GENERAL INFORMATION for CONGRESS and COURSE

Co-Chair, Local Organising Committee
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Executive Secertary
Lim Sing Meij , MA.
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Secertariat
Sinta Situmorang 0818 0810 2212
T. Diah Wirastri 0817 6395 963
Tirtawening 0812 9960 716
A. Cindy 08164850351

During the conference, the secretariat of the committee will be located at Faculty of Law, University of Indonesia. Please consult the people mentioned above for important information and contact numbers.

Bank Account (Rupiah only):
Konferensi Pluralisme Hukum
BNI UI Depok
Account No. 0102174585

For the ones who will pay in US$ (cash only) could do it upon your arrival in UI Depok.

Venue

- Faculty of Law, University of Indonesia, Depok –Jawa Barat /West Java (the Congress, June 29th-July 2nd 2006).
- Wisma Coolibah , Ciloto – Jawa Barat/West Java (the Course, June 24th-27th, 2006)

During the conference, we will occupy the ***Balai Sidang*** of the Faculty of Law, 2nd floor of Building F and 4 (four) rooms of the 2nd floor of Building (for plenary and parallel sessions).
For book and ethnic fair, we will use the place in front of the internet center (ground floor of C Building).
Lunch and coffee break will be provided in the ***Balai Sidang***, Building F. Do not forget to show your meal coupons to the OC each time you have lunch or coffee break.

How To Order Conference Papers

Please fill up the paper order form included in seminar kit. Submit it to the OC at the secretariat or info desk. There is a charge for every order.

Name Tag

All registered participants will receive official name tag after registration. You are required to show or to pin your name tag during the conference. Participants **without name tag is not allowed to enter the conference area**. Please report any loss immediately to the secretariat/info desk.

Liaison officers

LO's will be available at various locations during the conference to give you assistance in matters of accommodation, transportation, and communication. You can recognize them by their official name tags and their University of Indonesia's jackets (yellow jacket).

Prior to Arrival

Immigration requirement: Participants should obtain appropriate entry visas from an Indonesia Diplomatic or Consular General/Consular Mission in their respective country. The representatives of Indonesia in your country have been informed of our congress and they will help you acquire your visas.

Arrival in Jakarta

Arrival at the airport Bandara Soekarno Hatta. Please inform us at least one week before your traveling at Jakarta, about your flight details (flight number and arrival time) to help us arrange for your pick up.

The Local Organizing Committee will provide transportation and two liaison officers in each bus/wagon from the airport to congress/course venue. We will send the schedule of buses/wagon soon.

For **Course** participants, it will be better if you arrive on June 23rd before 2 PM at Bandara Soekarno Hatta.

Currency exchange kiosks are located in the arrival hall after you exit the Custom Area. Currently, 1 USD equals approximately Rp 9.230 (9.230 rupiah).

Fees

The **Congress and the Course fees will be 100 US$ each**. Registered members of the Commission will have to pay only US$ 75 each. [Membership of the Commission can be renewed or new membership acquired before registration by paying the appropriate fees at the Registration Counter.]

Accomodation

Accommodations for the Congress are at the Makara University Hotel located in the campus of University of Indonesia in Depok and Hotel Bumi Wiyata, Margonda Street, Depok, West Java.

For the Course, it will be located at the Wisma Coolibah, Ciloto in Ciawi/Bogor, West Java. Local transport to the course's venue is between US$ 10 (shuttle bus + mini bus) and US$ 30 (taxi). Wisma Coolibah has a beautiful landscape with a natural view. The rates for rooms are as follows:

1. Wisma Coolibah , Ciloto
(for the course participant)

Room	**Rupiah/day**	**US$/day**
Single bed	Rp350,000.00	$40
Double bed	Rp250,000.00	$30

Facilities:
Internet access
Phone on line at the cost
Breakfast, Lunch, Dinner and 2 times snack
Sports center (tennis hall, swimming pool, and billiard)

Accommodation for the Congress will be provided at Wisma Makara UI (inside the campus) and Hotel Bumi Wiyata Depok (at jalan Margonda Raya/Margonda Raya Street). The room rates and facilities provided are given below:

1. Hotel Bumi Wiyata - Jalan Margonda Raya Depok

Room	**Rupiah/day**	**US$/day**
Standard (2 single bed)	Rp544,500.00	$63
Superior (1 queen size bed)	Rp574,750.00	$65
Deluxe Superior (1 king size bed)	Rp635,250.00	$73
Suite (1 king size bed)	Rp695,750.00	$80
Deluxe Suite (1 king size bed)	Rp786,500.00	$90

Facilities:
Breakfast for two persons each day
Driving range
Swimming pool
Fitness center
Coffee shop
Room service 24 hours
Music lounge
Games room
Paintball (insight)

2. Wisma Makara - Universitas Indonesia Depok

Room (each room for two persons)	**Rupiah/day**	**USD/day**
Standard Plus	Rp250,000.00	$30
Standard	Rp225,000.00	$28

Facilities (in every rooms)
Breakfast for two persons each day

Television
Air conditioner
Shower (hot and cold water)
Refrigerator

For further information concerning the accommodation rate, please check at the Commission's website: www.unb.ca/cflp

Weather

1. The Course

It is quite rainy in Ciloto during the course. The average annual temperature is 25-27° C during the day and 23-25° degrees C at night. We suggest the course participants to bring sweater.

2. The Congress

In June and July, the weather in Depok is very warm and dry. The average annual temperature is 30-33° C during the day and 27-30° C at night. It is suggested to wear light clothing **but suitable for a congress**. Do not forget to use your sunblock cream and lipbalm.

Drinking Water

Tap water is not recommended for drinking. Drink only bottled water. Hotels, cafes and restaurants provide bottled water (we suggest you to buy these brands: Aqua, Ades, Evian, Equil, Vit, or 2Tang. For Aqua, Ades, Vit and 2Tang in the restaurants, cafes or the shops you can get it only with Rp 2.500 – 4.000 for each 600ml bottle).

Meals and Snacks

The local organising committee will host a welcome dinner on June 28 and a cultural dinner on June 29. The Committee will also host the farewell party on July 1 at Liefde Restaurant, Bogor. Participants will have to pay 50 USD for the other meals (lunch for five days, snacks, and dinner for two days). All participants will receive coupons for meals after giving the registration payment and the meal fee to the OC at the registration day.

We will inform you later about our arrangement for lunch and dinner at June 30th –July 2nd.

VAT

There is a value added tax of 10% applied to most items and services. Hotels and restaurants also add a 10-15% service charge to the bills.

Foreign Exchange and Banking

Banks and ATM are located at the Faculty of Social and Politics (Lippo Bank) and near the Rectorate building - Bank BNI). ATM is also available at the Faculty of Psychology (Bank Mandiri, Bank Central Asia-BCA, and BRI). ATMs will issue local currency.

Bank BNI and Bank Central Asia (at the Margonda Street) provide currency exchange service. Please ask your liaison officers to inform you how to get the BNI's service for currency exchange.

Language

Bahasa Indonesia is the official language in Indonesia. English is understood by most Indonesian citizens.

Electricity

Indonesian electricity is 220V. We use dual-prong rounded plugs instead of triple. The Local Organizing Committee reminds you to bring an appropriate transformer for your convenience.

Transportation

The Local Organizing Committee is providing a free transportation (yellow bus and some wagons) from hotel to venue, and return. The free transportation is for the congress purposes only. For personal purposes we advised you to take public transportations. We suggested you to use only these cabs below:

1. Silver Bird and Blue Bird (621-79171234)
2. Gamya: (621-86610505,621-86612020)
3. Putra: (621-7817233, 621-7817771)
4. Express: (621-57990707)

Remember to use only the cab that you request from your cellular phone or hotel phone. Do not ever use the other taxis, especially if you go by yourself. The tips for the taxi driver is about Rp 3.000 – 10.000,- (between three thousands and ten thousands rupiah) depending on your destination. If the driver asks you for too much tips, or does something inconvenient for you, please note his name and ID number on the driver card (on the dashboard). Do not hesitate to report it to us immediately.

Return Bookings

Participants are advised to ensure that their return bookings are confirmed soon after their arrival in Jakarta.

Airport Tax

The airport tax for the flight to foreign countries is Rp 100,000,- (a hundred thousand rupiah) and Rp 30.000,- for domestic flight.

Internet Centre

Internet centre is available at the Faculty of Law, Universitas Indonesia. Participants can find the centre at the ground floor of Gedung C (Building C). The rental cost is Rp 3.500 (approximately 0.4 cent) per hour for each PC. We will provide two booths (4 PCs) for the conference. It opens daily, 8 AM – 6 PM.

You can also use the internet café at Faculty of Psychology or in Gedung D (Building D) at Faculty of Social and Political Sciences.

Sport Centers

If you cannot start your day without jogging, we have a jogging track near the Faculty of Law. This track provides you a landscape of UI's Lake, Mosque, and The Function Hall "Balairung". We also have an outdoor basketball hall at the backyard of FHUI. Ask your liaison officers how to use the hall.

Health Centre

This facility is expected to provide supporting facilities for all UI students and community and some services are free. But if you have to pay, you only need to pay for a small amount.

Do not forget to inform us about the medicines that you take or the special conditions of your health. The service hours of the health centre are:

- Monday through Thursday 8 am -12.30 pm, 2 pm-8 pm.
- Friday 8 am-11 am, 2 pm – 8 pm.
- Saturday 8 am-12.30 pm.

Besides general medical treatment and dental treatment, you can also request a blood test, x-ray, and heart check up in a cost. You will obtain free prescriptions for the medical examination.

Post offices

You can find the UI Post Offices at the Functional Hall "Balairung UI", beside the lake. Please inform us if you want to get there.

Phone centers

We have several phone centers:

- In the ground floor of Gedung D (Building D) in Faculty of Law for domestic purpose;
- At Gedung D of Faculty of Social and Political Sciences.

Library

- University Central Library

Opening hours: Monday-Friday 08 am-11.30 am, 1 pm – 7pm.
Saturday 08.30 am – 3 pm. .

Books or the other collections in the library are read only. Membership requires 3 photos size 2x3, copy of payment receipt and a letter from faculty or department for guest researchers/ guest lecturers.

The facilities are: OPAC (on Line Public Catalogue)/catalogue card, reading room, CD-ROM (you may browse, print and download the required information in CD-ROM). Computer Rental, Internet, and Photocopy.

Please ask your liaison officers how to get to the Central Library.

- Faculty of Law Library

Opening hours = University Central Library

The facilities = University Central Library.

Book Fair

During the congress, there will be a book fair (local and international publishers) at the Faculty of Law.

Leisure

For the Course

- Nusantara Flower Park/Taman Bunga Nusantara
- Shopping Place Kampung Brasco
- Sundanese Restaurant – Ponyo
- The National Park of Cibodas.

For the Congress

- Excelso Café in Faculty of Social and Political Sciences.
- Shopping centers and cinemas in Depok Town Square and Mal Depok in Margonda Street, Depok.
- Café and Restaurant (Aceh Noodles restaurant–but only open in the night , Chinnese Noodles – we suggest Bakmi Margonda, Javanese food e.g. Bakwan Malang –some dumplings and meatballs with beef stock, Pecel Madiun – various Indonesian vegetables with peanut sauce, mutton/goat/chicken satay-only in the night, steak house – we suggest The Obonk or Peach, Pizza Hut, Kentucky Fried Chicken, Japanese food, etc.) .
- Bookstores (Lawman, Gunung Agung in Mal Depok, and Gramedia Bookstore).
- Factory Outlets (but we suggest you to find the leather products with a better quality and economic prize in Donatello Shoes Shops in Bogor or in Tajur).

COURSE

Further information concerning the course will be provided in a subsequent communications.

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Preface

The XV International Congress on Legal Pluralism will address a number of related themes and issues pertaining to power and cultural aspects of law, especially in the context of the relations between transnational, national and local processes which affect the everyday life of people as they pursue their various activities.

While the congress symposia are comparative in nature and ask for papers from all over the world, a major focus will be on issues particularly relevant to South and Southeast Asia. In the historical development and contemporary situation in these regions, the legal landscapes are undergoing rapid change. Local populations, non-governmental and governmental agencies alike are faced with immense challenges posed by the plurality of laws and institutions. Besides local forms of traditional and neo-traditional law and the diverse regulations of governments at different levels of administration, religious laws (Islamic, Buddhist and Hindu law in particular) also play an important role in the organization and legitimation of governance, of social, political and economic relationships, and the administration of justice. In the context of globalisation, international and transnational legal rules and conventions as well as international actors, governmental and non-governmental organisations increasingly add to the earlier forms of legal complexity, not only influencing law making at the national level but also having impacts on small-scale local communities.

The Congress will attract participants from all over the world including people from various academic backgrounds, such as law, anthropology, sociology, development studies and gender studies as well as practitioners (social workers, NGO members, dispute mediators, legal advocates, planners, state officials, political activists) who in their work are confronted with issues of legal pluralism.

Depok, 29 July 2006
The Commission on Folk Law and Legal Pluralism

Organizers

The Commission on Folk Law and Legal Pluralism

The Commission on Folk Law and Legal Pluralism was established in 1978 by the International Union of Anthropological and Ethnological Sciences (IUAES), and affiliated with the International Association of Legal Science (IALS), on the initiative of Professor G. van den Steenhoven, of the Institute of Folk Law, Nijmegen, the Netherlands.

By September 2000 more than 350 lawyers, anthropologists and other social scientists, representing all regions of the world and concerned with folk law in both theory and practice, were participants in the activities of the Commission. The growth of the Commission reflects a growing awareness of the contemporary existence of legal plurality, not only in countries with indigenous peoples and ethnic minorities, but also in the industrialized societies as such. The Commission's primary purpose, according to its Constitution, is "to further knowledge and understanding of folk law and legal pluralism, with a focus upon theoretical and practical problems resulting from the interaction of folk law and state law". Its activities include, where appropriate, "assisting in making sympathetic and constructive contributions to the solution of problems connected with the interaction of folk law and state law, and thus to the future of indigenous, ethnic and social groups, governed by folk law, in the modern world".

The Commission's four major current activities are: the issue of a Newsletter (thrice every two years); the organization of international symposia; the initiation and encouragement of Regional Working Groups in different parts of the world; and the organization and delivery of courses and summer schools in legal pluralism.

The Commission's first scientific symposium was held in Bellagio, Italy, in 1981 on the theme "State Institutions and their Use of Folk Law". The second, on "The Actual and Legal Position of Ethnic and Cultural Minorities", took place in Vancouver, in 1983. Two symposia were held in 1986: in Tutzing, Bavaria, Germany, on "Formal and Informal Social Security", and in Sydney, on "Folk Law and Indigenous Rights - A Comparative Perspective". Since 1986, a long series of symposia were held in Zagreb (Croatia, 1988), in Ottawa (Canada, 1990), in Amsterdam (Netherlands, 1991), in Wellington (New Zealand, 1992), Mexico City, (Mexico, 1993), Accra (Ghana, 1995), Moscow (Russia, 1997), Williamsburg (U.S.A. 1998), Arica (Chile, 2000), Chiang Mai (Thailand, 2002) and Brunswick Canada in 2004.

Faculty of Law Universitas Indonesia

Initially the Faculty of Law, University of Indonesia was a secondary education specializing in law (Rechtsschool) established by the Dutch colonial government to cater the need of Indonesian clerks within the courts dominated by Dutch judges

In 1924 the rechtsschool was upgraded to become a tertiary education known to be Rechtshogeschool

The Rechtshogeschool had two departments: the Law Department and Social Sciences Department

The Rechtshogeschool was later on merged with a medical school (School tot Opleiding van Inlandsche Artsen or Stovia) to become Universiteit van Indonesie

In 1955, after Indonesia 's independence, Universiteit van Indonesie became University of Indonesia or Universitas Indonesia

Since 1968 the Social Sciences Department became the Faculty of Social Sciences, separated from the Faculty of Law

In 2001 University of Indonesia became autonomous from the Government, and consequently the Faculty of Law is transforming itself from government-based bureaucracy to a modern educational institution-based bureaucracy

THE ORGANIZATION

The Faculty of Law is headed by the Dean and two Vice Deans responsible for Academic and Non-Academic Affairs

Dean Hikmahanto Juwana

Vice Dean for Academic Affairs Adijaya Yusuf

Vice Dean for Non-Academic Affairs Akhiar Salmi

The Degree Programs are headed by the Head of Undergraduate and the Head of Postgraduate Programs

There are managers who assist the Dean and Vice Deans. There is also the Secretary of the Faculty responsible for public relations and international affairs

PROGRAMS

Currently the Faculty of Law is running two level degree programs, the Undergraduate and the Postgraduate programs

The Undergraduate program is divided into two sub programs, the Regular and the

Extension first degree in Law (Sarjana Hukum) programs

The Postgraduate programs is divided into three sub programs, the Academic Masters degree (Magister Hukum), the Professional Masters degree for Notary (Magister Kenotariatan) and the Doctoral degree.

Department of Law and Society/ Development

One of the department at Faculty of Law which is conducting lecturer on Sociology of Law, Indonesian Sociology, Anthropology of Law, Women and Law, Foundation of Cultural Sciences, Economic Introduction, Economic Development, Legal instrument on Social Security.

Lecturers of this department are:

1. **Prof. Dr. Tapi Omas Ihromi**
2. **Prof. Dr. Valerine Kriekhoff**
3. **Purbatin F. Dharmabrata**
4. **Herni Hendrarni**
5. **Rusman Anwar**
6. **Achmad Achbad**
7. **Yenni Andiani**
8. **Ismala Dewi**
9. **Ugrasena Pranidana**
10. **Siti Hawa Nurayah**
11. **Minar Sijabat**
12. **Jufrina Rizal**
13. **Lidwina Inge**
14. **Heru Susetyo**
15. **Ratih Lestarini**
16. **Agus Brotosusilo**
17. **Anton Cahyadi**
18. **Antarin Prasanti**
19. **Tien Handayani Nafi**
20. **Sulistyowati Irianto**

The Centre for Women and Gender's Studies University of Indonesia

(Pusat Kajian Wanita dan Jender, Universitas Indonesia or PKWJ, UI)

Our Study Centre is a federation of four institutions, that are the Women's Studies Graduate Program, the Women Convention Watch Working Group, Women's Studies Group and Unit Gender Studies and Development Faculty of Social and Political Sciences University of Indonesia. Each institution specializes in the following area: post-graduate program (MA degree in women studies); advocacy,

studies, and training on the implementation of the Women Convention (Convention Watch Working Group), research; academic research on women issues; and studies and training on gender issues, at present prioritizing reproductive issues. (Unit Gender Studies and Development).

The core of our Study Centre is the Women Convention Watch Working Group, which was established in 1994. Our mission is to strengthen the implementation of the U.N. Convention on the Elimination of All Forms of Discriminations Against Women (The Women's Convention) in Indonesia. The Women Convention Watch Working Group is a joint effort by concerned individuals from different professional background as well as organization: such as universities, Women NGO's, Legal aid institutions, professional judges and lawyers, retired police officers.

As a non- profit entity the Convention Watch Working Group strives to attain the following objectives:

- To raise awareness and knowledge about the Women's Convention among women and the public in general
- To conduct research activities to support formulation of policies and legislations, particularly those directly affecting women's lives
- To empower law enforcement officers such as police, prosecutors, judges, and lawyers.
- To engender law school curriculum through training workshops at various universities, both public and private.

Our center is of the opinion that the full implementation of the Convention should be enhanced, because of its potential capacity for the advancement of the status of women and the full realization of women's human rights particularly during the process of globalization in general, particularly economic globalization.

The recognition of the equality of men and women before the law was already guaranteed in our 1945 Constitution and reaffirmed by the inclusion of prohibition of discrimination on whatever basis in the year 2000 Amendment of the Constitution. Thus, long before the ratification of the Women's Convention, gender equality was already explicitly recognized as one of the basic principles in our constitution. This principle has been reaffirmed in various acts and regulations including education and labor. The ratification of the Women Convention itself in 1984, obviously reaffirmed the nation's commitment to this principle.

In spite of these favorable conditions, the desired impact has not occurred yet. Some of the reasons are the lack of dissemination and socialization of the Convention, not only to the public in general but particularly to decision makers, law enforcement officers, lecturers and teachers, informal communities' leaders, media, and women themselves. Particularly information on the principles of the Women Convention has been fairly limited. Our Center has initiated programs to socialize the contents of the Women Convention in order to increase understanding and awareness of the need and the obligation of the State as State party of the Convention, to fully implement the Convention. Our work has been extremely facilitated by the December 2000 Presidential Instruction to all cabinet ministers, Attorney General, Arm forces commanders, Head of the Police, Provincial Governors, district chiefs and other Heads of Government Institutions, which obliged gender

mainstreaming in their respective institutions.

At present our main activities are as follows:

- Gender and law training for the strategic target groups like attorneys, judges, lawyers, and police
- Gender and law seminar and training with faculties of laws in various universities at provincial levels (Java, Sumatera, Sulawesi, Bali). Until now there are 15 faculties of law, which have become our partners in developing a course on "gender and law" for law school students or integrating the training materials in their existing curriculum. We motivated the lecturer to include gender issues in teaching law subject.
- Research on the implementation of article 11 of the Women's Convention (women worker in the workplace). This activity has been suspended during the past 3 years due to lack of fund. Similarly the advocacy activities through radios and televisions have also been slowed down during the last few years.

In the future, beginning in 2002 our new activities would be as follows:

- Court Watch in order to identify the extend to which gender considerations are given attention during the judicial process on cases involving women. We are expecting the funding for this project from the New Zealand Embassy.
- Disseminating and discussing the findings of court watch including through role playing or Moot Court among the law school students
- Preparation of a dictionary on gender and law to be made available to students, law enforcement officers, media, and others concerned about matters of law and gender; it is expected to further develop such dictionary into an encyclopaedia on gender and law in the future, when expertise and funding allows.
- Research on " Women's Legal Status and Poverty"

Besides, there are three economic issues of concern to our organization:

a. Poverty and small-scale credit program
b. Legal status and economic value of women' s work
c. Migrant workers and trafficking on women

We are building networking with institutions and individuals concerned about gender issues in all provinces of Indonesia, while continuing to work with a number of groups of similar interests in a number of countries abroad, such as Memorial University Canada, Isis International, Asian Journal of Women Studies, International Women's Right Action Watch, The Population Institute, Women Studies Forum of the Korean's Women's Development Institutes and York University Canada.

The kind of collaboration that we need to have with the North women's groups are:

a. Sharing information on law enforcement strategies.
b. Joint strategies to eliminate trans-national crimes in particular women trafficking.
c. Academic Staff Exchange Program to share experiences and to develop comparative studies on gender and law.

For further information regarding our institution, please contact:

Pusat Kajian Wanita dan Jender – Universitas Indonesia

Ged. Rektorat Lama UI Lat. 4
Jl. Salemba Raya No. 4
Jakarta Pusat 10430
Indonesia
Telp./fax.: 021-392-4392
E-mail: cedawui@pacific.net.id

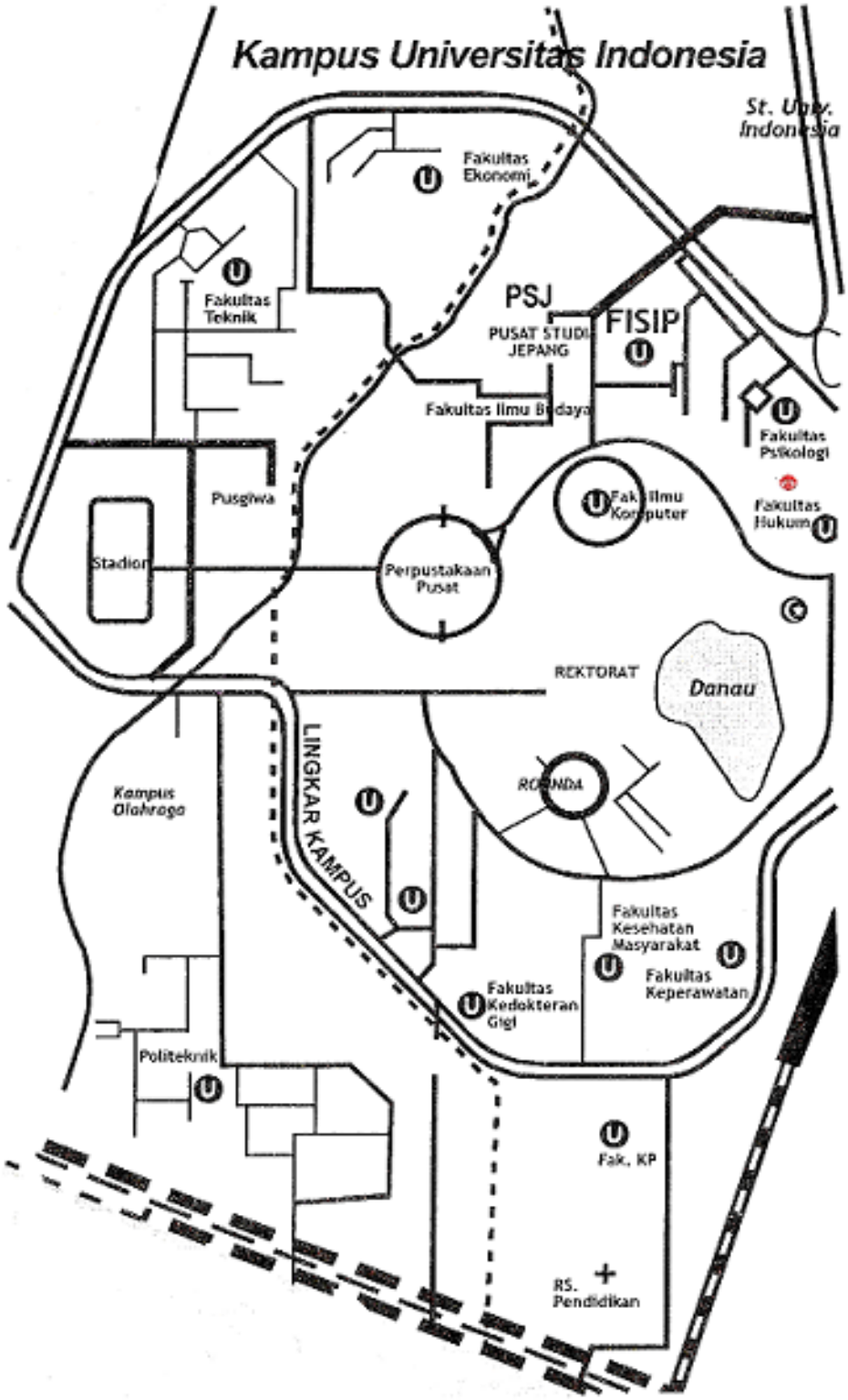
PSI-SDALP UNAND

The growing demand for irrigation water in the face of increasingly limited supply of water in the past decades highlights the importance of management input in the use of irrigation water. Learning such development, Andalas University has since 1982 been involved in various efforts trying to improve the performance of irrigation systems in, particularly, West Sumatra province.

At the beginning, such researchers were executed by a group of teaching staff of Andalas University loosely organized in what was known as "Kelompok Kerja Irigasi Universitas Andalas (Irrigation Working Group of Andalas University) or in Indonesian abbreviation, KKI-Unand. KKI-Unand became Pusat Studi Irigasi-Universitas Andalas or PSI-Unand on July 4, 1989 through the issuance of the decision of the Rector of Andalas University No.562/XIV/A/Unand/1989.
Furthermore, Since the issues of irrigation water has grown widely and related with other resources, in 1998, the name of center is changed became The Center for Irrigation, Water Resources, Land and Development or in Indonesia abbreviation called PSISDALP Unand.

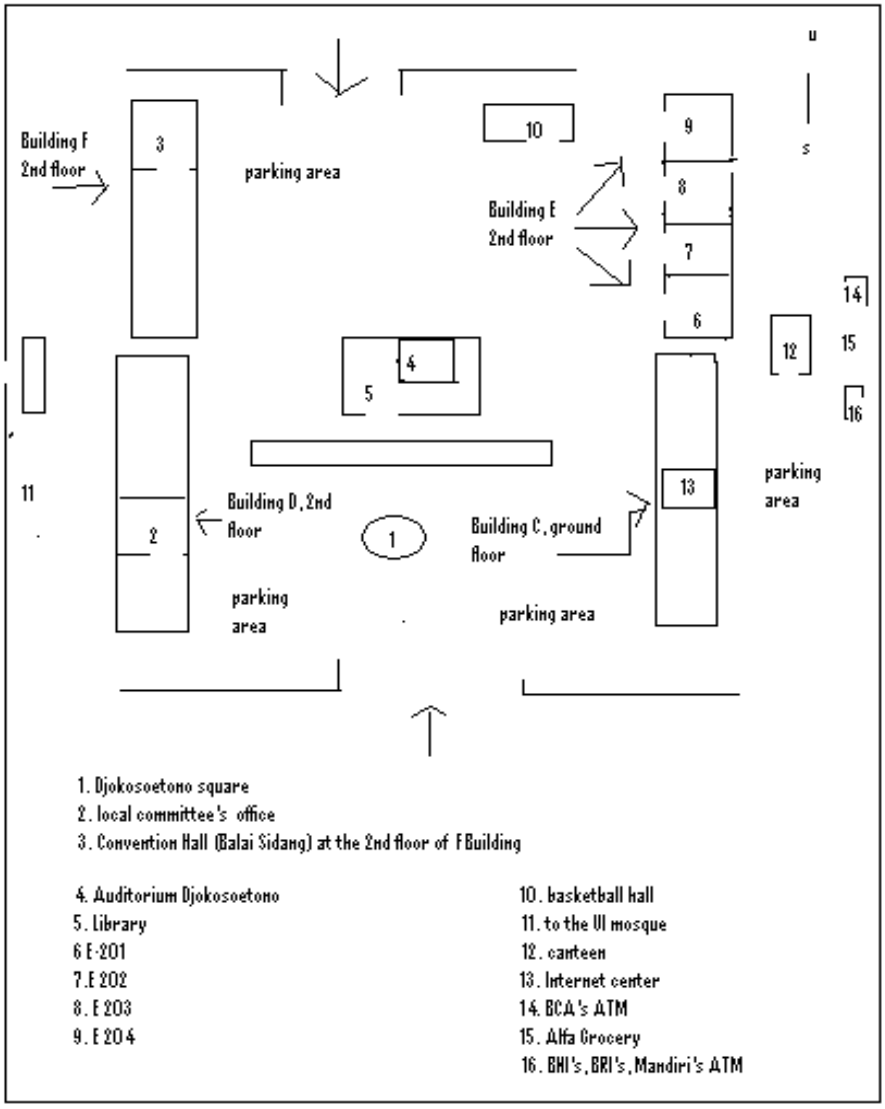
The Center is an autonomous and self-supporting institution within the bailiwick of Andalas University. The core personnel of PSI consist of teaching staff of the Andalas University. Some free lance researchers, depending on the needs, may work with the Center on a contractual basis.

Maps


Kampus Universitas Indonesia
St. Univ. Indonesia
Fakultas Ekonomi
Fakultas Teknik
PSJ
PUSAT STUDI JEPANG
FISIP
Fakultas Ilmu Budaya
Fakultas Psikologi
Fakultas Hukum
Pusgiwa
Stadion
Perpustakaan Pusat
Fak. Ilmu Komputer
REKTORAT
Danau
ROTUNDA
Kampus Olahraga
LINGKAR KAMPUS
Fakultas Kesehatan Masyarakat
Fakultas Keperawatan
Fakultas Kedokteran Gigi
Politeknik
Fak. KP
RS. Pendidikan

Map

Layout of Faculty of Law



Congress Rooms

1. E 202
2. Secretariat Room D 204-205
3. Djokosoetono Auditorium
4. Djokosoetono Convention Hall
5. Hazairin Meeting Room
6. E 204
7. E 203
8. E 205

General Information

CONTACT PERSONS

Chair of Local Organizing Committee
Dr. Sulistyowati Irianto
Faculty of Law, Depok Campus
Universitas Indonesia
Mobile: 081585009851
E-mail: sulis@pacific.net.id

Executive Secretary
Meij Susilo, MA.
Mobile: 0818160081
Secretariat e-mails:
mei5susilo@yahoo.com
legal_pluralism@yahoo.com

Commission website: www.unb.ca/cflp
Universitas Indonesia website: **www.makara.ui.edu.**

Secretary Assistants:

Sinta Situmorang	0818 0810 2212
T. Diah Wirastri	0817 6395 963
Tirtawening	0812 9960 716
A. Cindy	081310253969

CONGRESS

AIRPORT

Return Bookings
Participants are advised to ensure that their return bookings are confirmed soon after the arrival in Jakarta.

Airport Tax
The airport tax for international flights is Rp 100.000,- (seratus ribu rupiah/one hundred thousand rupiah).

ACCOMMODATION

Accommodations for the congress are Wisma Makara Universitas Indonesia, which is still located in the university area and Bumi Wiyata Hotel, which is located on Margonda Street, Depok, West Java, not far from Universitas Indonesia.

Important Notes For Accommodation:

- The Local Organizing Committee (LOC) will only provide accommodation for participants **based on the agreement between the LOC and participants**.
- The LOC will **only pay for the hotel room fee, for the participants who receive a grant for the accommodation**.
- The LOC will not cover any room services, laundries, and other use of hotel facilities. **These must be paid by the participants before checking out from the hotel.**

VAT

There is a value added tax (VAT) of 10% applied to most items and services. Hotels and restaurants also add a 15-21% service charge to the bills.

VENUE

Faculty of Law, Universitas Indonesia, Depok.

HOW TO ORDER PAPERS

Please complete the paper order form included in the seminar kit. Submit it to the Local Organizing Committee at the secretariat or info desk. There is a charge for every order, Rp 3000,- for each paper.

LIAISON OFFICERS (LO)
Liaison Officers will be standing by various locations during the conference. They will be placed to give you assistance in matters of accommodation, transportation, and communication. You can recognize them by their official name tags and their Universitas Indonesia's jackets (the yellow jackets with the red makara emblem).

MEALS AND SNACKS
The LOC will hold a Welcoming Dinner on June 28th and an Anniversary Dinner on June 29th in the Auditorium Djokosoetono.

Breakfasts are served at the hotel. Lunches and snacks will be provided during the Conference in the Auditorium.

On July 1st we will have an Informal Party at Met Liefde Restaurant in Bogor, Jawa Barat, which will cost the participant USD 12.

Behind participant's name tag, there is a coupon for meals. It will be stamped upon every meal by the LOC.

OTHER INFORMATIONS

Weather
In June and July, the weather in Depok is very warm and dry. The average annual temperature is 30-33 degrees C during the day and 27-30 degrees C at night. It is suggested to wear a light but suitable clothing for a congress. Do not forget to use sun protection cream and lip balm/ moisturizer during the day, and anti mosquito cream at night.

Drinking Water
Tap water is not recommended for drinking. Drink only bottled water. Hotels, cafes and restaurants provide bottled water (we suggest you to buy these brands: Aqua, Ades, Evian, Equil, Vit, or 2Tang.

Language
Bahasa Indonesia is the official language of Indonesia. English is quite understood by most Indonesian citizen.

Foreign Exchange and Banking
Banks are available on the University Campus where participants are able to conduct their banking activities, such as currency exchange or withdrawing money from ATMs.

Banks and ATMs are located at Faculty of Social and Political Sciences (Lippo Bank) and near the rector building (Bank BNI). ATMs are also available at the Faculty of Psychology (Bank Mandiri, Bank Central Asia-BCA, and Bank Rakyat Indonesia-BRI). ATMs will issue local currency (Indonesian Rupiah).

Bank BNI and Bank Central Asia (BCA) on Margonda Street provide a currency exchange service. Please ask your liaison officers to inform you how to get the currency exchange service.

Electricity
Indonesian electricity voltage is 220V. Two-prong rounded plugs are use instead of three prongs. The LOC reminds you to bring an appropriate transformer for your convenience.

Transportation
We will provide a free transportation (Campus buses and some vans) from the hotel to the venue, and return. The free transportations are for the congress

purposes only. For personal purposes we advise you to use public transportations. We suggest you to use only these cabs below:

5. Silver Bird and Blue Bird (6221-79171234)
6. Gamya: (6221-86610505,6221-86612020)
7. Putra: (6221-7817233, 6221-7817771)
8. Express: (6221-57990707)

The tips for the taxi driver are approximately Rp 5.000 – 10.000,- (lima ribu – sepuluh ribu rupiah/five thousands to ten thousands rupiah, around USD 0.5 - 1). If the driver asks you too much for the tips, or do something inconvenient, please record his name and ID number on the driver card (usually located on the dashboard). Do not hesitate to report it to us immediately.

Internet Center
An internet center is available at the Faculty of Law, Universitas Indonesia. Participants can find the center at the ground floor of C Building. The rental cost is Rp 4.500 (empat ribu lima ratus rupiah/four thousands and five hundreds rupiah) per hour for each PC. The center opens daily, from 8.00 AM until 6.00 PM.

You can also use the internet café at the Faculty of Psychology or in D Building of the Faculty of Social and Political Sciences (FISIP) .

Health Center
This facility provides supporting facilities for all UI students and community members. So some services available are free. However if a further medical treatment is necessary, please inform your health insurance office.

Do not forget to inform us about the medications that you take or your special health conditions.

The service hours of the health centre are:

- Monday – Thursday, 8 am - 12.30 pm, 2 pm-8 pm.
- Friday, 8 am - 11 am, 2 pm – 8 pm.
- Saturday, 8 am - 12.30 pm.

Besides general medical treatment and dental treatment, you can also request blood test, x-rays, and a heart check up at a cost.

Post Offices
You can find the UI Post Offices at the Function Hall "Balairung UI", beside the lake or in Faculty of Social Sciences and Political Science (FISIP UI). Please check the maps.

Phone Centers
We have several phone centers:

- On the ground floor of D Building in Faculty of Law for domestic purposes;
- At the parking area of Faculty of Social Sciences and Political Science (FISIP).

Library
Universitas Indonesia Central Library
Opening hours:
Monday - Friday, 08 am - 11.30 am, 1 pm – 7pm.
Saturday 08.30 am – 3 pm.
You can only read the books or the other collections.
The facilities are: OPAC (on Line Public Catalogue)/catalogue card, reading room, CD-ROM (you may browse, print and download the required information in CD-ROM). There are also Computer Rental, Internet and Photocopy Centre.

Please check the map.

Faculty of Law Library
Opening hours = Universitas Indonesia Central Library

The facilities = Universitas Indonesia Central Library.

Book Fair
During the congress, there will also be a book fair (local and international publishers) at the Faculty of Law.

Leisure Activities

- There is a café (The Excelso Café) located at the Faculty of Social and Political Sciences (FISIP).
- There are shopping centers and cinemas located on Margonda Street, Depok. Recently open are Depok Town Square, Depok International Trade (ITC Depok) and Margo City.
- Many Cafés and Restaurants are located in Depok: Aceh Noodles foodstall_(only open in the night) , Chinnese Noodles (we suggest Bakmi Margonda) Javanese foods (Bakwan Malang, Pecel Madiun, satay –available only at the night), steak houses (we suggest The Obonk or Peach), Pizza Hut, Kentucky Fried Chicken, Japanese food, etc.
- Bookstores (Lawman, Gunung Agung are located in Mal Depok, and Gramedia Bookstore, located on Margonda Street).
- Factory Outlets

Groceries
Participant who wants to buy their daily needs (toiletries, sanitary napkins, snacks, instant noodle in a cup, fruits, mineral waters, soft drinks, stationary, etc) can find these products at Alfa Mini Market at The Faculty of Psychology, or Kopma UI (for snacks, soft drinks, mineral waters and stationeries) near the Internet Center and mushalla at the Faculty of Law.

Mosque and Mushalla
There are two mushalla at Faculty of Law and one Mosque next to the Faculty of Law (please check the map).

Congress Schedule

Day 1, June 28

16.00-18.30 Registration Desk are located in front of Auditorium Djokosoetono Faculty of Law Universitas Indonesia and in Wisma Makara

Welcoming Dinner (Auditorium Djokosoetono)

18.30 – 18.45 Informal speech by The Dean Representative
18.45 – 19.00 Informal speech by The President Commission on Folk Law and Legal Pluralism
19.00 - 19.30 Ice Breaking
19.30 - 21.00 Dinner

Day 2, June 29

07.00 - 08.00 **Registration** for local visitors and guests

Opening Ceremony (Convention Hall (CH)/Balai Sidang Djokosoetono)

08.00 - 08.30 *Sekapur Sirih* (Welcome Ceremony)
08.30 – 08.35 MC
08.35 – 08.50 Welcome Speech by the Chairperson of Congress
08.50 – 09.00 Speech by the Dean of Faculty of Law Universitas Indonesia
09.00 – 09.10 Speech by Ford Foundation
09.10 – 09.20 Speech by the chairperson of The Commission on Folk Law and Legal Pluralism
09.20 – 09.30 Opening speech by the Rector of Universitas Indonesia

09.30 - 10.00 Happening Art

10.00 - 10.30 Keynote speech by: Prof. Dr. Erman Radjagukguk

10.30 - 11.00 Coffee Break

11.00 - 12.30 **Plenary Session 1: Theories and Methodologies (Conventiom Hall/ CH)**

Symposium I
Panel Organizer: **Franz von Benda-Beckmann**
"Normativity as Field, Style or Objective of Study?"

- Gordon Woodman (1) : **"Human Rights: The Route to Judgement or A Diversion?"**
- Gustaaf Reerink (2) **: "Tenure Arrangement on the Ground, A Socio-Legal Study of Land Law and Practice in Kampung in Bandung"**

12.30 - 13.30 Lunch break

13.30 - 15.00 **Plenary Session 2: Theories and Methodologies (CH)**

- Frank Muttenzer (3) : **"Legal Syncretism and Cultural Difference in the Malagasy Forest Economy: a case Against Environmental 'Customary Law' "**
- Anna Witasari (4): **"Concept of Risk and Reflexivity on Environmental Studies"**

15.00-15.30 Coffee Break

15.30-17.00 **Plenary Session 3: Theories and Methodologies (CH)**
Symposium III
Negotiating Multiculturalism panel 1
Panel Organizers: **Keebet von Benda-Beckmann & Rajendra Pradhan**

- Rajendra Pradhan (5): **"Negotiating Multiculturalism in Nepal: Law, Hegemony, Contestation and Paradox"**
- Yu Xiao (6): **"Negotiating Polyhedral Identities and Plurality through Ethnic Law and Policies: A Legal Ethnography of Miao, Tujia and Han life Stories in West Hunan, China"**

17.00-18.30 Recess

Anniversary Night (Auditorium Djokosoetono)
Participants may use their traditional clothes.

18.30 – 18.35 MC
18.35 – 18.50 Speech by **Franz von Benda-Beckmann**
18.50 – 19.05 Token of appreciation
19.05 – 19.20 Speech by **Anne Griffiths**
19.20 – 19.35 Token of appreciation
19.35 – 19.50 Anniversary celebration
19.50 - 21.00 Anniversary Dinner

Book fair and bazaar
10.00- 17.00

Day 3, June 30

CONCURRENT PANELS
08.30 - 10.00 **1st round panels.**

1.1. Symposium III Panel 2: Negotiating Multiculturalism (CH)
Panel organizers: Rajendra Pradhan & Keebet von Benda-Beckmann

- Masami Mori Tochibana (7): **"Tensions and Compromises of legal pluralism: Case study from a Philippine migrant community"**
- Laurens Bakker (8): **"Diversity In Nunukan: The Politics And Implications Of Governmentally Affirmed Autonomy In An East Kalimantan District"**

1.2.Symposium V Panel 3: Post-Crisis Land and Natural Resources Tenure, South East Asia in Comparison (E 202)

Panel Organizer: Yonariza

- Franz and Keebet von Benda-Beckmann (14): **"How Communal is Communal and Whose Communal is It? Lessons from Minangkabau"**
- Astia Dendi (15) : **"The Evolution and Dynamism of Land Tenure in Minangkabau's Villages A Case of Indonesia"**

1.3.Symposium V Panel 1: Recent Development in Local / Indigenous Resource Management (E 203)

"Coastal Fishery Resources"

Panel Organizers: Melanie Wiber and Chris Milley

Chair: Werner Zips

- Ratih Dewayanti (24): **"The Influence Of Market And Tourism To Reconstruction Of Local Regulations In Marine And Fishery: Case Study In Maratua Waters, East Kalimantan, Indonesia"**
- Melanie Wiber and Chris Milley (25) : **"The Post-Marshall Decision Implementation Of Aboriginal Fishing Rights In Atlantic Canada"**
- Siri Ulfsdatter Søreng (26) : **"Right Discourses In The Norwegian Costal Zone: Mixing Oil And Water?"**
- Gregory Justin Rose (27) : **"Legal Pluralism and Natural Resource Governance by Communities in the Pacific Island Region"**

1.4.Symposium II: Globalization, Market and Law (E 204)

Panel Organizer: Al. Andang Binawan

- Herlambang (37): **"The Ascendancy of Governance: A Comparative Study of Neo-Liberalism Mainstream on Governance Reform Post Constitutional Reform in Thailand and Indonesia"**
- Rita Dharani (38): **"Migrant Labour Trafficking: Can Legal Pluralism Help?"**
- Kurnia Warman (39) : **"The Law of the Stronger Group: When state and customary law do not apply"**

1.5.Symposium III Panel 3: Human Rights, Conflicts and Law

Panel Organizer**: Kerstin Steiner**

- Kerstin Steiner (49): **" 'Asian Values' and the 'War on Terror': A Re-Emergence of the Challenge for International Human Rights?"**

- Saiful Akmal (50) : **"Helsinki Reconciliation: An Effective Public Policy for Atjehnese People and Reformation of Democratization"**

10.00 – 10.30 Coffee Break

10.30 – 11.45 **2nd round panels**

2.1.Symposium III Panel 2: Negotiating Multiculturalism (CH)

Panel Organizers: Keebet von Benda-Beckmann & Rajendra Pradhan

- Nursyirwan Effendi (9): **"Local Autonomy and Nagari Development: Divergences of interests, goals and policies between Local Government and Community"**
- Anabelle Buenaobra Ragsag (10): **"Customary Justice System in Mindanao: Challenges and Opportunities for Philippine nation-making"**

2.2.Symposium V Panel 3: Post-Crisis Land and Natural Resources Tenure, South East Asia in Comparison (E 202)

Panel Organizer: Yonariza

- Myrna Safitri (16): **"When Legal Pluralism Losing Its Arena Devolution and Property Rights in Indonesian Forestland"**
- Oetami Dewi (17): **"Resistance Of Indigenous People On Oil-Palm Plantation, In West Kalimantan"**

2.3. Symposium II: Globalization, Market and Law (E 204)

Panel Organizer: Al. Andang Binawan

- Zuhairah Ariff Abd. Ghadas and Halyani Hassan (40): **"Corporate Governance in SMEs: The Malaysian Experience"**
- Indri Saptaningrum (41): **"Toward A Market-Friendly Legal Regime:The Indonesian Legal Reform Project and the Hegemonic Globalization"**

2.4. Symposium III Panel 3: Human Rights, Conflicts and Law

Panel Organizer **: Kerstin Steiner**

- Anton Simanjuntak (51): **"The Possibility of Disappearance of Adat Solution to Batak Conflict"**
- Vikramjit Baneerje (52): **"Out of Asia, the Universalisation of Western Human Rights Values and the Critiques Emanating Out of Asia"**

11.45 - 13.30 Lunch break

13.30 - 15.00 **3rd round panels**

3.1. Symposium III Panel 2: Negotiating Multiculturalism (CH)

Panel Organizers: Keebet von Benda-Beckmann & Rajendra Pradhan

- Rudy (11) : **"Decentralization in Indonesia: Reinventing Local Right"**

- Usman Pelly (12): **"The Impact of Uniformity of Indonesian Central Government to the Plural Society"**
- Sandra Brunnegger (13): **"Colombia's 1991 Constitution and Indigenous Communities: Challenges and Responses"**

3.2.Symposium V Panel 3: Post-Crisis Land and Natural Resources Tenure, South East Asia in Comparison (E 202)
Panel Organizer : Yonariza

- Laurensius Gawing (18): **"Oil Palm Plantation Between the State's Interests and the Misery of the Indigenous Dayak Peoples, A Case Study of the Seizing Scheme over the Land, Forest and other Natural Resources by the State and Oil Palm Enterprises in West Kalimantan"**
- Hoang Huy Tuan (19): **"Decentralization and Local Politics of Forest Management in Vietnam, A Case Study of Cơ Tu Ethnic Community"**
- Yuli Nugroho (20): **"Decentralization and Devolution of Forest Management: Fostering between State and Local Communities to Improve Forest Management in Thailand and the Philippines"**

3.3.Symposium V Panel 1: Recent Development in Local / Indigenous Resource Management (E 203)
"Forest Resources"
Panel Organizer: Melanie Wiber and Chris Milley
Chair: Janine Ubink

- Joy Das Gupta (30): **"The Transition from Customary Forest Management To State controlled Forest Management , Narratives of Judicial intervention, 'Development' and it's implications for the community-controlled forests of North-eastern India"**
- Sayamol Kaiyourawong (31): **"Recovering the Crisis of Natural Resources and Environment with Community Right Law"**

3.4. Symposium II: Globalization, Market and Law (E 204)
Panel Organizer: Al. Andang Binawan

- Zoé E. Headley (42): **"*Courts, Caste and Cursing*:Justice and Resistance Amongst an Ex-Criminal Tribe (South India)"**
- Laurel Heydir (43): **"Portraying Political Behaviors of The Iban-Dayak in West Borneo"**
- Hendrik Krissifu (44): **"Law Plurality and The System of Customary Law in Papua"**

3.5. Symposium IV: Legal Techniques and Practices of Disaster Management (E 205)
Panel Organizer: Markus Weilenman

- Markus Weilenmann (53): **"Legal Techniques and Practices of the Disaster Management"**
- Gillespie Piers & Goddard, Trevor (54): **"Multinational engagement with the peace process in South East Asian communities: A prepositional model for inclusive tri-sector partnerships"**

15.00 – 15.30 Coffee Break

15.30 - 17.00 **4th round panels**

4.1.Symposium V Panel 3: Post-Crisis Land and Natural Resources Tenure, South East Asia in Comparison (E 202)
Panel Organizer : Yonariza

- Imam Kuswahyono (21): **"Promoting Community Forestry Development by Multi Stakeholders Support (A Sustainability & Justice Forest Management Model) in East Java Province Malang Municipal"**
- Anu Lounela (22): **"Community and the forming of new forest management regime through legislation, Case of Wonosobo, Central Java"**
- Sandra Moniaga (23): **"The Pluralism of the State Laws Concerning the Adat Community and Their Laws and Rights to the Lands"**

4.2. Symposium V Panel 1: Recent Development in Local / Indigenous Resource Management (E 203)
"Recovering from The Crisis of Natural Resources and Environment with Community Right Law"
Panel Organizer: Melanie Wiber and Chris Milley
Chair: Chris Milley

- Manuela Mairitsch and Werner Zips (32): **"Lost in Transition The Indigenous, National Parks, and Community Based Development"**
- June Prill Brett (33): **"Contested Domains: The Indigenous Peoples Rights Act and Legal Pluralism in the Northern Philippines"**
- John Mc Carthy (34): **"Agrarian Change and Village Entitlements under Regional Autonomy in the Indonesian province of Jambi, Sumatra"**
- Janine Ubink (35): **"Customary Land Management in Peri-urban Kumasi, Ghana"**
- Ade Saptomo (36): **"Negotiation in Diagonal Conflict of Natural Resources in Sungai Tanang West Sumatra In Legal Pluralism Perspective"**

4.3. Symposium II: Globalization, Market and Law (E 204)
Panel Organizer: Al. Andang Binawan

- D.W. Tadeus (45): **"Shift Cultivation through slash and burnt system (Case of Tunbaba, Oecusi District, NTT in the border of Indonesia-Timor Leste"**

- Ruchi Pant (46): **"Trends in Intellectual Property Legislation on Plant Variety Protection in The Wake of Globalization: A Case from India"**
- Serang B. Yohanes (47): **"Legal Pluralism in NTT"**
- Yohanes Y. Balubun (48) : **"Process to Develop Original Autonomy in Honitetu Countryside – Nu Dua Siwa"**

17.30 - 19.00 **Meeting of The Commission** (Hazairin Room)

19.00 – 22.00 Leisure Time (Depok downtown)

Book fair and bazaar
10.00- 17.00

Day 4, July 1

CONCURRENT PANELS
08.30 - 10.00 **1st round panels.**

1.1. Yonariza's Panel

Symposium V Panel 3: Post - Crisis Land and Natural Resources Tenure, South East Asia in Comparison (E 202)
Panel Organizer: Yonariza

- Daniel Adler (55): **"An Exploratory Study of Collective Grievances over Land & Local Governance in Two Provinces"**
- Yonariza (56) : **"Decentralization and co-management of protected areas in Indonesia"**
- Ruth C. Mapanao (57): **"Peace-Building: A Post-Crisis Developmental Effort in Southern Mindanao, Philippines"**
- Anjali Bhat (58)**: "Integrated River Basin Management in Indonesia as Influenced by Decentralization Reforms: A Comparative Analysis of Policy Implementation in Two Basins"**

1.2. Symposium III Panel 2: Religion and Legal Pluralism (CH)
Panel Organizer : Arskal Salim

- Arskal Salim (62): **"The Constitution and the Collective Religious Rights: Islamic Parties and the Amendment to Article 29 on Religion in Indonesia."**
- Al. Andang Binawan (63): **"The Battle of Human Rights in Religious Freedom in Indonesia"**
- J.M. Otto (64): **"Sharia and National Law in the Muslim World: A Comparative Perspective"**

1.3.Symposium IV Panel 1: Women's Strategies in Gaining Access to Property and Resources (E 203)
Panel Organizers: Anne Griffith and Julie Stewart

- Ronald Z. Titahelu and Jeane K. Matuankotta (68): **"Women in Collectivity (Parampuang dalam Parimponang) in Context of Legal Pluralism (Rights of Women in Customary Law of Negeri Ihamahu, Saparua Island, Middle Moluccas)"**
- Dewi Novirianti (69): **"Women's Legal Empowerment to Combat Poverty: Female-headed Households' Experience in Accesing Justice in the Indonesian Provinces of West Java, Central Java and West Nusa Tenggara"**

1.4. Symposium V Panel 2: Legal Pluralism and the Management of Marine Fisheries in South Asia (E 204)

Panel Organizer : Maarten Bavinck

- Maarten Bavinck (73): **"Against All Odds: The Condition of Fisheries Regulation in Ramnad District (Tamil Nadu, India)"**
- Oscar Amarasinghe (74): **"Formation and Erosion of Legal Systems in Marine Small-Scale Fisheries of Sri Lanka"**
- Svein Jentoft (75): **"Co-Management and Legal Pluralism: How a Methodological Problem Becomes an Institutional One"**

10.00 - 10.30 Coffee Break

10.30 - 12.00 **2nd Round Panels**

2.1. Symposium V Panel 3: Post - Crisis Land and Natural Resources Tenure, South East Asia in Comparison (E 202)

Panel Organizer: Yonariza

- Myrthena Fianza (59): **"Indigenous Resource Rights and Law in Transition: Some Issues Affecting Rural Moro Women In The Southern Philippines"**
- Matt Stephens (60): **"Local Level Dispute Resolution in Indonesia Post-Regional Autonomy"**
- Yanuarius Koli Bau (61): **"Law Plurality and The Conflict in West Timor"**

2.2. Symposium III Panel 2: Religion and Legal Pluralism (CH)

Panel Organizer: Arskal Salim

- Nadirsyah Hosen (65): **"Substantive Equality and Legal Pluralism in Indonesia: a case Study of Joint Ministerial Decrees on the Construction of Worship Places"**
- Wang Qiliang (66): **"Religion, Legal Pluralism and Order in Multiracial Society: a Legal Anthropological Study in China"**
- Ahmad Hafizh (67): **"A Leap of Faith: Taking the Plunge in Inter Religious Marriage"**

2.3. Symposium IV Panel 1: Women's Strategies in Gaining Access to Property and Resources (E 203)
Panel Organizer : Anne Griffith and Julie Stewart

- Anila Onta (70): **"Legal Rights of Women in Community Forestry in Nepal (Comparative Analysis between Forest Law and selected Constitutions and Management Plans of Community Forest User's Groups)"**
- Benny Ferdy Malonda (71): **"The Struggle of Woman and Some Views of Gender Theory (Its Relation with The Direction of Development and Enableness of Woman in Indonesia)"**
- Sulistyowati Irianto and Lim Sing Meij (72): **"Gendered Migration in Legal Pluralism Perspective: Trafficking in Women and Drug Trafficking (A Case Study in the Women's Penitentiary in Tangerang, West Java.)"**

2.4. Symposium V Panel 2: Legal Pluralism and the Management of Marine Fisheries in South Asia (E 204)
Panel Organizer : Maarten Bavinck

- Derek Johnson (76): **"The Socio-Economic Context For a Weak Legal Plural Interaction: Characteristics and Individual Perceptions of Fisheries Management in Junagadh District, Gujarat"**
- Janet Rubinoff (77): **"'Solving' Fisheries Disputes in Goa, India: The Manipulation of Formal and Informal Legal Patterns"**
- Jyothis Sathyapalan (78): **"Lessons For Institutional Cooperation From a Fishery Where Indigenous Management Institutions Are Thin on the Ground: The Case of Junagadh District, Gujarat"**

12.00 - 13.00 Lunch

13.15 All participant are expected to be in the buses

15.00 - 18.00 Recreation and shopping (Bogor)

18.00 – 21.00 Informal Party at ***Met Liefde Restaurant***, Bogor
Informal dinner with live latin music, sharing and informal speeches between local committees and participants.

Book fair and bazaar
10.00- 13.00

Day 5, July 2

CONCURRENT PANELS

08.30-10.00 1st Round Panel

1.1. Symposium V Panel 3: Post - Crisis Land and Natural Resources Tenure, South East Asia in Comparison (E 202)

Panel Organizer: Yonariza

- Marthinus Solossa - Kadir Katjong - Bambang Sugiono (79): **"Abstract: The Conflict of Natural Resources and Strengthening to the Indigenous People Rights in Papua"**
- Bernardinus Steny (80): **"Finding Method of Legal Pluralism in Socio Legal Movement (an overview on forestry legal cases in Indonesia)"**

1.2. Symposium III Panel 2: Religion and Legal Pluralism (204)

Panel Organizer: Dr Arskal Salim

- Bhakti Siahaan (83): **"The Implementation of Syariat Islam in Aceh Againts National Law in Indonesia"**
- Lilis Mulyani (84): **"The Dynamics of Inheritance Law and Legal Pluralism in Minangkabau : Choice of Laws or Conflicted Laws?"**

1.3. Symposium IV Panel 1: Women's Strategies in Gaining Access to Property and Resources (E 203)

Panel Organizer : Anne Griffith and Julie Stewart

- Anne Griffiths (87): **"Kwena Women's Worlds: Ethnography Gender and Law"**
- Srimati Basu (88): **"Playing off Courts: The Negotiation of Divorce and Violence in a Plurality of Legal Settings"**

1.4.Symposium V Panel 2: Legal Pluralism and the Management of Marine Fisheries in South Asia (E 205)

Panel Organizer: Maarten Bavinck

- Denny Karwur (89): **"Labuang: A Traditional Use Right Fishery in Kinahobutan, North Sulawesi, Indonesia"**
- Aceng Hidayat (90): **"Institutional Change at Local Level : How Gili Indah Villagers Build an Effective Local Governance of Coral Reef Management?"**
- Mumu Muhajir (91): **"The Resistance of *Adat* Community Based on Coastal and Sea Towards Unification of State Law in East Kalimantan"**

1.5.Symposium IV Panel 3: Gendered Justice and State Pluralism (CH)

Panel Organizer: Ratno Lukito (RL)

- Umi Lasmina (96): **"Indonesia's Women and Local Culture Preserve National Identity"**
- Nuning Hallett (97): **"Indonesian Women in International Marriage and the Citizenship Issues"**
- Kamaruzzaman Bustamam-Ahmad (98): **"The Implementation of Islamic Law in Aceh, Indonesia: Is Islam Law only for Women?"**

10.00-10.30 Coffee Break

10.30-12.00 **2nd Round Panel**

2.1. Symposium V Panel 3: Post - Crisis Land and Natural Resources Tenure, South East Asia in Comparison (E 202)

Panel Organizer: Yonariza

- Benjamin van Rooij (81): **"The Return of the Landlord Chinese Land Acquisition Conflicts and Tenure Security in Peri-Urban Kunming"**
- Mimin Dwi Hartono (82): **"Is Nasional Park for conservation? Case Study in Merapi Volcano Indonesia"**

2.2. Symposium III Panel 2: Religion and Legal Pluralism (E 203)

Panel Organizer: Arskal Salim

- Ibnu Hamad and Zulkarimein Nasution (85): **"Media and Controversy on Legal Pluralism: Case Study of Indonesian Media Covering 'Counter Legal Draft for Compilation of the Islamic Law' "**
- Yaghoob Foroutan (86): **" Religion in Pluralistic Context: Empirical Evidences on Challenging Implications"**

2.3. Symposium V Panel 2: Legal Pluralism and the Management of Marine Fisheries in South Asia (E 204)

Panel Organizer: Maarten Bavinck

- Sarah Southwould-Llewellyn (92): **"Conflicts over Sea Territory and Livelihoods: Legal Pluralism in the Management of Marine Fisheries"**
- K.T. Thomson and K.K. Baiju (93): **"The Role of Self-Regulating Systems in Kerala Fisheries: Implications for Co-management"**
- Dedy Adhuri (94): **"Whose Law at Work? The legal status of Communal Marine Tenure and its Significance to the Marine Resource Management in Kei Island, Maluku of Indonesia"**

2.4. Symposium IV Panel 3: Gendered Justice and State Pluralism (CH)

Panel Organizer: Ratno Lukito

- Titiek Kartika (98): **"The New Form of Oppression within the Autonomy of Indonesia"**
- Erlijn Theodora (99): **"Women Victims of 1965 Tragedy: On the Meaning of Truth, Justice, and Reparation"**
- Germaine Tirtle (100): **"The Promotion LGBT Rights Under Sexual Orientation Law: Women Victims of 1965 Tragedy: On the Meaning of Truth, Justice, and Reparation A Call for True Legal Pluralism"**
- Atty. Edgar dL Bernal (101): **"Shadow Preying on Shadows : LGBTs in Philippine Criminal Law"**

12.00-13.00 Lunch

13.00-14.00 Registration for Closing Ceremony's guests (CH).

13.00-14.00 Press Conference (Guru Besar Room)

14.00-17.00 **Plenary Session**

14.15–15.15 Symposium IV Panel 2: The Rise of Fundamentalism, Legal Pluralism and Gendered Justice
Panel Organizer : Kamala Chandrakirana
- Zainah Anwar (102): **"Women and Islam"**
- Donny Danardono, SH. (103): **"Imagining a Fair Trial: Feminist Legal Spaces as a Strategy In Deconstructing the Dominant Legal System in Semarang"**

15.15 - 15.45 **Coffee break**

15.45 - 17.00 Symposium IV Panel 2: The Rise of Fundamentalism, Legal Pluralism and Gender Justice
Panel Organizer: Kamala Chandrakirana
- Ratno Lukito (104): **"The Enigma Of Indonesian National Law Of Inheritance: The Case of the Supreme Court's Decisions on Gender-Neutral Inheritance"**
- Rukmini Sen (105): **"Law's Perception of Sexuality: Morality vs. Objectivity"**
- Andri and Ismail Hussaimi (106):

Closing Ceremony (CH): 17.00-18.10

17.00-17.05 MC
17.05-17. 35 Closing speech from the Commission on Folk Law & Legal Pluralism
17.35-17. 45 Closing speech from the Dean representative
17.45- 17.55
17.55-18. 10 Recommendation from The Academicians on Legal Pluralism and Gender Justice in Indonesia, presented by Gadis Arivia

Day 6, July 3

Asian Initiative for Legal Pluralism Meeting (limited meeting)
(Faculty of Law)

Panel Descriptions

Symposium I: Theoretical and Methodological Issues

Panel: Normativity as Field, style or Objective of Study?

Panel organizer**: Prof. Dr. Franz von Benda-Beckmann,**
Max Planck Institute for Social Anthropology, Halle, Germany
(fbenda@eth.mpg.de)

Papers are invited to problematise the tension between approaches to law that (cl)aim to be as value neutral as possible, adopting a clinical analytic perspective, and more normatively oriented or politically activist approaches. Though the dividing line may be difficult to find, it is usually assumed to be there. Problems sometimes arise when descriptive-analytical statements are understood as having normative consequences, or vice versa. This often occurs when political claims - for the (universal) validity of some law are inferred from and justified by "reality", or when "reality" is constructed through normative argumentation. This is frequently the case in discussions about human rights or religious and ethnic legal rules not recognized by states. The questions of a) whether it is possible to draw a sharp distinction at all between normative sciences (such as legal dogmatics) and descriptive-analytical sciences (such as anthropology), and b) whether a limitation of one's activities to one of these fields is possible or desirable, are contested terrain in anthropology and law, especially in studies concerned with legal pluralism. There have been many often quite emotional discussions between anthropologists about human rights issues, advocacy and applied anthropology. Just to mention a commented CA article by Hastrup and Elsass in 1990 on *anthropology and advocacy,* and a very recent 2005 commented CA paper with comments by Carrithers on "Anthropology as a moral science." The dialogue between Eberhard, Gupta, Vanderlinden, and Woodman's comments in the recent newsletters of the Commission on Folk Law and Legal Pluralism provide another interesting example, as does Zips' theory of justice.

Symposium II: Law, Governance and Market in a Transnational World
Panel: Globalization, Market and Law

Panel Organizer:
Al Andang L. Binawan ,
Sekolah Tinggi Filsafat Driyakara (Driyakara School of Philosophy), Jakarta
(andang@provindo.org)

Law, in such a modern world, is a conditio sine qua non. It is a necessity, though it may be a necessary evil. On one side, law is needed as a means for unifying people in a fragmented society; but on the other side it is hated since it limits the freedom of people. In recent time, such phenomenon is closely related to the paradox of globalization. Globalization, especially through its sophisticated communication technology, has indeed unified people in the world. The world, in McLuhan's words, is becoming a global village. However, globalization, through its modernity, has increased the individual autonomy and self-identity, which caused the fragmentation of society.

Another important factor which pushed the globalization ahead is the growth of market. With the development of money as a symbolic token (Anthony Giddens, 1990: 22), market no longer meant a place. It is a social system, and even has a paradigmatic role in society. For many, its values becomes the highest individual and social values. This fact brings many new challenges for law, at least in its two different dimensions. In the first place, it creates philosophical or ethical problems since it questions the relation between (conventional) moral systems and law. Besides, it questions the definition of law because the state sovereignty, which is usually taken for granted in the discourse of national law, is under a big question mark, especially vis-à-vis the power of international market system. In the second place, it creates political challenges, because it addresses the problem of (among others) how to limit the power of market in a political and judicial system of a state. In many cases, it seems that business corporations are very powerful. With enough money they could buy ballots,

polices and also judges. It is clear that without such limitations, law would become merely the 'protecting fence' for the strong, no longer the shelter for the weak. There are many more problems or questions can be discussed in this panel. There are many approaches to use. However, the very crucial question for all is how we can find a 'good' law in this globalized, modern world which could guarantee justice for the people, especially those who are weak. Or, is such an ideal becoming obsolete?

Symposium III: Rights, Culture and Plural Laws

Panel 1: Negotiating Multiculturalism

Panel organizers:

Prof. Dr. Keebet von Benda-Beckmann
Max Planck Institute for Social Anthropology, Halle, Germany
(kbenda@eth.mgp.de)

Dr. Rajendra Pradhan
Social Science Baha, Kathmandu
(icnec@wlink.com.np)

This panel intends to look at legal pluralism and cultural, religious and ethnic differences. Some states explicitly encourage cultural pluralism (e.g. the Dutch model of *verzuiling*, *apartheid*, colonial models of indirect rule, the Indonesian model of regional autonomy, the Nepalese model of pluralism and hierarchy); for some it is an unintended consequence of decentralisation policies, while others only grudgingly accede to partial cultural pluralism due to struggles within the state and to international pressure. The purpose of this panel is to look at how state policies of modernisation, development, and nation building affect the relationships between people and groups of different cultural, religious and ethnic provenance and between them and the state, and the specific forms of legal pluralism that ensue. Cultural pluralism takes shape in states that historically have oscillated between centralism and decentralised state administration and we encourage papers to look at these tensions. As legal pluralism is not only a result of the ways the state defines the relationship between the various normative orders, we encourage papers that look at the modes in which states cope with a cultural pluralism and at the responses from various groups of a particular society.

Panel 2: Religion and Legal Pluralism

Panel organizer:

Arskal Salim
Melbourne Law School, the University of Melbourne, Australia
(arskal@unimelb.edu.au)

The focus of this panel is religion and legal pluralism in the modern nation-state era. The fact that diverse religious believers (especially Muslims, Jews and Hindus) are required to strictly follow their religious law, while in the same time they are as citizens who live in a country subject to laws enacted by the secular state, has often resulted in a conflict of authority between different sources of legal sovereignty. Legal pluralism has been proposed to overcome this problem. Under this scheme, there would be more than one legal system at the same time in the same country, and each citizen has the right to choose the legal system of his preference. This concept of legal pluralism, however, contradicts the goal of the state, namely to unite the citizens by means of homogenisation, which creates not only a common culture, symbols and values among them, but also one legal system that applied equally. This panel seeks to address this complicated issue by inviting papers that will discuss it from legal and constitutional perspectives, political view or anthropological analysis. The panel welcomes papers on theoretical issues that sought to elaborate more about religious law, legal pluralism and the state. The panel is mostly disposed to have papers on empirical case studies of particular country that implement, or religious political movements that advocate, legal pluralism.

Panel 3: Human Rights, Conflicts and Law

Panel organizer:

Kerstin Steiner

Law School, The University of Melbourne, Australia
(steiner@unimelb.edu.au)

This panel addresses the effects that situations of conflict can have on securing human rights. Two different areas of international law are securing the rights of the individual in situations of conflict, albeit in different circumstances and in different ways. Humanitarian law applies in situations of armed conflict, whereas human rights, or at least some of them, protect the individual at all times, in war and peace alike. While the purpose of humanitarian law is to protect victims by hoping to limit the suffering caused by war, human rights seek to protect the individual and further his development.

This panel will focus on the modification and restriction of human rights law in the context of conflict.

Some provisions in international human rights law instruments provide for the suspension of and derogation from certain 'relative rights' or 'derogable rights' (e.g. freedom of movement and freedom of expression) in times of public emergency by national laws. The suspension of these rights has to be made in accordance with the principle of non-discrimination, that is derogation in times of public emergency is not permitted solely based on race, colour, sex, language, religion, political or other opinion, national or social origin.[1]

Yet, in situations of armed conflict the political and military motivation behind the suspension of 'relative rights' makes it often questionable.

Throughout history, threats to national security have resulted in national laws curtailing human rights for either the whole population or parts of the population. Most of these laws could be questioned with regards to their legality as they appear to be discriminatory towards a certain part of the population. For example, during World War II, Americans of Japanese descent were locked up in camps out of fear that they may pose a threat to national security. More recently the events of September 11, 2001 has resulted in a 'rush' to enact national laws allegedly enabling governments to fight terrorism more effectively. The scope of these laws cover a range of measures such as an increase of police powers, tougher criminal laws, or restriction of human rights to alleged terror suspects. Some of these more recent laws have been questioned with regards to their legality on the grounds that they are in fact of a discriminatory nature.

'Absolute rights' or 'non-derogable rights' such as freedom from torture and arbitrary killing, can never and under no circumstances be suspended. Still recent events suggest that countries, which would be expected to adhere to these restrictions, have circumvented them by extraditing terrorist suspects to countries where torture is practiced in order to obtain allegedly essential intelligent information.

This panel will invite papers on the topic of human rights, conflict and laws from both the perspectives of theoretical and practical analysis that can shed insights into the strained relationship between human rights in times of conflict

Symposium IV: Gendered Perspectives on Law (Making Gender Visible in Law: Challenges for Legal Pluralism)
Panel 1: Women's Strategies for Gaining Access to Property and Resources
Panel organizers:
Prof. Dr Anne Griffiths
School of Law, Edinburgh University, Old College, Scotland
(Anne.Griffiths@ed.ac.uk)

[1] See Article 4 of the International Covenant on Civil and Political Rights (ICCPR) stating the circumstances which may constitute 'public/State emergency' and thus may allow derogation: "In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the State Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin".

Julie Stewart,
The Southern and Eastern African Center for Women's Law (SEARCWL),
(stewart@law.uz.ac.zw).

In recent years attention has focused on globalisation as a phenomenon and local communities' responses to it. This has led to a growing recognition of the importance of transnational forms of law and ordering derived from diverse sources, including the World Bank, the European Convention on Human Rights, The World Trade Organisation, the World Health Organisation, the International Monetary Fund, the African Union as well as religious movements. Such developments encompassing social and economic change require a reformulation of the relationship between law, culture and rights, in an age where law and legal institutions now cross local, regional and national boundaries and in which the 'local' is embedded in and shaped by regional, national, and international networks of power and information. This is especially pertinent given the emergence of and prominence accorded to international human rights.

In coming to terms with the plurality of law and its transnational dimensions, this panel explores the challenges that a gendered perspective on law raises for contemporary legal pluralism. It will address:

- How gender is socially and legally constructed;
- What impact this has on women's access to property and resources and the strategies that that they employ to secure such resources;
- Who has the power and authority to define, interpret and implement law at the many levels at which it operates, and what implications does this have for women's access to, and use of, law;
- How women experience legal pluralism - what are the advantages/ disadvantages that plural legal systems pose for women and where does this leave them in terms of rights;
- How may international instruments and conventions, such as the Convention on the Elimination of All Forms of Discrimination Against Women, be used to empower women;
- To what extent can such international instruments and conventions, that set up cross cultural expectations and agendas with regard to women's rights, be applied or tailored to tackle the local, everyday domains in which women operate.

Panel 2: The Rise of Fundamentalisms, Legal Pluralism and Gender Justice
Panel organizer: Kamala Chandrakirana
Komisi Nasional Penghapusan Kekerasan Perempuan (The National Commission on Violence against Women), Indonesia
(kamala@rad.net.id)

In the context of a rise of cultural and religious fundamentalisms, legal pluralism has become a means by which new laws and legal procedures which undermine women's rights have been codified. In some cases, this is part of a concession by a national/federal state in order to maintain a particular political balance of power, or as a means of providing political and legal recognition to a community which defines itself in religious, cultural or racial terms. For women's rights advocates, this is seen as a major setback to their long struggle. At the same time, it is often the very process of democratization and decentralization – in many countries, long-awaited and much fought for, including by the women's movement – that has brought about the space for such new laws to emerge.

The purpose of this panel is to look at the role that women have played in challenging the new or upcoming legal constructs which are seen to undermine gender justice, and provide explanations on their successes and failures.

We encourage papers which look at how women engage with the system and negotiate within the cultural/religious traditions, and/or how women in secular political systems challenge the state, for instance, in terms of unconstitutionality. In what terms do women make their challenge and negotiate their interests? What tensions have emerged between advocacy groups which adopt different strategies? What has been the role of media in influencing outcomes? How can we explain the successes and failures of these efforts? We invite critical inquiries which deepen our understanding of such concepts as legal pluralism, fundamentalism, secularism, citizenship, from a gendered perspective.

Panel 3: Gendered Justice and State Pluralism

Panel organizer: Ratno Lukito
Faculty of Law, McGill University Montreal, Canada)
(rlukit@po-box.mcgill.ca)

This panel will focus on the bewilderment of the state principle of gender-neutral justice in a society with a multicultural gender system. Inherent in the idea of modern state is the notion of legal centralism in which the state agency occupies the center of legal life, while all non-state normative orderings stand in the periphery. However, this lofty idea is not necessarily in line with the reality of modern states. Comparative legal studies have repeatedly discovered that there are alternative normative orderings in society and that resistance to official law is always an issue faced by the state. State laws will not work effectively if they are not congruent with their social context, while the notion of law as social engineering will usually not function as anticipated if the state neglects other agencies and modes of inducing compliance found outside the state institution. It is from this ideological perplexity that the panel will try to decipher the state behavior towards varied teachings of gender relations extant in one society. The state-backed idea of gender-neutral justice, wherein all people are seen as having the same rights before the law irrespective of their sex, will be discussed in its encounters with the fact of plurality of gender teachings derived from cultural conditions, religious and customary traditions existing within the state. Therefore, this panel will invite papers on the topic of state, gender and pluralism from both the perspectives of theoretical and practical analysis that can elaborate more the idea of gendered justice and its fate in many multicultural countries.

Symposium V: Natural Resources, Property Theories and Legal Pluralism: Southeast Asia in Comparison

Panel 1: Recent Developments in Local/Indigenous Resource Management

Panel Organizers:
Prof. Dr. Melanie G. Wiber
Department of Anthropology, University of New Brunswick, Canada
(wiber@unb.ca)

Dr. Chris Milley
Director, Integrated Resource Management
Mi'kmaq Confederacy of PEI, Canada
(cmilley@mcpei.ca)

Over the past decade, devolution of natural resource management to the community level has been promoted both in the Developed and in the Emerging States as a means to resolve many issues related to addressing shortcoming of past

management practices – disregard of state regulation, legal claims of disenfranchised local users, over-exploitation of resources, failure to recognize and apply local knowledge systems, and the lack of fit between top-down management regimes and local production processes, to name a few. Community-based management and co-management regimes are two of the more common perspectives for greater local level involvement in both governance and of management of natural resources. Since local level managers are often involved in the subsequent generation and modification of regulatory structures, many of the characteristics of legal pluralism then come into play.

But the past decade has also witnessed increasing awareness of the weakness in some of these devolution processes. Some scholars have argued that internal divisions within local communities have often resulted in the cooptation of new governance and management structures, allowing the local elite to secure any benefits of the new regime. Other scholars draw attention to the need for local capacity building so that new management structures do not fail before they can be adequately tested. Among local participants in new management regimes, many argue that they have been given all the responsibility, but no real power, and that downloading of responsibility has rarely come with downloading of jurisdiction, capacity, or finances necessary to be effective.

In western states such as Canada and New Zealand, indigenous agreements with the federal governments, often negotiated as a result of settlement of outstanding treaties and land claims, have sometimes served as the model for devolution of natural resource management. In other cases, court decisions have precipitated government recognition of aboriginal management rights, and the resulting management arrangements have been touted as exemplars of devolution of centralized power.

In this panel, we invite papers that assess specific devolution experiences to assess how the landscape of natural resource management is changing, and to evaluate those factors influencing structural and processual outcomes, including outcomes of legal pluralism. We are particularly interested in comparing those so-called exemplary cases with non-western examples. We invite papers that explore the local/state interface in any arrangements where local users were expecting to be empowered and to generate their own level of regulation, particularly those arrangements that have sufficient time-depth to assess the actual outcomes.

Panel 2: Legal Pluralism and the Management of Marine Fisheries in South Asia:
Panel Organizer:
Dr. Maarten Bavinck,
University of Amsterdam, The Netherlands
(J.M.Bavinck@uva.nl)

An international team of researchers (from India, Sri Lanka, Canada, and the Netherlands) has recently (2003-2006) completed a comparative study on legal pluralism with regard to management of the marine fisheries of South Asia. Project members worked in six different states of India and one in Sri Lanka; our unit of comparison is one coastal district from each state. The general focus is on the complex interplay of public-private law in the local fisheries – public referring to government agencies involved in fishing regulation or marine research, and private meaning both formal and informal fisher organizations (e.g., for marketing, regulation, internal dispute settlement) and NGOs. While we have coordinated our data collection, research methodology, & theoretical framework of legal pluralism for cross-district comparison, our research has also evoked unique and controversial issues/results from each district.

The session, that should consist of three panels, will include two kinds of papers:

1. A set of papers that compares findings from the various research districts with regard to select topics - such as the influence of migration, or the differential

interplay between forms of law - connecting to theoretical debates on natural resource management and legal pluralism.

2. A set of papers that have a district focus, discussing important developments or issues as they have emerged from the field studies.

Panel 3: Post-crisis Land and Natural Resources Tenure, South East Asia in Comparison

Panel Organizer:
Yonariza,
Center for Irrigation, Land and Water Resources and Development Studies, Andalas University, Padang, West Sumatra.
(yonariza@ait.ac.th)

The economic crisis that hit the Southeast Asia region in 1997 and other regions brought in international funding agencies and civil society movements to request governments of affected countries to reform land and resource tenure policy. Main reform initiatives were intended to decentralize resource management and adopt more democratic natural resources management. This reform intended to correct previously centralized and authoritarian land and resources tenure policy.

In earlier post-crisis periods, governments in the region promised to take action for resource tenure reform, adopting a more democratic power structure and popular participation. Now, 8 years later, administrations have changed several times in each country. What happened to those land and natural resources tenure reform agendas?

This panel would explore the following questions: 1) what post-crisis new laws and regulations regarding resource tenure have been enacted by the governments in this region; 2) what are the major factors contributing to these changes, and 3) what are the implications of the new land and resources policies from a legal pluralism perspective.
Analytical papers are invited from scholars in the region focusing on the above questions.

Symposium VI: Social Security and Social Insecurity, Disasters, Aid and Rights

Panel: Legal Techniques and Practices of Disaster Management

Panel Organizer:
Dr. Markus Weilenmann,
Office for Conflict Research in Developing Countries
(drmweilenmann@smile.ch)

All development agency political interventions can directly or indirectly influence the existing legal relations and change the conditions under which people are able to use their rights. This is particularly true for all those projects or programmes which explicitly deal with legal matters such as the promotion of an international criminal court, programmes on crisis prevention and conflict mediation, the promotion of justice and human rights, good governance issues etc. and for all those topics which are subject to the conditionality. But all development bureaucracies refer also to a whole series of models and techniques in order to achieve their goals. However, all these models and techniques are subject to a growing standardisation, whereby a particular kind of law, so-called "project law", plays a significant role as well, since it structures the development political consulting process by normative means and intervenes in those socio-political contexts that are subject to any social change whatsoever. In the recipient countries, development projects as well as their applied project law(s) might thus clash with local customary law(s), religious law(s) or the state law prevailing there. These processes might thus have significance for the developing of new concepts of legal pluralism.

Panelist

Code Number of Abstracts	Panelist	Title	Panel Coordinator	Date and Time	Room
	Symposium I: Theories and Methodologies (Plenary Session) **Panel Organizer: Franz von Benda-Beckmann (FBB)** **"Normativity as Field, Style or Objective of Study?"**			**Thursday, June 29th, 2006 11.15 – 14.30**	Convention Hall (CH) : Bal Sid
1.	Gordon Woodman	Human Rights: The Route to Judgment, or a Diversion?	FBB	13.30 – 14.30	CH
2.	Gustaaf Reerink	Tenure Arrangements on the Ground, a Socio-Legal Study of Land Law and Practice in *Kampung* in Bandung	FBB	11.15 – 12.30	CH
3.	Frank Muttenzer	Legal Syncretism and Cultural Difference in the Malagasy Forest Economy: a case Against Environmental "Customary Law"	FBB	11.15 – 12.30	CH
4.	Anna Witasari	Concept of Risk and Reflexivity on Environmental Studies	FBB	13.30 – 14.30	CH
	Symposium III Panel 1: Negotiating Multiculturalism **Panel Organizer: Rajendra Pradhan (RP) & Keebet von Benda-Beckmann**			**Thursday, June 29th, 2006 14.30-16.00**	CH
5.	Rajendra Pradhan	Negotiating Multiculturalism in Nepal: Law, Hegemony, Contestation and Paradox	RP - KBB	14.30 – 16.00	CH
6.	Yu Xiao	Negotiating Polyhedral Identities and Plurality through Ethnic Law and Policies: A Legal Ethnography of Miao, Tujia and Han Life Stories in West Hunan, China	RP- KBB	14.30 – 16.00	CH

7.	Masami Tochibana	Tensions and Compromises of Legal Pluralism: Case Study from a Philippine Migrant Community	RP-KBB	14.30 – 16.00	CH
	Symposium III Panel 1: Negotiating Multiculturalism **Panel Organizer : Rajendra Pradhan (RP) & Keebet von Benda-Beckmann**			**Friday, June 30th, 2006 08.30 – 17.00**	CH
8.	Laurens Bakker	Diversity in Nunukan: The politics and Implications of Governmentally affirmed autonomy in an East Kalimantan district.	RP-KBB	08.30 – 10.00	CH
9.	Nursyirwan Effendi	Local Autonomy and Nagari Development: Divergences of Interest, Goals and Policies Between Local Government and Community	RP-KBB	10.30 – 11.45	CH
10.	Anabelle Buenaobra Ragsag	Customary Justice System in Mindanao: Challenges and Opportunities for Philippine nation-making	RP-KBB	10.30 – 11.45	CH
11.	Rudy	Decentralization in Indonesia: Reinventing Local Right	RP-KBB	13.30 – 15.00	CH
12.	Usman Pelly	The Impact of Uniformity of Indonesian Central Government to the Plural Society	RP-KBB	13.30 – 15.00	CH
13.	Sandra Brunnegger	Colombia's 1991 Constitution and Indigenous Communities: Challenges and Responses	RP-KBB	13.30 – 15.00	CH
	Symposium V Panel 3: Post-Crisis Land and Natural Resources Tenure, South East Asia in Comparison **Panel Organizer: Yonariza (Yon)**			**Friday, June 30th, 2006 08.30 – 17.00**	E. 202
14.	Franz and Keebet von Benda- Beckmann	How Communal is Communal and Whose Communal is it? Lessons from Minangkabau	Yon	08.30-10.00	E 202
15.	Astia Dendi	The Evolution and Dynamism of Land Tenure in Minangkabau's Villages A Case of Indonesia	Yon	08.30-10.00	E 202
16.	Myrna Safitri:	When Legal Pluralism Losing Its Arena Devolution and Property Rights in Indonesian Forestland	Yon	10.30-11.45	E 202
17.	Oetami Dewi	Resistance Of Indigenous People On Oil-Palm Plantation, In West Kalimantan	Yon	10.30-11.45	E 202
18.	Laurensius Gawing	Oil Palm Plantation Between the State's Interests and the Misery of the Indigenous Dayak Peoples, A Case Study of the Seizing Scheme over the Land, Forest and other Natural	Yon	13.30-15.00	E 202

		Resources by the State and Oil Palm Enterprises in West Kalimantan			
19.	Hoang Huy Tuan	Decentralization and Local Politics of Forest Management in Vietnam, A Case Study of Cơ Tu Ethnic Community	Yon	13.30-15.00	E 202
20.	Yuli Nugroho	Decentralization and Devolution of Forest Management: Fostering between State and Local Communities to Improve Forest Management in Thailand and the Philippines	Yon	13.30-15.00	E 202
21.	Imam Kuswahyono	Promoting Community Forestry Development by Multi Stakeholders Support (A Sustainability & Justice Forest Management Model) in East Java Province Malang Municipal	Yon	15.30-17.00	E 202
22.	Anu Lounela	Community and the Forming of New Forest Management Regime Through Legislation, Case of Wonosobo, Central Java	Yon	15.30-17.00	E 202
23.	Sandra Moniaga	The Pluralism of the State Laws Concerning the Adat Community and Their Laws and Rights to the Lands	Yon	15.30-17.00	E 202
	Symposium V Panel 1: Recent Development in Local / Indigenous Resource Management **Panel Organizer : Melanie Wiber and Chris Milley (MW & CM)**			**Friday, June 30th, 2006 08.30 – 17.00**	E.203
24.	Ratih Dewayanti	The Influence of Market and Tourism to Reconstruction of Local Regulations in Marine and Fishery: Case Study in Maratua Waters, East Kalimantan, Indonesia	MW & CM	08.30-10.00	
25.	Melanie Wiber and Chris Milley	"The post-Marshall Decision Implementation of Aboriginal Fishing Rights in Atlantic Canada"	MW & CM	08.30-10.00	
26.	Siri Ulfsdatter Søreng	Right Discourses in the Norwegian Costal Zone: Mixing oil and Water?	MW & CM	08.30-10.00	E 203
27.	Gregory Justin Rose	Legal Pluralism and Natural Resource Governance by Communities in the Pacific Island Region	MW & CM	08.30-10.00	E 203
28.	Sharon B. Singzon	Legal Pluralism in the Use and Management of Natural Resources in Forest Reserves: A Comparative Case Study of Eastern Visayas, Philippines and Northeast Thailand	MW	13.30 – 15.00	E.205
29.	Brad Morse	Aboriginal Forestry Rights in Canada	MW & CM	13.30-15.00	E 203
30.	Joy Dasgupta	The Transition from Customary Forest Management To State controlled Forest Management, Narratives of Judicial intervention, "Development" and it's implications for the community-controlled forests of North-eastern India.	MW & CM	13.30-15.00	E 203

31.	Sayamol Kaiyourawong	"Recovering the Crisis of Natural Resources and Environment with Community Right Law"	MW & CM	13.30-15.00	E 203
32.	Manuela Mairitsch and Werner Zips	Lost in Transition The Indigenous, National Parks, and Community Based Development	MW & CM	15.30-17.00	E 203
33.	June Prill Brett	Contested Domains: The Indigenous Peoples Rights Act and Legal Pluralism in the Northern Philippines	MW & CM	15.30-17.00	E 203
34.	John McCarthy	Agrarian Change and Village Entitlements under Regional Autonomy in the Indonesian province of Jambi, Sumatra	MW & CM	15.30-17.00	E 203
35.	Janine Ubink	Customary Land Management in Peri-urban Kumasi, Ghana	MW & CM	15.30-17.00	E 203
36.	Ade Saptomo	**Negotiation in Diagonal Conflict of Natural Resources in Sungai Tanang West Sumatra In Legal Pluralism Perspective**	MW & CM	15.30-17.00	E 203
	Symposium II: Globalization, Market and Law **Panel Organizer: Al. Andang Binawan (And)**			**Friday, June 30th, 2006 08.30 – 17.00**	E.204
37.	Herlambang	The Ascendancy of Governance: A Comparative Study of Neo-Liberalism Mainstream on Governance Reform Post Constitutional Reform in Thailand and Indonesia	And	08.30-10.00	E 204
38.	Rita Dharani	Migrant Labour Trafficking: Can Legal Pluralism Help?	And	08.30-10.00	E 204
39.	Kurnia Warman	The Law of the Stronger Group: When state and customary law do not apply	And	08.30-10.00	E 204
40.	Zuhairah Ariff Abd Ghadas and Halyani Hassan	Corporate Governance in SMEs: The Malaysian Experience	And	10.30-11.45	
41.	Indri Saptaningrum	Toward a Market-Friendly Legal Regime: The Indonesian Legal Reform Project and the Hegemonic Globalization	And	10.30-11.45	E 204
42.	Zoé E. Headley	*Courts, Caste and Cursing*:Justice and Resistance Amongst an Ex-Criminal Tribe (South India)	And	13.30-15.00	E 204
43.	Laurel Heydir	Portraying Political Behaviors of The Iban-Dayak in West Borneo	And	13.30-15.00	E 204
44.	Hendrik Krissifu	Law Plurality and The System of Customary Law in Papua	And	13.30-15.00	E 204
45.	D.W. Tadeus	Shift Cultivation Through Slash and Burnt System (Case of Tunbaba, Oecusi District, NTT in the Border of Indonesia-Timor	And	15.30-17.00	E 204

		Leste			
47.	Serang B. Yohanes,	Legal Pluralism in Nusa Tenggara Timur (NTT)	And	15.30-17.00	E 204
48.	Yohanes Y. Balubun	Process to Develop Original Autonomy in Honitetu Countryside – Nu Dua Siwa	And	15.30-17.00	E 204
	Symposium III Panel 3: Human Rights, Conflicts and Law **Panel Organizer: Kerstin Steiner (KS)**			**Friday, June 30th , 2006 08.30 – 11.45**	E.205
49.	Kerstin Steiner	'Asian Values' and the 'War on Terror': A Re-Emergence of the Challenge for International Human Rights?	KS	08.30 – 10.00	
50.	Saiful Akmal	Helsinki Reconciliation: An Effective Public Policy for Atjehnese People and Reformation of Democratization	KS	08.30 – 10.00	
51.	Anton Simanjuntak	The Possibility of Disappearance of Adat Solution to Batak Conflict	KS	10.30 – 11.45	
52.	Vikramjit Banerjee	Out of Asia, the Universalisation of Western Human Rights Values and the Critiques Emanating Out of Asia	KS	10.30 – 11.45	
	Symposium IV: Legal Techniques and Practices of Disaster Management Panel Organizer : Markus Weilenman (MW)			**Friday, June 30th, 2006 13.30 – 15.00**	
53.	Markus Weilenmann	Legal Techniques and Practices of the Disaster Management	MW	13.30 – 15.00	E.205
54.	Gillespie Piers & Goddard, Trevor	Multinational Engagement with the Peace Process in South East Asian Communities: A prepositional Model for Inclusive Tri-sector Partnerships	MW	13.30 – 15.00	E.205
	Yonariza's Panel Symposium V Panel 3: Post - Crisis Land and Natural Resources Tenure, South East Asia in Comparison			**Saturday, July 1st, 2006 08.30 – 12.00**	E 202
55.	Daniel Adler	An Exploratory Study of Collective Grievances over Land & Local Governance in Two Provinces.	Yon	08.30-10.00	E 202
56.	Yonariza	Decentralization and Co-management of Protected Areas in Indonesia	Yon	08.30-10.00	E 202
57.	Ruth C. Mapanao	Peace-Building: A Post-Crisis Developmental Effort in Southern Mindanao, Philippines	Yon	08.30-10.00	E 202
58.	Anjali Bhat	Integrated River Basin Management in Indonesia as Influenced by Decentralization Reforms: A Comparative Analysis of Policy Implementation in Two Basins	Yon	08.30-10.00	E 202

59.	Myrthena Fianza	Indigenous Resource Rights and Law in Transition: Some Issues Affecting Rural Moro Women In The Southern Philippines	Yon	10.30-12.00	E 202
60.	Matt Stephens	Local Level Dispute Resolution in Indonesia Post-Regional Autonomy	Yon	10.30-12.00	E 202
61.	Yanuarius Koli Bau	Law Plurality and The Conflict in West Timor	Yon	10.30-12.00	E 202
	Symposium III Panel 2: Religion and Legal Pluralism **Panel Organizer: Arskal Salim (AS)**			**Saturday, July 1st, 2006 08.30 – 12.00**	CH
62.	Arskal Salim	The Constitution and the Collective Religious Rights: Islamic Parties and the Amendment to Article 29 on Religion in Indonesia.	AS	08.30-10.00	CH
63.	Al. Andang Binawan	The Battle of Human Rights in Religious Freedom in Indonesia	AS	08.30-10.00	CH
64.	J.M. Otto	Sharia and National Law in the Muslim World: A Comparative Perspective.	AS	08.30-10.00	CH
65.	Nadirsyah Hosen	Substantive Equality and Legal Pluralism in Indonesia: a case Study of Joint Ministerial Decrees on the Construction of Worship Places	AS	10.30 -11.00	CH
66 .	Wang Qiliang	Religion, Legal Pluralism and Order in Multiracial Society: a Legal Anthropological Study in China	AS	10.30-12.00	CH
67.	Ahmad Hafizh	A Leap of Faith: Taking the Plunge in Inter Religious Marriage	AS	10.30-12.00	CH
	Symposium IV Panel 1: Women's Strategies in Gaining Access to Property and Resources **Panel Organizers : Anne Griffith (AG) and Julie Stewart**			**Saturday, July 1st, 2006 08.30 – 12.00**	
68.	Ronald Z. Titahelu and Jeane K. Matuankotta	Women in Collectivity (Parampuang dalam Parimponang) in Context of Legal Pluralism (Rights of Women in Customary Law of Negeri Ihamahu, Saparua Island, Middle Moluccas)	AG – JS	08.30 – 10.00	E.203
69.	Dewi Novirianti	Women's Legal Empowerment to Combat Poverty: Female-headed Households' Experience in Accesing Justice in the Indonesian Provinces of West Java, Central Java and West Nusa Tenggara	AG – JS	08.30 – 10.00	E 203
70.	Anila Onta	Legal Rights of Women in Community Forestry in Nepal (Comparative Analysis between Forest Law and selected Constitutions and Management Plans of Community Forest User's Groups)	AG-JS	10.30 – 12.00	E 203

71.	Benny Ferdy Malonda	The Struggle of Woman and Some Views of Gender Theory (Its Relation with The Direction of Development and Enableness of Woman in Indonesia	AG-JS	10.30 – 12.00	E 203
72.	Sulistyowati Irianto and Lim Sing Meij	Gendered Migration in Legal Pluralism Perspective: Trafficking in Women and Drug Trafficking (A Case Study in the Women's Penitentiary in Tangerang, West Java.	AG-JS	10.30 – 12.00	E 203
	Symposium V Panel 2: Legal Pluralism and the Management of Marine Fisheries in South Asia **Panel Organizer : Maarten Bavinck (MB)**			**Saturday, July 1st, 2006 08.30 – 12.00**	E 204
73.	Maarten Bavinck	Against All Odds: The Condition of Fisheries Regulation in Ramnad District (Tamil Nadu, India)	MB	08.30 – 10.00	E 204
74.	Oscar Amarasinghe	Formation and Erosion of Legal Systems in Marine Small-scale Fisheries of Sri Lanka	MB	08.30 – 10.00	E 204
75.	Svein Jentoft	Co-management and Legal Pluralism: How a Methodological Problem Becomes an Institutional One	MB	08.30 – 10.00	E 204
76.	Derek Johnson	The Socio-economic Context for a Weak Legal Plural Interaction: Characteristics and Individual Perceptions of Fisheries Management in Junagadh District, Gujarat	MB	10.30 – 12.00	E 204
77.	Janet Rubinoff	'Solving' Fisheries Disputes in Goa, India: The Manipulation of Formal and Informal Legal Patterns	MB	10.30 – 12.00	E 204
78.	Jyothis Sathyapalan India	Lessons for Institutional Cooperation from a Fishery Where Indigenous Management Institutions are Thin on the Ground: the Case of Junagadh District, Gujarat	MB	10.30 – 12.00	E 204
	Yonariza's Panel Symposium V Panel 3: Post - Crisis Land and Natural Resources Tenure, South East Asia in Comparison			**Sunday, July 2nd, 2006 08.30 – 12.00**	E 202
79.	Marthinus Solossa, Kadir Katjong, Bambang Sugiono	Abstract: The Conflict of Natural Resources and Strengthening to the Indigenous People Rights in Papua	Yon	08.30 – 10.00	E 202
80.	Bernard Steny	Finding Method of Legal Pluralism in Socio Legal Movement (an overview on forestry legal cases in Indonesia)	Yon	08.30 – 10.00	E 202
81.	Benjamin van Rooij	*The Return of the Landlord* Chinese Land Acquisition Conflicts and Tenure Security in Peri-	Yon	10.30 – 12.00	E 202

		Urban Kunming			
82.	Mimin Dwi Hartono	Is Nasional Park for Conservation? Case Study in Merapi Volcano Indonesia.	Yon	10.30 – 12.00	E 202
	Symposium III Panel 2: Religion and Legal Pluralism **Panel Organizer: Arskal Salim (AS)**			**Sunday, July 2nd, 2006 08.30 – 12.00**	E 204
83.	Bhakti Siahaan	The Implementation of Syariat Islam in Aceh Againts National Law in Indonesia	AS	08.30-10.00	E 204
84.	Lilis Mulyani	The Dynamics of Inheritance Law and Legal Pluralism in Minangkabau: Choice of Laws or Conflicted Laws?	AS	08.30-10.00	E 204
85.	Ibnu Hamad and Zulkarimein Nasution	Media and Controversy on Legal Pluralism: Case Study of Indonesian Media Covering "Counter Legal Draft for Compilation of the Islamic Law"	AS	10.30-12.00	E 204
86.	Yaghoob Foroutan	Religion in Pluralistic Context: Empirical Evidences on Challenging Implications	AS	10.30-12.00	E 204
	Symposium IV Panel 1: Women's Strategies in Gaining Access to Property and Resources **Panel Organizers: Anne Griffiths (AG) and Julie Stewart**			**Sunday, July 2nd, 2006 08.30 – 10.00**	E 203
87.	Anne Griffiths	Kwena Women's Worlds: Ethnography Gender and Law	AG-JS	08.30 – 10.00	E 203
88.	Srimati Basu	Playing off Courts: The Negotiation of Divorce and Violence in a Plurality of Legal Settings	AG-JS	08.30 – 10.00	E 203
	Symposium V Panel 2: Legal Pluralism and the Management of Marine Fisheries in South Asia **Panel Organizer : Maarten Bavinck (MB)**			**Sunday, July 2nd, 2006 08.30 – 12.00**	E 205
89.	Denny Karwur	Labuang: A Traditional Use Right Fishery in Kinahobutan, North Sulawesi, Indonesia	MB	08.30 – 10.00	E 205
90.	Aceng Hidayat	Institutional Change at Local Level: How Gili Indah Villagers Build an Effective Local Governance of Coral Reef Management?	MB	08.30 – 10.00	E 205
91.	Mumu Muhajir	**The Resistance of *Adat* Community Based on Coastal and Sea Towards Unification of State Law in East Kalimantan**	MB	08.30 – 10.00	E 205

92.	Sarah Southwold-Llewellyn	Conflicts over Sea Territory and Livelihoods: Legal Pluralism in the Management of Marine Fisheries	MB	10.30 – 12.00	E 205
93.	K.T. Thomson	The Role of Self-Regulating Systems in Kerala Fisheries: Implications for Co-management	MB	10.30 – 12.00	E 205
94.	Dedy Adhuri	Whose Law at Work ? The legal status of Communal Marine Tenure and its significance to the Marine Resource Management in Kei Island, Maluku of Indonesia	MB	10.30-12.00	E 205
	Symposium IV Panel 3: Gendered Justice and State Pluralism **Panel Organizer : Ratno Lukito (RL)**			**Sunday, July 2nd , 2006**	
95.	Umi Lasmina	Indonesia's Women and Local Culture Preserve National Identity	RL	08.30 – 10.00	CH
96.	Nuning Hallett	Indonesian Women in International Marriage and the Citizenship Issues.	RL	08.30 – 10.00	CH
97.	Kamaruzzaman Bustamam-Ahmad	The Implementation of Islamic Law in Aceh, Indonesia: Is Islam Law only for Women?	RL	08.30-10.00	
98.	Titiek Kartika	The New Form of Oppression within the Autonomy of Indonesia	RL	10.30 – 12.00	CH
99.	Erlijn Theodora	Women Victims of 1965 Tragedy: On the Meaning of Truth, Justice, and Reparation.	RL	10.30-12.00	CH
100.	Germaine Tirtle	The Promotion LGBT Rights Under Sexual Orientation Law: A Call for True Legal Pluralism.	RL	10.30-12.00	CH
101.	Atty. Edgar dL. Bernal	Shadow Preying on Shadows : LGBTs in Philippine Criminal Law	RL	10.30-12.00	CH
	Symposium IV Panel 2: The Rise of Fundamentalism, Legal Pluralism and Gender Justice **Panel Organizer : Kamala Chandrakirana (Kam)**			Sunday, 2 July 2006 14.00 – 17. 00	CH
102.	Zainah Anwar	Women and Islam	Kam	14.15 – 15.15	CH
103.	Donny Danardono	Imagining a Fair Trial: Feminist Legal Spaces as a Strategy In Deconstructing the Dominant Legal System in Semarang	Kam	14.15 – 15.15	CH
104.	Ratno Lukito	The Enigma Of Indonesian National Law Of Inheritance: The	Kam	15.45 – 17.00	CH

		Case of the Supreme Court's Decisions on Gender-Neutral Inheritance. By Ratno Lukito (DCL Candidate, faculty of Law, McGill University, Montreal, Canada)			
105.	Rukmini Sen	Law's Perception of Sexuality: Morality vs. Objectivity.	Kam	15.45 – 17.00	CH
106	Andi Yentriyani and Ismail Hussaimi	?	Kam	15.45 – 17.00	CH

Abstract of Presented Papers

1. Prof. Gordon Woodman
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Human Rights: The Route to Judgement, or a Diversion?

In recent years it has become very common to evaluate all types of state, customary and religious laws by assessing their compatibility with Human Rights. This paper will argue that, although the evaluation of laws is a worthwhile aspiration, there is grave difficulty in an attempt to achieve this through notions of Human Rights. The paper does not challenge the assumption that it is possible to establish some universal ethical standards for the judgement of law. It rather asks whether any such standard, if established, can be sufficient to justify claims to universally valid Human Rights.

The assertion that there are universally valid norms governing human conduct can be based on several types of grounds. These provide support for moral, and perhaps legal obligations. But those who write and speak on this subject seem often to move from the assertion of obligations to the assertion of rights without presenting any reason to justify this step.

The nature of the concept of Rights, and the relation between Rights and Duties have been the subject of debate. It can hardly be contended that the assertion of a right is merely an alternative mode of asserting a duty. That A has a duty to engage in or to refrain from certain conduct in relation to B does not mean exactly the same as that A has a right that B engage in or refrain from that conduct. Human Rights are not established by the reasoning which establishes norms of human conduct, when that reasoning is derived from some body of religious norms, or is perceived as inherent in a customary normative order. Current arguments for Human Rights are derived largely from systems of western thought, being based either upon argument for a fundamental moral imperative, or on the claims of social contract theory. But even in these western systems of thought there can be found no persuasive reason for progressing from the existence of obligations to the existence of Rights.

If the argument presented here is correct, it has important practical consequences. It shows that arguments based upon Human Rights, so often propounded by dominant international normative orders, are likely to be unpersuasive to those whose moral beliefs are derived from a religion or a practised culture. Even those who accept western philosophical bases for ethics may have difficulty in accepting them. The current widespread violations of Human Rights may reflect a scepticism as to the moral force of the concept, even when there is a reluctance to voice this scepticism openly. The cause of moral standards might be more effectively served by emphasising the moral obligations of the state, private bodies and individuals. The emphasis on rights threatens to produce tragic failures in attempts to secure effective, civilised normative orders.

2.Gustaaf Reerink

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Tenure Arrangements on the Ground, a Socio-Legal Study of Land Law and Practice in *Kampungs* in Bandung

In the colonial period the Netherlands-Indies state imposed a dualist system of land law, with a system of statutory rights for European land and *adat* law for indigenous land. The latter category was never strictly defined; the indigenous people were to apply their own arrangements, whatever they were. Particularly in and around the cities, individual *adat* rights emerged, rights that were comparable to European land rights.

The 1960 Basic Agrarian Law (BAL) tried to unify the system of land law by converting all existing rights into new categories of land rights, which were allegedly based on *adat* law. Land to which people could not claim any right became state land.

In practice, the unification effort led to pluralism in the sector of land. Individual *adat* rights on land in and around the cities no longer fell into the new category of *adat* law. At the same time it proved difficult for *kampung* dwellers to integrate these rights into the system of statutory land rights. Some converted their rights successfully. Most, however, still apply their own tenure arrangements. Other dwellers who later settled in *kampungs* applied their own arrangements as well. They do not consider these arrangements as *adat* law. Yet, since these arrangements are not acknowledged by state law either, *kampung* dwellers use similar documents to the ones used for indigenous land in the colonial period to prove their rights to land. Although they are unable to integrate their arrangements into the system of statutory land rights, they constantly seek state recognition. Their tenure arrangements are therefore closely intertwined with the formal system of land law and administration. Dwellers do thereby succeed in gaining some recognition, albeit on the local administrative level, not from a legal perspective.

Based on legal analysis and fieldwork in *kampungs* in Bandung, this paper gives an overview of the different kinds of land tenure arrangements in these settlements, and their relationships with colonial and post-colonial state land law and administration. It argues that the 'illegalisation' by state law of tenure arrangements in *kampungs* has been compensated for by negotiated administrative recognition at the local level and a daily practice inspired by colonial law and administration. Legal pluralism has emerged, but paradoxically contemporary tenure arrangements in *kampungs* are more integrated into the wider normative framework of the state than during the colonial period of legal dualism. For that reason, the author argues that the dichotomous approach in legal anthropology of state law or weak pluralism, with different normative systems acknowledged by state law, versus deep or strong pluralism, with systems not acknowledged by said law, is not useful to understand the closely-nit, but ambiguous relationship between norms of the state and those of the people.

3. Frank Muttenzer
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Legal Syncretism and Cultural Difference in the Malagasy Forest Economy: A Case Against Environmental 'Customary Law'

Recognition of 'customary law' has become a major issue of environmental and forest policy in Madagascar. The new policy prescription is sometimes based on more or less 'deep' analytical views of 'legal pluralism'. By way of comparison of four empirical situations of legal pluralism the paper argues that those diverging scientific rationalisations of legal pluralism may be based on what are in fact complementary folk conceptualizations.

On two among the four chosen field sites, I found 'ethnic' or traditionalist legal discourses. The foreign influences (and more generally modern, trans-ethnic aspects) of contemporary solutions are hidden behind a reinvention of indigenousness. Such observations confirm the analytical idea that individuals make existential choices between competing legal orders and that there cannot be pluralism within a legal system nor (state) recognition of subaltern identities. Legal dualism or customary law appears to be a form of domination that substitutes for genuine dialogue between cultures…

On the remaining two field sites, I found that local discourses claim conformity of legal practice with official and Western legal categories. Contemporary solutions result from a fusion of heterogeneous cultural elements where indigenousness seems to get lost in the process. These observations confirm the analytical idea that the separation of official and

unofficial law is a Western or a professional value judgment given that legal rules do not actually form 'systems' because there are no limits to them. With people acting simultaneously within and without official law, the so-called 'oppressed' are free to interpret 'oppressive' official law according to their own needs. There seem to be no limits to official recognition of those interpretive mechanisms because state law is itself a form of customary law…

Analytical views of legal pluralism ('deep' and otherwise) can be substantiated through field observation. But such conceptual clarifications overestimate the indeterminacy of concrete legal relations in autonomous social fields and/or economic concerns. Legal syncretism understood as 'nativistic' dualism is also a means to incorporate foreign elements by denial. Legal syncretism understood as the fusion of diverse cultural elements is also a means to express a new cultural identity. It produces cultural difference. If it is true that individuals create new law by recombining rules stemming from competing sources, they nevertheless select their materials with reference to legal postulates that ensure the reproduction of a social structure. If it is also true that individuals sometimes do make existential choices, they do not choose between several legal systems but between several conceptions of the 'good life'. They are concerned with the ethical content of the rule not with its place in a legal system. Incompatible moralities in order to survive presuppose a law that is open to different interpretations.

4.Anna Witasari
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Concept of Risk and Reflexivity on Environmental Studies

Environmental studies which focus on the degradation requires both 'realism' and constructivism approach. I illustrate here the concept of 'risk' introduced by Ulrich Beck in regard to environmental studies. New realities where there are connections between global and local or the connection between localities could not be avoided. That is the starting point of the emergence of this new critical theory which puts together interpretive, critical and feminist, and social engineering as interdependency, making social science go beyond traditional 'purity'.

The critics for this approach are the re-emergence of 'environmentalism' orthodoxy, which shares the legitimate discourse with scientific' objectivity'. It is particularly rejected by anthropologists in relation with humanity. However, it is argued that concept of 'risk' recognizes reflexivity. Reflexivity underlies 'risk' as a shared understanding. 'Risk' is not viewed from the lenses of modernity rather as a reflexive modernity. The implication of this concept to legal pluralism is that it may lead to the deconstruction of state laws. In other words, it is not totally true that the concept of 'risk' shares legitimate discourses with 'scientific' objectivity.

While reflexivity of using concept of risk will approach negotiated practices, reflexivity is used by anthropologists as alternative ways to present findings of environmental studies. Auto-ethnography or the deconstruction of methodology is used to tackle with the researchers' dilemmas.

Despite of the drawbacks of each approach, the question is back to the researchers' roles and the researchers' epistemology.

Key words: realism, constructivism, risk, reflexivity, purity, deconstruction, auto-ethnography.

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6. Yu Xiao
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Negotiating Polyhedral Identities and Plurality through Ethnic Law and Policies: A Legal Ethnography of Miao, Tujia and Han Life Stories in West Hunan, China

Drawing on some of the research findings from my doctoral dissertation fieldwork conducted in 2005,this paper intends to present a legal ethnography of Miao, Tujia and Han ¡°life stories¡±, in relation to varying applications of ¡°ethnic law¡± and policies in negotiating polyhedral identities and cultural plurality in West Hunan, China. Miao, Tujia and Han are three major groups among the population of the now West Hunan Tujia and Miao Autonomous Prefecture, while in general the Han is the dominant majority and the other two are ethnic minorities in China. Based on in-depth interviews with a variety of individuals of different socioeconomic and political backgrounds which resulted in a set of ¡°life stories¡±, the paper aims to address five interrelated questions: 1) How has the Chinese ethnic law (or ¡°law on ethnicities¡±) evolved and been enforced in the everyday social-political life of the Chinese peoples? 2) Which legal sensibilities and which forms of legal consciousness are created by and influence the law implementation? 3) What forms of polyhedral identities and what meanings of ethnic-cultural pluralism has the law projected upon China¡¯s non-Han minorities (such as the Miao and the Tujia in West Hunan) and the dominant Han-Chinese? 4) Is the law ¡s just a law on paper as some Western legal scholars and anthropologists have claimed, or has ethnic law actually transformed the lives of the peoples for whom, and in part by whom, the law was constructed? 5) To what extent is the ethnic law ¡°a semi-autonomous field¡±, and has it become a central locus for the control and dissemination of those signifying forms with which identities and differences are made and remade? By interrogating the workings of the Chinese national law and policies on ethnicities in everyday life of the people in the field, my research aims to reach a better understanding of how state rationality of nation building, legal consciousnesses, cultural politics, and the sense of belonging are articulated to constitute the ethnoscapes and state-sanctioned cultural plurality in the making of the contemporary Chinese multiethnic nation-state.

7.Masami Mori Tachibana
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Tensions and Compromises of Legal Pluralism: Case Study from a Philippine Migrant Community

In a migrant community in Southern Palawan, Philippines, there live multi-ethnic Muslim, Christians migrated from different parts of the country and the indigenous people. The community has developed because of the introduction of Nickel Mining since late 1970s. Now it has become a political and commercial center in the area. This paper tries to discuss two questions based on the anthropological fieldwork. The questions are how can people of different backgrounds meet their needs for conflict resolution in a multi-ethnic, multi-lingual, and multi-religious community? What are the tensions and compromises among ethnic, religious and state legal cultures and systems and what are the factors behind them?

In the long history of struggle against the national government, Muslim people in the Philippines achieved the codification of Muslim Personal Laws in 1977 and The Indigenous People's Rights Acts (IPRA) was codified in 1994 for the good of the Indigenous people. In this sense, Philippine government seems to have employed cultural pluralism as basic concept of their legal system. However, recognition or introduction of the laws and their implementation in real life is different. For example, since Palawan is not considered as a part of Autonomous Region of Muslim Mindanao, there is no Shariah court available for Muslim in the place. Only in 2004, special civil registration for Muslim was implemented in municipal registry office. IPRA, as well, is quite new to be implemented and it just started to

facilitate conflict resolution among the indigenous people.

In this situation, *barangay* justice system, *Katarungan Pambangay,* plays an important role in the community to bring amicable settlement among people with different backgrounds. Case studies focus on the process of settlement, role of local community leaders, limits and problems of the system and selection by local people. Through the analysis, I would like to point out the possibilities and limitations of the system.

8.Laurens Bakker
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Diversity in Nunukan: the politics and Implications of Governmentally Affirmed Autonomy in an East Kalimantan District

One of the two district regulations in Indonesia which confirm and recognize the existence of *hak ulayat* (communal land rights), pertains to the ancestral lands of the Dayak Lundayeh of Nunukan. In addition the Nunukan government issued a second district regulation which officially confirmed the *adat* (traditional, or customary law) of these Dayak as valid law in the sub-district of Krayan. The ensuing balance between state officials and customary leaders in Krayan is a rare example of changed power relations and unique for contemporary Indonesia: the local state administration follows the lead of *adat* leaders rather, or acts as a 'translator' of local matters to the district government. The overall topic of the paper is a study of how state policies effect legal processes in Nunukan and are, in turn, effected by it. This is explored through a focus on two main subjects. The first subject is the relationship between the state administration and *adat* leadership. The focus is on the interaction between the two different legal systems, on the decision making process used to reach decisions and on the legal sources that are used to sustain decisions.

The paper's second subject is the position of the Lundayeh within Nunukan political and power relations. Apart from the Lundayeh, various other ethnic Dayak groups live in this district, all claiming territories based on *hak ulayat*. However, none of these other groups got official recognition of either *hak ulayat* or *adat*. The ways in which the district administration establishes the (in)existence of *hak ulayat*, the political influence of the 'traditional' Lundayeh, and current attempts at recognition of such rights for other Dayak groups are analysed up to the level of the upcoming district head elections in April 2006.

9.Nursyiwan Effendi
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Local Autonomy and Nagari Development: Divergences of interests, goals and policies between Local Government and Community

Decentralization has been a top discourse in Indonesia since 2000 up to present. This discourse was a follow-up from the magnificent political changes and shift of developmental paradigm after reformation movement at the central government in 1998. Its effects were going down to the provinces in all over Indonesia. For this picture of changes, many authors and public mass media in Indonesia have thoroughly depicted them for years.

In west Sumatra province, especially among the Minangkabau, the program "back to Nagari" launched in 1999 marks a watershed in the process of decentralization and as a response of reformation movement. In regard of Benda-Beckmann and Benda-Beckmann (2001), this process was summed up as a recreating Nagari, meanwhile Effendi (2002) noticed it as nagari is put again on its track. Many others writers paid much their attention of this process. In a nutshell, the nagari decentralization process has been also a top issue but at the local level.

After more than five years it has been launched, the "back to nagari" consisted mostly of dynamic development in Nagari.

The development includes understanding of local political changes, institutional changes, human resources development, and finance arrangement and changing pattern of relationships between nagari government and nagari society (*anak nagari)*. As a matter of fact, nagari development is to some extent showing the slack in developmental progress and mostly out of ideas of wealth nagari. Poverty in Nagari is even greater number that before, and then poverty becomes a top issue at nagari level and it is openly discussed everywhere.

It can be said that problem of nagari development means the misinterpretation of implementing decentralization at the local level or at the local community. It is sustained by the facts of divergence of interests, goals and policies between local government and nagari community that are becoming obvious. Some different understandings of development among nagari government and local people also ensue. There are differences between sustainable development and sustainability, between integrated administrative programs and sector-based programs, between professionalism and procedure of bureaucracy, between the need of "top-down" and "bottom-up" and between universality and particularity of policy.

These divergences show a field of potential conflicts and power play between local autonomy government and its community. The strong vision to change in nowadays nagari is really blurred. There is still a fact that local government is grudgingly acceding people's struggle for changes. It is shown by unclear nagari policy of development that is for whom? As a matter of fact, community needs changes either of model of governance or model of nagari prosperity. Nagari community only hope that wealth nagari is only based on the needs of community and not of the nagari elite or even, local government as a whole.

The paper will look at the tensions mentioned above and their results on the existing nagari and its norms that have been valuable basis among the Minangkabau social structure. At the last part of the paper, it will be shown how the local people cope with these tensions in order to make them sustainable in cultural life including their strong customary law. It is still a preliminary question whether tensions in local development field can be a window for looking for an alternative understanding of "local multiculturalism"?

10. Anabelle Buenaobra Ragsag
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Customary Justice System in Mindanao: Challenges and Opportunities for Philippine nation-making

While the Philippines will be celebrating its 110th year of independence in 2007, the country remains not on the graduating list of those engaged in the process of nation-making. Aside from the fact that it is relatively young as compared to other nations, even with its decolonized neighbors, the country is still in the throes of reconciling its multiethnic and diverse population. And this multiethnicity brings to fore a challenge to the Philippine state on how its customary justice systems relate to its formal "western" justice system.

While there are numerous customary justice systems in the Philippines, this paper would be focusing on the Maranao's forms of dispute settlement : the taritib ago igma (consensus) and the kokoman a kabhatabataa (law of the kinsmen). This mode of mediaton is even different from the Kitab (Shariah Court).

Interestingly, rarely do Maranaos appeal their rido (disputes) to Philippine courts and probably not as well to the barangay (village) justice system which is considered as the official initial vehicle for dispute settlements all over the country.

This is explained by the importance placed by the Maranaos on their maratabat (honor), that once injured, needs to be tended to and healed by the one directly affected and the one who caused it.

This paper intends to:
First : describe the customary justice system practiced by the Maranaos;
Second : explain how this customary law configures with the formal, western justice system in the Philippines;
Third : explore whether this customary law mitigate or intensify violence in an already fragile region.

11. Rudy
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Decentralization in Indonesia: Reinventing Local Right

Indonesia has population more than 200 million people and is comprised of 13.667 islands—large and small—6044 of which are populated by numerous ethnic groups. It is a heterogeneous society. Each ethnic group, residing in a specific area of the archipelago has its own characteristic, language, tradition, customs, culture and even law. After having centralized system during New Order Administration, Indonesia started implementing decentralization.

In much of Western Europe, decentralization has been a response to both political pressure and changing economic circumstances. In Latin America, African, and Asian, decentralization has been a key element of democratization and particularly in the search of participatory development. In case of Indonesia, decentralization is generally seen as the influence of universally democratization in all around the world and the effort to pacify the regions in archipelago. Far beyond the reason, decentralization in Indonesia shall be seen as tool to reinventing local right since Indonesian state formation.

This paper mainly discusses local right spirit in 1945 constitution in the form of decentralization right. Within the context, legal historical approach is taken starting from pre-colonial local autonomy order, Indonesian struggle for independence, to Indonesian nation state formation. It includes the influence of modern constitutionalism regarding local right to 1945 constitution through Indonesian founding father who drafted the constitution. Finally it examines the actual implementation of decentralization as the result of harmonization effort for integration and local right ideas in the 1945 constitution.

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The Impact of Uniformity Of Indonesian Central Government to the Plural Society

During the New Order (Orde Baru) regime, there was a strong tendency to uniform many pattern of the Indonesian Plural Society including in politics, government bureaucracy, education, economy and other public life. The example of these cases, is the uniformity of the state structure from the central government to the village level. It is interesting to examine the motivation and the goal of the regime, the impact of the uniformity to the village state structure and its practices by implementing the Law No.5/1979 (Pemerintahan Desa), and their prospect of the village society in the future under the new Law of the Regional autonomy (No.22/1999 and then has been replaced it by the Law No.32/2004).

The impact of the Orde Baru Regime Law (No.5/1979) to the village government, especially out side Java, not only rising a problem to the administrative village government, but also to the philosophy of the traditional village government it self. Many of the traditional village institutions such as *Marga* (South Sumatra), *Banjar* (Bali), *Nagari* (West Sumatra), *Mukim* (Aceh), and *Kuria* (Mandailing), were eliminated because of implementing the Law No.5/1979. According to my field research (1987-1988), what has happened here were: (1) the de-powering of the village potential as a whole, (2) making the village as a means of mobilization for political purposes, and (3) the lost of autonomy for the village.

This paper would like to question the philosophy (the world out look) of the central government to uniform the village state structure, as well as many other important aspects of life (education, economy and other public life), the silent or the overt people protests, and then the prospect after the New Order collapse, including the implication of the regional autonomy.

13. Sandra Brunnegger

Colombia's 1991 Constitution and Indigenous Communities: Challenges and Responses

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How Communal is Communal and Whose Communal is it? Lessons from Minangkabau

In most literature on property, 'communal' or 'common' property figures as one of the four major categories, besides private individual ownership, state ownership and open access. These categories are building stones in the construction of theoretical propositions concerning the evolution of property rights and of the relationships between property types and their economic and/or ecological significance. 'Communal' or 'common' property is perhaps the most general and most misleading concept pervading interpretations of property systems, academic theories and policies. The category is not well suited as a descriptive device or as a basis for theories or policies. Communal property may comprise different kinds of rights, collectives, and the resultant complex combinations of possible groups vary considerably. Moreover, communal or common property was mainly theorised at the level of categorical property rights, that is abstract categories and general rule sets that define generalised types of property objects, holders and the relationships between them. Little attention was given to the nature and distribution of concrete property relations that connect actual property objects and holders. Assuming more or less uniform intrinsic functions for such a broad category is not warranted.

We shall illustrate our points with the example of the Minangkabau of West Sumatra. Minangkabau has two rather distinct forms of communal property. One is the inherited property of matrilineages (*pusako*) that comprises both immaterial and material goods, notably irrigated rice fields. The other form is *ulayat*, or village commons, the part of the village territory that was not used for sedentary agriculture and that fell under the control of the village council or the heads of the village's matriclans. Both property forms became embedded in different ways in the plural legal system and subject to different struggles between villagers, state agencies and proponents of Islam. The example shows that and how very different co-existing types of communal property may undergo radically different developments, while the economic function they obtain is more a result of government misrepresentation and regulation than of intrinsic characteristics of the property rights per se.

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The Evolution and Dynamism of Land Tenure in Minangkabau's Villages
A Case of Indonesia

This paper analyzes the dynamics of land tenure of the Minangkabau-the biggest matrilineal society in Indonesia applying communal property rights system-in agriculture and forest resources management contexts. The paper is based on our recent study in four selected Minangkabau's villages in the north-eastern region of West Sumatra. The Asian financial crisis in 1997 had arguably contributed to giving rise to political and governance reform in Indonesia. The reform led to the devolution of power to local governments and enactment of the new laws regarding natural resource management which then prompted the local governments in West Sumatra as well as the customary institutions to streamline

the village administration and the communal resources governance. However, although the existing agrarian and forestry regulatory frameworks basically recognize the customary rights over natural resources, there exist numerous declarations that potentially marginalize the indigenous authorities and rights of tribal communities of Indonesia, including the Minangkabau society. Consequently, the initiative of provincial government to issue a bylaw on communal property rights was not supported by the majority of customary leaders as well as civil society organizations of Minangkabau. Meanwhile, this study uncovered that the customary institutions in these Minangkabau's villages were not static but highly dynamics in addressing socio-economic and environmental issues through adjustments of tenurial arrangements although there considerable inter-local variations of performance and impacts existed. In addition, this study uncovered that although these villages belong to the same sub-district administration and shared the fundamental elements of Minangkabau's customary law, they differed considerably in various aspects of tenurial arrangements. In view of these findings we conclude that a farther institutional reform consistent with the national constitution and that ensures significant devolution of power to and flexibility for the tribal communities to use and manage their ancestral (customary) natural resources is needed.

Key Words: customary law; communal property; land tenure; legal pluralism; Minangkabau; Sumatra; Indonesia.

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When Legal Pluralism Losing Its Arena Devolution and Property Rights in Indonesian Forestland

Studies on forestland tenure system in Asia have spotlighted how people's rights on their land neglected over decades because of state-domination in forest management and legal centralism approach. This, inevitably, has caused great insecurity on land and forest tenure for local people, as well as undermined legal pluralism in a territory called state forestland. Indonesia, a country with complicated problems of deforestation, poverty, and land conflicts has been dealing with and suffering from its state-based forestry development. Hence, in the course of 1998 onwards, it has been attempting to do reform on much of its forestry policies. Community forest is one of such reform. It aims to devolve forest management through inviting local people managing state forestland. To some points, this is a promising reform since it has welcomed for local norms and institutions in an arena formerly known as single jurisdiction of state law. However, it hardly provides ample clarity as well as security of people's property rights on that forestland. To what extent legal pluralism function in the absent of legally recognized jurisdiction of local norms is the main theme of this paper. What sort of devolution and property rights offered by Indonesian forestry policies to the people, and how do they work on the ground are the other themes.

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Resistance of Indigenous People on Oil-Palm Plantation, in West Kalimantan

Oil palm plantation has been a major role as a foreign exchange of state income since the Dutch occupation. The goverment has an economical reason to boost the foreign and private investment in oil-palm plantation which expands a new foreign exchange after the petroleum export is fading.

The govermnment assumes that oil-palm plantation is an important factor in economical structure of a state, so the government gives facilities to the oil-palm plantation in order to get inexpensive land, labour, and political protection that is given by the government to the investors.

Economical consideration is not just enough to develop the oil-palm plantation

in Indonesia which is in truth the plantation is not only a production system, yet it is a unit of community. The existence of oil-palm plantation community depends on a unit of production. The structure of people and person to person relationship in the community reflect from economic organization that manage the production system . As the result, the research on social-political influences of the plantation on society needs the research on the dimension of the oil-palm plantation as a social system.

Government effort that boost the plantation growth by giving the facility on obtaining the cheap land which is realized by the Departement of Forest and Plantation. The department has issued SK Menhutbun (The ministry decree) no. 367/Kpts-11/1998 that changes the forest-convention into the oil-palm plantation areas. By 1998, the total area of plantation in Indonesia was 2.633.899 ha. The government policy on the plantation development helps the forest conversion area and capital privatization. On the other hand, the policy tends to ignore the existence of indigenous people. The implication of this causes some agrarian conflicts which are hardly unsolved. This social problem also is trigerred by the social structure of rigid society of the plantation, the difference in materialistic life-style which is different among the employers, the workers. In addition, exaggeration of political protection given by the government towards the plantaion investor, it causes the plantation society of internal and external conflict.

The existence of PTPN XIII (State-owned Plantation) in West Kalimantan involves the conflict above. The exertion pattern is developed by the core-plantation and the Nucleus Estate Smallholder. The indigenous-people resistence or slash and burn cultivation peasant on the existence of PTPN XIII is realized in form land-claiming, the oil-palm destruction, the oil-palm looting, traditional sanction on PTPN XIII employees, facility-damaging of the plantation areas, demanding of indigenous people on the occupation or strategical position at the plantation.

This research is interded to answer the problems such as:

- How is the process of forest conversion or the farm area which is disputed between PTPN XIII and the indigenous people who earn the living through slash and burn cultivation peasant?
- How is the process of disappointment and unreliableness of the Nucleus Estate Smallholder members and the indigenous people on PTPN XIII?
- How is the reaction of the Nucleus Estate Smallholder member and the peasant that against the existence of PTPN XIII in West Kalimantan?

As the reference studies on the peasant disobedient movement, it has been found that the previous studies in Indonesia were in form of the peasant in rice cultivation not slash and burn cultivation. The research on the slash and burn cultivation peasant resistance against the oil-palm plantation in West Kalimantan is original contribution on peasant resistance studies in Indonesia.

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Oil Palm Plantation Between the State's Interests and the Misery of the Indigenous Dayak Peoples (A Case Study of the Seizing Scheme over the Land, Forest and other Natural Resources by the State and Oil Palm Enterprises in West Kalimantan)

" We have lived in this Kampung for centuries, but then why the strangers just easily come with a slide of paper in hands to take over our lands, woods, and natural resources without mission"
(Paraan lie' – Adat Chief of Indigenous Dayak Kayaan Mendalam)

In order to be the world's largest palm oil producer and for reason of energy diversification, Indonesia has given as much

as space for foreign and domestic investors for the expansion of oil palm plantation. The potential territory of West Kalimantan has become one targeted area after Sumatera to be converted into large-scale oil palm plantation. Hence, the ongoing land-clearing and expanding activities have been resulting the misery of indigenous peoples due to forced-land acquisition by intimidation and manipulative ways.

This ambition then justified by various interests of the state for instance; to fulfill the demands of world's palm oil with the expected positive impact afterward is to increase the state's incomes. Aside from that, as West Kalimantan is one of Indonesia's "frontage" and directly settled in the boundary of Indonesia and Malaysia, its community welfare should be improved and the remote areas should be opened. In contrary, the undertaking of land-clearing and expanding activities as well as for the welfare of indigenous peoples has become the beginning of a disaster for them. The unfair land distribution-scheme as well as the unfair determination of oil palm fresh fruit bunches prices, fertilizers and production facilities have created farmers dependence to the companies. Besides, there the more reasons for the police to arrest those who decline to release their lands.

Up to 2005, Indonesia has reserved 5 million hectares to be converted into oil palm plantation with the expansion targeted was 3 million hectares for the next three years, then globally to be 8 million hectares expected. In 2003, the large of oil palm plantation in West Kalimantan has reached 349.101 hectares. This number will be increased altogether with the conversion of 1.8 million hectares along the border areas of Kalimantan and Sarawak.

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Decentralization and Local Politics of Forest Management in Vietnam:

A Case Study of Cơ Tu Ethnic Community

Since the early 1990s, the Government of Vietnam has decentralized the agricultural and forestry sectors. Forest Land Allocation (FLA) is considered as decentralization in forest management. FLA took place in Thuong Quang commune starting in 2003. It could be seen as an innovative policy for provincial authorities because they allocated natural forest areas from the Khe Tre State Forest Enterprise's management to local people.

This study was conducted in two villages in Thuong Quang commune, Nam Dong district, Thua Thien Hue province. A Rang village was selected to represent a village with a majority of forest recipients, while A Ka village was selected to represent a village with few forest recipients. The four key findings of the study are as follows: The first finding observes that the forest decentralization process has transferred significant powers to the district authority, which is not only upwardly accountable to the provincial government, but also downwardly accountable to the commune authority. The forest recipient has mainly been transferred the power of use of allocated forest, but they are still subject to the state laws. Meanwhile, the central government handed the power of control of allocated forest over to government agencies. The local governments are still more accountable to their superordinate than their subordinate. The second finding makes a proposition that gaps between legal rights and rights in practice of forests always exist, and vary between the two studied villages. In A Rang village, most households are forest recipients, they have managed their forest by the village's forest management regulations, which are hybrid between customary law and state law. Today, in A Ka village, non-recipients still strictly adhere to their customary laws. The third finding argues that reducing costs of forest management is a major incentive for the local governments and government agencies to be involved in the FLA policy while the Cơ Tu people involved in the FLA policy have short-term demands. Better coordinative ability is one of the important factors that could result in potential success of the FLA policy. The fourth finding

provides a proposition that although the women were often ignored, they are now more aware of their rights and responsibilities in forest management. The roles of women in family have been significantly enhanced through changes in inheritance under the FLA policy.

Generally, the FLA implementation in Thuong Quang commune is a turning point in the provincial strategy of forest management, which contributes to preventing deforestation, as well as alleviating poverty of local people. There are, however, some shortcomings that need improvisation. This study recognizes these shortcomings and suggests some recommendations to address them.

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Decentralization and Devolution of Forest Management: Fostering between State and Local Communities to Improve Forest Management
in Thailand and the Philippines

There is a trend and tendency of decentralization and devolution in forest management by transferring some authorities and power from national level to local (village) level (*desa* in Indonesia, *barangay* in Philippine, or *moo ban* in Thailand). The tendency has been driven by some factors such as: demands of local level to benefit from the forest, equity between central and local, politics or democratization, and the like.

The processes of decentralization and devolution have far-reaching implications for forest management and for the livelihood of the communities living in and around forested area. On the positive side the decentralized systems of forest management implies: more sustainability and equitability use of the forest, greater participation of communities in policy decision-making processes, and more equitable distribution among communities and government of benefits from the forest.

However, the decentralization of forest management also carries significant risk. It is because the decentralization processes need some requirements such as: the capacity of local level to accept some authorities and power of forest management, lack of technical skills, and there is no assistance (financial, staff, information, etc) from central government to local level in the initial phase.

Objective and scope
The research investigates how stakeholders (government apparatus, NGOs, local governments, local communities, women, and the like) perceive decentralization and devolution by looking at their interpretation. Then, how their different interpretation will effect to their interaction to foster a partnership particularly between state and local communities to improve forest management. Specifically the research has the following objectives:

1. To describe the Philippine's and Thailand's policy on decentralization and devolution of forest management
2. To describe the processes and implications of decentralization and devolution of forest management in the Philippine and Thailand
3. To analyze the power relation between central government and local government in the processes of decentralization and devolution of forest management

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Promoting Community Forestry Development by Multy Stakeholders Support (A Sustainability & Justice Forest Management Model in East Java Province Malang Municipal)

A. Backgrounds

For thousands of years, the upper and lower watersheds of the major mainland rivers as well as the entire island archipelago of Southeast Asia

were carpeted with dense rain forest. Thousands of long rotational swidden systems were developed for a wide variety of lowland rain forests, swamp forests, mountain forests, monsoon forests and mangrove forests (Poffenberger (Ed): 1). What Dauvergne describes in Indonesia is true of many contries in the region:"the result is rampant illegal logging, timber smuggling, tax and royalty evasion, flagrant violations of logging rules and avoidance of reforestation duties" (Poffenberger (Ed): 3).

Forest in Malang municipality area cover over than 112.177, hectares consists of 46.249,50 hectares of protection forest and 47.118,20 hectares production production and 28.810,30 hectares conservation forest which at least have ten sub districts of river flow region also as upper course which empties into Brantas river. The existing of DAS Brantas are very important to support economic advantage and as DAS support for 14 municipalities in East Java province. Unfortunately, almost of forest areas had serious damage. Based on the data of Malang Municipal Forest Service at the end of 2003 was found at least 81.084 hectares critical areas in which 40.542 hectares or 31,9 % forest, 33.634 hectares was protected forest and 6.908 hectares in production forest also 39.714 hectares out of forest region (Paramitra,2005: 3).

The paradigm of state based forest management has been proved couldn't implement forest function such as: ecology, social, legal, economic etc. This phenomenon was marked by deforestation leap and decreasing of community quality life in forest areas. Thus, necessity of forest management through participation of forest community cann't be denied, because they have been making direct interaction. If deforestation has been happen they will be suffer. Changing a paradigm from state based forest resource management into community forest resource management being needed. This resulted in a common assumption that sustainable development approach must be implemented, because the worry that non-renewable resources such as water, minerals which are abeing used to support the development process, will at some stage in the forceable future no longer be available (IUCN in Atkinson,2000: 5).

Through conducting documentary study in another region e.g. Central Java province Wonosobo municipal regarding local government regulation advocation concerning community based forest resource manage*ment case had been appear legal conflict within Act No.41/ 1999, Act No.10/ 2004, Act No.32/ 2004, Province Regulation and Municipality Regulation regarding competence of each government bodies (Anonimous, 2001:15-20). The SWOT analysis e.g. availability of human resource, availability of forest areas, environmental obstacles, financial support agencies must be taken to eliminate problems or obstacles. In this sense, a comparative study e.g.community forest resource management in Australia have been needed.

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Community and the forming of new forest management regime through legislation

In 1999 decentralization became officially recognized policy in Indonesia, aiming at sharing of power to lower governmental units through legal reformation, in accordance with propositions of international agencies for effective and good governance. Devolution of power to the lower administrative units and communities along with decentralization process was accompanied with new forest governance models offered by international donors taking the form of social forestry and community-based forest management. In my principal research area, Wonosobo in Central Java, the new governance model i.e. community-based forest management model was furthered through legal reform (forming of new regional rule on nature management) actively advocated by non-governmental organizations. The dispute

over access to state forest land should be solved by "multi stakeholder negotiations", a process through which local community forest management practices are reformed in the formal law. Communities become represented in these negotiations as stakeholders in western individualistic manner, and at the same token customary norms become reconstructed in new ways. Sally Falk Moore (1986:10) suggests that customary laws should be studied as cultural constructs in sustained interaction with the national political system and global actors from the colonial period to present. Conflicts and disputes offer us a context for studying how these transformations take place. Merry (1992: 358) has noted that international institutions and legal discourses have strong influence on local legal orders. One of the principal questions of legal pluralism and transnational processes is how different legal systems constitute each other. The role of the state and how its legal system influences local normative orders become extremely important. However, one should also look at how local normative order structure formal law (Starr and Collier 1989:9). In my paper I will look at how transnational and national legal orders articulate with local normative order in relation to natural resource management; how new forest management regimes are formed and communities become represented.

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The Pluralism of the State Laws Concerning the *Adat Community* and Their Laws and Rights to the Lands

Indonesia has it's tradition in recognizing the *adat communities* in the constitutions. Unlike the other states constitution, the Indonesian constitutions have explanation section as part of the main text. The 1945 Constitution use the Dutch term "*Volksgemeenschappen*" in the explanation section for article 18 of the main text. The amendment of the 1945 Constitution that took place from 1999 until 2002 recognizes the existence of the units of *masyarakat hukum adat* (customary law-based community) and their traditional rights as long they still exist. Despite the different terms that have been use in these Constitutions but in general I would argue that they recognize the unit or institution of the adat communities and their rights. Besides amending the Constitution, the MPR (the People Assembly) also enacted decrees concerning (a) the rights of indigenous peoples over agrarian/natural resources, (2) legal pluralism (3) human rights which is mandated, as the new perspective for the agrarian and natural resources laws and policies reform.

The MPR's new perspective has been reflected in executive and legislative bodies in different pictures. Some Presidential and Ministerial Decrees have been issued in response to the MPR's Decree. The Parliament has issued a number of laws concerning the natural resources as well. At the same time some of the laws that were enacted prior to the amendment of the 1945 Constitution and the issuance of the MPR' Decree is remaining unchanged. The Basic Agrarian No. 5/1960 and The Forestry Law No. 41/1999 are the two major laws concerning the land and forestry resources. Along the line with the constitutional reformed started in 1999, the district and provincial government gained broader legal power as it is stated in Law No. 22/1999 on Regional Autonomy.

Based on the legal analysis and fieldwork in Lebak, Banten, The paper will examine the social-legal realities of the relation of the pluralism of state laws and the prolonged conflict between the adat communities and the state which is not monolithic. It will give an overview about the pluralistic of state laws concerning the adat communities, their laws and rights over the natural resources. In that case some of the state laws reflect the strong pluralism and some other reflect the weak pluralism. But the weak pluralism by which named also as legal centralism does not really found as a "centralized" or monolithic legal system because they do comprises of multiple bodies of law with multiple institutions and multiple sources of legitimacy.

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The Influence of Market And Tourism to Reconstruction of Local Regulations In Marine And Fishery: Case Study In Maratua Waters, East Kalimantan, Indonesia

Using my ongoing field research, I'd like to describe the influence of market and tourism to the reconstruction of local regulations in marine and fishery resources. The problems occur when both activities encourage more actors interested in the same space and resources. Since these resources considered CPR, it became complex to determine rights among actors. Although regulations from different levels are taking place, every single actor may interpret and still reconstructing the rules according to particular interests. In this context, I' like to point out on how local fishers reconstruct their own regulations to be locally acknowledged. Nonetheless, the changing situation has ensued people of Maratua to start thinking on different kind of livelihood.

Maratua (20 km^2) lies at the very end of Indonesian waters adjacent to Malaysia, 12 hours away from mainland of East Kalimantan. Since its soil was nearly impossible to grow food plant, marine and coastal resources are extremely important for local livelihood. Fishing is predominant activity, both for subsistence and market-oriented. Every single fisher is doing both, but different in timing and social settings.

Legal pluralism would be applied to understand how local community managing marine and fishery. Both government and local community consider marine and fish as CPR. However, regulations are subject to be interpreted differently, especially between government, traders, original Maratua fishers, and temporary moving fishers both from other part of Indonesia and neighboring countries.

Market has stimulated increasing number of "temporary moving" fishers to obtain the same resources as the original Maratua fishers. Because state laws are less enforced, temporary moving fishers are able to ban some fishing grounds previously controlled by original Maratua fishers. Different fishing techniques and materials has stimulated dispute as well.

Tourism entails both negative and positive effects for local community. Negative effects are (1) tourists (mostly foreigners) are interested in scenery of the underwater that unfortunately remain at the same valuable fishing grounds, and (2) resort change family land property regimes through privatization of land and is likely But on the other hand, the present of resorts gives new opportunity for local community to work there.

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The Post-Marshall Decision Implementation of Aboriginal Fishing Rights in Atlantic Canada

In this paper we will focus on the developments within native communities on the east coast of Canada after the Marshall Decision of the Supreme Court of Canada and the subsequent McKenzie agreements that worked out "on the ground" arrangements to enjoy the newly recognized commercial fishing rights. Several issues have emerged which together suggest that both sides (native communities versus the federal government – represented by the Department of Fisheries and Oceans) have gained some ground, only to lose on other fronts. Power struggles have focused on the following:

1) reconciling state management regimes (assimilation to privatization/quota regimes) with a community level of benefit – we will argue that the Department of Fisheries and Oceans (DFO) reacts to enforce the former at the expense of the latter;
2) reconciling top down administration of the fishery with

native community governance priorities – we will argue that there has been increased development of governance capacity in native communities;

3) reconciling community objectives for fishery (employment, economic growth) with state endorsed levels of exploitation – we will argue that the state has not made available a viable level of commercial exploitation;
4) balancing food and ceremonial rights with commercial rights of access – we will argue that AFS and Project Funds have influenced band management of the food fishery so that it has become less active and fits more within the state regime;
5) linking aboriginal management strategies with wider justice system – we will argue that the Marshall Decision has given native communities some leverage here and protocols are emerging to endorse native management bylaws and to cooperatively enforce state management regulations;
6) matching regional (ecosystem wide) management strategies with horizontal authority structures and jurisdictions – we will argue again that protocols are emerging to give native communities more say (AAROM).

We conclude that the DFO has retained the most power, but native communities are shifting the DFO position on numerous issues, which rebounds to the benefit of other non-native fishing communities in the Maritimes. These "management experiments" are allowing for more community-based management on the east coast than are being experienced on the west coast. Only time will tell if the communities can retain and benefit from the "on the ground" expression of their rights as recognized by the courts.

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Right Discourses in the Norwegian Costal Zone: Mixing Oil and Water?

In north Norway the uses of the coastal zone are rapidly changing. Fish-farming, the oil industry, recreational and tourist enterprises are important in rearranging of the coastal landscape – which used to be under the domain of small-scale fishermen, among them Sámi people. Through recently introduced resource management schemes, rights to use coastal marine areas are now being allocated. Different actors with different resources, rationalities or worldviews participate in this process – each aiming to obtain or maintain privileged right to coastal areas. New alliances are formed and new arenas for policy discourse are being established. This appears to be a highly political process that, by contributing to constitute rights to marine areas, also implies distribution of power. The result of such processes is a tendency toward privatization of rights and making them transferable. However, for some to gain rights, others have to loose them. Such processes are understandable perceived as unfair for the latter, and evoke reactions to regaining rights, i.e. choosing what Hirschman refers to as "voice" rather than "exit". This paper reports from an ongoing study of two such initiatives to regain rights in the coastal zone in north Norway. Both initiatives are concerning small-scale fishermen who have experienced their rights being reallocated. Even though the goal of both initiatives is similar, that is regaining fishing rights to small scale fishermen, the strategies to obtain the goal differs. While one choose law suit against the state as strategy, the other choose negotiation through the political channel. These initiatives have lately risen what I will refer to as "an ethnic Norwegian discourse" and "an ethnic Sámi discourse" about fishery rights. Instead of making the fellow partisan collaborate, these discourses drive them apart from each other – with the risk of weaken the chance of reaching the common goal. Why is this so, and how could the situation be otherwise?

Keywords:
Norwegian coastal zone, right discourses, small-scale fishermen, Sámi fisheries, transferable rights, collaboration, dialog, institutional arrangements

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Legal Pluralism and Natural Resource Governance by Communities in the Pacific Island Region

Recent experience in the Pacific islands illustrates effectively many of the legal issues and challenges arising from the task of providing coherent institutional responses for "community-based" natural resource governance. For the past two decades there has been an emerging consensus among stakeholders that community-based approaches should form the core of natural resource governance in Pacific island countries (PICs). Justifications for adopting this approach are broadly consistent with those applied in other regions of the world where rural communities are collaboratively engaged in conservation and natural resource governance initiatives, and may be grouped into two broad categories. Firstly, the responsible government agencies have limited technical and other capacity to coercively regulate citizens' everyday resource uses. Secondly, various economic, geographic, cultural and historical factors, including prevalence of subsistence livelihoods, highly-valued and contested communal land tenure arrangements, and the widespread persistence of customary authority and institutions. These combine to indicate that in Pacific jurisdictions, excluding situations of large-scale extractive activity, community-based natural resource governance approaches are likely to be more successful than either centralised regulation or individual actors negotiating within a market.

During the past two decades community-based conservation and natural resource management has been the focus of much regional, national and sub-national programmatic activity in Pacific island countries, but legal and institutional reform has in general not accompanied this paradigm shift in governance practice. The result is that while policy commitments and program rhetoric locates traditional communities of resource users at the decision-making and operational centre of natural resource governance, the relevant legal and administrative structures continue to relegate them to the periphery of conservation concerns, as ungrouped individuals whose resource-using actions must be regulated by the state. Where legal and institutional reform has been undertaken in support of community-based natural resource governance in PICs there have been mixed results generating interesting evaluative lessons. In the most notable failure the 10-year Global Environment Facility-funded South Pacific Biodiversity Conservation Programme, an institutional model was imposed upon local stakeholders by central planners at a regional level. Conversely, the most resilient and innovative institutional responses have arisen from processes undertaken in a close cooperative dialogue with affected communities and their representatives.

The persistence of customary law and authority is central to community-based natural resource governance in PICs, particularly considering the issue from a legal pluralist perspective. "The Pacific island region probably contains the world's greatest concentration of still-functioning traditional community-based systems for managing coastal-marine fisheries and other resources." Even where traditional rules controlling natural resource use are no longer regularly applied, local customary institutions remain interested and influential in determining the nature of resource use, development and regulation because of land tenure arrangements deriving from traditional common property systems.

This paper reviews the recent developments and discourses surrounding institutional reform supporting community-based natural resource governance in the Pacific island region. Conceptual development within legal pluralist literature is drawn upon both in describing the actions, reactions and interactions of both the state and customary

institutions, as well as in considering the role external legal orders occupied by supranational organizations and international NGOs.

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Legal Pluralism in the Use and Management of Natural Resources in Forest Reserves: A Comparative Case Study of Eastern Visayas, Philippines and Northeast Thailand

This paper will try to present the similarities and differences in the use and management of natural resources in 3 types of forest reserves in the Philippines and in Thailand. It will discuss issues that the government has tried to address, the local people's response and involvement in addressing those issues and the conlicts that arose out of these.

The recent tragedy that erased a whole village in Southern Leyte in the Philippines has again awakened government officials and academicians to the need to seriously address the conditions of the fragile upland and mountainous environment of the country. The Eastern Visayas region consisting of the islands of Leyte and Samar is prone to natural disasters such as landslides and flashfloods due to its being in the typhoon belt and in the earthquake path. Furthermore, logging activities in the past and in the present, whether legal or illegal, big-scale or small-scale, has further aggravated the susceptibility of this region's upland dwellers and those living near mountainous areas and rivers to calamities. The region has been devastated in 1991 by the tragic flashflood in Ormoc City, in 2003 by the flashflood in Liloan, and now in 2006 by another flashflood in St. Bernard. Aside from these, there are a lot of undocumented small-scale flashflood and landslides that claimed the lives of poor people. Unfortunately, the government seems to respond only when the disaster is widely broadcasted and attracts the attention of the international community.

Realizing the importance to protect the fragile upland and mountain environment in the region has prompted several local and regional efforts. In Leyte, the Visayas State College of Agriculture (now Leyte State University) declared the area above its location as a Forest Reserve. Meanwhile, a concerted effort by both government agencies and non-government organizations in Samar has led to the declaration of the island's forest and watershed area as a National Park. However, whether such laws or rules and regulations truly benefited or will benefit the local users of the declared protected areas when there are other laws of the country related to use and exploitation of forests is still in effect, will be discussed in this paper.

Meanwhile, in the Notheast region of Thailand, Khao Yai National Park which covers several provinces has been a source of income and livelihood for small-scale upland farmers and logging companies in the past. With its declaration as a forest reserve, farming and logging activities in wide tracts of land have been minimized. However, it does not necessarily mean that degradation of the fragile environment has stopped. The promotion of highly intensive cash crop cultivation in areas near the buffer zone and the establishment of recreational facilities such as golf courses and resorts pose a serious threat to the sustainable development of the area. What the government has done, the conflicts of interest between upland and lowland users of natural resources and how the local people reacts will be further discussed in this paper.

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Aborigial Forestry Rights in Canada

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The Transition from Customary Forest Management To State controlled Forest Management, Narratives of Judicial intervention, "Development" and it's implications for the community-controlled forests of North-eastern India

The development of scientific forestry was for all practical purposes the development of efficient ways of timber extraction. The management paradigm from the 19th to the closing decades of the 20th century had been timber extraction in much of South and South-east Asia. The transition to paradigms of forest conservation has taken place in many cases, whereas in other countries of the region the transition has taken place through executive action In India it has taken place primarily due to the initiatives of the judiciary. The aim of this paper would be to try and understand this process, as it is operating in the form of judicial interventions of the Indian Supreme court and the policy regime emanating from these interventions. The implications are discussed with special reference to the northeastern part of India where community ownership/ control of forestry practices has been the order of the day with customary law based practices of natural resource management of the tribal communities accepted by the Indian state and enshrined in the Indian Constitution. Thus intervention by any of the arms of the state has not been particularly significant in this region till the mid 1990's when the Indian Supreme court intervened to prescribe it's notion of "scientific" forest management for the region. The region is especially important due to it being a biodiversity hotspot and also a region, which is culturally and ethnically very diverse and distinct from so-called mainland India. The region thus is being "integrated" within the wider Indian mainstream and the narrative of forest conservation falls within the wider rhetoric of development in this region. The paper would argue that the intervention process might not prove to be sustainable as it impinges on the rights of the tribal communities to manage their forest resources primarily due to the fact that it does not try to build on the already existing customary legal framework and in many ways is trying to impose new "improved" notions of management based on a poor understanding of land use dynamics of this complex region. One could actually conclude that it is in many ways a set of interventions based more on assertions rather than based on factual realities.

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"Recovering the Crisis of Natural Resources and Environment with Community Right Law"

Thailand has encountered both the struggle for natural resources and severe environment problems. The main causes of these come from the state policies which focus on country developing into industrialized and move forward to free trade area as main direction. The current law related to natural resources and environment is unable to solve conflict problems because, according to legal concept, the right of public natural resources belongs to state and individuals. State, therefore, monopolizes authority in natural resources management. Meanwhile, state's policies promotes investors to get benefits of natural resources by permitting concession, and supporting individuals to gain fully benefits from land in form of asset capitalization. This also covers protecting individuals' rights regarding to intellectual property right that causes plundering genetic resources and local knowledge.

The five cases study reflect conflicts between state and people, and between people and people. Its main causes come from policies and laws which do not open space to communities and local people to participate in management process, decision making, and monitoring state

developing projects including policies and plans of natural resource management. Whereas the existing laws recognize the traditional rights of community in enforcement, but state mechanism and justice process focus on written law instead. As a result, people movement intend to open space of community rights so as to adjust the relations of state power into collaborative management of various groups, which their common concept is to recover the crisis of natural resources and environment.

Community Right Law recognizes the right of management, access to natural resources and economic using both fairly and sustainably. In general, community institutes shall distinguish in forms of networks such as relatives, families, religions and groups of problem solving. The functions of community institutes are to supervise, monitor and participate in managing natural resources and environment. The community rights cover sharing, using, inheriting, information access, participating in decision making, planning the future of communities, developing and protecting local knowledge. The related management bases on conservation and utilization on natural resources which related to ecological system indicated sustainable using. Moreover, this includes the way to solve conflict problems by community institutes which apply concept of justice in both individuals and communities

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Lost in Transition The Indigenous, National Parks, and Community Based Development

Celebrated as an "international model for conservation" (National Geographic 1996) the establishment of the Peace Park Foundation in South Africa in 1997 promised indeed a new vision for the protection of wildlife, biodiversity, and a political healing of the scars of colonial history: the national borders dissecting Africa according to European design. With its core idea and overall aim to promote and implement the concept of Transfrontier Conservation Areas within the Southern African Development Community region the Peace Parks model grabbed the imagination of the political elites, the development agencies, the tourism industry, the conservationists, and the wildlife managers as no other initiative had done before. Opened in 2000 the first officially declared Kglagadi Transfrontier Park brought down the fence between the South African and the Botswana protection area of the Eastern Kalahari. The joint conservation management and planning agreements saw winners on all possible sides mentioned above. But did these negotiated arrangements include the people originally inhabiting the area? Not adequately, if their voices are to be believed. For the late legendary master tracker and long serving South African Park Ranger Vetpiet Kleinmann the Peace Park establishment did not mean peace for himself and the community of !Khomani-San whose ancestors are buried inside the park, but whose graves can not be visited except if the regular entrance fee would be payed. Above all ethical and legal issues involved, for Vetpiet Kleinmann also a tragic neglect of the conservationist capacities and environmental knowledge of the First Poeple in and of the Kalahari: "Everyone should bear in mind that we were the original conservationists for so many centuries, so mutual respect and true partnership would really make it a peace park. We could work together on conservation and environmental issues in order to sustain it for our future generations."

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Contested Domains: The Indigenous Peoples Rights Act and Legal Pluralism in the Northern Philippines

The passage of the Indigenous Peoples' Rights Act (IPRA) or *IPRA Law* is a consequence of centralist government's failure to sustainably protect the forest.

The state recognition of indigenous peoples' rights to their ancestral lands and domain has been increasingly linked to a policy of ecological conservation and protection of biodiversity. The overall and long-term goal of the policy is the assumption that when people are given the right of tenure to land, they will be more committed and concerned for its protection and conservation. The argument here is that the mere awarding of ancestral domain tenurial instruments alone does not necessarily lead to social justice, or to sustainable environmental management. By itself, land security through communal tenure or collective control may not guarantee sustainable land use. Control and management of the resources must be vested in open and accountable institutions that promote the principle of equity. And that long-term sustainable resource use is only likely to be achieved where the community members believe their future lies on their continued dependence and derived benefits from the land.

This paper is interested in looking at how the Philippine government's recognition and awarding of Certificates of Ancestral Land Claims (CALC), and Certificates of Ancestral Domain Claims (CADC) have affected the indigenous communities' resource management practices, and their customary law governing the rules and regulations in the management of community natural resources. The paper focuses on the Cordillera, Northern Philippines experience, although some of the problems and issues presented here may well apply to other areas under similar conditions in the implementation of the Department of Environment and Natural Resources (DENR) Department Administrative Order No. 02, series of 1993.

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Agrarian Change and Village Entitlements Under Regional Autonomy in the Indonesian province of Jambi, Sumatra

In the past villagers in the Sumatran province of Jambi used a range of land and forest resources in accordance with customary (adat) entitlements. During the authoritarian New Order period a new system of state initiated resource entitlements came into being that helped provide for a structural transformation in agriculture. This transformation left Melayu villagers locked into increasingly narrow smallholdings and increasingly aware of their comparative poverty. Initially the political openings associated with the reform era and decentralization (after 1999) seemed to open new possibilities. While adat provided a framework for remembering village entitlements and contesting the current state of affairs, in the absence of effective legal recognition of collective village or adat rights, villagers had little means of realising their aspirations to improve their livelihoods through increased control over local resources. Impoverished villagers could only effectively develop underutilized smallholdings and village common pool resources by opportunities made available by the state policy that promoted cooperatives. These cooperatives effectively provided for a new form of entitlements, albeit a bureaucratic form laid out in state regulations and open to manipulation by local elites. This paper will consider why, after some seven years, decentralization has only led to incremental steps towards accommodating the aspirations and addressing the grievances of villagers by providing instrumental forms of participation.

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Recent Developments in Local/Indigenous Resource Management Customary Land Management in Peri-urban Kumasi, Ghana

In Ghana, the customary sector holds a large proportion of the land. Article 267(1) of the 1992 Constitution recognises the

traditional authorities as custodians of this land, and customary law as the regulating order. In the Ashanti Region, the area of research for this paper, it is the chiefs who are caretakers of the customary lands.
Peri-urban areas, where there is a rising demand for residential land due to strong urbanization and population growth, form tenure hotspots in Ghana. These areas, such as peri-urban Kumasi, are arenas of severe struggles over land between chiefs, local government and community members and families. These actors are all trying to manage the rising demand for residential land, either attempting to profit from conversions of agricultural to residential land or trying to resist the demand and hold on to their farmland. Notwithstanding many contestations and struggles, chiefs are often the main beneficiaries of land conversions. Although they are customarily and constitutionally obliged to administer land in the interest of the whole community, they generally display little accountability for the generated money and most indigenous community members realize little or no benefit from the land conversions: the customary land users are only rarely and then very inadequately compensated for their loss of farmland; and in most villages only a meagre part of the money is used for community improvement.

Accounts of customary land management in these areas pose some serious questions with regard to the merits of customary systems and the presumptions that chiefs represent developmental, sustainable and somewhat equitable and inclusive governance and that customary law offers security to members of a customary community.

This contribution will analyze practices of land management in nine villages in peri-urban Kumasi, the capital of the Ashanti Region of Ghana. It first focuses on local struggles and negotiations for land between chiefs and community members, taking also into account governmental law, policy and discourse at national and sub-national levels. This paper then describes the effects of the struggles in local land management on the opinion of and regard for both chiefs and local government. The chiefs' role in land administration and their popular legitimacy is all the more relevant since the Ghanaian government is currently engaged in a policy debate whether governance in this field should be even more fully transferred to the traditional authorities than is presently the case.

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Negotiation in Diagonal Conflict of Natural Resources in Sungai Tanang West Sumatra in Legal Pluralism Perspective

This paper tries to explain government policies that regulate the live of local people, particularly which related to the communal rights one side and natural resources other side. After 1998, particularly transfer of government from the New Order regimes to the Reformation Order government still can not manage local movement which related to and give positive contribution to local societies and their communal rights. Act of 32 Year 2004 about Regional Autonomy as products after the New Order power has ended still can not administer to demonstrate other approach that acknowledge the existence of local society or local principles and their communal rights.

There is a trend and tendency of decentralization and devolution in forest management by transferring some authorities and power from national level to local level. This shifting will transfer the power and authority from central to the local. It makes the local government competent in managing their affair. The assumption is that to a certain degree, agencies at the local level (district, village, and even the local communities) are best equipped to manage resource. Generally, social conflict has emerged along the history of humankind and every community has potentials to create social mechanism in, for example, water conflict management. There are two potentials performed by communities. First, the ability of the community to detect the

water conflicts early. Secondly, the ability of the community to manage and solve problems related to the Trans-boundary water issues.

Based on these assumptions, in the Reformation Order, however, the central government launched regional autonomy policy that allows each province and district to recreate its own local institutions as part of the governmental structure. This policy may encourage to increase their local revenue and the rise of the Trans- boundaries. Accessing natural resources or Trans-territorial boundary becomes conflict potential among regional government (horizontal), village and regional government (vertical), and even local village and other regional government (diagonal). For instance, Sungai Tanang Case in West Sumatra. For that, this paper discusses water conflict between The Municipal Bukittinggi and local Society (Sungai Tanang) Agam Regional in West Sumatra.

Field research based on concepts of legal pluralism shows that water natural diagonal conflict caused the unclear of law relation between two or more law that regulate water natural resources in Trans-territorial boundaries. Negotiation has set up successfully to incorporate local principle into state law as diagonal negotiation. Based on this, for the future law building, law must be constructed based on local principles. By this model, state law practices as manifested the socio-cultural collectively.

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The Ascendancy of Governance A Comparative Study of Neo-Liberalism Mainstream on Governance Reform Post Constitutional Reform in Thailand and Indonesia

After the wave of economic crisis in 1997 which was marked by declining power of authoritarian regime in several countries, has been affecting a numerous policy reform at various level. One of the most significance reform was concerning on governance, because it was said that poor or bad governance has been contributing tremendously on economic collapse. Corruption, collusion, and other inefficiencies were sources of 'South-diseases' which should be treated by using certain conditions imposed by multilateral development banks, such as World Bank and ADB.

Through establishing neo-institutionalism programs, proposing legal reform (included constitutional reform), and projecting poverty reduction, neo-liberalist has injected governance programs which should be adopted adjusted by collapsed countries. Here, neo-liberalist was having a momentum and legitimate to impose policies. By influencing and pressing on constitutional reform, they wanted to reduce the role of state and other protectionism, and it should be switched into market liberalization. After it, processes of passing legislation products were also driven to market orientation.

In this frame, experiences on Thailand and Indonesia have common uniquely and terribly situation on governance reform, especially how the governance which is based on neo-liberalist mainstream responds to social economic inequality and human rights. How does it work at ground level, and why is the government so easily accepting those programs, and how is discourse on 'good governance' developed and expanded by large number proponents from various backgrounds.

Here, constitutional reform was a legal momentum to start imposing and hijacking ideas of neo-liberalism into South countries, without asking to people first what kind of democratization that they were wanting. In this presentation would be attracting ascendancy contour of governance and its impact in responding to structural problems at society. Lastly, by learning from two countries, Thailand and Indonesia, it could be much more useful in criticizing 'hijacked governance' that has been legally established by neo-liberalism scenarios.

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Migrant Labor Trafficking: Can Legal Pluralism Help?

Today's Indonesian migrant workers fight for justice still focuses their demand on the elimination of human trafficking in the process of migration. Advocacy work carried out by NGOs as well as unions in defending the rights of migrant workers mainly emphasizes the issue that migration has turned Indonesian workers as "commodities for export". Yet, the world globalization has turned the issue of labor migration into a multifaceted problem The workers themselves are plunked into a quandary where they have to choose between their rights and their need for survival. Different from the old slavery era, human trafficking that occurs in today's labor migration is a contemporary socio-economic problems holding transnational characters. At the international level, there are numerous detailed and sophisticated regulations concerning the crime of human trafficking. But at the national level the government lacks strong will to protect the migrant workers, as the state laws tend to benefit labor suppliers more. This, in turn, forces the NGOs working at the grassroots level to approach the local government in order to legislate better regulation at the areas where many migrant workers come from. Can this effort be perceived to uphold the ideals of legal pluralism movement?

If legal pluralism is meant to uphold the ideal interaction, discussion, complementary relationship between laws created by the state and those by the society, what can be expected from adat law, indigenous law, and other similar laws to address the issue of "migrant workers trafficking"? Can problems of migrant workers, which have such a complex transnational dimension be resolved through the ideals of legal pluralism? What if the state laws are repressive? I agree with the opinion, thoughts on legal pluralism have overlooked the important task of legal thinking, i.e. defining "justice".

In the attempt to answer these questions I will conduct a small research at the Bantul District where the local government already initiated to propose a local regulation concerning migrant workers. I will interview migrant workers and inhabitants of Bantul to inquire their response to the local regulation.

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The Law of the Stronger Group: When state and customary law do not apply

The application of law always depend on the existence of the actors of law its self. If the law enforcers are still strong, the application of law is doing well. But, when they are in weak condition, the law can not do anything. In the field, it means there is no law, although the human activities of natural resources management, either individual or group, are always running. On this moment, the stronger group will do something in order to surviving and creating their occupation on natural resources by making “role of the game” for managing their group member activities and for relating to outsiders. They do not care about state law and customary law those are implying in surrounding of the territory. For protecting their created law, the groups usually request aid from outside who are the strongest group personally or institutionally for instance army. Based on the case of natural resources management in West Sumatra under decentralization era, this paper will discuss the performing of the law of the stronger groups while state and customary law are in weak condition.

This study will describe that in the pluralistic state society and law, the legal certainty of natural resources management can not be given by the state law or customary law only. Each of both has weaknesses its self. The state law co not create the legal certainty in the weak condition of state apparatus like during the “reformasi” era of Indonesia. To day, customary law has also many problems, for instance the heads of traditional

community are in trusty and influence problems to the customary members. So, in the field the legal certainty that given by both can not be effective in case the law enforcers are in the weak condition. This phenomenon is implying in the villages (*nagari*) of West Sumatra. Empirically, the effective law of natural resources management is just "the role of game" that created by the stronger groups its self who have been occupying it. This law is called by mentioning the law of the stronger group. So that way, for giving the realistic legal certainty (RLC) of natural resources management to every body must be created by the state law together with the customary law in the same time. The collaboration of both can be supported by conditioning constructive interaction between them, mainly through the actors of each. In case the state and customary law are in conflict, the performing of the stronger group law in natural resources management will become a reality.

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Corporate Governance in SMEs: The Malaysian Experience

Keyword: Corporate Governance, SMEs, Malaysia

As stated in the US Business Round Table White Paper on Corporate Governance September 1997, corporate governance is not an abstract goal, but exists mainly to serve corporate purposes by providing a structure within which stockholders, directors and management can pursue most effectively the objectives of the corporation. Among the major corporate governance policies which attracted discussions are transparency, accountability and responsibility. In large businesses, it is common to have formal governance processes, including formal financial and management reporting and regular meetings, especially at the directors' level. On the other hand, many small and medium sized businesses do not have any formal governance structures in place.

Despite its lacking in corporate governance policies, SMEs has at all times play an important role in the growth of a country's economy, particularly in developing countries. For example, in Malaysia, SMEs constitute about 92% of the companies registered in Malaysia.
This paper aims to look into some issues of corporate governance, particularly accountability, managerial responsibility and transparency in relation to the Malaysian SMEs.

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Toward a market-friendly legal regime: The Indonesian legal reform project and the Hegemonic globalization

Political turmoil occurred in 1998 has significantly changed constitutional landscape in Indonesia. Rule of Law and legal reform become two major discourses of constitutional scholarship, in which the idea of legal supremacy and democratic transition emerged. The instrumental approach of law has shielded the reform project from its political dimension in the re-construction of the Indonesia polity. It also enables the international element such as the International financial agencies (IFIs) perpetuating the course of the reform, aiming at efficient judicial institutions and sound protection of property rights through legislation reforms.

Under this project, a number of new judicial institutions established, such as the constitutional court. This institution is often claimed as the triumph of the rule of law against the arbitrary power of the executive branch of government. Armed with the constitutional review power, the court entered into political sphere of policy making process by which it tramples down a number of legislations and provides contextual readings of the constitution. In one hand, such power provides an avenue for the people to protect their rights, particularly the protection of civil and

political rights of the people. However, it also is a new contesting arena serving other interest, that of the market-friendly legal regime, through which the integration into global economy can be achieved.

The paper canvasses the emerging roles of the legal reform project and the constitutional court in particular, in the creation of a market-friendly legal regime in Indonesia. A close reading of the court's decisions on the case of petitions against the privatization of utilities provides a lens to examine the court's attitude toward market and its impact on peoples' live.

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Courts, Caste and Cursing*:* Justice and Resistance Amongst an Ex-Criminal Tribe (South India*)*

The aim of the paper is to offer an some ethnographic and socio-political insights on conflicting representations of justice in contemporary India. Our case study brings us to the central and southern districts of Tamil Nadu in a sociological landscape still very much fraught with inter-caste tension and violence, where the government's effort towards decentralized democratic process is still fragile. When Tamil nadu took act of the 73rd amendment in 1994, this event was acclaimed by the media and the important Tamil political parties as a major breakthrough of local democratic participation. The "panchayati raj" created local units of power accredited to handle questions of local economic development but not to take judicial decision. This politic of positive discrimination posed these "new" panchayats at the centre of stakes of local power where tension between dominant and dominated castes is today exacerbated as it requires some dominant castes (amongst which we conducted our fiedstudy) to hand over forms of power they are use to monopolise, amongst which that of presiding over local courts. This has brought to the fore the disjunction between the traditionnal judicial system, founded on the legistion of the dominant castes, and the contemporary system inspired by the british model has lead to such situations that the Tamil government has recently (2003) announced its intention to outlaw these caste courts which it had so far ignored, the later entering in the field of of justice in a context marked by the rise of caste based parties and inter-communal confrontations. Conflicting representations of judical processes are translated in local practices of democracy by the possiblity given to certain sub-castes to escape the legislation of dominant castes and, conversely, for certain dominant castes to confort their position by way of manipulation of the modern tools of justice. If the surviving panchayat assemblies (local caste courts)represent a form of resistance to official judicial processes, the widespread use of sorcery represents a very individual form of resistance to caste-based legislation and more specifically to the rule of elders within the village and family social units.
The fieldwork conducted for this research was done in Tamil Nadu amongst the Pramalai Kallar subcaste, "an ex-criminal tribe", and more broadly amongst the caste-cluster the later belong to, the Tevars, also known as the Mukkulators, which represent an important proportion of the Tamil population of the central and southern districts of Tamil Nadu.

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Portraying Political Behaviours of the Iban-dayak In West Borneo

The power of the State has significantly served as an intervening factor in the relationships between community and forest resources in Indonesia. There was [and is] competition in accessing forest resources between communities and the State which have led to lasting tensions between the two. This situation, especially when the State's authorities deny local peoples' rights over "their" traditional [forest] lands, has sometimes manifested itself as open conflicts that have produced insecurity of rights over forest lands and have led to irresponsible practices in utilising forest resources.

Following the policy of the former Dutch administration which has oriented on the "national integrity" of the Netherlands Indies,[2] the Indonesian government has practically employing its powers to formalize a centralized control over the forest lands nation-wide. Therefore, the *adat* [traditional] rights of local natives over forest resources have been weakened from time to time and, through the promulgations of the Law on "Local Administration" [i.e. *Undang-Undang Pemerintahan Daerah* No. 5 of 1974] and the Law on "Village Administration" [i.e. *Undang-Undang Pemerintahan Desa* No. 5 of 1979], such local community's rights [on the paper] have finally been abolished.

Those legislations were passed to support the implementation of *Undang-Undang Penanaman Modal Asing* [Law on "Foreign Investment" No. 1 of 1967] and *Undang-Undang Pokok Kehutanan* [Basic Law on "Forestry" No. 5 of 1967], which their main function was to eliminate all sorts of *adat* claims over the forest lands that possibly put by local communities. In the field, the implementations of those legislations [in Suharto's era] have been facilitated by solid top-down civilian bureaucracies and were backed up by territorial and centralized mobile troops. Since then, the era of large scale [multi-national] concessions have been started, marginalizing local peoples and denuding natural forests – including those cleared for mining concession activities [as referred to the implementation of *Undang-Undang Pokok Pertambangan* (Basic Law on "Mining" No. 10 of 1967)].

The local community's feeling of living under oppressions of the State of Indonesia is eligibly found in many places in Indonesia. Resistances of those of local peoples toward the domination of the State's powers have become the core themes in facing the New Order regime of the Suharto's Central Government. Local communities in some parts of Indonesia have spent efforts to defend their "authentic" identities as native peoples and to fight for a re-recognition of the State toward their indigenous rights – which actually has determined in the Indonesian Constitution of 1945.[3] And, the stepping down of Suharto from his Presidential power in 1998, following the public demand for *reformasi*[4] in Indonesia, has widely opened the gate toward revitalization activities of local communities.[5]

This paper discusses the dynamics of local politics of the Ibans in West Borneo on their relationships with the State of Indonesia, particularly on issues related to the forest land utilizations.

The case of the Ibans in West Borneo is compared to the Malay in Riau. Both communities are living within rich forest resources, but each of them shares different socio-cultural setting (and religious orientations). This comparison is conducted to see their [different] political behaviours[6] in responding to the [uniformed] national forestry policies implemented by the Indonesian Government.

Furthermore, political behaviours of the Iban-Dayak in Sarawak of Malaysia are also studied as another comparison to the case of Ibans in West Borneo. This is to learn how these similar ethnic groups [i.e. the

[2] The Dutch's name for the Indonesian archipelago.

[3] Article 18 on *Hak Asal Usul.*

[4] The Indonesian public demanded for the reformation in [national] laws, politics and economics toward the more just and democratic practices of the implementation of State's powers.

[5] This reformation has also produced the Autonomy Law No. 22 of 1999 [lately has been amended by the Law No. 32 of 2004 which is tended to (somehow) re-centralised the governmental powers]

[6] The Central Government of Indonesia [in Jakarta] is commonly identified as administered under "Muslim-Javanese" political cultures and it is that Islam is a major religion and Javanese is a major ethnic group in Indonesia. Perhaps, this socio-cultural situation is faced differently by outer-islanders, i.e. between those of Malay in Riau [as Muslim non-Javanese society – called "single minority"] and the Iban-Dayak in West Borneo [as neither Muslim nor Javanese society – called "double minority"].

Ibans] are responding toward different national political spheres, especially of those related to forestry policies that are implemented in Indonesia and Malaysia.[7]

44.Hendrik Krissifu
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Law Plurality and the System of Customary Law in Papua

The centralization of law in a court system reflects a demand from a man power of a state to unify law in justice by ignoring and denying rules of the system of customary law or local law. Which, in fact, has been growing in most of social life and it has been tied down to their law.

In justice system of the regulation of Domination of Judiciary said that all justice in Indonesian territory is the state justice and it is established by regulation. While on the other chapters present some possibilities to solve the conflict outside the courts through peace and judges are obligated to dig up, to follow through, and to understand the values of law and equality which are alive in community. It seems clearly that this regulation is ambiguous due to unstrictness of the rules neither in omitting nor in continuing.

How does the law plurality occur in the system of customary law in Papua by establishing the regulation of Special Autonomy for Papua Province? The regulation of Papuan Special Autonomy gives law authority for the government and Papuan Community not only to run the Government and the Development of Papua Province within NKRI but also to admit The Customary Law of Papuan Community.

45. D.W. Tadeus
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Shift Cultivation Through Slash and Burnt System (Case of Tunbaba, Oecusi District, NTT in the Border of Indonesia-Timor Leste

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Trends in Intellectual Property Legislation on Plant Variety Protection in the Wake of Globalisation: A Case from India

The agrarian communities especially the small and marginal farmers in the developing countries have always been vulnerable to the dictates of imperialistic influences in the national laws, policies and schemes. But the farmers have survived this onslaught due to their resilience; social inter-dependence, strong community bonding and weak extension work by the government agencies. The farmers' knowledge, innovations and practices related to bio-genetic diversity and their strong value system, customary norms and social beliefs- all of which form a part of their collective bio-cultural heritage have so far helped ensure them livelihood and sustenance.

The supranational institutions and transnational processes of laws are out to dispossess the agrarian indigenous communities of their hold over the knowledge and bio-genetic resource, which eventually impacts on their livelihoods and existence. The recent process of globalisation and the extension of neo-liberal policies related to intellectual property rights over new plant varieties will soon take its toll on the basic agricultural unit – the seed; thereby affecting the rights of farmers to save, sow, exchange or sell their unregistered seeds. In the era of free trade, transnational seed corporations are eyeing large agrarian economies such as India as major captive markets for their produce

[7] The different administrative cultures in these two countries will also demonstrate the governmental heritages from the past Colonial Administrations, i.e. the x Dutch Administration to Indonesia and the ex British Administration to Malaysia.

(the seed). There is immense pressure on member countries to adopt TRIPs and UPOV compliant national laws which primarily protects breeders' rights (seed corporations) but ignores the rights of indigenous farming communities over their knowledge, innovations and practices.

This trend is evident in the upcoming laws such as the Protection of Plant Varieties and Farmers' Rights Act, 2001 and the proposed Seed Bill, 2005 in India which will have a grave implication – first, the severe decimation of the agro-biodiversity of the country which has formed the basis for food and nutritional security of the farming communities and has also contributed to the food security of the country. Second, the proposed legislation will affect the social fabric of society; will lead to the weakening of the community bonding and affect brotherhood and cooperation within the community, which in the presence of a weak welfare state, has hitherto helped in the survival and subsistence of its members.

This paper seeks to address the question whether a *sui generis* mechanism as suggested in Article 27.3b of TRIPs and guided by the various multilateral institutions and which is based on customary laws and practices help protect the rights of the local communities over their knowledge and bio-genetic resources?

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Legal Pluralism in Nusa Tenggara Timur (NTT)

Decision makin in marriage involving custom, the rights of women and religious norm and positivist law in Oeltua, Kupang, NTT and Manggarai, Flores, NTT are explored and contrasted. In Manggarai the decision regarding marriage have struck down aspects of custom or customary law as being relative/ secondary to the general principles of humanity and in violation of religious (Canonic) and positivist law and people try to firstly marry according to the religious and positivist law. In Oeltua people have argued for the application of custom as a main factor in making decision, asserting that it offers justification for marriage life, and people try to firstly marry according to custom law. Examining legal discourse on marriage custom or marriage customary law in the two countries illuminates the tensions between custom, religious and positivist law, revealing how custom comes to be judged "good" or "bad" and is refrained as non-normative in one country but as an appropriate cultural component in decision making in the other; and it illuminates the impact of tensions on women's right over their lives.

48. Yohanes Y. Balubun

Process to Develop Original Autonomy in Honitetu Countryside – Nu Dua Siwa

Honitetu is a custom community at west Seram Island. In the administration, Honitetu placed at the administration of Kairatu sub district, the regency of west Seram, Mollucas province. The distance between the centre of the sub district to the centre of Honitetu Countryside is 24 KM. Honitetu countryside consist 6 villages: Honitetu (as Governance centre), Imabatai, Rumahtita, Sokawati (In the past time, known as Solibatai), Urasa, Uraur. Initially Honitetu is consisted of 9 villages, but the residents of the three other villages (Nunuya, Nui and Lakubutui) have melted into the 6 villages mentioned before. Honitetu custom community stayed in the region of "Tala Batai" and embrace system of Wemale custom.

In the year 2000, the Government of Middle Mollucas released wood enter passing permission for PT. Djayanti Group utilize to conduct deforestation at Honitetu region. Strive to released this permission use a systematic deception, so that affected life system of Honitetu society, among clans, brothers and families. Entering the third year of hewing, Honitetu society feel that the hewing did not give positive affect at all. It only caused problems like:

1. Violence by the National Military and violence between members of the families.

2. The difficulties in economics have started felt when the society accessing to forest progressively limited and also the destruction of resident farms and result of forest in Honitetu.
3. Society requirement in relation to clean water have very serious change. Dryness to some riil and some well of dig and also well drill happened in Honitetu countryside.
4. Ritual custom: referring with forest (hunting animal) progressively difficult to be executed on time.

From problems faced later in the middle 2003, the youth of Honitetu and some figure of custom start to organize themselves to oppose the existence of PT. Djayanti Group which is still operating. They later develop relation with Humanum – Baileo Maluku Network and together organize from village to village exist in Honitetu. The result got from its organize process, hereinafter agreed with Honitetu government to converse it strategically in workshop with theme "Develop The Future of Honitetu – Nu Dua Siwa".

Items expostulated in seminar more emphasizing at socialization of various state policy which in this time give big space of confession for custom society and also examples of the custom society resistance that recently start to expand, in relation to maintaining their "petuanan adapt" (customary right for land rights).

Afterwards participatedly the society got space for interpretated the released policy that supporting legality for custom society and compare it with New Order policy which during the time created problem for them. This workshop conducted some strategic decision and plan action to be done by society of Honitetu, that are:

1. Forming Team Work of Returning System, norm and pranata of custom Norm in the region of Nu Dua Siwa, with five main duty, that are:
    a. socializing the result of workshop openly to the entire society in the village of Honitetu countryside in order to unite the vision and mission.
    b. Documenting the natural resource management process pursuant to customary law.
    c. Documenting the custom laws to be made as Honitetu regulation.
    d. Documenting coherent custom rights in Honitetu
    e. Forming definitive custom governance.

2. Hewing at Honitetu forest areal immediately discontinued and no more new permission for same thing before point 1 realized.

    In reality, although all the things have been expostulated at the workshop and Honitetu society by themselves have comprehended their true feebleness, but in jobs done by bougt five team must be continued and the adjacent and the reinforcement especially in relation to assuring them that what they do this is not wrong. Through Humanum there be given some examples of countryside regulation which its execution have work successfully. These things in the end assure us to execute better the decision which have been taken at a workshop moment.

    In this time the Honitetu government have finished some strategic agenda related to realization from follow up plan above:

    1. Forming and authenticating the complete saniri (custom governance) of Honitetu countryside. At this time complete saniri of Honitetu have released 2 regulation that are:
        a. Regulation No. 1 in the year 2003 about Forming and authenticating the complete saniri of Honitetu countryside.
        b. Regulation No, 2 in the year 2003 the returning

of governance system pursuat to Act No. 5/ 1979 about the system of custom governance. Pursuant to Act. No. 23/ 2004 about Local Governance.

2. Forming Honitetu Baileo (custom house/ the place for custom ceremony).
3. Preparing election and inauguration of Honitetu king (leader) pursuant to genesis rights and according to the custom law of Nu Dua Siwa.
4. Custom marriage which is during the time left have been re-enacted.
5. Anak Kaluar Walang
6. Pen

Although there were no definitive King, but for continuing development in Honitetu, the complete saniri of Honitetu have planned to compile some country regulation related to original income from common facility and custom law pursuant to the protection and the management of natural resources in Honitetu. This process still continue until the Honitetu society reach original autonomous aspiration as decided in the workshop mentioned above.

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'Asian Values' and the 'War on Terror': A Re-Emergence of the Challenge for International Human Rights?

50. Saiful Akmal
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Helsinki Reconciliation: An Effective Public Policy for Atjehnese People and Reformation of Democratization

51. Anton B Simanjuntak
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The Possibility of Disappearance of Adat Solution to Batak Conflict

The conflict in dividing the inheritance in old time of Batak (before independence) always be solved by the decision of adat justice. In the time of colonial to solve the conflict by adat was supported by Dutch government. Nowadays, solving the conflict of dividing the inheritance and marriage affairs can be solved in two ways. First they can solved by adat, but if there is no agreement found, they will be solved in the district court. Second, they directly cover by the district court.
The factor of develepmental education, horizontal and vertical mobility influence the decision on choosing an institution for the conflict solving. In fact, it becomes fewer Batak solve their conflicts by adat justice. It is a strong guess that at any time the people will leave adat justice. Adat will not be applied anymore to solve the conflict of inheritance and marriage. So in a sort time, adat that solve the conflict will vanish from part of Batak culture.

52. Vikramjit Banerjee
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"Out of Asia: The Universalisation of Western Human Rights Values and the Critiques Emanating Out of Asia"

The article attempts to deal with the tension between the holiest of holy cows of western universal jurisprudence that of human rights and attempts to trace the conflicts it faces in it's application in parts of Asia .

The article deals with the ongoing conflict and tension which is faced my modern nation states when they try to impose the western superstructure of human rights as an universal method of governing society on the essentially religion and culture specific societal values which lie underneath the societies of each and every nation state.

The assumption of the article is broadly to use a clichéd term " cultural relativist" and it starts of by discussing the validity of the "cultural relativist" critique of human rights as a western doctrine and as a western method of governance and of ordering society and attempts to raise questions as to whether the methodologies of human rights originating in a very specific cultural context can apply on completely different cultures having completely different religious and cultural backgrounds .

The article attempts to map out the challenges and critiques to the modern human rights formulations , specially in the context of Asia , and it's diverse cultures and religions . It deals with the Sinic , the Indic , the Buddhist and the Islamic challenges to the formulation of human rights claims as being universal in some detail including some of the broad paths in each of these challenges .

The article hopes to see the rise of alternate methods of governing society different from the western human rights formulations , which would be culture , civilisation and religion specific . The article predicts that the seeds of the new alternatives to the western hegemonic discourse of human rights lies within some of the challenges thrown to the universal human rights paradigm in different societies of Asia .

53. Dr. Markus Weilenmann
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Legal Techniques and Practices of the Disaster Management

All development agency political interventions can directly or indirectly influence the existing legal relations and change the conditions under which people are able to use their rights. This is particularly true for all those projects or programmes which explicitly deal with legal matters such as the promotion of an international criminal court, programmes on crisis prevention and conflict mediation, the promotion of justice and human rights, good governance issues etc. and for all those topics which are subject of the conditionality. But all development bureaucracies refer also to a whole series of models and techniques in order to achieve their goals. However, all these models and techniques are subject to a growing standardisation, whereby a particular kind of law, so-called "project law", plays a significant role as well, since it structures the development political consulting process by normative means and intervenes in those socio-political contexts that are subject to any social change whatsoever. In the recipient countries development projects as well as their applied project law(s) might thus clash with local customary law(s), religious law(s) or the state law prevailing there. These processes might thus have a significance for the developing of new concepts on legal pluralism.

54. Gillespie Piers & Mr Goddard, Trevor
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Multinational Engagement With the Peace Process in South East Asian Communities: A Prepositional Model for Inclusive Tri-Sector Partnerships

Peace is a fundamental determinant of community health and a prerequisite for corporate success for multinationals working in developing countries. Yet, despite this it has consistently been overlooked by multinationals working in the region throughout South East Asia due to the notion that peace is not something that is encapsulated within the multinational's decision making process or part of their key responsibilities.

This propositional model links stakeholder engagement and community health with corporate social responsibility to address the following question: What active role might multinational firms play in creating and maintaining peace in Asian communities? We suggest addressing peace requires active engagement of civil society, government and the corporate sector in tri-sector partnerships. A series of propositions argues that the way that corporate resources are traditionally channelled through the guise of CSR are often under utilised in the tri-sector partnership model due to both the focus on legal 'rights' and the subservience to conventional risk management models underpinning the dominant rationalist economic approach. The paper further argues that such an approach is merely a cynical manipulation of local politics that is neither ethically nor legally appropriate.

Literature analysing the role peace plays in corporate and community development suggests that corporate attention paid to social issues such as peace is 'unproductive'. The paper does not suggest multinationals become sole providers of aid or crisis related services, nor be held solely responsible for peace. However, the role they play may be more effective through a willingness to move beyond the rationalist model that often prevents space within organisational operations for community peace. Regional Asian examples are drawn on, including responses to mine closures, the Tsunami and avian flu and SARS, and most importantly a critique of the Freeport approach of community development. Freeport's inability to move beyond the CSR-legal constrained paradigm to consider playing a key role in local peace efforts is a

normative perquisite to what has recently happened in Papua. The paper concludes by asserting that the higher the level engagement in the peace process (i.e. beyond legal compliance and stakeholder expectation), the more likely a positive outcome for community and corporation alike.

Key words
Peace, tri sector partnerships, stakeholder engagement, community health, community development, law, corporate social responsibility

55. Daniel Adler
World Bank, Cambodia

Development, Tenure and Collective Action Over Land Disputes in Cambodia.

The Cambodian land law has been rewritten twice in the past 20 years. Firstly with the transition to a market economy in the early 1990s and then with the passing of a new land law in 2001. Despite these efforts at regulatory reform, land disputes are a major social, political and economic problem in Cambodia today. This paper represents the result of a series of case studies on land disputes analyzed in the light previous scholarship dealing with issues of power and social structure in Cambodian villages. In trying to generate a more nuanced understanding of the ways in which power is exercised in rural Cambodia the paper looks specifically at collective grievances. This choice is informed by the possibility that collective action will offer an opportunity for the otherwise weak to extract greater responsiveness and accountability from the state. The paper's keyfindings relate to the existence of multiple rule systems for land management, the propensity for the tension between law and practice in land management to cause disputes; and the problematic nature of the attempt to â€˜skip to Weberâ€™ - that is to impose legal/rational forms of authority on social relations which are structured around patrimonial power. In the absence of equitable rule based systems for allocating resources and resolving disputes the study concludes that political mobilization will be a necessary precursor to the success of rights based strategies.

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Decentralization and Co-Management of Protected Areas in Indonesia

This paper argues that decentralization opens up a precondition for co-management of natural resources and co-management, in turn, requires enhancement of community level rule and regulation. However, it is not self-sufficient and there should be an incentive mechanism established through a multilevel decentralization in order for local people to participate by promoting local law. When decentralization at multi level is applied to co-management for protected areas, its success depends on participation of all parties based on incentive mechanisms specified. Recent government decentralization in Indonesia is a case in point; while central government is ready for partnership with all levels of governments down to communities by adopting decentralization policy, these opportunities however are taken with reluctant by local governments considering the cost they would have to bear and decentralization process does not get through beyond district administration level. We analyze these issues by examining the Barisan I Nature reserve management in West Sumatra which straddles in four autonomous districts where initiative are taken by districts government and local communities after implementation of government decentralization in protecting this area. The study findings support the argument that decentralized district governance mechanism supporting local communities with additional incentives beyond traditional incentives, concerned stakeholders take active role in managing their protected areas, thus forms a co-management. In addition, the paper proposes an alternative

model of co-management based on local incentive emphasizing environmental and ecological benefit from a protected area adopting multilevel decentralization down to village level administration. In the course of times, it needs revitalization and enhancement of local law and regulation.

Key word: co-management, protected area, decentralization, Indonesia, West Sumatra

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Peace-Building: A Post-Crisis Developmental Effort in Southern Mindanao, Philippines

The quest for peace is a universal clamor and peace movements are indispensable for they are the premise towards symbiosis and equality among humans. To attain post-crisis/conflict development, peace building is being done in Southern Mindanao for the past years. The opening of this new avenue for economic uplift is gaining roots for it helps avert many conflicts and seeks to address poverty reduction.

The Philippines, a developing third world country is undergoing a process of dynamic development and the nation's primary resource – the land – is used for harnessing the country's energy for a long-term self-sustaining development. Specifically, Southern Philippines, once a strife-torn area is given due attention because of its rich natural resource and whose human resource is seen to be a vital cog in the process of bringing about reforms and it is believed that once these reforms are achieved, it could be a phenomenal recovery that will spell a great difference in the lives of both Muslim and Christian Filipinos.

The United States Agency for International Development (USAID) is currently operating on a program leading to the establishment of a new and changed community. It's work is awakening and re-directing the residents efforts towards a true developmental project anchored on the tenets of peace-building and is in consonance with the principles and aims of the International Bill of Human Rights.

This paper examines the forged efforts of international and national bodies that helped contribute to the positive changes brought about by their intervention.

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Integrated River Basin Management in Indonesia as Influenced by Decentralization Reforms: A Comparative Analysis of Policy Implementation in Two Basins

In the policy window of Indonesia's political and economic crisis of 1997, the World Bank provided a three-tranch loan of $300 million from 1999 to 2004 to support policy, legal, regulatory, and administrative reform in Indonesia's water resources and irrigation sector. The piloting and expansion of river basin management to achieve integrated water resources management was a central part of this package and continues through coordinated donor support. In the meanwhile, administrative and political decentralization reforms have been instituted nation-wide, impacting governance across the board. This paper will begin to map out characteristics of the decentralization policy process and water resources management in two river basins: the Brantas River Basin of East Java and the Jeneberang River Basin of South Sulawesi. These cases illustrate the variation and experimentation involved in policy implementation due to local variance with respect to histories; political, economic, and cultural relationships to central and provincial government; and local authority discourses. The Brantas River Basin Commission has had a longstanding

relationship with the central government, managing infrastructure and water resources on its behalf. The Jeneberang River Basin is currently in the process of developing a river basin management authority, but there is contention among district level-governments concerning the prospect of central-level authority of this basin, as evidenced in the Brantas basin. This paper will entail an initial analysis of relationships between national, provincial, and district level governments, as well as stakeholders of water resources in these two basins. The influence of legal pluralism will be given particular consideration. The objective is to gain insight into the inherent tension between centralization and decentralization in integrated river basin management in the context of a country undergoing dramatic decentralization, and how the context and history of local level relationships with provincial and central government – heightened through decentralization – contribute to variance in water governance.

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Indigenous Resource Rights and Law in Transition: Some Issues Affecting Rural Moro Women in The Southern Philippines

The issue of rights, custom and law have been brought to the fore in post-colonial discourses concerning the welfare and status of women in the Southern Philippines. This paper, which looks into some changes in women's access rights to landed property and other resources in the case of an Islamized indigenous (Moro) community in the Philippines, builds on the understanding of customary and other legal bases of women's resource rights as dynamic and shifting, adopting norms or practices from other sources. Despite still scanty historical evidence of details on how land and other resources were managed and allocated prior to the spread of Islam in Mindanao and the impact of colonial capitalism in the Philippines, the paper attempts to look into how women's customary land and resource rights in relation to those of men are affected with the adoption of Muslim law and the imposition of state law on land and resources. Drawing on existing literature and some empirical data, we attempt to further examine how a resulting amalgam or plurality of legal systems or patterns of decision-making and conflict settlement concerning property ownership and land tenure also offers women alternative sites for contesting or negotiating their rights and welfare, particularly in the case of some rural Moro women in the Muslim Mindanao region.

60. Matt Stephens

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Local Level Dispute Resolution in Indonesia Post-Regional Autonomy

Approximately 90% of disputes are resolved through "informal" or "non-state justice" systems which operate at community level. Indonesia's regional autonomy laws passed in 1999 increased the mandate of district and provincial governments to regulate the structure of village governance, including village dispute resolution mechanisms and norms.

Accordingly, some local governments are reviving and formally recognizing traditional authorities and dispute resolution mechanisms through Regional Regulations. Purely community-led initiatives are also emerging. These can include the codification of traditional customary law, the development of established and defined local mechanisms and initiatives to build links between the informal and formal justice systems.

Although local venues for dispute settlement are more accessible to the poor, not all are gender sensitive or socially inclusive. Traditional dispute resolution at village level is rarely immune from the same political influence or elite domination evident in the state-run courts. Its application can be contrary to both state law and constitutionally-enshrined safeguards, leading to a conflict of laws.

Based on field research conducted across five provinces – West Sumatra, Central Kalimantan, Maluku, East Java and West Nusa Tenggara – this paper explores the social and political dynamics with respect to local level dispute resolution in the regional autonomy era.

It shows that the revival of traditional structures is often linked to assertion of ethnic identity and political control. In practice, "revival" is often empty policy rhetoric, unsupported by concrete action. Indeed, the political nature of the revival can actively exclude marginalized members of the community, such as women and ethnic minorities. Excluding these groups from meaningful roles in local institutions and processes is likely to be counter-productive, undermining the stated purpose of building legitimate local institutions.

Through multiple case studies and the documentation of different models for dispute resolution across the research locations, the paper will address:

(i) The impact of regional autonomy on dispute resolution at local level;
(ii) The significance of the revival of traditional and adat-based authorities in relation to dispute management; and
(iii) The social inclusiveness of the different fora for dispute settlement considering gender, socio-economic, ethnic and religious identity.

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Law Plurality and the Conflict in West Timor

Local community in West Timor already have traditional rule to manage natural resources, like forest and water before Ductch came to this region.. Those rule have been arranged together by local people for hundreds years ago and local leader called *tobe* have traditional authority to impose it. But when the Ducth came they created new rule to manage natural resources in West Timor. The new rule so different with the old rule that the local people have before.

After Indonesia gain her independence in 1945, Indonesian government arranged new rule to manage natural resources. The new rule arranged by Indonesian government ignored the local rule already arranged by local people and the other rule arranged by the Ducth authority. So far, West Timor people have tree kind of rules to manage natural resources.

In the light of social changes called "reformation" in Indonesia that have been started since 1990s, local people claimed from central government to get their local rule or traditional rule in managing natural resources, while the central government rejected them. On the one hand local people try to employ their own rule arranged by their community, on the other hand central government always pressure local people to imposed new rule they arranged, so conflict between the people and the government cannot be avoided. In some cases in West Timor, like in sub-district of Insana, central government tend to force local people to execute the new rule they arranged called *Undang-Undang Lingkungan Hihup*. When local leader reject the new rule and let the local people to work on land, *tobes* have been imprisoned (punished).Conflict between local people and central government can not be avoided, and since the tobes have been imprisoned the conflict never ending. The single way to solve this conflict is revised the *Undang-Udang Lingkungan Hidup* to give authorithy to the local people to execute traditional rule in managing natural resources.

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The Constitution And The Collective Religious Rights: Islamic Parties and the Amendment to Article 29 on Religion in Indonesia

The aftermath of the New Order regime

(1966-1998) witnessed a strong desire for a revision of the 1945 Constitution, including in particular,calls for a revival of the "seven words" in the Jakarta Charter (the 'obligation to carry out the shari`a for Muslim believers'). These calls were proposed by some Islamic parties (e.g. PPP and PBB) that wanted to see the implementation of shari`a formally acknowledged in the Constitution. Other Islamic parties, such as PK(S) and PAN demanded a slightly similar thing that each religious community would have obligation to observe their respective religious duties. This paper focuses on the efforts of Islamic parties in Indonesia to amend the constitution in order to acquire religious rights in the Fourth Amendment of 2002 Sessions of the MPR (Indonesia's supreme legislative assembly). I will argue that there is dissonance in their attempts at the amendment of Article 29 on Religion. The dissonance emerges since their demands (i.e. religious right to practice shari'a) are essentially religious duties of (Muslim) citizens. Above all, the proposal for religiously collective rights is dissonant since it is to the minorities the collective rights were usually granted for their constitutional protection, and not to the majority population like Muslims in Indonesia.

Instead of securing the rights to religious freedom completely, the struggle of Islamic parties to insert the seven words of Piagam Jakarta or to emphasise the obligation of each religious community in Article 29 was in fact an effort to confine a list of specific liberties, introduced two years earlier (2000) in the Second Amendment. Accordingly, if the amendment to Article 29 had been successful, the dissonance would have become more obvious, since ironically, the individual rights of religious freedom would be suppressed by the collective rights of Muslims. What is more, if such amendment were successful, the state would have to arrange a standardized religious practice for each religious community, thus eliminating individual religious freedom, especially the right to hold a differing religious interpretation.

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The Battle of Human Rights in Religious Freedom in Indonesia

Since September 30, 2005 Indonesia has ratified both the ICCPR and the ICESCR. It means that Indonesia has become a state party for those two covenants, with the obligation –first of all- to implement them in its laws. Besides, by such ratification, Indonesia juridically recognizes the universality of human rights. Such a recognition actually has existed indirectly by becoming member of the United Nations Organization which recognizes the statement of the Universal Declaration of Human Rights of 1948.

Besides becoming a member of the UN, Indonesia also becomes a member of the Association of South East Asian Nations (ASEAN) and also of the Organization of Islamic Countries (OIC). From the perspective of human rights, such memberships would bring a situation of legal pluralism. As we know, ASEAN has its own concept of human rights, which put more emphasize on the particularity of human rights, as stated in the Bangkok Declaration of Human Rights on 2 April 1993 and also the Kualalumpur Declaration on Human Rights in October 1993. Besides, as of the ASEAN, the OIC also has its own concept on human rights, as stated in the Cairo Declaration of Islamic Human Rights in 1990. The two Asian (or precisely ASEAN) declarations emphasize the importance of cultural context, while the Cairo Declaration emphasizes the supremacy of *shari'a* or Islamic law though mentions their respect to the Universal Declaration of Human Rights

Since one of the crucial point of difference, especially between the UNDHR/ICCPR and the OIC Declaration, is concerning religious freedom, this paper will examine how Indonesia deals with this matter. By examining several aspects of religious freedom as mentioned in those

documents, such as the concept of deity, the meaning of religion, the notions of religious freedom, and also the religion-state relation, it will be shown that Indonesia's view on human rights, especially on religious freedom, is closer to Islamic view than to the so called universal view.

In the long run, especially after the ratification of the ICCPR and the ICESCR, Indonesia should face a lot of homeworks to adjust its law on religious freedom with the universal view. It will not an easy task since, it seems, there is an 'eternal' conflict between universal human rights' view with that of religion, especially Islam. Several suggestions will be proposed though, to accommodate this tension. Besides, deep discussions and deliberations should be done sincerrely!

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Sharia and National Law in the Muslim World, A Comparative Perspective.

In this paper I will summarise the findings and conclusions of a research project which we just completed and laid down in three different books. We looked at the role and position of sharia vis-à-vis national law and international human rights in twelve Muslim countries.

In the first place we identified historical trends. Secondly, we analysed and compared legal positions in constitutional law, family law and criminal law. Thirdly, we looked at the various roles of legal institutions. Fourthly, we looked at social and political factors that might explain the present legal positions, and finally we evaluated the relation between sharia-based law and human rights in the twelve countries. Information on these books is available on the websites of Amsterdam University Press (unforuntely in Dutch).

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Substantive Equality and Legal Pluralism in Indonesia: A Case Study of Joint Ministerial Decrees on the Construction of Worship Places

In this paper, I will examine the closure of numerous unauthorized Christian churches by hardline Muslim groups in Indonesia. I believe that democracy and pluralism are based on the recognition of different interest groups within a society. Therefore, I propose to use a substantive equality approach to examine this issue.

A 1969 joint decree of the national religious affairs and home affairs ministers requires regional heads to consider input from heads of religious affairs offices, city planning offices, and local religious organizations and leaders before issuing construction permits for worship places. However, it has been difficult for the Christians to obtain the necessary permit to use a building for religious activities since local Muslim community objects to the church buildings and activities of the Christians. Without approval from local communities, such permit will never be issued.

Christian groups that have been denied permission to build churches have resorted to conducting services in residential homes. However, a number of these worship houses were closed, based on the 1969 decree, in July and August in West Java.

I take the views that the arguments made by hardline Indonesian Muslims that the Christians should comply with the 1969 decree by using slogans like 'one law for all' neglect the fact that treating everybody in the same manner when they are in unequal situations perpetuates inequality. I would argue that the Indonesian government should adopt the substantive approach which requires that individual circumstances and disadvantages are compensated for so that the law has equal outcomes for everyone. This approach is

essential to protect minority groups and religious liberty in a multicultural society.

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Religion, Legal Pluralism and Order in Multiracial Society: A Legal Anthropological Study in China

In China, the freedom of religious belief acknowledged and protected by the state law has posed a realistic challenge to the secular state——the state law is faced with issues of legal pluralism resulted from religions. This paper, based on fieldworks, will elaborate the religion, legal pluralism and their influence on social order in multiracial society of China. It will also discuss the theoretical issues on how to understand and response to the pattern of legal pluralism.

The particular complexity of legal pluralism from religions in China is closely related to diversity of minorities. 56 ethnics of China have different religious beliefs, including Islam, Buddhism, Catholicism, Christianism, Taoism, and so on. Some minorities even have their own folk religions. The localization of all these religions has caused the otherness of religion characters in different areas and different ethnics. As a result, the interaction between religion diversity and ethnic diversity poses complicated issues of plural laws.

Religion (including those folk religions) has affected the formation of local order at different levels. The first, religion serves one part of local legal culture. The second, religion, more or less, becomes one source of local social norms. The third, religious organization and clergy often act as the social controller of local community. The forth, religion plays roles not only in inducing conflicts, but also in settling disputes. Accordingly, religion has created a norm system coexisting with state law, as an important social control.

In China, who is in pursuit of unity of legal systems, the influence of religion on state law is focused on the implementation of state law and formation of social order. On the one hand, religion could support the implementation of state law, when they can keep consistence or religion authority can accept state law. On the other hand, religion could result in legal failure of the state authority. China has experienced some historical lessons to unite law, culture and values, in which the function of religion was ignored. Many empirical case studies would demonstrate that if religion, as a basis of local social order, were violated, social disorder would come forth.

To sum up, the paper, based on some cases studies, holds that the conflict of authority between state law and religious law can be resolved, when the local government learn to understand legal pluralism and take negotiating mechanism into conflicts.

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A Leap of Faith: Taking the Plunge in Interreligious Marriage

As the projector flickered, people in interfaith relationships faced their obstacle. Many people had faced difficulties that were labeled illegitimate and mocked because their parents were of different religions. A married couple claimed there was never a problem; the differences, in fact, helped their children become more tolerant. Meanwhile, Hilmar told of being caught in the middle as both his parents and those of his girlfriend opposed their union. "Both sides fear their future grandchildren will follow another religion than theirs. What's marriage for then, finding (religious) followers?" the young man said in exasperation. The documentary was part of the book launching and discussion for *Tafsir Ulang Perkawinan Lintas Agama, Perspektif Perempuan dan Pluralisme* (Reinterpretation of Interfaith Marriage Through the Perspective of Women and Plurality).

The book tells of both successful and failed interfaith marriages, the perspectives of religious leaders and scholars from different religions, as well as the legal

viewpoint. Interfaith marriage is still one of the most complicated and sensitive issues in Indonesian society, involving a potential tinder box of emotion-laden questions of religious right and wrong, the state and the individual's right to choose a partner. Law No. 1/1974 on matrimony states a marriage is only legal when it is conducted according to one religion, which supports the stance of opponents of interfaith marriage. Many couples circumvent the legal restriction by getting married under one religion, but then practicing their respective faiths. Others with more financial security opt to go abroad to wed. Having three years, several scholar and government had been worked on a bill to legalize interfaith marriage for those wishing to retain their respective religions. The plan has yet to be realized; even if it is, entrenched attitudes cannot be changed overnight. Parents fear the assumption of others that they did not bring up their children "properly". Young people, knowing the "rules, immediately dismiss the notion of dating someone of another faith. The new book further illustrates how women, often oppressed in the domestic sphere, also face more societal pressure than their men folk in interfaith marriages. In Islam, for instance, women are considered to have committed adultery if they marry non-Muslim men, but it's not the same stigma for men, who are expected to be able to convert their wives to their faith. "It forces women to obey all the rules aimed at them, which in turn will make them sacrifice their love. Many Muslim scholar in Indonesia such as Musdah Mulia cited research showing that in unions of Muslim men with non-Muslim women, 50 percent of the couples' children took their father's religion. Conversely, when Muslim women married non-Muslim men, the percentage was 80 percent. It indicates that a mother's influence on the children's religion is greater than the father's. It means the perception that women are weak and easily converted to other religions is wrong.
Based on her research that only three of the more than 6,000 verses in the Koran address interfaith marriage government to accommodate the demands of religious institutions. "It's strange that for people who get married in other countries, their marriage is legal here although they are of different religions.

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Women in Collectivity (*Parampuang Dalam Parimponang*) In Context Of Legal Pluralism (Rights of women in customary law of *negeri Ihamahu*, Saparua Island, Middle Moluccas)

Establishing and strengthening women's position on social life as well as customary property-rights in a traditional collective and communal society is a long process. The legal and social justice aspects have impacts on the lives of customary law people. The perceptions of justice have strong relationship with the complex of society and dependency among them. The social, legal, economic and political aspects of community life are emphasized both historically and currently relationship with outside society. The process of getting justice cannot be examined in isolation from the historical and cultural context. This should be seen in women activity and rights on land and sea in *negeri Ihamahu*, a small village in the south-east part of Saparua Island, Middle Moluccass, Moluccass Province, Indonesia.

This paper should try to understand more fully the context of the communities and the continuing impact of changes on the lives of customary people or communities in small-island, as:

- How gender is socially and legally constructed;
- What impact this has on women's access to property and resources and the strategies that that they employ to secure such resources;
- Who has the power and authority to define, interpret and implement law at the many levels at which it operates,

and what implications does this have for women's access to, and use of, law;
- How women experience legal pluralism - what are the advantages/ disadvantages that plural legal systems pose for women and where does this leave them in terms of rights;
- How may international instruments and conventions, such as the Convention on the Elimination of All Forms of Discrimination Against Women, be used to empower women;
- To what extent can such international instruments and conventions that set up cross cultural expectations and agendas with regard to women's rights be applied or tailored to tackle the local, everyday domains in which women operate.

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"Women's Legal Empowerment to Combat Poverty: Female-headed Households' Experience in Accessing Justice in the Indonesian Provinces of West Java, Central Java and West Nusa Tenggara"

Female heads of households (typically widows, women abandoned by their husbands, unmarried women and other adult women who are the breadwinners in their families) are amongst the poorest of the poor in society. Many of them are survivors of violence due to arbitrary divorce, domestic violence and local level conflict. In daily life, female heads of households continue to experience discrimination and violence, which many do not acknowledge as legal problems. They encounter discrimination in terms of wages, inheritance and access to credit and benefits of government support such as BLT (Direct Cash Support, compensation for the poor for fuel price increases).

Discrimination and violence are not only experienced by female heads of households. Discrimination also affects girls and other female family members in the village. Even female heads of households unconsciously discriminate against their own daughters and female family members, for example, when they have only limited funds for education, they tend to send their sons rather than daughters to school. Still, many female heads of households do not realise that their problems are legal problems that could be resolved and that failure to resolve them will further push female family members into poverty.

Several women's organisations work to reduce and prevent discrimination and violence against female-headed households through programs of economic and legal empowerment. Empowerment is understood as an effort to increase the capacity of individuals or groups to determine their own choices for actions or expected outputs. Therefore, to break the chain of discrimination and violence against female-headed households, it is important to provide legal education for female heads of households. Education will give them better understanding of their legal rights, and improve their ability to access justice to fulfil these rights.

This paper discuss cases of discrimination and violence against female-headed households in West Java, Central Java and West Nusa Tenggara; the relationship between women's legal empowerment and poverty alleviation; and highlights how women's legal empowerment is able to promote access to justice for female heads of households.

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Legal Rights of Women in Community Forestry in Nepal
(Comparative Analysis between Forest Law and selected Constitutions and Management Plans of Community Forest User's Groups)

The constitution of the Kingdom of Nepal, 1990 has guaranteed the equal rights of men and women. In the other word, principally or practically the state can not discriminate among citizens on the grounds of sex. But the special provisions may be made by law for the protection and advancement of the interest of women. Any Laws and policy of the state relating to the Natural Resource Management (NRM) also can not enact and enforce against the sprit of the constitutional provision. In the context of Nepal, women are mostly depending on the forest resource for their subsistence. So that the laws and policy relating to NRM should be enact and implement on the basis of positive discrimination, which can protect and advance the interest of women.

The laws and policy relating to forest management are also playing an important role in the life of women. Women spend lots of times in the forest for the collection of forest products and grazing to the cattle. In this situation, the forest laws and policy should be given priority to protect the interest of women. Community Forest (CF) management system is one of the important community based institution for the protection of the interest of women in natural resource. Even though, the legal and institutional framework of Community Forest User's Group (CFUG) is not satisfactory for the equitable rights or protection and advancement of women.

Community Forestry (CF) and its User Groups is govern according to the provisions of forest laws, policy, directives and various social and technical guideline. Despite such regulatory provisions the CFUGs have also other major implementing documents, which are the constitution and Operational Plan (OP). The constitution is related to the institutional management of the CFUG and OP is for sustainable management of the CF. these documents are also neglecting the equitable rights of women in the CFUG and access in forest resources or benefit sharing. Therefore, this paper will explore the root cause of exclusion to women from the participation, decision-making and benefit sharing from the community forest process as well as women's struggle against it.

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The Struggle of Woman, and Some Views of Gender Theory (Its Relation With the Direction of Development And Enableness of Woman In Indonesia)

This article will tell: (1) The result of content analysis of mass media in Indonesia theses days, especially in JABODETABEK and MAMIBI (Manado, Minahasa, and Bitung), concerning to the struggle of "the woman" (by the activist of the women NGO, intellectual , writer, woman forum, and others---and its bearing with context of the source of culture of "customary-law" and "self-regulation") and also the condition of government, in meaning the social role along with existence according to gender structurally and vertically---and in the bureaucratic-political role in have life quantitatively and qualitatively. Condition of the role, along with existence of the concept of reformation dan democratization raised by partisan politician and adopted by the government---and theoretically, related to problem of law, that is as an existence of conflict of interest between "the woman" and "the man". As the condition have come to the basis for a certain political party in course of general election on the year of 2004 in Indonesia---also, will be evaluated according to its struggle result, related to policy of government support to development of "the woman", related to policy of the ministry of woman affair in Indonesia. In this article, the description above in part(1) (part one), will be evaluated pursuant to things following, that is: "First", in bibliography study, that, (a) the meaning of challenge framework to policy of development and enableness of woman in Indonesia, is here (and extant) by social and cultural, and natural, to be related to how human being adapt andhave life---according to some scholars (Ortner & Whitehead 1981; Rosemary & Gilbert 1962;Linda Lindsay 1990; Burbank 1994; Schlegel 1972; and others; (b) in fact many

positive role of woman in have life which do not highlight and do not be lionized by the society, because way of thinking (lameness) of government and society which just limited to focused it culturally at the bureaucracy and political role, these days; even the existence of roles of woman horizontally require to be looked into important valuable like roles of women in Java, such as economically, and in health of household, and also in decision making. (c) there is proven example of woman by proporsional, more superior compared to man (Montagu 1964), because of their double role, and athers. "Second", empirical study (case study) in JABODETABEK until the year of 2006, and in Sumedang (2001), in line with bibliography study above, showing also the existence of challenge to development and enableness of woman in Indonesia, in the case existence of the difference gender condition, what live in knowledge, attitude, and behavior, of society, constructed socially and culturally,and also naturally. "Third", there is a challenge to development of woman in Indonesia also in the case of existence of certain Moslem people supported religially (which culminating and expressed politically in a period of General Election 2004 in Indonesiai context of religion-law interact to state-law, according to the view that man is proper in case of leading to be compared to woman---that has become a social and cultural reality of the legal-pluralism functioned. (2) Perspective, that in order to development and anableness of woman in Indonesia, neutralize the conflict of interest between woman and man judicially, and also broadly for the struggle of woman in gender, including effort negate behavior of hardness to woman, and also to uphold justice to life of womean in a society; hence the government: "First" have to behave to take account of and institutionalize (culturally) the principple of woman in development of human being (child) through family, invision development of "biology, psychology, social, and cultural", as one factor from various determinant to nation development of health physically and mentally, relate to the condition of the crisis of nation morality, in case example of to evade the law in mass corruption in all life aspects; "Second", have to comprehend that actually many life sectors which have been played as part by the women, which must be assessed important in difference by horizontal. In this case the core important way out related to those condition (including the condition of gender culture in Indonesia and its cultural challenge have to overcome with development of education by adequate budget (properly) and well balanced with budget development of area economically and Physically, so that thereby judicially, the tendency of mistake stipulating the low budget to development of education, as one from various of crisis of politic and govermental in Indonesia, to be well arranged.

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Gendered Migration In Legal pluralism Perspective: Trafficking in Women and Drug Trafficking (A Case Study in the Women's Penitentiary, in Tangerang, West Java, Indonesia)

The emerging of recent paradigm of legal pluralism is in accordance with the phenomenon of globalization. In this respect, legal instruments come from international as well as national and local level are passing through any legal field and social arena. Legal pluralism lost its their demarcation, and can not be mapped any longer as in the earl of its origin in the past. There are interrelationship, adoption and merging among the existing laws in any field of study. It results in the configuration of laws which is borderless and changing over time.

The borderless laws can be found out clearly in human rights as well as women's rights field of study. Gendered perspective on law poses some questions which are derived from main inquiry on how gender is socially and legally constructed.

This paper aims to explain the problem on gendered migration dealing with trafficking in women in which women are objected as

drug trafficker. The "New" Modus operation in the drug trafficking involved young women massively as curriers. Those women were treated as lovers, as wives or were in close personal relation with the men who were the patrons in the drug trafficking. The personal relation followed by an unequal power relation amongst those people involved. In this unequal power relation those young women were forced to bring the drug from and out of Indonesia. Because of their sexuality, women were treated as powerless, as submissive, and were not suspect as whomever who dare to bring drug. They were also not being given a change to think of the risk they should bear.

In the other hand, the justice places those women as the criminal. For the legal enforcers, it was more important to do the correct confirmation between the verdict and the articles in the Indonesian Criminal Code. Those women were accused as the criminal because they were caught bringing the drug with consent. The process of force, coercive and deceive they experience do not a bit consider by the prosecutors as problematized contemplation, not alone aware of the trafficking on women were occurred in this process. The international legal instruments and the convention on the trafficking on women were largely ignored in the trial processes.

Some women from outside Indonesia like Myanmar, Thailand, Nigeria as well as Indonesia, have been waiting for dead punishment for being charged as criminal (drug trafficker) during these days. Are they going to die silently ?

This paper examine:

(1) Who has the power and authority to define, interpret and implement law at the trial process involving women who have been trapped as drug traffickers, and what implications does this have for women's access to use of law ?
(2) To what extent can such international instruments and conventions, be applied or tailored to those cases. Are the judges, attorney, and lawyer who are involved in those cases, knowledgeable in international legal instruments and conventions regarding women's rights ?
(3) How women experience legal pluralism in conjunction with their rights to be treated justice

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Against All Odds: The Condition of Fisheries Regulation in Ramnad District (Tamil Nadu, India)

Many factors mitigate against the development of a strong and effective legal regime in the marine fisheries of Ramnad District (Tamil Nadu, India). Not only does the large fishing population make use of many different technologies for tapping the range of marine resources that exist in the region. In addition, this population itself is highly varied by caste and religion. This is apparently an old state of affairs. However, the past five decades have witnessed a large flow of people into the fishing profession, increasing social heterogeneity and fishing pressure. The proximity of Ramnad District to Sri Lanka and its civil war too has effected fisheries in sometimes unexpected ways. This paper investigates the character of fisheries in Ramnad District and the fragility of the regime for its regulation. Special attention is given to the interaction between state and non-state legal systems.

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Formation and Erosion of Legal Systems in Marine Small-Scale Fisheries of Sri Lanka

The major theme addressed in the paper is that, legal systems, which are formed under particular circumstances or contexts, would change when the circumstances or the contextual variables are changed, leading to the modification of rules and / or to the emergence of new rule systems. Field studies carried out in marine fishing

communities in the Hambantota District of Southern Sri Lanka, have revealed that, the community laws or community institutions performed the function of guaranteeing equal access to the resources and equal opportunities of earning incomes to all resource users during the pre-war and immediate post-war period. The post-war period saw changes in the contextual variables, such as, high growth rates of population, state intervention, market expansion, globalisation and increased demand for exportable fish varieties, etc. which had serious impacts on legal pluralism in fisheries. The state legal system became the dominant form with strict enforcement of laws by the state. Along with the need of the state to ensure sustainable utilisation of fisheries resources but its failure to enforce laws effectively at the landing site level, public-private partnerships were formed, which have given rise to a different legal pattern. In contemporary societies, characterised by increased entry, high rates of resource exploitation, the legal pattern appears to aim strongly at sustainable use of resources. The study concludes that the legal pattern is considerably influenced by changes in the contextual variables, such as population growth, technological change, state intervention, market expansion, natural hazards, etc. and that it tends to be more complex and extensive in contemporary societies.

75. Svein Jentoft
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Co-Management and Legal Pluralism: How a Methodological Problem Becomes an Institutional One

Fisheries and coastal management typically works from the Hobbesian assumption that in the absence of state regulation, no regulation occurs. The state is therefore indispensable and state intervention essential. Without it, conflict and chaos will reign unless the state through some authoritarian measure imposes order. After decades of social research into the ways local communities and user-groups relate to natural resources, we know that this assumption is far too simplistic. Disorder and confusion are not inevitable outcomes of resource use. People would know how to collectively bind themselves to the mast. In line with what the sociologist Emile Durkheim argued, there exist already a shared morality and a collective consciousness among resource users that keeps them in check. Thus our assumption should be the reverse: Without state intervention, the community will fill the gap. Indigenous legal systems exist prior to, along with, and sometimes take precedence to, formal state law. Consequently, state intervention may therefore easily interfere with indigenous legal systems, potentially at best complementing them but in the worst case scenario annihilate them - with unforeseen consequences for the moral fabric of the community. Drawing on examples and insights from the IDPAD project (Public-Private Management of Marine Fisheries in South Asia) district reports, this paper addresses two related issues pertaining to legal pluralism in fisheries and coastal settings. First there is the methodological problem. Given that indigenous rules and regulations are embedded in, and expressed through, social practice such as fishing, belief systems such as religion, and tacit cognitive systems, such as institutions, how are they best discerned, validated and represented? Secondly, there is the institutional design issue: Given legal pluralism, which management institutions are better suited represent and resolve inter-legal differences? What are the difficulties involved in making both state and indigenous law applicable to fisheries and coastal management?

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The Socio-Economic Context for a Weak Legal Plural Interaction: Characteristics and Individual Perceptions of Fisheries Management in Junagadh District, Gujarat

As part of the study of legal pluralism in the fishery of Junagadh district, the authors of this paper conducted a survey of the consumption patterns and attitudes towards fisheries management of 1050

households that had a least one member directly involved in fishing activities. This paper reports on the findings of the survey, as concerns the relationship between socio-economic class, craft and gear ownership, region, and attitudes towards state and non-state initiatives to regulate the fishery. The findings are analysed in the context of a legal plural understanding of the fishery and its management.

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'Solving' Fisheries Disputes in Goa, India: The Manipulation of Formal and Informal Legal Patterns

My paper analyses patterns of local dispute settlement, concerning several important fishing issues in the South District of Goa, India. Due to its Portuguese colonial heritage, Goa has a unique legal system in India – the only Indian state that has a common civil code. Thus, even though it is a small marine state with only 105 kilometers of coastline, Goa presents a somewhat different perspective on the settlement of fishing problems in South Asia. To explore the interaction of Goa's legal patterns, both formal and informal, in dispute resolution, this paper focuses on several case studies. One such dispute concerns health issues – the pollution of air, land and water in one fishing village, caused by the mass drying of sardines by a large mechanized boat owners association. Though local in scope, the process of "settlement" was unique in its incorporation of both state and informal legal patterns as well as 'extra-legal' demonstrations, threats, force and bribes. A second case study deals with larger issues of resource health and fisheries management along India's west coast – the ongoing 'experiment' and effective implementation of a monsoon fisheries ban for mechanized boats in Goa. Since no uniform ban for the West Coast exists, each state is responsible for setting its own dates and rules as well as enforcement. My paper analyses this ongoing dispute between different fisheries sectors and special interest groups over the imposition and enforcement of such a ban, or conservation period, and its influence on resource management.

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Lessons for Institutional Cooperation from a Fishery Where Indigenous Management Institutions Are Thin On the Ground: The Case of Junagadh District, Gujarat

The presumption of the project that provided the framework for the research on which this paper is based was that coastal fisheries in South Asia would present a mix of state and non-state institutions that had roles in managing their fisheries. Junagadh is distinctive among the districts of study in this research for the limited capacity of its non-state institutions for regulating fisheries activity. In this paper, we examine the determinants of the institutional complexion of the Junagadh fishery and the implications of its particular mix of institutions for management. The paper emphasises the importance of the current historical moment for the future of the fishery. In the late 1990s, catches in the fishery of Junagadh district in Gujarat reached their maximum biological levels. This brought to an end 30 years of expansion, of which the last 10 years had been lucrative for the fishers of the district. There is some evidence that the transition to a resource scarce situation has stimulated greater institutional effectiveness.

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The Conflict of Natural Resources and Strengthening to the Indigenous People Rights in Papua

Papua have to almighty natural resources in all of kinds, such as liquid natural gas, crude oil, etc; but in reality it is not enough to become Papua people's for prosperity. There are tree main problems:

(1) minimize human resources qualifications
(2) unsuitable for capital investment
(3) no one government policy fullness

for Papua indigenous people. If we research to social legal aspect, actually Papua indigenous people have to communal rights; usually people said "hak ulayat". That rights related to strategy traditional management for exploration and exploitation natural resources in Papua indigenous people.

Hak ulayat (communal right) is one of the traditional rights which regulations and acknowledgement in the tree national law, that mention in the regulation for Agrarian Law, by Law number 5, 1960; The regulations for crude oil and natural gas law, by law number 22, 2001; and the regulations for special autonomy for Papua province, by law number 21, 2001. The essentially in the tree regulations that refer to how for respectfully and enforcement for Papua indigenous people right in using natural resources.

In practice, for natural resources' exploration activities in Papua always create a lot of conflicts between investor, government and the indigenous people. In this case, especially for investor, sometimes was ambiguous because the existence of legal pluralism. Therefore, it is difficult to success their investment mission. However, we should have a good program to solve this
problem.

There were five actions alternative programs. These programs want to combine between national law and local law (folk law) in elaborating natural resources in Papua. The programs recommended are:

(1) To strengthen capacity building in indigenous people institutions
(2) To strengthen people's advocation
(3) To apply affirmative action policy
(4) Preparing dispute resolution models
(5) Preparing human resources for institutional jobs

The first program means empowering local institution and the second program is for the government to see the condition of the people and what can be done for local development. The third program means old programs from the government must be suitable for the people and sustainable. The fourth program means issues occurring in the society must be solved as soon as possible by independent institutions and it can be trusted by the people itself. And the last program means people working in institutions must be independent, credible and have integrity.

The general goals for these five alternative programs are to deterrence horizontal conflicts among people and vertical conflicts between the people and local government. Also, to ensure peace among the society.

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Finding Method of Legal Pluralism in Socio Legal Movement (An Overview on Forestry Legal Cases in Indonesia)

Forestry is a battle field in getting access on natural resources in Indonesia. There are three actors who always be faced each other: state, capital, local communities. State and capital usually join at the same polar but local communities stand against them. State has a power as the only one organization which held the tenurial rights allover Indonesia. It would be seen on its authority to give licence in managing forest and other kind of natural resources. Capital has a power to influence the policy because of their money. While local communities has many claim which could be mentioned as the real tenurial because they have had thouse rights in a very long time before Indonesia was born. In some cases, the civil society movement come into this battle and support the local communities to get back their rights in accessing the resources in the forest.

In legal pluralism perspective, the presence of those actors above are supported by their own claims based on their own laws. Local communities which are supported by some NGOs use the legal

pluralism concept to fight against the legal centralism which has been used by the state and in certain matters, capital. Local communities take the strong legal pluralism of Griffiths to back up their thinking in defending their laws. But sometimes this concept cannot be used as the single concept because the movement needs the flexibility. It means that the usefull concept is the one which can be used as an elastic strategy in facing the plenty of situations.

Therefore, the topic of legal pluralism in socio legal movement is not only about many laws of every social territory could be equal, overlapping, influence each other, but the most is how to find the method that push the legal pluralism to parallel with justice for the marginal peoples, local communities. Legal pluralism, in this way, is about how to use it as a tool to win the game, as a method to get the local communities rights on forest back to their hand.

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The Return of the Landlord
Chinese Land Acquisition Conflicts and Tenure Security in Peri-Urban Kunming

China's many conflicts over land acquisition highlight China's growing gap between rich and poor, between a small group of powerful land-hungry elites and the masses of powerless farmers. They show that despite the stronger formal recognition of farmer's land use rights and the introduction of devolutionary and participatory processes including direct village elections, land tenure security is weak. Vague property rights, weak legal procedures for state land acquisition and low legal compensation requirements can only partly explain the ongoing land abuses. The fundamental problem is the price gap between arable land and construction land in combination of weak checks and balances on local elites. At present, farmers lack adequate formal legal mechanisms to defend their rights when faced with such land acquisitions. As a result, they have tried to use non-legal, factual, and often violent means to protect their interests, with mixed results. The case of peri-urban Kunming shows that mere institutional changes such as enhancing the law's procedures for acquisition and compensation, the introduction of direct village elections, the development of administrative law and political campaigns to punish abuses have so far not been successful to enhance tenure security. Only in areas where a fundamental economic change has occurred and where farmers no longer solely depend on agricultural income have elections, petitions and protests been successful in changing ongoing practices and making local elites more accountable to the local population. This paper is based on prolonged fieldwork in peri-urban Kunming in Yunnan province during which local farmers, leaders, entrepreneurs and state enforcement officials were interviewed on ongoing land acquisition conflicts.

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Is National Park for Conservation? Case Study in Merapi Volcano - Indonesia

Local conversations about the classification of the Merapi Volcano forest area into a national park often end up questioning why it was established as a park at all, without any considering of local people as a main rights holder in Merapi Volcano forest management.

Merapi Volcano forest ecosystem located at 600 to 2968 meter above sea level, situated in Yogyakarta Province and Central Java Province, Republic of Indonesia. It has 8655-hectare large forest area, and mostly covered by mountain tropical forest which source of living million people in four districts: Sleman, Klaten, Magelang, and Boyolali Regency. Merapi Volcano has been known also as one of most active volcano in the world. The last big eruption happened at 22 November 1994 which caused more than 60 local peoples dead.

By astronomies, this region is located between 0722'30" South Transversal (ST)-0752'30" ST and 11015'00" East Longitude (EL) - 11037'30" (EL). Climate type in Merapi Volcano is wet tropical. According Schmidt and Ferguson classification type, this include on type C with the value Q is equal to 33,3% up to 66%.

Rainfall is varying with the lowest rainfall equal to 875 mm/year and highest rainfall equal to 2527 mm/year. The wet season is started in November up to May. While the dry season is started in June up to October (with the rainfall which is lower relative)

Surface water that coming from Merapi Volcano is divided into 3 streams direction, that is Progo watershed of the west part, Opak watershed in the middle and Bengawan Solo watershed east past. These watersheds have been supplying water for consumption, irrigation, and industry in two provinces, Jogjakarta and Central Java, with beneficiary's more than 5 million peoples.

Merapi Volcano environment has been threat because of unsustainable management. Water has been privatize by some commercial company with facilitation from local government owned company (PDAM) that caused thousand farmers in Pakem, Cangkringan, and Ngemplak Municipality can not planting their farm. Sand has been mined exploitative by commercial and military-owned company until 5 million cubic meter/year. Wellspring source which so quickly degraded because of mass development and tourism, destruction of flora and animal and piracy of some medical plant which neglected local wisdom.

The paradigm of government is still same, as well as mostly of private sector, exploitation of resource for income, without any consideration for long terms utilization and respecting of human rights. Economic is always put beyond environment sustainability and human rights concern. Government role has been very passive and less function when faced with environmental destruction. We have several law and local regulation which enable to control and monitor the environment degradation. However it doesn't work well because government officials very weak and powerless when faced with case which often involved someone who has political or business power. On the other hand, community has been very active to control and protect the environment from destruction, such as from sand mining, water exploitation, forest fire, tress planting, as part of their obligations as local people and to assuring their right in managing the forest.

Because of that, many in the area had expressed their opposition to the government's plan to classify the area into Merapi Volcano National Park, when the process began in 2001. By national park, the management will be handled by central and local government, even though government has failed to perform their role to protect and conserve resource at Merapi Volcano.

Despite the protest, the Indonesian Ministry of Forestry on May 4 year 2004 issued a decree Number 134/2004 that officially changed the forest into a protected area.

Who are opposed to the change say the ministerial decree violates legal principles as well as principles of good forest governance, which are transparency, democracy, and human rights protection; and a manifestation of the government's arrogance.

The decree goes against an earlier decree from the same ministry that sets out due process prior to the gazetting of a national park. The decision also contravenes Law 22/2004 on regional autonomy because it ignores the authority of regional governments and legislative councils in the area.

The decree has also broken some of fundamental principle of national and international human rights protection. National Constitution of 1945 has been assured of environment rights as part of human rights which must be respected and

fulfilled by the government, in article 28G (1): *"Every person has a right to live in prosperity, to settle, and to get a good and healthy environment and to get health service"*. Article number 33 (2): *"Production branches which important for state and related with common people is managed by the state"*, and (3): *"Earth, water, and natural wealth which included on it is managed by state and had to be use for maximum people prosperity"*.

National Human Rights Law number 39/1999 article number 9 (3): *"Every person has a good and healthy environment"*. Also on Environment Management Law number 23/1997 article 5(1): *"Every person has an equal right for good and healthy environment"*.

International Covenant of Economic, Social, and Culture (ECOSOC Rights) and Covenant of Civil and Political Rights which already ratified by government on September 30, 2005, also give obligations to state to respect, protect, and fulfill human rights.

83. Bhakti Siahaan

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The Implementation of Syariat Islam in Aceh Againts National Law in Indonesia Indonesia

Based on authority of special autonomy through Act No. 18 of the anno to Aceh, the pluralism of law implementation in Aceh start to recognize and applicable again. In addition to national law which for the most part comes from Ducth colonial era, there are adat law and Islamic law conducted. The implementation of Islamic law which is the earlier to be an alternative for the weakness of national law (KUHP), however tend to be another problem. In practice, the implementation of Syariat Islam who part of people as a solution for peace process in Aceh, that is pricisely to show of force and treat arbitrarily (cruel) by the officer. Syariah police (WH officer) which has a job and authority to monitor the implementation of syariat Islam and to give advice for the people just show with the military uniform and always to arrest without investigation. Besides that, the syariat Islam enforcement just to reach the suspect from low class. Eventhough about the basics of law for the implementation of syariat Islam is still debatable base on hirarcy of law in Indonesia. Is a canon (the rule which has local authority) can contradicted with the Act in Indonesia. For example, fine sanction in canon higher than the local rule authority and spur or lash sanction was no known in sanction system in KUHP.

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The Dynamics of Inheritance Law and Legal Pluralism in Minangkabau: Choice of Laws or Conflicted Laws?

Legal pluralism has been the practice in the area of inheritance law in many places in Indonesia. Yet, in Minangkabau, the dynamics of Adat Law and Islamic Law resurgence has coloured the face of inheritance law practices. The three laws, the national, adat and Islamic law, are connected to each other as the West Sumatera have been able to choose between these laws in terms of inheritance.

How far are those laws connected to each other? Do the implementation of
these laws has resulted choices of laws to the people or on the other hand, has resulted in conflicted laws? This article were based on research and attempts to show the historical and legal aspects of the interconnection between inheritance laws in West Sumatera, in order to show the dynamics in this area of law. Early conclusion shows that legal pluralism can be implemented in the area of law which have the characteristic personal and neutral.

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Media and Controversy on Legal Pluralism: Case Study of Indonesian Media Covering "Counter Legal Draft for Compilation of the Islamic Law"

Before Minister of Religion Maftuh Basyuni cancelled the Counter Legal Draft (CLD) of Compilation of the Islamic Law" on Monday, February 14 2005, the Indonesian community have pro and contra about the CLD that carried legal pluralism issues.

For recognizing, CLD was established by some moderate tend to liberal Moslems to revise the prior the Compilation of the Islamic Law established by Government c.q The Department of Religion since 1970s. The Compilation it self is the unification of the religious law and the positive law to handle three problems: the marriage, the inheritance, and wakaf. Especially for the problem of the marriage, the Compilation was regarded discriminatory towards the woman. Therefore the CLD was developed.

It is interesting that in the polemics, the mass media actively covering these issues. Moreover had the trend among them was that some supported the revision and some refused the revision. It is not impossible in the future that trend will elevate again in the others subject.

It is interesting to analyze Indonesian media took part in controversies of legal pluralism by looking out their perspective in reporting CLD. How the media reported each party in the Muslim community that pro or contra to the legal pluralism? Why one of the media promotes and why the others reject to Islamic legal pluralism?

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Religion in Pluralistic Context: Empirical Evidences on Challenging Implications

This paper gives a specific attention to the Islamic identity and examines its implications on women's employment patterns. It also compares these results with those for women whose religious affiliation is other than Islam. The paper also highlights ethnic differentials as the focus group is predominantly overseas-born.

More importantly, using Logistic Regression Analysis in this study provides the opportunity to examine more precisely the role of religious identity when other competing determinants such as human capital endowments, family formation, and migration aspects are controlled.

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Kwena Women's Worlds: Ethnography Gender and Law

This talk is based on narratives which examine the relationship between law and women's experiences of the gendered world in which they have to negotiate their status, on which claims to property and resources in family life are based. The paper stresses the importance of ethnography and an anthropological approach to the study of law. Based on fieldwork carried in Botswana, southern Africa, the narratives present two interrelated themes, the one highlighting the interconnections of gender, marriage, and other partnerships between women and men, and access to resources; the other underlining the relationship between official and customary law, in theory and practice. These themes are integrated through a discussion of everyday life, derived from women's and men's life histories and narratives of dispute.

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Based on the results of an empirical study, this paper highlights the competing implications of religious identi

Playing off Courts: The Negotiation of Divorce and Violence in a Plurality of Legal Settings

Domestic Violence is legally addressed in India through at least two provisions: it is used to mediate divorce and custody issues in the Family Courts, and it is evaluated as a form of "torture" under Section 498A of the Indian Penal Code. Challenging the popular understandings of S498A cases as being deliberately manipulative, this paper examines the ways in which these two legal provisions rely on and are played off against each other through a variety of formulations by litigants, judges and governmental and non-governmental "mediation" organizations – family violence becomes an index of both challenging marital norms and solidifying them. In particular, the prevalent tool of invoking "reconciliation" in the staging of marital conflict and violence reveals evolving negotiations around gendered economic entitlements, and the relationship between notions of kinship and permissible violence, as well as strategies of mediating multiple legal and quasi-legal settings. Based on participant observation in the Family Courts as well as numerous Alternate Dispute Resolution settings pertaining to family violence and divorce (police-administered, State-affiliated, ruling political party affiliated, independent feminist organization) in Kolkata, India, this paper evaluates the forms of legal pluralism relating to gendered rights, and considers the connection between kinship, marriage and violence.

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Labuang: A Traditional Use Right Fishery in Kinahobutan, North Sulawesi, Indonesia

Failure to introduce a community based marine protected area into the waters of Kinabohutan was attributed by one village extension agent to the existence of a family owned fishing area in the selected area. Follow-up questions concerning reasons for rejection did not produce this rationale; nevertheless the allegation that family ownership of fishing rights existed in the village required investigation. Traditional use rights in the fishery (TURF) had not been encountered in this area before, so the investigators were skeptical of its existence. Hence, attempts were made to disconfirm its existence.

Under past Indonesian law, the government has not recognized traditional use rights in fisheries. The 1945 constitution declares all waters as state property. The decentralization laws of 1999 and 2004 (law No. 22 of 1999 and Law No. 32 of 2004) which devolved authority for marine resources management to local governments (provinces to 12 nm and districts to 4 nm) is silent with respect to traditional marine resource use rights. However, in 2000, the Minahasa District passed an ordinance (Law No. 2 of 2002, Chapter X, Sections 23 - 25) that allows for formal acknowledgement of traditional marine use right claims (fisheries and other uses). Under the current local law, such claims must be documented and reviewed by the district Coastal Resources Management Board. Then, the District Head *(Bupati)* can approve the traditional use rights after a community consultation process has been undertaken. Legitimate marine resource use rights under this law must meet several criteria. It must be a non-destructive resource use practice as well as demonstrate a history of long and continuous use. This is the first documented case in Minahasa that that has the potential to be formally declared a legitimate traditional use right fishery.

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Institutional Change at Local Level: How Gili Indah Villagers Build an Effective Local Governance of Coral Reef Management?

This paper aims at explaining the process of institutional change in coral reef management at the village level, and mainly seeks to answer two research questions: How do the processes of local institutional change take place? What are incentives that drive local communities to

participate in them? Investigations in Gili Indah village, West Lombok Indonesia shows that the process of the institutional change was initiated and done by villagers whose livelihood strongly depend on coral reef ecosystems. There are also strong indications that the changes were affected by the local and external economic conditions, which inevitably force resource users and economic actors to alter their economic strategies. The entering of industrial tourism and the emergence of tourism-related livelihoods in Gili indah has driven economic actors to adapt to the altering environmental condition. Tourism Business Operators (TBO) and fishermen, two main actors, have played important roles in the change process. TBOs, whose livelihood depends on coral reef ecosystems, have a strong interest in protecting the ecosystems from degradation. The same goes for the fishermen, who claim themselves as main beneficiaries of coral reef ecosystems, and insist on maintaining the status quo as an attempt to protect their economic interest. Two different economic interests have been incentive for an evolution process of local institutions (awig-awig) to construct a governance structure that accommodate the varied economic interest. So far, this governance structure has been effective forcing the actors to comply with the rules that drive themselves to use the coral reef ecosystems in a sustainable way.

Keywords: Analysis of institutional change, awig-awig, local governance, distributional conflict theory, level of institutional analysis

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The Resistance of *Adat* Community Based on Coastal and Sea Towards Unification of State Law in East Kalimantan

The establishment of unification of law system in Indonesia has come to its victory. We can see it on the recognition of state only in common and positive law, by eradicating *adat* law or another customary law. Regarding to property, that unification of law firmly established the state to control over all [natural] resources.

In this paper I will deal with how that coastal and sea-based *adat* community negotiated its position towards state system of law, especially on coastal and sea resources management. According to research organized by IHSA, the state policies on coastal and sea resources management regulated in different legal system and also the regulation is still not sufficient. The big questions remain that the incompleteness of law is such an advantaged or disadvantaged to *adat* community?

I also try to explore the different situation between mainland-based *adat* communities and coastal and sea-based *adat* communities related to state regulations on land, coastal and sea management. I will explain how the *adat* community managed their life and particularly how they managed their region with regard to environmental and its natural resources management. State regulations on coastal and sea have in many cases blocked *adat* community's access to its "*ulayat*" area. In the end, we will find out which tracks that *adat* community had been negotiated towards state's [or other institution supported by state's] pressure, and another track possibilities for *adat* community to exerted its movement demanding self-governance on natural resources management.

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Conflicts Over Sea Territory and Livelihoods: Legal Pluralism in the Management of Marine Fisheries

In East Godavari District, Andhra Pradesh, India, there is consensus about the rules governing the allocation of fishing territories. In practice, however, conflicting claims to fishing territories are the major area of dispute between fishers, especially fishers using different technologies.

Two non-state legal systems have developed to address sea territories. The legal system of artisanal fishers is reinforced by religious, social and political relations based on caste and village residence. In contrast, the second non-state legal system centers on the mechanized boat owners associations, whose rules are implemented by elected officers. The limitations of the two non-state systems led to the introduction of state laws to regulate fishing territories in 1995.

Disputes illustrate the effectiveness and weaknesses of the legal pattern which involves all three legal systems. A conclusion of the paper is that the problem of rule compliance lies neither with the plural legal systems, nor with the capacity of stakeholders to understand the positions of different stakeholders. Rather, declining livelihoods weaken the capacity of the non-state legal systems to enforce their rules. Most fishers want stronger state implementation of the state legal system which the Fisheries Department lacks the capacity to enforce.

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The Role of Self-Regulating Systems in Kerala Fisheries: Implications for Co-management

Sea going fishermen of Kerala, particularly those who live in areas of intensive mechanized fishing operations are at the verge of social extinction due to the onslaughts of liberalization policies and governance crisis. State centric regulations introduced in 1988, although guaranteed a sustainable and equitable distribution of the fisheries wealth within its territorial waters, have failed miserably to achieve the required targets. Closing the fishing operations of mechanized trawlers alone during the monsoon months that continue even today as a 'political ritual' could not improve/ stabilize the economic conditions of traditional fishermen. Conflicts over sharing of resources among various producer groups escalated during this period and satisfactory solutions are far away.
Despite the failures of formal institutional and legal processes of the state , local fishermen have responded to this management crisis and evolved a number of adaptive strategies relevant for guiding co governance policies. For instance they have improved their fishing technology to compete with the mechanized fishing vessels and developed their own organizational and institutional processes for viable operations. As a commitment towards better fisheries management, the mechanized sector has also volunteered to impose self-regulations by abstaining from night trawling. These self-organizing practices however are not appreciated by the state and it continues to enforce formal legal codes of management as the only political solution for managing the crisis in the fisheries sector of Kerala.
Reporting from an ongoing project on "public-private management of South Asian fisheries", this paper describes the major self organizing practices in Kerala fisheries and explain how these initiatives cumulatively contribute to better governance of fisheries of the state. What are the major adaptive strategies evolved by communities and the private sector for resource management? What are the constraints for integrating these locally evolved normative orders with the formal orders? How are the local management efforts institutionalized for better fisheries governance in Kerala? These are some of the major questions that this paper addresses.

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Whose Law at Work? The legal status of Communal Marine Tenure and its significance to the Marine Resource Management in Kei Island, Maluku of Indonesia

Recommendations for both central and local Indonesian government to legalise the existence of customary marine law are very popular in Maluku. Unfortunately, the basic assumptions for these recommendations are not generally based on properly

contextualised research. It seems that such recommendations are based more on general discourse about the positive role of traditional marine law and some government support for this issue in other parts of the world, such as Japan, Micronesia and Polynesia. Similarly, such recommendations can also be seen as part of a political movement to free local communities from the co-optation of the central government, without considering the details of sustainable and socially just marine resource management.

This paper will try to evaluate these recommendations by looking at the legal aspects of marine tenure in the Kei Islands and by placing formal and traditional legal provisions in the context of local practice. For the former, I would argue that although there is some lack of recognition of traditional tenure but this lack of recognition is not as complete as advocates of community rights commonly suggest. Examination of a number of formal legal sources shows that, to some extent, customary rights are acknowledged. For the latter, by analysing an incident concerning the apprehension of cyanide fishing in a village sea territory, I would demonstrate that it was not the legal status

This incident shows that the situation is more complex that the above quotations suggest. At the formal level But it is at the level of 'practical' law that there is most room for traditional arrangements, often for very pragmatic reasons.

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Indonesia's Women and Local Culture Preserve National Identity

Indonesia is well known country for its diversity of cultures. It is a richness of a Nation. It richness comes from source of people's cultures of many tribes, which inhabitant thousands islands of Indonesia. As number four of populate nation in the world with more than 230 millions people lives in an archipelago of more than 18.000 islands surrounded by seas, bay and many mountains. Its people lives and practicing 5 religions and believers, use more than 250 languages, and have lots and different traditions of different cultures. With women more than half of its population, women assemble Indonesia.

Other than their quantity, women has work silently without any pretentious to shock other power, they preserving culture. Local culture. What I mean of culture in this paper is that manifestation of history of nation/tribe which mirroring in accepting their values, a spectator and values which inline to lives for ideal and spiritual, free from contradiction from time to time.[8] Within this context I will describe how women still practicing many forms of old value, in general term act for solidarity between women. And in this aura of global culture, could women still could preserve it, or how do they manage to react on what is coming into their life?

Women work is daily work, it part of their live as women, as mother, sister and human being. In maintaining culture, their activities are part of daily basis in preserving their family, their environment and their future generation. These were said and unsaid by women, but we could look right through their activities as it were something with meaning, a great meaning of as part Indonesian women identity and as Nation. Throughout women activities we could almost always seen solidarity as part of their action.

Indonesian women have different culture for each tribe, island and class background. And in its differences there are almost always have similarity. Within this paper I would like to describe a bit about the differences and similarity between women from random big island in Indonesia that could be in Sumatera, Java, Kalimantan, Sulawesi, Nusatenggara, Papua or Bali. Due to limited funding, and time for research, I will only make example from what I find through literature and my personal observation.

The women culture of daily activities which shown differences are in related

[8] al Sharqawi, Effat Filsafat Kebudayaan Islam, terj. A.Rofi Usmani Badung Pustaka (1986)

matrimony processes, production of food, financial owner and decision making within family. The similarities are their value for religiousity, position in traditional board (Lembaga Adat), solidarity and work together or *gotong royong*, respect with each other, and sharing culture. Those similarities are part of root as Indonesia Nation, as its states in State Ideology, Pancasila number one, two and five. And the differences itself had been acknowledge by State symbol slogan Bhineka Tunggal Ika (Diversity in Unity).

Gotong royong is usually shown in marriage ceremony, labour (gave birth), death commemoration, if neighbor of colleague friend hospitalize and traditional ritual in related to religious or ongoing tradition. Solidarity and respect are shown in almost activities of women. Most women who have to leave the house for work, she could ask her neighbor to look after her children. Respect each other as women regardless their differences of religious, ideology, work status, or even class as shown in women organization. These women's cultures are still persisted today, while the world has come to global culture. How women still maintain this culture, with this speedy of invasion of global culture, especially by television? Is it still existed as it was, or change or modified?

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Indonesian Women in International Marriage and the Citizenship Issues.

In principle, the Indonesian citizenship law recognizes a "one law in the family doctrine" which implies that only one nationality and one law are recognized in a family depending on the status of the family head, which is the man/husband. Women follow their husband's nationality in international marriages in Indonesia. Even though women still have the choice not to change their nationality, the "one law in the family" principle is reflected in the risk of losing their rights as a citizens, such as limited access to property, credits, and other resources, or worse, losing their nationality.

This injustice raises the unavoidable issue of dual citizenship (DC) as a strategy for protecting the rights of the offspring and Indonesian women in international marriages. DC for the offspring guarantees that both women and men can pass their nationality to their children, and DC for women helps protect women's rights in case they want to keep their own nationality along with the full access to their rights while being bestowed another nationality through marriage.

The dual citizenship issue has been avoided as part of the Indonesian citizenship law because it raised fears of ruining nationalism, and causing capital flight through loss of national resources. It also challenged state sovereignty because dual citizenship has far reaching legal implications as well. Consequently, the government of Indonesia insisted on keeping a single nationality approach to international marriages.

Due to resistance and suspicion from the legal decision makers, Indonesian women in mixed marriages have to be satisfied with limited DC for now. This stance has been taken by certain groups of women while an amendment to the citizenship law is being sought through extensive lobbying. Massive publications are also being made to raise people's consciousness about these problems, and to raise the people's support and reduce resistance from decision makers.

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The Implementation of Islamic Law in Aceh, Indonesia: Is Islam Law only for Women?

This article focuses on the application of Islamic law in Aceh, Indonesia, especially on women issues. In Aceh, we will see how the conflict between GAM and the Indonesian military (TNI) has resulted in serious impacts on the implemention of Islamic law. This essay will also examine the methods of struggling for the implementation of Islamic law in particular

societies, and to what extent various factors of the socio-political and economic changes in Indonesia are forging the ways in which Islamic law is expressed.

The study will analyze the dynamics of the implementation of Islamic law, its historical development, typologies of Islamic law, leaders' opinions regarding this issue—those who support it and those who oppose it, and the governments' responses. In addition, the study will observe the various historical, political, economic, and social factors—at both national and international levels—that have significantly contributed to the movement to implement Islamic law in Aceh. In these ways this article will provide empirically rich analyses of how Islamic law has raised issues in particular places at specific times. The other issues that will cover in this paper is the issue of women in Aceh, as seen part of Talibanization.

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The New Form of Oppression Within the Autonomy in Indonesia

The scheme of the local autonomy has been applied in Indonesia since 2001. Actually, local autonomy is not something newly introduced in Indonesia, but the representation of the local autonomy scheme in the era of the New Order experienced major distortions. It does make sense that when there turbulence in the politics and shifts of power happened, in which the peak was in 1998, the initiation to change the government structurally becomes the prime target of the pro-democracy groups. The spirit of the draft of the local autonomy scheme is to fulfill the demands of the civil society to revise the government structurally that focuses on the distribution of power to regional level, commonly known as decentralization. After five years of implementation, lots of criticism has been written, documented, and published by either academician or practitioners both from locals and foreigners. Among those critics, some exposes the occurance of "little kings" or "new kings" in the region. Escalating strength of primordialism rooted on narrow-minded understandings about ethnicity, religion, and also race is noted as the impacts of autonomy. The orientation of local governments to "take advantage" of the people through the mechanism of tax and retribution is critics occuring in nearly all provinces. If we compare to the past era-in which the experience of state oppression towards people is represented by the military, then in the era of the present local autonomy the state oppression upon the people is actually on the civillians that rule on behalf of religion and culture. Across Sumatra, for instance, we can see a manifestation of Local Government's oppression towards minority groups in the form of Regional level laws like the Islam Syari'ah , Prohibitation of Prostituion, Prevention of Infidelity, Cultural Law, and many other bills that intudes within the private lives of the people in the region. This paper is going to asses about escalation of strength of the civil groups of religion and culture, how the collaboration of these groups with the local political power is, to expose the new oppression towards people. Trend issues that are prioritized in filling autonomy doesn't actually touch the issues of Corruption, Collusion, and Nepotism that was the "blood" of reformation or the issue about the combat on poverty and marasmus kwashiorkor, but mainly local authorities focuses on issues of behaviors, ways of clothing, and about normative values. This new symptom is a new phenomena that is also interesting to discuss in this paper, because the new face of oppression and discrimination towards minority groups in the autonomy era apparently is not a common political problem, but a fundamental paranoia about minority groups, especially women, becoming stronger.

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Perempuan-perempuan Korban 65 tentang Kebenaran, Keadilan, dan Pemulihan

Istilah-istilah pengungkapan kebenaran, keadilan bagi korban, dan pemulihan semakin populer, terutama sejak terbitnya

UU No 26/2000 tentang Pengadilan HAM dan UU No. 27/2004 tentang KKR. Tapi apa substansi kebenaran? Apa batasan adil? Pemulihan seperti apa yang diinginkan? Diskusi tentang konsep-konsep tersebut selama ini selalu diserahkan pada para ahli. Dalam esai ini saya justru ingin mengajukan perspektif korban, yaitu perempuan korban Peristiwa 1965, tentang makna pengungkapan kebenaran, keadilan, dan pemulihan bagi mereka. Dalam seluruh perdebatan publik tentang penyelesaian kasus pelanggaran berat HAM di masa lalu ini, para perempuan korban adalah pihak yang suaranya paling tidak terdengar dan persoalannya paling terabaikan. Baik UU tentang Pengadilan HAM maupun UU tentang KKR tidak memuat aturan tentang penyelesaian kekerasan terhadap perempuan dalam yurisdiksinya. Tanggung jawab negara atas terjadinya pelanggaran berat HAM dalam Peristiwa 65 diharapkan dapat diselesaikan melalui KKR. Namun penanganan persoalan kekerasan terhadap perempuan dalam Peristiwa 65 melalui KKR akan sangat bergantung pada interpretasi para anggota komisi – yang sampai saat ini pembentukannya masih terhambat di kantor kepresidenan – terhadap UU yang menjadi mandat mereka. Dua hal penting yang harus diperhatikan oleh para anggota komisi dalam menyusun mekanisme kerja nantinya adalah pertama, fakta bahwa para perempuan korban 65 tersebar di berbagai daerah di Indonesia dengan konteks sosial-budaya serta pemahamannya tentang posisi dan peran perempuan yang berbeda-beda. Mekanisme pengungkapan kebenaran harus disesuaikan dengan konteks sosial-budaya ini jika ingin benar-benar menyentuh persoalan kekerasan yang dialami kaum perempuan. Kedua, fakta bahwa pola kekerasan terhadap perempuan, berbeda dengan pola kekerasan yang dialami oleh laki-laki korban, bukan hanya menyentuh ruang publik, tetapi terutama ruang privat/domestik.

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The Promotion LGBT Rights under Sexual Orientation Law: A Call for True Legal Pluralism

The primary challenge faced by Filipino lesbian and gay rights advocates in promoting Lesbian, Gay, Bisexual and Transgender (LGBT) rights is the fact that there are no specific laws which apply to LGBTs and which protect their interests. While there are existing laws in place, even Constitutional guarantees assured under the Bill of Rights, it must be understood that the LGBT Community is a marginalized and disadvantaged sector in need of special protection because there are nuances specific to their lives which must be properly appreciated. Just like women and children, it must be acknowledged that LGBTs have an added layer of vulnerability imposed upon them by strong religious and cultural beliefs. Homophobia and stereotyping have burdened LGBTs and rendered them incapable of invoking their basic human rights in many situations. As such the promotion of LGBT rights is a relevant subject for Legal Pluralism because the LGBT identity and the LGBT Community's unique concerns eventually have to be recognized in the Philippine legal system. The absence of particular laws which address LGBT issues is another aspect of the "invisibility" that the LGBT Community experiences.

This paper will discuss what Philippine law says about LGBTs and how they are treated under the law especially in the way they are portrayed as "predatory" sex offenders, but not as individuals especially "victimized" because of their sexual orientation. We will see how LGBTs are portrayed in a negative light through the language of court decisions and how their unique identities are not properly appreciated as part of their character evidence. We will see how the laws currently in place are not applicable to the intricacies of an LGBT's life, as in the case of change of name and gender in one's birth certificate. And more importantly, how same-sex partners are deprived of certain legal protections because most rights and privileges for couples are attached to their being able to marry legally. Factor into this the State's emphasis on marriage as primarily for serving a "procreative" purpose even if not

all couples are capable of or are willing to beget children. Furthermore, women get pregnant and children are born everyday without necessarily being in a "traditional" family environment. As such even the concept of the "family" continues to evolve, and lesbian or gay parenting has become a unique phenomenon that the law and the State's policies have failed to catch up with. In the meantime, many same-sex parents' rights and children's welfare are threatened for lack of legal basis.

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Shadow Preying on Shadows : LGBTs in Philippine Criminal Law

This paper situates the Philippines in the current global trend of legislative and judicial decriminalization of consensual same sex acts.

It traces the evolution of sodomy law and attendant homophobia in the Philippines from the Spanish time up the present, noting the factors and institutions that paved the way to its decriminalization in the Philippines more than a century before the onset of the current trend.

It argues that the elimination of sodomy from the penal code without the corresponding eradication of homophobia propagated by anti same sex teachings of the church and prevailing macho culture in Philippine society, blocked a legal outlet for this prejudice, an outlet that despite its horrors, would have provided a visible, unmistakable sign of state-sanctioned homophobia.

It argues that the resulting undergrounding of homophobia in criminal law transformed it into a shadowy force that seizes penal provisions, otherwise neutral in character sexual orientation wise, to oppress LGBTs. It could lurk behind such crimes as vagrancy, kidnapping, lewd shows, even robbery.

The societal stigma attached to being identified an LGBT, a fact that may be insignificant criminally but a damning one socially, led those who find themselves in the tight grip of the law to find extralegal means to extricate themselves from its clutches without leaving any record whenever possible.

The paper ends by raising several questions and providing recommendations. From our experience in criminal law, we ask and try to answer: How do we put a stop to this invisibility of homophobia in our criminal justice system? Is the state-centered campaign against homophobia a sufficient model for fighting homophobia in the Philippines? What instruments and mechanisms can effectively reach the institutions that serve as breeding ground for homophobia in the Philippines?

102. Zainah Anwar

Women and Islam

How Islamic fundamentalism has led to erosion of legal status of Muslim women through amendments and fatwas, this within context of legal pluralism where Constitution recognises equality and non-discrimination on basis of gender, and yet Muslim women are discriminated against. AT the same time, discriminatory laws on marriage and divorce, guardianship, inheritance for non Muslims ahve all been amended to recognise equality. and then raise some issues on implications of legal pluralism to gender justice where religion, in this case, is used to justify discrimination and exclusion from constitutional fundamental guarantees of equality. propose some strategies and needed work on how to deal with this.

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Imagining a Fair Trial: Feminist Legal Spaces as a Strategy In Deconstructing the Dominant Legal System in Semarang

In this paper law is considered – differently from the dominant idea which considered law as a norm to regulate the way the legal subjects should act and relate to each other and which considered law certainty will only be guaranteed by the law upholders (police, prosecutor and judge) – as one of the epistemes among morality, religion, culture, natural science, social science, etc. As an episteme, law does not only define the right and wrong of our acts, thoughts and feelings, moreover it also competes with morality, religion, culture, natural science, social science, etc in defining the human behaviors, thoughts and feelings. For instance in a matter of age there has been a difference argument between law and psychology, law and religion or even among some regulations in a country about when men and women can be considered as adults. In this situation usually the law upholders will not be able to make their argumentations based on certain legal methods, on the contrary they mix law and non-law argumentations. What so importance is to make the legal decisions reasonable or fit with common-sense. Based on the argumentation of law as an episteme this paper will examine the way the feminist legal spaces (legal aids for women and the Special desk for women in police stations) constructing *the so called* feminist identity for the lawyer, the police women working in the special desk and the women survivors of the gender based violence. This identity will become a special political identity and a bargaining power for them to deconstruct the patriarchy legal system (the laws and the court system). In other way of saying, by having the so called feminist identity they will able to imagine how to push a fair trial.

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The Enigma of Indonesian National Law of Inheritance: The Case of the Supreme Court's Decisions on Gender-Neutral Inheritance

It may not be an exaggeration to say that the law of inheritance is one of the most neglected domains in the Indonesian government's campaign for legal nationalization. Such negligence is in keeping with the state's attitude towards non-state normative orderings, which is itself a product not only of the national legal ideology enshrined in the constitution that favors unification and uniformity, but also with the fact that the state is at a loss as to how to deal with the variety of inheritance traditions existing in the society. The question is thus not simply which law should be used as the main building block of the national inheritance law (whether Islamic, adat or even the Western civil law traditions) but more how to unify the practices currently followed.

Gender-neutral inheritance is one of the most complicated problems faced by the state in the issue of varied inheritance practices. This is because not all existing legal traditions in the country have the same viewpoint with respect to gender equality among the recipients of inheritance. In this respect, the concept of gendered justice, regarded as characteristic of the national legal system, has been challenged by certain traditions of inheritance that view difference in gender as a criterion for receiving the estate. Islamic inheritance law is the case that concerns us most here, especially as the tradition embodied in this religious law makes clear distinctions on the basis of sex. In the process of dividing the estate, the genders of the heirs become one of the most important factors in deciding whether and to what extent someone will receive a portion of an estate. This is of course in stark opposition with the traditions of civil law or adat law which generally disregards the sexual differences of the parties in allotting shares to the estate. It departs from that perplexity that the paper will focus on.

The discussion will be devoted mainly to analyze the state's behavior towards different idea of gender justice reflected in Islamic inheritance law in Indonesia. Two decisions of the Supreme Court in 1995 on the cases of Islamic inheritance touching the issue of gender-neutrality in dividing the estate will be used as the main data to analyze the current picture of the phenomenon in the country.

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Law's Perception of Sexuality: Morality vs. Objectivity

The state is seen to be the most objective and neutral agency of any society. The understanding from a functionalist perspective is that the state will take into consideration the shared value consensus of the society and that will find its reflection in the kind of laws that it will make. However, any conflict perspective will question this fundamental principle of functionalism that there can be shared moral principles in a diverse society. Feminist explanations of law would definitely fall within the conflict approach where they would be critical about the gendered nature of the law. Feminists have for long being problematizing the concept of morality, saying that it would have implicit and explicit power dynamics, which the law would apparently seem to be balancing or overlooking in the process supporting the 'patriarchal' moral fabric. Feminists would use various examples to prove how law itself is patriarchal inspite of 'posing' to be granting justice to every gender.

The objective of this paper is to focus on one of the many issues that feminists raise while questioning the 'neutrality' of the Indian state—women's sexuality. Feminists are critical about law's position vis-à-vis sexual assault, working conditions for women, political representation of women or substantive equality provisions for women. Sexuality is an extremely contested terrain among all of these—an issue that is very less spoken about because it is considered to be a 'private' or a 'personal' matter. As a social reality, sexuality is judged from moral standards both by members of the society and also by the 'objective' lawmakers. The following are the issues that this paper will address and analyze:

- Social Reform legislations for 'good women' targeting child marriage and widow remarriage during the colonial period
- Legislations that criminalize 'bad prostitutes' in colonial times and prostitution laws in independent India
- Criminalization of homosexual behaviour—considered a 'deviant' sexual pattern

The main research questions that this paper would answer through an analysis of these issues are the following:

- Why does State make this distinction between 'good' women and 'bad'/ 'deviant' women?
- How can state guarantee gender justice if it takes a dual stand with respect to two categories of women, thinking that there is a cultural plurality vis-à-vis 'good' and 'bad' woman?
- Has the Indian State's perspective towards controlling women's sexuality remained the same since colonial times or has it now undergone a transformation? If so, in what direction?
- How would feminist theories explain this apparent act of 'neutrality' by the state?

The methodology for the paper would be to make content analysis of the statutes and the provisions in the different laws and judgments from a feminist jurisprudential perspective. This paper does not take into consideration the different religious communities in India and how women in these communities are discriminated—which is a more direct reference to pluralism, rather takes an overarching issue of sexuality which cuts across religious communities and just makes a plurality between two types of women—'good' and 'bad', pursuing two 'distinct' kinds of sexual patterns—one approved by the society and the state and the other abhorred by the society and disapproved by the state. The conclusion to be arrived

through these evidences would be that the duality between morality and objectivity has a strong presence with respect to the question of women's sexuality in India. What suffers is the state's attempt to secure justice to women.

106. Andi Yentriyani and Ismail Hussaimi

Happening Art

This happening art contents are dance, music, slides, and poem. It has been arranged based on the bus station community activities.

A bus station has been choose because we can observe so many people with so many characters there. Urban women and men, informal workers, old people, law enforcers. They are coming from different ethnic groups (Balinese, Javanese, Bataknese, Chinnese), different social economic classes (urban women and the chaveur). Also we can find so many rules have been arranged by those people , in order to maintain their live.

If you once try to use a public vehicle (either bus or smaller vehicle- in Jakarta well known as angkot or mikrolet) you'll realize so many things, as to be described with the poem:

"Riding the public vehicle
Seems like a description of our life
Sometimes we meet and get along
With other people who are perfectly different from us
Thoughts, ways, races, gender, and languages.

Riding the public vehicle
Remind us about our destiny
Remind us that's life is not just black and white
But full of colours
That's make us rich inside

Riding the public vehicle
Make us realize
Though there are so many people and things
that we've meet in our way

All of us will going to the one final place

But do you know,
Not all people accept and love their differencies?"[9]

[9] From : The Text of Happening Art for International Conference of Legal Pluralism, by Nurtjahyo, 2006.

Our Smiles for You

We also share our smile to you

Rajendra Pradhan (Panel Organizer)

Friends from AILP (right to left: Augusto Gatmaytan, Yonariza, Myrthena Fianza, Sulistyowati Irianto – chairperson of the Local Committee- and Sandra Moniaga)

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Anne Griffiths (Panel Organizer and The Chairperson of The Commission)

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