienna and the "indigenous peoples" debate.'
        Social Anthropology 14(1): 1-16.

BARTELS, Dieter
1977   *Guarding the Invisible Mountain: Intervillage Alliances, Religious
        Syncretism and Ethnic Identity among Ambonese Christians and Moslems
        in the Moluccas*. Ithaca: Cornell University.
1994   *In de Schaduw van de Berg Nunusaku: Een Cultuur-historische
        Verhandeling over de Bevolking van de Midden-Molukken*. Utrecht:
        Landelijk Steunpunt Educatie Molukkers (LSEM).
2003   'Your God Is No Longer Mine: Moslem-Christian Fratricide in the
        Central Moluccas (Indonesia) After a Half-Millennium of Tolerant Co-

Existence and Ethnic Unity.' Pp. 128-153 in Pannell (ed.).

BEDNER, Adriaan and Stijn van HUIS
2008   'The return of the native in Indonesian law: Indigenous communities in
        Indonesian legislation.' *Bijdragen tot de Taal-, Land- en Volkenkunde*
        164(2/3): 165-193.

BENDA-BECKMANN, Franz von
1988   'Islamic Law and social security in an Ambonese village.' Pp. 339-365 in
        Franz and Keebet von Benda-Beckmann, E. Casino, F. Hirtz, G. R.
        Woodman and H. F. Zacher (eds.), *Between Kinship and the State. Social
        Security and Law in Developing Countries*. Dordrecht: Foris Publications.
1990   'Ambonese Adat as Jurisprudence of Insurgency and Oppression.' *Law &
        Anthropology. Internationales Jahrbuch für Rechtsanthropologie* 5: 25-42.
1999   'Multiple Legal Constructions of Socio-economic Spaces: Resource
        Management and Conflict in the Central Moluccas.' Pp. 131-158 in
        Michael Rösler and Tobias Wendl (eds.), *Frontiers and Borderlands.
        Anthropological Perspectives*. Frankfurt am Main: Peter Lang Verlag.
2009   'Human Rights, Cultural Relativism and Legal Pluralism: Towards a
        Two-dimensional Debate.' Pp. 115-134 in Franz von Benda-Beckmann,
        Keebet von Benda-Beckmann and Anne Griffiths (eds.), *The Power of
        Law in a Transnational World: Anthropological Enquiris*. New
        York/Oxford: Berghahn Books.

BENDA-BECKMANN, Franz von and Keebet von BENDA-BECKMANN
1998   'Where Structures Merge: State and Off-State Involvement in Rural Social
        Security on Ambon, Eastern Indonesia.' Pp. 143-180 in Sandra Pannell
        and Franz von Benda-Beckmann (eds.), *Old World Places, New World
        Problems: Exploring Issues of Resource Management in Eastern
        Indonesia*. Canberra: Centre for Resource and Environmental Studies,
        The Australian National University.
2001   'Recreating the *Nagari*: Decentralisation in West Sumatra.' Working
        Paper No. 31, Max Planck Institute for Social Anthropology, Halle/Saale.
2007a   'Ambivalent identities: Decentralization and Minangkabau political
        communties.' Pp. 417-442 in Henk Schulte Nordholt and Gerry van
        Klinken (eds.), *Renegotiating Boundaries: Local politics in post-Suharto
        Indonesia*. Leiden: KITLV Press.
2007b   'Social Security Between Past and Future: Introduction.' Pp. 1-24 in
        Franz von Benda-Beckmann and Keebet von Benda-Beckmann (eds.),
        *Social Security Between Past and Future: Ambonese Networks of Care and
        Support*. Münster: LIT.
2008   'Transforming traditions: Myths and stereotypes about traditional law in a
        globalizing world.' Paper presented at the EASA conference

'Experiencing Diversity and Mutuality', Ljubljana, Slovenia, 26-30 August 2008.

2009   'Recentralization and decentralization in West Sumatra.' Pp. 293-328 in Coen J.G. Holtzappel and Martin Ramstedt (eds.), *Decentralization and Regional Autonomy in Indonesia: Implementation and Challenges*. Singapore/Leiden: ISEAS/IIAS.

BENDA-BECKMANN, Keebet von

2004   'Law, Violence and Peace Making on the Island of Ambon.' Pp. 221-239 in Marie-Claire Foblets and Trutz von Trotha (eds.), *Healing the Wounds: Essays on the Reconstruction of Societies after War*. Oxford and Portland Oregon: Hart Publishing.

2007   'Law, Violence and Peace Making on the Island of Ambon.' Pp. 281-298 in Franz von Benda-Beckmann and Keebet von Benda-Beckmann (eds.), *Social Security Between Past and Future: Ambonese Networks of Care and Support*. Münster: LIT.

BERTRAND, Jacques

2002   'Legacies of the Authoritarian Past: Religious Violence in Indonesia's Moluccan Islands.' *Pacific Affairs* Spring 2002: 57-85.

BOURCHIER, David

2007   'The romance of adat in the Indonesian political imagination and the current revival.' Pp. 113-129 in Davidson and Henley (eds.).

BRÄUCHLER, Birgit

2003   'Cyberidentities at War: Religion, Identity, and the Internet in the Moluccan Conflict.' *Indonesia* 75: 123-151.

2005   *Cyberidentities at War: Der Molukkenkonflikt im Internet*. Bielefeld: transcript.

2007   'Ein Comeback der Tradition? Die Revitalisierung von Adat in Ostindonesien / A Comeback of Tradition? The Revitalisation of Adat in Eastern Indonesia.' *Zeitschrift für Ethnologie,* Special issue, Birgit Bräuchler and Thomas Widlok (eds.), *Die Revitalisierung von Tradition / The Revitalisation of Tradition* 132: 37-57.

2009a 'Cultural Solutions to Religious Conflicts? The Revival of Tradition in the Moluccas, Eastern Indonesia.' *Asian Journal of Social Sciences* 37(6): 872-891.

2009b 'Mobilising culture and tradition for peace: Reconciliation in the Moluccas.' Pp. 97-118 in Birgit Bräuchler (ed.), *Reconciling Indonesia: Grassroots agency for peace*. London/New York: Routledge.

2011   'Kings on Stage: Local Leadership in the Post-Suharto Moluccas.' *Asian Journal of Social Sciences* 39(2): 196-218.

BRÄUCHLER, Birgit and Thomas WIDLOK
2007   'Die Revitalisierung von Tradition: Im (Ver-)Handlungsfeld zwischen staatlichem und lokalem Recht / The revitalisation of tradition: Agency and negotiations between state law and local law.' *Zeitschrift für Ethnologie,* Special issue, Birgit Bräuchler and Thomas Widlok (eds.), *Die Revitalisierung von Tradition / The Revitalisation of Tradition* 132: 5-14.

BRUUN, Ole and Michael JACOBSEN
2000   'Introduction.' Pp. 1-20 in Michael Jacobsen and Ole Bruun (eds.), *Human Rights and Asian Values: Contesting National Identities and Cultural Representations in Asia*. Surrey: Curzon.

BUBANDT, Nils
2002   'Decentralisation, Conflict, and the New Politics of Tradition in North Maluku.' Pp. 114-127 in Kivimäki et al. (eds.).

BURNS, Peter
2004   *The Leiden Legacy: Concepts of Law in Indonesia*. Leiden: KITLV Press.
2007   'Custom, that is before all law.' Pp. 68-86 in Davidson and Henley (eds.).

CHAN, Joseph
2000   'Thick and Thin Accounts of Human Rights.' Pp. 59-74 in Michael Jacobsen and Ole Bruun (eds.), *Human Rights and Asian Values: Contesting National Identities and Cultural Representations in Asia*. Surrey: Curzon.

CHAUVEL, Richard
1990   *Nationalists, Soldiers and Separatists. The Ambonese Islands from Colonialism to Revolt, 1880-1950*. Verhandelingen van het Koninklijk Instituut voor Taal-, Land- en Volkenkunde 143. Leiden: KITLV Press.

CHRISTIE, Kenneth and Denny ROY
2001   *The Politics of Human Rights in East Asia*. London/Sterling, VA: Pluto Press.

COOLEY, Frank L.
1961   'Altar and Throne in Central Moluccan Societies: a study of the relationship between the institutions of religion and the institutions of local society undergoing rapid social change.' Dissertation presented to the Faculty of the Department of Religion Yale University. New Haven: Yale University.
1987   *Mimbar dan Takhta: Hubungan Lembaga-lembaga Keagamaan dan Pemerintahan di Maluku Tangah*. Jakarta: Pustaka Sinar Harapan.

COWAN, Jane K.
2001   'Ambiguities of an emancipatory discourse: the making of a Macedonian

minority in Greece.' Pp. 152-176 in Jane K. Cowan, Marie-Bénédicte Dembour and Richard A. Wilson (eds.), *Culture and Rights: Anthropological Perspectives*. Cambridge: Cambridge University Press.

2006 'Culture and Rights after *Culture and Rights*.' *American Anthropologist* 108(1): 9-24.

COWAN, Jane K., Marie-Bénédicte DEMBOUR and Richard A. WILSON

2001a 'Claiming cultural rights.' Pp. 149-151 in Jane K. Cowan, Marie-Bénédicte Dembour and Richard A. Wilson (eds.), *Culture and Rights: Anthropological Perspectives*. Cambridge: Cambridge University Press.

2001b 'Introduction.' Pp. 1-26 in Jane K. Cowan, Marie-Bénédicte Dembour and Richard A. Wilson (eds.), *Culture and Rights: Anthropological Perspectives*. Cambridge: Cambridge University Press.

DAVIDSON, Jamie S.

2007 'Culture and rights in ethnic violence.' Pp. 224-246 in Davidson and Henley (eds.).

2008 *From Rebellion to Riots: Collective Violence on Indonesian Borneo*. Madison Wisconsin: University of Wisconsin Press.

DAVIDSON, Jamie S. and David HENLEY (eds.)

2007 *The Revival of Tradition in Indonesian Politics: The deployment of adat from colonialism to indigenism*. London/New York: Routledge.

EYSINK, Simone

2006 'Human Rights between Europe and Southeast Asia.' *IIAS Newsletter* 41: 8-9.

FASSEUR, C.

2007 'Colonial Dilemma: Van Vollenhoven and the struggle between adat law and Western law in Indonesia.' Pp. 50-67 in Davidson and Henley (eds.).

FAUZI, Noer and R. Yando ZAKARIA

2002 'Democratizing Decentralization: Local Initiatives from Indonesia.' Paper presented at the 9th Biennial Conference of the International Association for the Study of Common Property, Victoria Falls, Zimbabwe. http://dlc.dlib.indiana.edu/archive/00000818/01/fauzin170502.pdf (accessed 7.11.2005).

FORSYTHE, David P. and Patrice C. McMAHON

2003 'Conclusion: Rights, Practices and "Area Studies".' Pp. 297-316 in David P. Forsythe and Patrice C. McMahon (eds.), *Human Rights and Diversity: Area Studies Revisited*. Lincoln/London: University of Nebraska Press.

FRAASSEN, Chris Frans van

1972 *Ambon-Rapport*, Doktoraalskriptie. Leiden: Stichting Werkgroep Studiereizen Ontwikkelingslanden.

_____

FRAASSEN, Chris Frans van and Hans STRAVER
2002   *De Ambonse eilanden onder de VOC zoals opgetekend in De Ambonse Landbeschrijving (Georgius Everhardus Rumphius)*. Utrecht: Landelijk Steunpunt Educatie Molukkers.
FREEMAN, Michael
2000   'Universal Rights and Particular Cultures.' Pp. 43-58 in Michael Jacobsen and Ole Bruun (eds.), *Human Rights and Asian Values: Contesting National Identities and Cultural Representations in Asia*. Surrey: Curzon.
GELLNER, David N.
2001   'From group rights to individual rights and back: Nepalese struggles over culture and equality.' Pp. 177-200 in Jane K. Cowan, Marie-Bénédicte Dembour and Richard A. Wilson (eds.), *Culture and Rights: Anthropological Perspectives*. Cambridge: Cambridge University Press.
GUENTHER, Mathias, Justin KENRICK, Adam KUPER, Evie PLAICE, Trond THUEN, Patrick WOLFE, Werner ZIPS and Alan BARNARD
2006   'Discussion: The concept of indigeneity.' *Social Anthropology* 14(1): 17-32.
HADIPRAYITNO, Irene Istiningsih
2010   'Defensive Enforcement: Human Rights in Indonesia.' *Human Rights Review* online (SpringerLink Date 6.10.2009).
        http://www.springerlink.com/content/d365440027111644/ (accessed 27.4.2010).
HENLEY, David and Jamie S. DAVIDSON
2007   'Introduction: Radical conservatism - the protean politics of adat.' Pp. 1-49 in Davidson and Henley (eds.).
HOROWITZ, Shale and Albrecht SCHNABEL
2004   'Human rights and societies in transition: International context and sources of variation.' Pp. 3-25 in Shale Horowitz and Albrecht Schnabel (eds.), *Human rights and societies in transition: Causes, consequences, responses*. New York: United Nations University Press.
HOWARD, Rhoda E.
1992   'Dignity, Community, and Human Rights'. Pp. 81-102 in Abdullahi Ahmed An-Na'im (ed.), *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*. Philadelphia: University of Pennsylvania Press.
HUMAN RIGHTS WATCH
1999   *Report on Violence in Ambon*. A Human Rights Watch Report. Vol. 11, No. 1(C), March 1999.
INTERNATIONAL CRISIS GROUP
2000   'Indonesia: Overcoming Murder and Chaos in Maluku.' Asia Report No. 10, 19.12.2000. Jakarta/Brussels.

_____

2002   'Indonesia: The Search for Peace in Maluku.' Asia Report No. 31, 08.02.2002. Jakarta/Brussels.

JACOBSEN, Michael

2002a   'Indonesian Conflicts, A Regional Perspective.' Pp. 31-48 in Kivimäki et al. (eds.).

2002b   '"To be or what to be - that is the question": Decentralization and Identity in North Sulawesi.' Pp. 225-255 in Kivimäki et al. (eds.).

JACOBSEN, Michael and Ole BRUUN (eds.)

2000   *Human Rights and Asian Values: Contesting National Identities and Cultural Representations in Asia*. Surrey: Curzon.

JUWANA, Hikmahanto

2006   'Human Rights in Indonesia.' Pp. 364-383 in Randall Peerenboom, Carole J. Petersen and Albert H. Y. Chen (eds.), *Human Rights in Asia: A comparative legal study of twelve Asian jurisdictions, France and the USA*. London/New York: Routledge.

KATO, Tsuyoshi

1989   'Different Fields, Similar Locusts: Adat Communities and the Village Law of 1979 in Indonesia.' *Indonesia* 47 (April): 89-114.

KIVIMÄKI, Timo, Michael JACOBSEN and Pius Suratman KARTASASMITA (eds.)

2002   *Democracy, Decentralization, Identity and Conflict in Indonesia*. Helsinki/Copenhagen: CTS-Conflict Transformation Service.

KLINKEN, Gerry van

2001a   'Indonesia's New Ethnic Elite.' *Workshop 'Indonesia in Transition'* August 2001. http://www.knaw.nl/indonesia/transition/workshop/ chapter4vanklinken.pdf (accessed 7.9.2004).

2001b   'The Maluku Wars: Bringing Society Back In.' *Indonesia* 71 (April): 1-26.

2007a   *Communal Violence and Democratization in Indonesia: Small town wars*. Routledge Contemporary Southeast Asa Series 15. London/New York: Routledge.

2007b   'Return of the sultans: The communitarian turn in local politics.' Pp. 149-169 in Davidson and Henley (eds.).

KNAAP, G. J.

1987   'Kruidnagelen en Christenen. De Verenigde Oost-Indische Compagnie en de Bevolking van Ambon 1656-1696.' *Verhandelingen van het Koninklijk Instituut voor Taal-, Land- en Volkenkunde* 125. Leiden: KITLV Press.

KREUZER, Peter

2002   *Applying theories of ethno-cultural conflict and conflict resolution to collective violence in Indonesia*. PRIF Report No. 63, Frankfurt am Main.

Peace Research Institute Frankfurt (Hessische Stiftung Friedens- und Konfliktforschung). http://www.hsfk.de/downloads/prifrep63.pdf (accessed 8.11.2004).

KUPER, Adam
2003   'The Return of the Native.' *Current Anthropology* 44(3): 389-402.

LEE, Juliet Patricia
1999   'Out of Order: The Politics of Modernity in Indonesia.' PhD Dissertation (UMI Dissertation Services), University of Virginia.

LEIRISSA, R. Z., John A. PATTIKAYHATU and Soenjata KARTADARMADJA
1982/1983   *Sejarah Sosial di Daerah Maluku*. Ambon: Direktorat Sejarah dan Nilai Tradisional.

LI, Tania M.
2007   'Adat in Central Sulawesi: Contemporary deployments.' Pp. 337-370 in Davidson and Henley (eds.).

LOUNELA, Anu
2004   'Decentralization in Indonesia: Legal changes and emerging forest movements in Central Java.' Paper presented at the 4th EUROSEAS Conference, Paris, 1-4 September 2004.

McCARTHY, John F.
2004   'Changing to Gray: Decentralization and the Emergence of Volatile Socio-legal Configurations in Central Kalimantan, Indonesia.' Asia Research Centre, Murdoch University, Australia January 2004. http://wwwarc.murdoch.edu.au/wp/wp101.pdf (accessed 11.11.2004).

MERRY, Sally Engle
2001   Changing rights, changing culture. Pp. 31-55 in Jane K. Cowan, Marie-Bénédicte Dembour and Richard A. Wilson (eds.), *Culture and Rights: Anthropological Perspectives*. Cambridge: Cambridge University Press.
2005   'Transnational Human Rights and Local Activism: Mapping the Middle.' http://cronus.uwindsor.ca/users/b/basok/main.nsf/6d8ffcfd02afe81e85257 30600490ed8/178b2c68bafb979d852576a300533f46/$FILE/ATT128LB/ Merry%20AA%202006.pdf (accessed 12.12.2010).
2006   *Human Rights & Gender Violence: Translating International Law into Local Justice*. Chicago/London: The University of Chicago Press.

MESSER, Ellen
1993   'Anthropology and Human Rights.' *Annual Review of Anthropology* 22: 221-249.

OTTO, Ton and Poul PEDERSEN
2005   'Disentangling Traditions: Culture, Agency and Power.' Pp. 11-49 in Ton Otto and Poul Pedersen (eds.), *Tradition and Agency: Tracing Cultural Continuity and Invention*. Aarhus: Aarhus University Press.

PALMER, Blair
2004   'Memories of Migration: Butonese Migrants returning to Buton after the Maluku conflicts 1999–2002.' *Antropologi Indonesia* Special Volume: 87-99. http://www.jai.or.id/jurnal/2004/sv/08bp_sv04.pdf (accessed 28.1.2006).
PANNELL, Sandra
2003   'Violence, Society and the State in Eastern Indonesia: Context.' Pp. 11-36 in Pannell (ed.).
PANNELL, Sandra (ed.)
2003   *A State of Emergency: Violence, Society and the State in Eastern Indonesia*. Darwin: Northern Territory University Press.
PARIELA, Tonny D.
1996   'Social Transformation in Soya Atas Village.' Pp. 106-120 in David Mearns and Chris Healey (eds.), *Remaking Maluku. Social Transformation in Eastern Indonesia*. Northern Territory University: Darwin, Australia.
PERMANA, Nurhayat Arif
2002   'Revitalisasi Lembaga Adat dalam Menyelesaikan Konflik Etnis Menghadapi Otonomi Daerah: Studi Kasus Pulau Bangka.' *Antropologi Indonesia* 68: 74-85.
RESOSUDARMO, Ida Aju Pradnja
2003   'Shifting Power to the Periphery: The Impact of Decentralisation on Forests and Forest People.' Pp. 230-244 in Aspinall and Fealy (eds.).
SCHULTE NORDHOLT, Henk
2003   'Renegotiating boundaries: Access, agency and identity in post-Soeharto Indonesia.' *Bijdragen tot de Taal-, Land- en Volkenkunde* 159(4): 550-589.
SCHULTE NORDHOLT, Henk and Gerry van KLINKEN (eds.)
2007   *Renegotiating Boundaries: Local politics in post-Suharto Indonesia*. Leiden: KITLV Press.
SCHULZE, Kirsten E.
2002   'Laskar Jihad and the Conflict in Ambon.' *The Brown Journal of World Affairs* IX(1): 57-69.
SIEDER, Rachel and Jessica WITCHELL
2001   'Advancing indigenous claims through the law: reflections on the Guatemalan peace process.' Pp. 201-225 in Jane K. Cowan, Marie-Bénédicte Dembour and Richard A. Wilson (eds.), *Culture and Rights: Anthropological Perspectives*. Cambridge: Cambridge University Press.
SPYER, Patricia
2002   'Fire without Smoke and other Phantoms of Ambon's Violence: Media

Effects, Agency, and the Work of Imagination.' *Indonesia* 74 (October 2002): 21-36.

THORBURN, Craig C.
2003   'The Plot Thickens: Decentralisation and Land Administration in Indonesia.' Paper presented at the conference *Politics of the Commons: Articulating Development and Strengthening Local Practices*, Chiang Mai, Thailand, July 11-14, 2003.
        http://dlc.dlib.indiana.edu/archive/00001161/00/Thorburn.pdf   (accessed 20.12.2004).

U.S. DEPARTMENT OF STATE
2006   *Indonesia: Country Reports on Human Rights Practices - 2006*. Bureau of Democracy, Human Rights, and Labor.

VINCENT, Joan
2002   'Law.' Pp. 330-333 in Alan Barnard and Jonathan Spencer (eds.), *Encyclopedia of Social and Cultural Anthropology*. London/New York: Routledge.

WIDLOK, Thomas
2007   'Die Last des Erbes: Apartheid, indigenes Recht und Erbrechtsreform in Namibia.' *Zeitschrift für Ethnologie,* Special issue, Birgit Bräuchler and Thomas Widlok (eds.), *Die Revitalisierung von Tradition / The Revitalisation of Tradition* 132: 77-90.

WILSON, Richard Ashby
2006   'Afterword to "Anthropology and Human Rights in a New Key": The Social Life of Human Rights.' *American Anthropologist* 108(1): 77-83.