

Franz von Benda-Beckmann. Property in Social Continuity: Continuity and Change in the Maintenance of Property Relationships Through Time in Minangkabau, West Sumatra. The Hague: Martinus Nijhoff, 1979.

SALLY FALK MOORE

This anthropological-legal study of property relationships in Minangkabau, West Sumatra confronts the reader with all of the complex questions that must be faced in analysing the modern use of "customary" law concepts. And it does so in a setting in which officially three legal "systems" are operative simultaneously: local custom (adat), Islamic law, and modern legislation. Perhaps even more pertinent, the setting is one marked by a series of drastic economic and political changes which have taken place over the past two centuries. In such circumstances a historical approach to "customary" law is essential. This book is an attempt to address simultaneously questions about pluralism, about history, and about the content of a durable set of legal ideas. The theoretical core of Franz von Benda-Beckmann's argument is that although adat pusako (the customary law principally pertaining to land held inalienably by matrilineal groups) constitutes "a system of objectified conceptions" in terms of which property claims are generally justified in Minangkabau, that system of conceptions does not in fact dictate with any precision what takes place at the level of action.

The anthropologist must take a step back, and look at both the actual behavior of society's members and the system of objectified conceptions. He must try to assess how the system of conceptions influences human activity and how human activity influences the conceptual system through historical time. (385)

Von Benda-Beckmann's interest is in to what extent, given the "customary" set of ideas about who ought to inherit, Minangkabau people actually go about determining autonomously what will become of their property after they die. He describes the strategies they use to accomplish this and how law in action has changed the content of law as conceived.

At one time the "classical" conflict in Minangkabau inheritance was between a man's children and his matrilineal relatives over his self-acquired property. Von Benda-Beckmann cites much verbal evidence and some statistical tables to show the gradual historical trend toward inheritance by children, rather than by matrilineal kin of the father (279-280). Disputes over this issue seem to have diminished concurrently. "In contemporary Minangkabau these cases more or less belong to the past as it is now generally accepted that harato pancaharian (self-acquired properties) are inherited by the children" (265). But there are exceptions, and complications. To

avoid these and assure his children of their inheritance one administrative official not only registered certain of his lands as self-acquired property under the Basic Agrarian Law of 1960, but in 1970 also took the precaution of having his matrilineal descent group sign his will, to show that they assented to its terms, which specified that his children would inherit most of his property (272-273). Von Benda-Beckmann tells the reader much about the technical form in which many of the legal questions involved are addressed by Minangkabau people when they quarrel about "the legal status of property objects." Where a court is involved it tries to determine whether the fields are inherited property, self-acquired property, pawned or redeemed fields, or bought fields, or consist of some other type of property to which other rules apply. Consequently, involved land plot histories are reviewed in each dispute. Von Benda-Beckmann describes some of these and the legal implications of the arrangements made.

The Minangkabau population made very little use of the option officially available to them in the colonial period to convert land held under adat rights into land held under Dutch civil code rights, nor have many converted adat land into "ownership" (hak milik) under the more recent Basic Agrarian Law of 1960 (281). But plainly that does not mean that land is not being converted from one category to the other through the adjustments available within the concepts of the adat system itself (283). And it is essentially that intricate process by which land is removed from matrilineage control that von Benda-Beckmann's book valiantly struggles to describe. He explains that "It is rather difficult to give a concise description of the legal status of the land" in a village because while almost all land is technically the property of matrilineal descent groups (harato pusako), it can at the same time be used and inherited as if it were self-acquired property (harato pancaharian) "and can be recon-verted into proper harato pusako at the next moment" (283). "Once land has been pawned, the use-rights are quite mobile and can be transferred again without paying regard to the adat restrictions on pawning" (*ibid.*). Thus it is through the mechanism of pawning that land-use is transferred from one matrilineal descent group to another and from one legal category to another. What proportion of land changes hands in this way in Minangkabau as a whole is not known. Von Benda-Beckmann's material only illustrates the varied legal status of the fields in a part of one village. But by means of it, he has demonstrated in detail that the elaborations surrounding pawning are currently a critical issue in the historical/legal study of the area.

As in many other parts of the world the increasing commitment to a money economy in Minangkabau is interlocked with the increasing individualization of landholding. But the legal form in which this is accomplished is culture-specific. In Minangkabau the device is the pawning of land. In the absence of statistical data which he was not able to collect, von Benda-Beckmann relies on describing the trends. In former times, he says, the initiative for pawning

came from poor matrilineal groups (kaum) which needed money, but which were not short of land. The population increased. Poor groups now need both land and money. "This situation has led to an increase of transactions which probably were unknown or extremely rare in former Minangkabau: the poor give their land to the rich in exchange for money, and the rich give the land back to the poor on the basis of a sharecropping agreement" (291). This "opens the way for the systematic exploitation of the poor by the rich, weakening the social and kinship relationships on which most transactions over harato pusako are still based" (291). This circumstance deserves to have been given a more central place in von Benda-Beckmann's argument. It is presented clearly, but is not the focus of von Benda-Beckmann's discussion. That is because it is von Benda-Beckmann's conviction that despite the economic trends outlined above, and the present accelerated speed at which land is rotated in pawnings and redemptions, the whole complex nevertheless reinforces the system of adat pusako because the rules governing property holding by matrilineal groups are "constantly restated and applied in these cases" (292). But von Benda-Beckmann makes it clear that the adat "system of objectified conceptions" is only part of the picture. For example, in disputes a forum must be chosen to validate the status of the disputant in relation to the property. Von Benda-Beckmann tells us that there are so many diverse agents of validation that "the contending parties often have different situation-images of transferred property relationships validated by different agents" (308). "Cases tumble from one temporary settlement to the next temporary settlement" (loc. cit.)

Property in Social Continuity includes a reconstruction of the way in which adat conceptions related to property and inheritance law were produced and have changed over time. While the book enumerates many concrete factors relating to change, it does not attempt any coherent causal analysis. As his title suggests von Benda-Beckmann's principal argument is that "most of the changes which have occurred during the last 150 years could in fact be absorbed by the traditional social system" (376). His general focus is on the persistence of matriliney and associated ideas as demonstrated in laws of property and inheritance. Rather than concentrating on change, it is the persistence problem that seems to interest him most. The permutations and transformations of actual practice are for him an illustration of the accommodations and adaptations possible within the framework of adat concepts.

As a discussion of Minangkabau concepts of social organization and property this book is a significant contribution to the field of legal anthropology. That said, perhaps it is asking too much to require also that it be equally strong on the economic and political transformations with which property concepts are inevitably intertwined. That it does not accomplish. Allusions are made to those dimensions but they are much more brief and compressed than the discussion of concepts. The book is preoccupied with the legal arguments made in various dispute histories to the cost of any full description of the way of life of the persons making the arguments.

The concern with formal analysis of doctrine is partly dictated by the material, which is complex, and which von Benda-Beckmann clarifies admirably. But it is the very clarity of his approach to the legal ideas that makes the reader want to know still more about the setting in which they are imbedded. The book is somewhat repetitive and here and there rather over-labored on some theoretical points. But the effort of learning the Indonesian terms and ploughing through some of the repetitions is rewarding. There is important material here.