

Property, Politics, and Conflict: Ambon and Minangkabau Compared

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This essay focuses on factors internal to the organization of social life in two regions of Indonesia to explain differences in patterns of dispute management that occur despite similarities in forums, substantive property categories, and types of disputes—primarily over inheritance and property rights in land. In Minangkabau, where disputes are usually phrased in terms of inherited property, are concerned with the status of land, and are more likely to expand into major political battles, rice land is intensively farmed and is held by matrilineal clans that are also political units. In Ambon, disputes are usually phrased in terms of self-acquired property, are concerned with the status of trees, and are less political; people combine fishing and gathering with harvesting sago palms, distinguish rights to land from rights to trees, lack stable descent groups, and share the land with recent migrants. Although increasing monetization in Minangkabau is making property relationships more complex, while increasing sedentarization in Ambon is simplifying property relationships, both regions are moving toward a concept of property rights akin to the Western concept of ownership.

Comparing dispute management in Minangkabau and in Ambon, in the Moluccas, one is at first struck by the similarities in disputes and disputing behavior in the rural areas.¹ The major conflicts in villages that tend to develop into full-fledged disputes in which third parties become involved concern property—mainly land—and inheritance. In both regions, disputes over property easily develop into vicious confrontations, in which few

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¹ For an ethnography of conflict and disputes in Minangkabau see Tanner 1969, 1972; F. von Benda-Beckmann 1979; K. von Benda-Beckmann 1984. For an ethnography on Ambon see Benda-Beckmann & Benda-Beckmann 1988; 1989; F. von Benda-Beckmann 1990a, 1990b; F. von Benda-Beckmann & Taale 1992. We carried out fieldwork in Canduang Koto Laweh, Minangkabau, in 1974–75 and in the village of Hila, Ambon, in 1985–86. Additional fieldwork in Hila was done by Tanja Taale and Arie Brouwer in 1987–88. The research was carried out under the auspices of Lembaga Ilmu Pengetahuan Indonesia (LIPI)—the Indonesian Academy of Science.

means are eschewed to have disputes decided in one's favor. The disputes are often full of violence, lies, fraudulent assertions, and falsified documents. Only a few are resolved effectively in the sense that a decision is generally acknowledged and adhered to, if not forever, at least over a long period. Some case histories can be traced through several generations.

People in both regions can choose among a range of institutions to resolve the dispute. Disputants make use of both village and other institutions, such as the police, the subdistrict officer, and the state court. Land disputes are usually dealt with on the basis of substantive adat law, whether by local adat institutions or by state institutions such as the courts.

The main substantive property categories are also rather similar. Both Ambonese and Minangkabau adat make a profound distinction between land controlled by the village community as a whole (Minangkabau: *tanah ulayat*; Ambonese: *tanah negeri*), commonly owned, inherited property (M: *harato pusako*; A: *pusaka*), and self-acquired property (M: *harato panchaharian*; A: *perusah*); and in both normative systems, self-acquired property becomes inherited property commonly owned by a group of heirs.

In both regions, differing versions of adat have been developed by village institutions and courts, mainly as a result of differing procedural regulations and practices. In both regions, state courts are regarded with the utmost suspicion and are seen as largely corrupt. In the eyes of most villagers, judges do not know about adat. Court outcomes seem to resemble a lottery and are predictable only in terms of money inputs. Yet in both regions people do make use of state courts and even go through the system right to the Supreme Court, only to find that decisions by the highest authority in the state very often have little impact (K. von Benda-Beckmann 1984:103 ff.; F. von Benda-Beckmann 1991a). A court decision is just one of many, a "bargaining chip" (Galanter 1981) in the ongoing conflict negotiations.

There are, however, striking and, to our mind, profound differences in the structure of disputes, the disputing process, and the political significance of the disputes. One difference lies in the ways central property issues are formulated and elaborated. Disputes in Minangkabau are usually in terms of inherited property, and the central issue is usually evidence to prove that land is or is not inherited property of a certain lineage or lineage-segment. On Ambon disputants are much more concerned with establishing the original self-acquired nature of property, even though the acquisition may have happened generations ago. While Minangkabau are primarily concerned with the status of land, Ambonese are more concerned with the status of the trees that grow on the land.

Another major difference lies in the way disputes do or do not expand and develop from a conflict between two persons into one involving many persons. The formation of such larger groups—as action sets or support groups for the individuals acting as principal parties—takes place along various lines, and the cohesion and stability through time of such groups differ considerably. A further important difference lies in the deep entrenchment in village politics of most disputes about property in Minangkabau. Ambonese disputes, on the other hand, are usually much more apolitical and remain more private. Finally, disputes about land are more readily contained within the village setting in Minangkabau than in Ambon. In Ambon itself, disputes are more effectively contained in Islamic than in Christian villages (see F. von Benda-Beckmann 1985, 1986).

We present a comparative analysis of these differences, concentrating on factors internal to the organization of social life of the villages—in particular, the agro-ecosystem, kinship organization, the presence or absence of migrants, and political organization—and on the ways these factors are interconnected through the law, which governs legitimate access to, control over, and exploitation of human and natural resources, chiefly by means of family and inheritance law, constitutional law, and property law.² But in accounting for the differences, the more or less coherent body of abstract cognitive and normative conceptualizations of property categories and types of property rights as such does not matter so much as the concrete relationships through which the rights to control and exploit natural resources form connections between social units and the natural resources themselves. We sketch the most important characteristics of the two agro-ecological systems: property law and sociopolitical organization. Then we move to a comparative analysis of the characteristics of disputes and the formation of support groups and the relation between property disputes and village politics. On that basis, we analyze the various ways and degrees to which property disputes are contained within village arenas and then conclude with an analysis of prospects for change.

² We are well aware that, generally speaking, differences in the level of containment of disputes within a village have to be explained both by village-external and village-internal factors and their interdependencies. Political and economic developments, for example, affect the rate of disputes significantly (see Slaats 1988). Moreover, what is considered internal today was often in the past shaped by external factors, notably the specific incorporation of villages in the colonial and present state apparatus (see Benda-Beckmann & Benda-Beckmann 1988). The reason that we concentrate on internal factors is not due to an underestimation of the general importance of external factors (Nader & Todd 1978; F. von Benda-Beckmann 1981, 1985:190; Collier 1976; K. von Benda-Beckmann 1981; Slaats 1988.) We feel justified in focusing on village-internal factors because the most important external factors that might explain differences in disputing behavior and containment of disputes within the village are very similar in the regions that we are dealing with, whereas the regions differ considerably in agro-ecology and political organization.

Agro-ecology, Sociopolitical Organization, and Property Law

The agrarian system of highland Minangkabau is dominated by wet rice and cash crops. Irrigation relies mainly on rainfall, and irrigation water is a scarce good. Depending on the availability of irrigation water, one or two rice harvests per year are possible. When the water is not sufficient for two harvests, people grow other crops on the dry *sawah* fields—maize, tobacco, chili peppers, beans, or vegetables—for their own consumption and for the market. The sawah field system covers the valleys and has moved up the slopes of the volcanoes. On the steeper slopes of the mountains and higher up, cinnamon and cloves are grown. In the central part of Minangkabau land has become very scarce. The remaining forest areas are in steep hilly or mountainous regions and not easily accessible. Besides, they fall under the jurisdiction of the Department of Forestry, under which the clearing of forest land for agriculture is prohibited. Shifting cultivation on *ladang* (dry fields) also has become rare; in central Minangkabau it has virtually disappeared. Rice cultivation requires a substantial amount of cooperation, working parties being recruited mainly from among the close relatives of a matrilineal descent group of the persons entitled to cultivate the land. The cultivation of vegetables and beans demands less cooperative labor and may be done by a husband and wife with their children.

Agricultural production, then, is highly sedentary. Because the rice fields are demarcated by little dikes, the land forms easily identifiable spatial units. The spatial structure of Minangkabau property categories, therefore, is relatively simple. Rights of whatever kind almost always relate to demarcated spatial units and concern whole rice fields and all crops—rice or vegetables—cultivated at a particular time on that field.

The spatial continuity of property is linked to the social continuity of property. Social continuity is embodied in the notion of *pusako*—the inherited property of matrilineages and the *suku* (named clans) to which lineages belong. Because of the principle of group membership and inheritance by matrilineal descent, these lineages and clans are well identified social units. Sociopolitical units, the lineage headed by a *panghulu* (titled lineage head), and inherited property are mutually definitive. The panghulu title is also the common property of a lineage. Individual valuables, transactions, and rights of individual people are overshadowed and absorbed by this diachronic notion of *pusako* continuity. The diachronic dimension of property objects and property relationships is so dominant that self-acquired property was, and to a certain extent still is, referred to as a subcategory of *pusako* property: self-acquired property is *pusako*, be-

cause it will be *pusako* (see F. von Benda-Beckmann 1979:194 ff.; Benda-Beckmann & Benda-Beckmann 1985:252–53).

In highland Minangkabau, most of the village territory has the status of inherited property. Of the village land (*tanah ulayat*), land not permanently exploited agriculturally, and mainly uncleared forest land under the right of avail of the village council or distributed over matrilineal associations, most has been cultivated for generations and has become the inherited property of lineages.³ Inheritance of *pusako* follows matrilineal lines, and so did self-acquired property in former times. Since the 1960s it has been generally acknowledged as *new adat*—both in the villages and in the state courts—that *pusako* is inherited by the children within the conjugal family. Once inherited by the children, however, matrilineal inheritance still obtains. The pre-eminent role of *pusako* is further mitigated by extensive pawning arrangements, which are rapidly gaining economic importance, and by the far less widespread conversion of *pusako* into Western-style individual ownership—*hak milik*. These changes have led to a new complexity in the property system, which can be called the *pancaharianization* of *pusako*. Pawned land retains its *pusako* status for the owners, and the exploitation rights to that land are self-acquired property for the pawner. Pawning and redemption of *pusako* property are gaining in importance and have become among the most important ways of obtaining access to land for the members of lineages with little land. Outright sales of land are still rare in the rural areas but are becoming increasingly popular around towns.

The structure of property rights and property-holding groups and individuals is very complex. Lineages are sociopolitical units primarily in their external relations, which concern common representation in village affairs, common rules of exogamy, and common representation in social and economic transactions about *pusako* property of lineage members with members of other lineages. In Minangkabau *adat* law, lineages must be represented by the lineage head. Internally, however, the relations in this *pusako* property complex are differentiated—maybe because of the internal allocation of *pusako*-use rights to the senior women of lineage-segments. Ideally the allocations take place in a deliberation of all adult (sub)lineage members under the leadership of the (sub)lineage head.

Another important source of internal differentiation derives from the self-acquired property of a lineage member. After the death of the acquirer, such property becomes inherited property for his or her closest matrilineal descendants, to be exploited by

³ Most contemporary references to *ulayat* land refer to the area with that status when the village was established. It was the land surrounding the village core (see F. von Benda-Beckmann 1979:144).

them exclusively. But at the same time it becomes part of the whole *pusako* property complex of the lineage.

A final source of internal differentiation may lie in the stratification of a lineage as the result of the incorporation of strangers or descendants of former slaves who have lesser rights in the allocation and distribution of the inherited property. The old sociopolitical and property order allowed for the splitting of lineages into two or more independent, *panghulu*-headed lineages. Since these processes were disturbed by the interference of the Dutch colonial government, relatively independent sublineages under the leadership of untitled sublineage heads have emerged.

Property relations—especially control and allocation rights of inherited property complexes—and sociopolitical organization are closely interwoven. Traditionally, lineages (and sublineages) are organized in two hierarchical intermediary structures. These build on increasingly larger segments of matrilineal or clan associations and, at various levels below the village government level, have their own functionaries.⁴ The *suku pusako* structure deals with the administration of lineage and clan land and the offices of lineage heads, while the *hindu adat* structure deals with political and administrative matters in village government. In addition, there is a precolonial organization of neighborhoods (see K. von Benda-Beckmann 1984:60 n.10). Each structure has its own functionaries, but all share as the highest authority the adat council, which comprises the representatives of the 12 *hindu adat*.

The precolonial model of political organization has been largely maintained despite the many attempts of the colonial and independent Indonesian state to replace it with a uniform system of local government.⁵ The Indonesian local government, with neighborhoods, village council, mayor, and village secretary, is only the latest addition to the complex political structure. A dualistic structure persists, with both an adat council, not officially recognized by the state, and a village council, presided over by the mayor. Although the composition of the latter is said to be based on adat, there is general agreement that it is not and that the mayor is a local government officer, not an adat functionary.

The island of Ambon has an entirely different agrarian system from the one on Minangkabau. Ambonese combine horticulture, fishing, and gathering. The staple food is sago, which

⁴ There is considerable variety in sociopolitical organization in Minangkabau villages. For more references see Josseling de Jong 1951; F. von Benda-Beckmann 1979; K. von Benda-Beckmann 1984. Our description is based on the organization of Danduang Koto Laweh and surroundings.

⁵ For a more detailed account see F. von Benda-Beckmann 1979. Until 1975 a *Devan Perwakilan Rakyat Nagari* was supposed to advise the village head. The latest reform, following the 1979 local government law, no longer even pretends to be based on adat but attempts to unify local governments throughout Indonesia on the basis of the *desa* model. The Nagari Canduang has thus been divided into 11 *desa*.

grows in the coastal swamps. The fragile soils do not allow for rice cultivation. In the coastal areas, one also finds old coconut plantations. The drier parts of the coastal zones are covered with clove and nutmeg plantations; for centuries these spices were the most important cash crops. Interspersed among the spice trees are various fruit trees, and underneath the trees people grow root crops and other vegetables. Higher up in the hills, plantations and gardens become scarcer, though one finds occasional vegetable gardens in the secondary forest, where eventually clove and fruit trees will be planted. In the past two decades, when the price of cloves has boomed, large parts of this secondary forest have been planted with clove trees and, to a lesser extent, nutmeg trees. The labor of immigrants from Buton, in southern Sulawesi, many of whom have settled on the territory of Ambonese villages, is becoming increasingly important for Ambonese horticulture.

In contrast to rice production, Ambonese horticulture requires little systematic cultivation or large-scale cooperation. Choice of crops, time of planting and harvesting, and harvested yields are, far more than in Minangkabau, a private matter for the person or persons who work the garden, rasp sago, or cultivate the *dusun* (tree plantation) to decide (see F. von Benda-Beckmann 1990b).⁶ Usually it is cloves and some kinds of fruit that are picked by larger working parties, for they must be harvested within a very limited period. The labor shortage has led to the immigration of the Butonese. The harvesting parties often consist of a large group of relatives as well, who participate in the harvesting in order to make sure of their share.

In the past, gardens were rarely fenced in and were abandoned after seven years. Traditional patterns of intercropping allowed different people to plant different crops in the same plantation. Pressure on the land is increasing now, especially in the more accessible coastal areas. As a consequence, shifting cultivation is giving way to more permanent horticulture and modern cropping techniques.⁷ Gardens are maintained for longer periods, and more work is invested in them to increase productivity, while intercropping has become less common. Butonese immigrants have taken the lead in this sedentarization, because, having no adat rights to land, they cannot freely move to new plots and until recently were not allowed to own trees. They are urged on by extension officers, who encourage more intensive land use.

Ambonese horticulture is both less intensive and less visible than Minangkabau rice cultivation. Although monocultures are becoming more common, often many different people grow crops on the same plot of land. Cultivation is less intensive, so

⁶ A *dusun*, which may cover many hectares, may contain more than one plantation. We use the translation "plantation."

⁷ For more information on the agro-ecosystem see Brouwer 1990; Taale 1991.

people spend less time on their gardens than Minangkabau rice growers do on their sawah. And because horticulture takes place in the forest, the work is less visible. Generally speaking, unlike in Minangkabau, people do not know as much about who is working which plot of land.

The spatial structure of property rights in Ambonese villages is much more complex than in Minangkabau villages. Different property rights are connected to a variety of social units. As in Minangkabau, *pusaka* and self-acquired property rights are important parts of the property system. Membership in the Ambonese adat community is established by patrilineation to a *rumah tau* (patrilineal clan), which forms part of a *soa* (clan association). But patrilineal descent does not form the basis of a system of multilayered descent and segmented groups with separate group leaders, as in Minangkabau. Bilateral kinship relationships play the larger role, and, what is more important, *pusaka* and self-acquired property are inherited bilaterally. Thus, Ambon does not have the same stable descent groups with formal representatives that form a firm basis for common property ownership, nor is the political power of intermediate structures as strong as in Minangkabau.

The spatial complexity of property rights is further enhanced because rights to land are clearly distinguished from rights to vegetation; that is, property is divided horizontally. Spatial references are made much more to the various property objects, such as plantations, gardens, or trees, than to a bounded and permanently fixed space. Whereas in Minangkabau property means primarily the land within certain boundaries, in Ambon boundaries indicate what grows together. Each crop or tree may have a different owner, and the land may be the property of someone else. If land is at all associated with a tree, then only the immediate surroundings of the tree in question are involved, not a larger contiguous space. Each of the crops and even individual trees may have different sets of owners, while the land may be owned by yet another set of people.⁸

The link between spatial continuity and social continuity in larger groups is therefore much weaker than in Minangkabau (see also F. von Benda-Beckmann 1990b:189). Consequently, and

⁸ The succinct description of the complexity of Ambonese property rights by Holleman in 1923 has lost none of its aptness:

The legal situation in the *pusaka* lands is chaotic and precarious. The chaos automatically emerges from the principles that small nuclei of *pusaka* retain their distinct character and do not merge with larger *pusaka* complexes; that, further, the rights of each individual inheritor are retained by his descendants; and, finally, that affines also acquire claims to *pusaka* because the rights of a married daughter are retained by her children. The chaos increases if one considers that the concern is not so much with *dusun* [as a whole] as with plantations and groups of trees in and on the *dusun*, which grow in all directions and form a colorful mix of several generations, families, and individuals. (Pp. 96, 97; trans. by authors).

unlike in Minangkabau, much more emphasis lies on the acquisition of property and less on pusaka. As a result of the bilateral inheritance system and the horizontal division of ownership, a person cannot establish title to pusaka merely by claiming membership in a clan segment. Title can be established only by proving common descent with the person who brought a particular piece of land under cultivation or who planted a tree or plantation.

The exception to this general pattern concerns *dati* property. *Dati* property was an invention of the Dutch East India Company in the 17th century to compensate lineages for services to the company. Membership in *dati* groups and access to *dati* lands are based on patrification. *Dati* land thus remains the property of more permanent social units. *Dati* rights, however, mainly pertain to political control and access to land. Crops planted on *dati* land are the self-acquired property of the cultivator and, after the cultivator's death, become pusaka. Groups of bilateral heirs thus have property rights to individual trees or tree gardens on *dati* land to which membership rights are transmitted patrilineally. There is considerable variation in the economic significance of *dati* lands throughout the island. In Muslim villages, in contrast to Christian villages, only a minor part of the village territory is *dati*, and, more often than not, whether land is in fact *dati* land or pusaka is uncertain and disputed.⁹

Property rights may be complicated even more by rival adat claims to land; each of various sociopolitical groups within the village may claim title on the basis of different historical periods: before the Dutch East Asia Company, during the colonial period, or since independence. Multiple claims are made to cultivated land as well as to uncultivated land higher up in the hills. The village government claims the right of avail over the uncultivated forests in the hilly parts of the village territory, based on the standard adat law developed during three and a half centuries of colonial domination. The positions of village head and clan association head—early colonial transformations of precolonial leadership positions—have in the course of time been firmly established as adat positions. More recently, the village heads have become mayors with a new type of village council, but the position is still considered an adat position as well.

The amalgam of local Ambonese and state government features has not entirely suppressed the historically older forms of sociopolitical control, dating back to the time when patrilineal clans and clan associations lived in mountain settlements.¹⁰ These clans, who were the last to submit to the colonial de-

⁹ See also Holleman 1923:110; and on Christian villages see Kriekhof 1991.

¹⁰ Historically, the sociopolitical organization and its development have been much more complex. The successors of traditional political, ritual, and property leaders still hold the titles but are now strongly associated with the Muslim organization, though their

mand—made in the 17th century—that the local inhabitants settle on the coast and who joined the village of Hila where we did our research after it had been established, maintain control over their precolonial clan land. They base their claims on a different version of adat, which does not deny the position of village head but severely restricts control rights and the size of the territory under the control of the village government.¹¹ These interpretations of the adat coexist to the present day (see Taale 1991; F. von Benda-Beckmann & Taale 1992). The issue is not without importance, because new cultivation is allowed only with the consent of the lords of the land. In fact, the mayor has profited both economically and politically from this right, because the Buntinese increasingly rely on his permission to cultivate gardens and plant more permanent crops, in return for which they offer payments and political support.

Property Disputes and the Constellation of Support Groups

The issues that become problematic in the great property disputes in Minangkabau concern rights to pusako property. Most common are questions about which lineage or sublineage owns a piece of property, usually rice fields, and which of the contending parties can trace the most direct matrilineal relationship (the basis for inheritance) to a former, indisputably rightful property holder. These questions also come up when pawned pusako is to be redeemed. The transaction may be denied by the alleged pawnee, or different sublineages may claim the right of redemption. Disputes about self-acquired property usually involve the crucial issue of whether the property is indeed self-acquired or whether it is pusako. Thus, in these cases as well, at least one party argues in pusako terms.

As a consequence, Minangkabau disputes show two important characteristics. The heads of pusako-holding lineages and sublineages become inevitably involved in the disputes, and even seemingly small disputes between members of different sublineages are likely to expand. According to village adat and according to the state courts' interpretation of adat, lineage members wishing to dispute pusako property must be represented by their

influence has not entirely disappeared. For details see Fraassen 1972; Manusama 1977; Rumphius 1910; Holleman 1923; Hoevell 1875.

¹¹ Originally the Ambonese lived in the hills in patrilineal clans or in clusters of clans. In the beginning of the 17th century, they were forced by the Dutch East India Company to move down to the coast. Resettlement did not happen all at once, and some clans or soa moved down earlier than others, taking the best parts of the coastal land and claiming to be the founders of the new settlements. The colonial administration honored their claims by granting the leaders the title of *raja* or *orang kaya*, head of the village. Villages differ considerably from each other in their settlement histories. See Rumphius 1910; Manusama 1977; Knaap 1987; Benda-Beckmann & Benda-Beckmann 1989.

lineage heads. In the first stage of a dispute between members of a descent group or sublineage, the head's involvement as organizer and mediator is prescribed. Heads are expected to be somewhat detached from the immediate gains and interests of their matrilineal kin. Otherwise, they cannot be good representatives and problem solvers. If a dispute cannot be settled and moves up the hierarchical ladder of dispute forums, the same functionaries become representatives of the original disputants and thus parties themselves.

At a higher level, a large number of persons are bound to be involved, because the lineage and sublineage heads represent all members of their descent group. Besides, the whole pusako property complex is likely to be affected, because the legal status of one rice field in the pusako complex may indicate the status of the whole property complex—even the whole property complex of the lineage.

On both sides, large economic interests are at stake, especially for the women, who possess the right of exploitation. On the side of the person who is alleged to hold pusako without title, many relatives may become involved who control land that was not initially involved. They may be drawn into the dispute to defend their property, at the risk of losing it. On the claiming side, there is the attractive prospect of enlarging the pool of pusako property. Direct involvement—actively supporting one's representative, by sharing in the costs of the dispute, for example—is imperative, for the rights in the property won in a dispute are distributed along the lines of financial contributions to the dispute, through which the funds are won back. The structure of the support groups is largely determined by matrilineal membership in the involved lineages, with incidental husbands attached, because pusako rights have to be based on such membership.

The disputes brought before the state courts in Ambon that consume much time and money are about rights to sago and clove plantations and increasingly about rights to land. The crucial issues usually are who planted the trees in question; what the status of a particular plantation or area is—pusaka, dati, village land, or self-acquired property—how inheritance lines run; whether the principle of horizontal division is still valid; and where the precise demarcations of tree gardens are.

The issue of self-acquired property is of crucial importance in most big disputes. In Minangkabau, to prove that at one time in the past a relative worked a particular rice field as her pusako would suffice, provided that the proper kin relationship is established; but to conclude that a set of relatives is entitled to a whole pusako complex would never do in Ambon. Without knowing who the original cultivator was, the complete set of inheritors can never be established. For example, inheriting from a grandfather establishes a different, though overlapping, set of coheirs than

inheriting from a father. One must always go back to the person who acquired the property initially.

As in Minangkabau, property disputes in Ambon regularly involve dozens of people. In Minangkabau the support groups are formed along lineage (segment) lines and are relatively stable and coherent, but in Ambon they are recruited from many different kin groups and very much on an ad hoc basis, varying from dispute to dispute. In Ambon disputes about individual land or tree property do not usually have the legal implications to larger pusaka clusters that land disputes have in Minangkabau. The difference has to do with the absence of permanent pusaka-holding clan segments—a result of bilateral inheritance and the lack of formal representatives. The constellation of property-holding units varies from plantation to plantation and even from tree to tree. Therefore, a successful claim to trees or a plantation does not necessarily imply rights to other pusaka trees or plantations, though disputants may claim that it does. Moreover, Ambonese disputants all participate personally and are rarely formally represented by a (sub)lineage head, as in Minangkabau, with the exception of dati disputes. A clear rule is that only those who participate in the costs participate in the results. Because it is not always clear who is entitled to participate, disputants are often secretive about procedures, afraid of having to share the results with too many people. The secretiveness itself may be a source of disputes.

There are also differences in the number of parties involved in property disputes. Minangkabau disputes only rarely involve more than two parties formed by sets of matrilineal kin. Ambonese disputes, on the other hand, usually and perhaps characteristically involve more than two parties. In disputes over large plantations a third or fourth group may claim rights to the plantation owing to the wide proliferation of heirs belonging to various groups through bilateral inheritance.

In Minangkabau nearly all farmers and peasants are ethnic Minangkabau, but in Ambon there is an additional complication: a large Butonese migrant population living and farming in villages without being full members of the adat community. Many disputes are triggered by imprecise sharing arrangements for clove plantations between Ambonese landlords and Butonese. For example, an Ambonese landlord gives a Butonese permission to plant clove saplings under the condition that the plantation will be divided between them upon the trees' maturity, usually seven years later. When land was less scarce and clove prices low, such arrangements were rather unproblematic. But land has become more valuable, not least because so many clove trees have been planted and because clove prices have gone up. The crucial issues in these disputes concern the terms of the sharing agreement: whether trees alone or trees and land are to be divided;

who the rightful owner of the land or plantation cultivated by the Butonese is; and, in connection with this, what the legal status of the property is—*dati*, *pusaka*, village land—all of which ultimately relate to the question of whose consent to the transaction with the Butonese is required and who may profit from the transaction. The question of the rightful ownership of both land and trees has become all the more pressing precisely because of the value added by Butonese labor, as well as the generally increasing pressure on the land.

The constellation of property rights is often chaotic. Many Ambonese landlords have no interest in involving all potential titleholders in a dispute, for that would mean sharing profits with many others. Disputes involving Butonese villagers, therefore, usually involve a triangle of interests. If Butonese are parties to a dispute, they often seek support from an Ambonese property-holding group, which denies the right of their adversaries. Or the Butonese become involved as allies to the principal Ambonese parties (Benda-Beckmann & Benda-Beckmann 1989; F. von Benda-Beckmann 1990a; F. von Benda-Beckmann & Taale 1992). Increasingly, Butonese use this legal uncertainty as a resource in their property struggles with the Ambonese. They declare their willingness to share under the negotiated or imposed conditions but demand that the Ambonese sort out their disputes first. Until then, they claim the right to harvest all the trees they have planted (F. von Benda-Beckmann 1990a; F. von Benda-Beckmann & Taale 1992).

Similar problems arise when government institutions need land for offices. The expectation of financial compensation triggers property disputes that have hitherto remained latent. Because such disputes cannot usually be settled in a short time, the location of government offices is rather erratic and indicates areas where land ownership is undisputed.

Property and Politics

Related to the differences already mentioned, there are substantial differences between the two regions in the connections between property rights, leadership positions, and village politics. In Minangkabau men are not entitled to enduring and inheritable rights to exploit their lineage property, though they may receive some lineage land from their descent group to support their family. Since lineage leadership also means external control of the lineage *pusako* property, their position and their required cooperation in disputes in particular can easily be made economically profitable, although they will indignantly deny this to be the case. Some lineage heads manage to control a large part of their lineage *pusako* and live on it quite comfortably, even though they are not entitled to it. But excessive greed is

controlled by the principle of consensual decisionmaking. A lineage head who tries to squeeze too much out of his relatives will be frowned on and denied the necessary consent. Ultimately, he may be forced to step down from office. Because it is in his interest to be considered a successful negotiator, outright extortion is uncommon; some lineage heads are known, however, for requiring substantial financial compensation for their services.

Lineage heads participate in property disputes in the first place as group leaders dealing with other group leaders. Political issues may come up in two ways. First, an individual's legitimate position as lineage head may be directly questioned, as in disputes over the question of which lineage is entitled to *pusako* property. Proving the rights of one's lineage also potentially means proving the legitimacy of one's own lineage leadership, thereby maintaining or defending personal prestige and social and economic power. Conversely, many disputes overtly carried out over *pusako* property are triggered by underlying disputes about lineage leadership positions.

Second, such disputes invoke competition with other lineage heads involved as decisionmaking authorities at the higher levels of sociopolitical organization. Political considerations easily come to dominate dispute strategies and to push the original property dispute and the interests of the principal parties to the background. Lineage heads may attempt to settle old scores, deny the legitimate leadership of other lineage heads, and claim that the matter of legitimate representation must be settled before the property dispute can be resolved, thus making the dispute dependent on a different agenda and time schedule. The higher a dispute moves up the hierarchy of decisionmakers, the more group leaders become involved and the greater the chances that political matters influence the ways the dispute is dealt with.

The political playing field for property disputes is expanded through the plurality of intermediary institutions and by the side-by-side existence of *adat* and local government. The dispute must be formulated in the appropriate legal "idiom" (Spiertz 1986) to make it acceptable for the chosen institution. Bringing a dispute before a neighborhood council requires a different formulation and a different emphasis than bringing it before the head of a clan segment does, even though it remains within the broad scope of *adat*. Such considerations require a fair amount of "forum shopping" by disputants, who try to sort out which institution is likely to yield the most profitable solution, accompanied by "issue bargaining" to define the theme on the basis of which a decision is to be elicited (K. von Benda-Beckmann 1981; Eldijk 1987).

But rivalry is also placed under considerable constraint. Lineage heads in their capacity as representatives of their lineage and

as members of the various councils have an interest in dealing with disputes and establishing themselves as successful dispute managers. In a political constellation with many rival bodies, each trying to obtain dominance over the others, success in mediating conflicts is of crucial value in gaining and keeping support (see also F. von Benda-Beckmann 1981).

Finally, whether the dispute should be brought to an outside forum, the police, or the state court is made subject to the heads' political considerations.

Property control and political office are much more differentiated in Ambonese villages than in Minangkabau. Most economic control accrues to varying and overlapping groups of pusaka holders, who do not necessarily share political representation in the village system. The heads of *dati* and of the precolonial clans, though theoretically in a position similar to that of a Minangkabau lineage head, have little say, because most trees on their land have the status of either pusaka or self-acquired property. Property disputes thus usually have a less political character than in Minangkabau—and it is further reduced by the absence of strong intermediary functionaries with a monopoly on negotiations between kin groups.

On the other hand, the economic and political character of the position of village head in Ambon, a position with a firm basis in *adat*, differs substantially from that of the Minangkabau village head, who stands outside *adat*. The Ambonese village head has more direct economic power, because, unlike the village head in central Minangkabau, he controls uncultivated land in the hills, at least according to standard *adat* law. The economic control over village territory and other spoils that come with government and development projects, has made the position of village head attractive. Ambon has been known for its violent and problematic village head elections. There have always been villages with long periods of interregnum resulting from turmoil over the elections. The ambivalence of the head's position and the double legal and economic basis, in *adat* and in the state administration, are certainly important reasons why the election of a village head leads to disputes more often in Ambon than in Minangkabau.

The recent role of the Butonese in these conflicts is interesting. The village head is in a position to grant them rights to cultivate village land and plant trees in the hills. In return for these favors, the Butonese support the village head politically. Some villages have for years granted Butonese political rights. In Hila, they were not granted rights until the 1989 village head elections. Clearly, the candidates hoped to win their support. Making up one third of the population, they could tip the vote.

Containment of Disputes

These differences have important implications for the containment of disputes within the village. In Minangkabau the transformation of land disputes into political conflicts usually means that disputes remain tied up in village politics and are not easily disentangled to become “pure” property disputes before the state courts. The range of village-internal forum-shopping possibilities makes disputes that much more likely to be contained within the village. The relationships of political and economic dependence that connect disputants with lineage leaders also extend to village-external forums of decisionmaking. Lineage representatives act in court as expert witnesses on property relationships in their village and cannot be expected to take a sympathetic attitude toward those who have bypassed them by avoiding the proper village disputing procedures in which these very same lineage representatives would have played a major role. The intermediate political organization that is tied to sociopolitical control over property and property interests is, therefore, an important means to contain property disputes within Minangkabau villages. In addition, the intimate interweaving of disputes over lineage property with lineage leadership titles indicates that many adat leaders try to keep disputes in the village. State courts will not try disputes over titles.

Unlike in Minangkabau, the political organization of villages in Ambon does not contain property disputes. In Minangkabau disputes are tied up in the intermediate political property organization, but in Ambon they rest more firmly on private property relationships; or they quickly pass on to the top level of village decisionmaking. If Ambonese villagers do not bring their property disputes to the courts, it is because the disputants cannot extricate themselves and their disputes from the complex constellation of property relationships—the involvement of too many people from too many larger social groups—not because adat officials or local government officers have mediated successfully. Whereas the legal system offers opportunities for bargaining over legal issues—is land *dati*, *pusaka*, or village land?—such issues are not linked to an intermediate political hierarchy of decisionmaking as in Minangkabau.

There are, however, interesting differences between Christian and Muslim villages in Ambon. The large-scale registration of *dati* land and *dati* members, which F. D. Holleman (1923) noticed in the 1920s, seems to generate more conflicts about property along less complex lines of disputant and support groups. Comparatively speaking, many more conflicts about property are brought to the state courts from Christian villages than from

Muslim villages in Ambon.¹² Because the decisionmaking power of the village government is, apart from disputes about village land, insignificant—largely because there are no strong relationships of economic and political dependence between disputants and decisionmakers—the top level of the village organization does not have much containing power, either (see F. von Benda-Beckmann 1985).

Some Speculations on Change

An exploration of the differences in the property disputes in Minangkabau and Ambon has shown them to be rooted in the agro-ecological system and in the way this is tied to the sociopolitical organization of the village. As we have seen, it is essential to look at the specific ways property law, inheritance law, and village constitutional law connect social units with natural resources. The Ambonese system of property rights is more complex in its connections between property-holding social units and distinctive property objects, while the Minangkabau system is more complex in the interconnections between property relationships and political relationships and positions. Second, in Minangkabau property matters inevitably become political matters through the integration of property relationships and relationships of sociopolitical control over property and people, while Ambonese disputes rarely have these political implications, with the important exception of village land and, in Christian villages, of *dati* land. Third, differences in sociolegal structures result in very different constellations of action sets in property disputes. While Minangkabau action sets are formed by members of the same stable and enduring kin groups, Ambonese action sets are recruited bilaterally and vary according to each property unit, which can be as small as one tree.

The analysis of property relationships is also important for the analysis of change, which we addressed in passing here. Because general property law links agro-ecological life with the sociopolitical organization by providing the cognitive and normative structures for concrete property relationships, it imposes its own constraints on agro-ecological and sociopolitical change. But the change itself occurs in the constellation of property *relationships*, and property relationships may change considerably without significant change in the general cognitive and normative structures of property law (see Renner 1929). In both Min-

¹² This is, by the way, contrary to stereotype; Ambonese subdistrict officials and lawyers claim that dispute rates are higher in Muslim villages owing to the absence of *dati* registration. Thus, dispute behavior in Christian villages resembles that in Minangkabau villages. For other striking similarities between Christian Ambon and Minangkabau see F. von Benda-Beckmann 1986; Benda-Beckmann & Benda-Beckmann 1988; Benda-Beckmann & Benda-Beckmann 1989.

Minangkabau and Ambon such changes do take place.¹³ In Minangkabau they have occurred through the monetization of property relationships, which led to the pancaharianization of rights to exploit *pusako*. The ensuing dissociation of use rights from the mechanism of distribution within the group has also weakened the sociopolitical control rights over *harato pusako*. Moreover, even though land retains its status of *pusako*, the exploitation rights have turned into self-acquired property for the pawnee, often from a different sublineage, lineage, or clan. Upon the death of the pawnee, his or her matrilineal heirs hold the exploitation right as *pusako*, while the pawner lineage retains the residual *pusako*. Many of the great property disputes in Minangkabau concern the attempts of the original *pusako*-holding lineages to redeem their property, even though the original pawning transaction occurred two or three generations earlier. The increasingly individualized pawning and redemption transactions have thus made the constellation of use and exploitation rights to rice fields more complex. The recent tendency to turn over pawned property rights more quickly adds to the complexity.

In Ambon, on the other hand, changes in the agro-ecosystem seem to be the primary stimulus for change in the constellation of property relationships: there is an increase in sedentarization of horticulture and a decrease in intercropping. These developments are likely to lead to simpler constellations of property rights with respect to large property objects, which have greater spatial and social continuity than in the past. In particular, they may become instrumental in the further weakening of the principle of horizontal division. The change in the Ambonese agro-ecosystem has largely been pushed by the agricultural extension services, in cooperation with Butonese migrants, and is in line with the general agricultural development policy, which emphasizes raising productivity in single crops and which deemphasizes shifting cultivation as a backward and unproductive form of agriculture (see Dove 1986).

Developments in Minangkabau and Ambon appear to run in opposite directions. In Minangkabau the constellation of property relationships is becoming more complex, while in Ambon property relationships are becoming simpler. Still, they also move toward convergence—toward a concept of property rights akin to the Western concept of ownership, which is the basic right to a spatially demarcated object to which no rival rights of equal strength are held. In Minangkabau such developments may be inferred from the trend to eliminate the diachronic dimension from the system of *pusako* property law and the rise of

¹³ On Minangkabau see F. von Benda-Beckmann 1979; Benda-Beckmann & Benda-Beckmann 1985. On Ambon see F. von Benda-Beckmann 1990b.

the achronic concept of hak milik as a new conceptual core (see F. von Benda-Beckmann 1979:352 ff.). In Ambon the problem has not been so much in the temporal as in the spatial dimension. Once spatial ambiguity has made way for a more permanent connection between land and what is on the land, much of the earlier complexity will disappear. Agro-ecological and spatial factors thus seem to drive change in Ambon, whereas in Minangkabau the sociopolitical and temporal elements of property relationships are the motivating forces.

These developments will in all likelihood have consequences for the containment of disputes within villages. We have seen, for instance, that intermediate institutions affect the containment of disputes in the Minangkabau village. Further dissociation of property from political relationships may lead to property disputes that are more private. The containment of disputes is likely to be affected, and disputes will be less tied to the village. Eventually, the number of property disputes may decrease. But this tendency is counterbalanced by the fact that the dissociation of property from political relations occurs largely through disputing; the increasing ambiguity of property rights will be the major issue, perhaps for many years to come.

In Ambon the emerging simplicity of property relationships will also be a disputed issue. Sorting out the new property relationships against the background of old complexities will probably trigger numerous further disputes. Disputes between Ambonese villagers will probably retain their relatively private and apolitical character. There is evidence, however, that the elimination of horizontal division will increasingly become a loaded political issue, tied to interethnic relationships. Butonese immigrants will strive for social and political equality with Ambonese village citizens, but equality cannot be reached within the adat system, according to which they do not have full rights. Equality can be reached only outside the adat system, in the system of state law and administration (see F. von Benda-Beckmann 1990a; F. von Benda-Beckmann & Taale 1992). Apart from economic and political dependence on Ambonese landlords and political leaders, little could contain such disputes within the village. Yet disputes will be necessary for the Butonese to become independent from Ambonese landlords. Unlike in Minangkabau, where the important political aspect of property disputes cannot be processed in the state court system, so disputes are kept within the village, in Ambon the political aspects of property disputes, especially where Butonese are involved, must be dealt with outside the adat system, hence are more likely to be brought before the state courts.