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Notes on

SOME ASPECTS OF LAND TENURE IN INDONESIA

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NOTES ON SOME ASPECTS OF LAND TENURE IN INDONESIA

An Example in Java

by

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1. INTRODUCTION

In the last two years, cases of land disputes in Indonesia have been widely reported and become a national concern. Despite the existing Agrarian Law of 1960 known as UUPA (Undang-Undang Pokok Agraria or Basic Agrarian Law), these disputes reflect the difficulties of the implementation of the law which is partly due, probably, to the troubled political history of 1965. Though it is officially claimed that the law is still valid, but it is a public secret that for more than ten years its implementation was practically suspended. And though the disputes can be solved case by case but the fact itself that disputes emerge, has been enough to warn the government to pay much more attention to the problems of land, than before. To help the government in coping with this problem, information on the patterns of land tenure in rural areas (and the problems related to it at micro level) is necessary. For this purpose, beginning in the late 1978, the Rural Dynamics Study (RDS) unit of the Agro Economic Survey (AES) has started to conduct research with special focus on landtenure.

However, research on land tenure especially in Java, is not an easy task because of the fact that villages in Java are so diverse and because of the complexity which characterizes the image of land tenure relations in Java. Conventional sample surveys or censuses are often unable to give reliable data on distribution of land ownership and other aspects of landtenure. These methods, therefore, should be

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combined with case-studies at micro-level, participant observation, and free discussions with key-informants. And as far as it allows it will be useful to compare contemporary data with historical data.

In October 1978, the RDS initiated land tenure research with a special focus on the problems of large land ownership and the remnants of landreform problems. Applying participant observation approach, the RDS team had stayed in each of the six sample villages in the Cimanuk River Basin, West Java for one month. The following year, in the late 1979, the RDS, in cooperation with Dr. Masao Kikuchi from Japan conducted a research training workshop on land tenure and agrarian relations, in which all participants who came from various research institutions and regional universities had participated in the fieldwork. Using pre-designed questionnaires, the team had stayed in the chosen villages (4 villages in West Java) for 22 days. It was a full-enumeration survey in which all households of a sample hamlet or kampung in each village were interviewed.

This paper is a mere notes on only some of the findings of these two types of fieldworks (one more qualitative, the other more quantitative), and therefore its main contribution in this workshop is, probably, just to stimulate discussion.

2. CHARACTERISTICS OF TENURE RELATIONS

In Indonesia, land tenure relations have certain characteristics which affect the behaviour and action of rural people and the solution of problems concerning land. These are, (1) the relation of man and land has a religious-magical nature, (2) the existence of various kind of statuses in land rights, legally as well as customary, (3) land transaction (especially in sale) are regulated, and (4) it is recognized that land has a social function. 1/

1/ Boedi Harsono: Agrarian Problems and Indonesian Land Reform, individual lecture notes, 1959.

It is often described that the relation of man and land is so strong as though that the land is the supreme source of farmers' life. In one of land disputes in Sumatra, a farmer said: "The point is, this land is mine. However high the price you will pay, I don't want to let it be lost." For rural people land is regarded as "to be or not to be." as a Javanese proverb said: "sedumuk batuk senyari bumi, ditohi pecahing dodo lan wutahing ludiro", which, translated freely, means that however small the size of land one owns, he will defend it to the last drop of his blood. The festivities (slametan) which are conducted during the transplanting seasons and during the harvest seasons (still common in many places in Java), the worship of rice-Goddes "Dewi Sri", the choice of special day for transplanting, all these are some manifestations of the religious-magical nature of man-land relationship.

However, the author tends to share with the opinion that the problems of land tenure is related more to socio-economic-political interrelationship between men rather than to a mere man-land relationship. This can be shown by a simple description, for example, that when a farmer control a piece of land, it will imply that other men cannot control this very land, or they can but with certain conditions, such as crop-sharing. By this way, land tenure relations directly involve a network of interrelationships which is closely linked with distribution of wealth, distribution of income, economic opportunities and political power structure, especially in Java where land as production factor is very limited. It is therefore not surprising when some people said that research on land tenure in Indonesia is not an easy task.

Western concepts of land rights were not known until 1870 when the Dutch colonial government enacted the Agrarian Law. Even then, though such modern terms like "individual possession" and "communal possession" are used, but in actuality, various forms of traditional rights over land were still practiced in various regions under various classifications of land such as arable land, farmyards, waste land. Even today, after

20 years of the existence of national Agrarian Law of 1960 (which aimed at unifying legal statuses of land rights), the usage of various forms of traditional rights over land are still common.

To mention only some of these various form of traditional land rights, the following may serve as examples[2/] :

a) Tanah yasan, yasa, or yoso refers to land which is obtained by the efforts of individuals who clear new lands or bring waste lands under cultivation. In other words, the right of someone over the land derives from the fact that he or his ancesters cleared this very land. This right gets its legal status as "individual possession" or tanah milik in the Agrarian Law of 1960.

b) Tanah Norowito refers to arable lands, of which a villager gets a share for his use. This term is a local term. Different regions may have different terms for the same status. In the Western concept this may be included into the category of communal ownership.

c) Tanah Titisara or the "treasure land" refers to land which is owned by the village and sharecropped by the landless labourers who usually received half of what is produced. The village income from this land is used by the village for various expenditures like serving guests, repairing roads, bulding bridges, repairing the village mosque, etc.

d) Tanah Bengkok or Salary land refers to land provided for, or assigned to village officials (especially the Headman) who have the right to cultivate it in payment for their services during the incumbency of their position.

2/ See also, Gunawan Wiradi; Rural Development and Rural Institution, A Study of Institutional Changes in West Java, RDS Series no. 6, Bogor, 1978.

By tradition, land transaction in Indonesia, especially in Java, is regulated in the sense that any sale of land should be witnessed by the chief of the community (customary) and (not or) by the Subdistrict Head (officially). And then it should be legitimized by notarial certificate.

The fourth characteristic of land tenure relation is the recognition, socially and officially, that land has a social function. This recognition is stated explicitly in the Agrarian Law. By this way the concept of absolute ownership (or as the Western concept of "property") is not known and not recognized.

In the Western concept the last three types of ownership mentioned above (b, c and d) may be included into the category of communal possession. After the enactment of the Agrarian Law of 1960, while the tanah Norowito is converted into individual possession (allotted to those who actually tilled the land), the tanah titisara and tanah bengkok are still recognized.

However, not all desa in Java have salary land. From the RDS village census which was conducted in 1975 covering 795 villages within the Cimanuk River Basin, West Java (covering five kabupaten or Regencies of Cirebon, Indramayu, Majalengka, Sumedang and Garut), the data show that the percentage of villages which have salary land in the lowland region (the first three kabupaten mentioned above) is much higher than that in the upland region (Table-1)

Table-1 : Percentage of Villages with and without Salary Lands (sawah only) in 5 Kabupaten of the Cimanuk River Basin, West Java 1975.

	Percentage Distribution of Villages in 5 kabupaten					Total Cimanuk
	Cirebon (%)	Indramayu (%)	Majalengka (%)	Sumedang (%)	Garut (%)	
With bengkok	99	92	98	58	72	89
No bengkok	1	8	2	42	28	11
Total (%)	100	100	100	100	100	100
Total Village (=N)	161	167	257	92	104	783
No data	–	2	1	2	7	12

Source: Village Census, RDS-AES, 1975.

The presence of tanah bengkok reflects one of the major differences in the basic form of land tenure between the lowland and the upland region i.e., one is more "communal" rather than "individual" nature of land-rights than the other. When we compare these two regions in the late 19th century, this difference is already visible, as the following tables show . During the colonial period the three kabupaten of Cirebon, Indramayu and Majalengka belonged administratively to one residency of Cirebon, whereas Sumedang and Garut were part of "Priangan-regencies".

Table-2 : Distribution of Salary Land (sawah bengkok) Among Villages in Priangan, Cirebon and All Java (1868/1869).

	Distribution of Villages		
	Residency of Cirebon (%)	Priangan Regencies (%)	All Java (%)
With Salary Land	92	7	65
No Salary Land	8	93	35
Total (%)	100	100	100
Nb of desa	53	105	808

Source: Eindresume I, as adapted by Kano 1977:23.

Table-3 : Percentage of Villages by Forms of Land-rights in Priangan, Cirebon and All Java (1868/1869)

Forms of Land-rights of sawah	Distribution of Villages		
	Residency of Cirebon (%)	Priangan Regencies (%)	All Java (%)
1. "Heritable Individual Possession"	34	96	56
2. "Communal Possession"	92	-	59
3. Both forms Co-existing	26	-	22
Number of desa surveyed	53	105	808

Source: Eindresume I, as adapted by Kano 1977:11.

The figures for all Java in the two tables above show that land-rights in Cirebon had an unusually "communal", and in Priangan an unusually "individual" character compared to the island as a whole. When we compare these historical data with the contemporary data (Tabel-1), during 1868 and 1975 there was a change in the proportion of villages in the Cimanuk River Basin which have tanah bengkok. In Priangan regencies (upland regions) today, apparently the presence of bengkok is more common than before. However, in the villages of Sumedang and Garut (the former Priangan regencies) which now have bengkok, the proportion of sawah (from total sawah) alloted to bengkok is still relatively small, (less than 10% of total sawah), whereas in Cirebon, there is still 49% of the villages where tanah bengkok constitute 20% or more of the total sawah in the village.[3/] This means that in Cirebon, a region more densely populated than the other, the proportion of sawah available for individual possession of the people is becoming more limited.

3. DISTRIBUTION OF INDIVIDUAL LAND OWNERSHIP

One of the most important features of the basic agrarian structure in Java is that in this island farm sizes are very small[4/] with more or less 8,8 million small farmers and an average size of cultivation around 0.63 ha. The number of farmsizes of more than 2 ha is only about 4.7% and only 0.46% have the size of more than 5 ha.[5/]

3/ See Benjamin White and Gunawan Wiradi, "Patterns of Land Tenure in the Cimanuk River Basin: Some Preliminary Notes", Paper no. 11, Workshop on Rural Socio-Economic History, Cipayung, Bogor, 1979. p.23.

4/ Rudolf S. Sinaga and Benjamin White, in their paper: "Beberapa Aspek Kelembagaan Di Pedesaan Jawa Dalam Hubungannya Dengan Kemiskinan Struktural (Some Institutional Aspects in Rural Java in Relation to Structural Poverty), 1979, identified seven basic characteristics of agrarian structure in Java.

5/ Calculated from Agricultural Census data 1973, CBS; see also Sinaga and White, Ibid.

In using Agricultural Census data, however, one should treat it with caution because the Agricultural Census of 1973 excluded farms of less than 0.05 ha (sawah), 0.1 ha (unirrigated) or 0.075 ha (mixed sawah/unirrigated). And in the Agricultural census of 1963, all farms of less than 0.1 ha were excluded. By this way, unfortunately, the number of landless group is not known. The 1963 and 1973 Agricultural censuses do not record patterns of land ownership or levels of landlessness. They record only farm size. The problem is that data on the distribution of farm-sizes do not necessarily imply any particular distribution of ownership.6/

Thus, so far, large-scale data on the size distribution of land ownership is not available. To make an estimate derived from the two censusses, with the danger of having the problem just mentioned, will result in a doubtful picture.

Information on patterns of land ownership and landlessness is very important especially in relation to the firm will of the government to reactivate the implementation of the UUPA. Twenty-years after the enactment of this law, the question of how far the equality in landownership can be achieved is still difficult to be answered. Data from the six villages studied by RDS show , however, that the size distribution of landownership is very unequal and the number of landless is very high (In each of these six villages, the Gini coefficient is above 0.5 - Table-4). By further comparing the Gini coefficients of the distribution of landownership and of the distribution of income, there is apparently an indication that the more unequal distribution of landownership the more unequal also the distribution of income.

We can also see in Table-4 that the distribution of operated land or farm (tanah garapan) is relatively less unequal than the distribution of land ownership. But this is natural because those who are landless may operate certain farm by sharecropping or renting-in.

6/ See Benjamin White, "Political Aspects of Poverty, Income Distribution and Their Measurements: Some Examples From Rural Java", RDS Series no. 5, Bogor, 1978. The author of this series interestingly demonstrated that though during the 10 year period (1963-1973) the total number of "farms" in Java as thus defined (by the two censuses) increased by 4.2%, but the size distribution of these farms suggests no change at all during that period. This is suggesting a substantial increase in the number of landless or near-landless households.

Table-4 : The Gini Coefficients of Distribution of Land ownership and of Distribution of Income, in Six Villages in Java, 1979.

Desa	Kabupaten	Sawah		Income
		Owned Land	Operated-farm	
1. Sukaambit[a)]	Sumedang, W-Java	0.57	0.55	0.41
2. Cidahu[c)]	Subang, W-Java	0.58	0.54	0.52
3. Jati[a)]	Cianjur, W-Java	0.70	0.53	0.49
4. Gemarang[b)]	Ngawi, E-Java	0.76	0.79*)	0.48
5. Sukosari[b)]	Jember, E-Java	0.76	0.78*)	0.59
6. Wargabinangun	Cirebon, W-Java	0.91	0.74	0.59

Notes: a) These are the villages observed during the training Workhsop of Land Tenure and Agrarian Relation, in November-December 1979.

b) Sample-villages of East-Java branch of RDS.

c) This village was observed by Dr. Masao Kikuchi from Japan with the assistance of some staff of RDS, in 1978.

*) Figures for two seasons (one year); for the other villages, only for one season.

4. SOME CONSEQUENCES OF THE 1960 AGRARIAN REFORM REGULATIONS

Many observers have indicated in various areas of Java, land that was redistributed under the provisions of the UUPA 1960 was reclaimed by the original owners after 1965. We have been able to confirm this in one of the six sample villages. Before the UUPA 1960, 40 bahu (28 ha.) of the agricultural land in this village was owned by a single absentee owner. During the eraly 1960's about 5 bahu of this was redistributed among 10 formerly landless households.[7/] However, after 1965 it was reappropriated by the former owner without any compensation, and the local government was

7/ Other large landowners in the village mostly evaded the UUPA provisions by registering the land in the name of relatives.

powerless to intervene. According to our respondent (from among the 10 former recipients of the land concerned), the owner simply returned after 1965 and said "Tanah orang kok 'digunting', sekarang saya ambil kembali. Ini hak saya."[8/] The 10 recipients were unable to oppose his claim, since they had not completed procedures for formally registering the land in their own names, and they have returned to their former landless state. Besides these 10, there is in the village one other man who received ½ bahu of land from another landowner; this land was not reclaimed by the previous owner.

It is also interesting to find that the 1960 changes in the status of former communal land (tanah kesikepan, etc.) to simple ownership, have not always released its possessors from traditional obligations that went along with the status of sikep. In village W (Cirebon) for other privately owned land, its owners are still subject to higher suksara desa dues than the owners of tanah yasan, or the incumbents of tanah bengkok and tanah titisara (80 kg. paddy per bahu, compared to 50 kg.). They are also still subject to other communal obligation such as neighwatch duties and kerja bakti work; on the other hand, the rights that go along with possession of the land have not changed, except that the land may now be sold. A similar discrimination in dues and labour-obligations may be observed between the owners of former tanah cacah and tanah yasan in village G (Majalengka).

5. A PRELIMINARY STUDY OF "LARGE LANDOWNERSHIP"

The reliability of census and survey data on land-tenure is especially questionable in the case of large landholdings. During October-November 1978 therefore, the Rural Dynamics researchers attempted to gather information on large landholdings in the 6 sample villages, by asking several informants (in informal interviews) who were the "wealthiest" people in the village, how much land they owned, how they had acquired it etc. Some of the information collected in this way is

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8/ "Chopping up a person's land like that. Now I'll take it back. It's mine by right"

summarized in Table-5 below.

It is clear that an individual considered "wealthy" in the village context is not necessarily a large land-owner by normal standards. In village G (Majalengka) for example an owner of 2 ha. is considered "wealthy"; there are only four who reach that amount and the largest has only 5 ha. Not far away in village M, there are only three owners of more than 2 ha, but one of them has 90 ha.; this very large holding represents almost entirely "new" rather than inherited wealth, accumulated within the last 20 years and more rapidly in the last 10 years. Although this is the only case of very large landownership among residents of our sample villages, we also found that in village W (Cirebon) about 140 bahu (98 ha.) of sawah are controlled (through ownership or leasing) by a single absentee in a nearby village. In one of the villages bordering on village L (Indramayu) we learned of an individual who owns at least 60 ha. of sawah, scattered over several kecamatans (only a small part of it in L itself).

Information such as this (and more detailed material on the backgrounds of the larger landowners, their sources of wealth, the processes of accumulation of land, relatively with tenants/labourers and so on) is unlikely to emerge in formal surveys. Nor does it emerge automatically in informal conversation and interviews. The researcher must live for some time in the village community and establish friendships before the details begin to emerge and can be pieced together, checked against information from other informants etc. until a relatively reliable picture can be achieved. In these ways we also discover, for example, that statistics in desa offices are often mere formalities hoping to give a good 'image' to visitors and government officials. In village W for example, according to the village records the headman's bengkok land is 5 ha.; in fact the headman has allocated to himself 12 ha., and to cover the inconsistency in the records, has recorded the bengkok of the other village officials as much higher than the actual amounts. For example, the chief Police Official who actually obtains only 1 ha. is recorded as having 2.5 ha.

Table-5 : Landholding of the Wealthiest Residents in the 6 Sample Villages, Cimanuk River Basin, West Java 1978.

Village (Kabupaten)	Number of people considered "most wealthy"	Number owning more than 3 ha.	Area owned by the largest landowner (ha)	Range of holdings among them (ha)
W (Cirebon)	8	8	11	3 - 11
L (Indramayu)	10	8	6	2 - 6
G (Majalengka)	10	4	5	2 - 5
M (Majalengka)	6	3	90	2 - 90
S (Sumedang)	7	4	15	2 - 15
C (Garut)	8	8	5	3 - 5

Source: Rural Dynamics Study fieldnotes, October-November 1978.

6. SOME ASPECTS OF TENANCY RELATIONS

There are indications from extensive data that share-cropping arrangements (maro, mertelu) are tending to decline, while kedokan or ceblokan types of labour-relations (doing part of the cultivation work without pay, against a right to harvest with a fixed share) are tending to increase in frequency.[9/] The situation in our 6 sample villages is not so clear as this, as may be seen in Table-6 below.

In the two upland Priangan villages (S and C) Mortgage (gadai) is the commonest form of tenure; in the hinterland villages of the former Residency of Cirebon (G and M), rental seems more common; in the lowlands, sharecropping prevails in L (Indramayu) and rental in W (Cirebon). This last case is rather interesting. Sharecropping is also "common" there, but only in the dry season; the owners of relatively large amounts of sawah (or those who have accumulated sawah through

9/ Gunawan Wiradi (1978), op.cit.

rental) do not want to share-crop it out during the rainy season. On the other hand, the labourers whom they employ during the rainy-season are only willing to work for them if they are given sharecropping rights for the following dry season. To ensure a supply of labour for the rainy-season cultivation, the owners often have no choice but to agree to their demands. This is some indication that the bargaining position of labourers is relatively strong; in other words, at certain times of year the farmers have difficulty finding labour, rather than the labourers having difficulty finding work. Village W is indeed characterized by exaggerated peaks of labour-demand and equally marked periods when labour-demand is low, and in this respect contrasts strongly with the upland villages.[10/] It is in these villages (largely monoculture and with marked peaks and slacks of labour demand) that we find the greatest fluctuations in wage rates within a single season. At peak periods, wages are higher than in any of the other villages; but in other months they are the lowest of all. The system of dry-season sharecropping may thus be seen as the labourer's strategy to convert a temporarily strong position into a longer-term guarantee of some security, in the form of sharecropping rights.

Table-6 : Incidence of various forms of tenancy relations in the 6 RDS Sample Villages, 1978.

Village (Kabupaten)	Form of tenancy relation			
	Rental	Mortgage	Share cropping	Kedokan/ ceblokan
W (Cirebon)	Common	None	Dry season only	Rare/ declining
L (Indramayu)	Rare/ declining	Rare/ declining	Common	None
G (Majalengka)	Common	None	Rare/ declining	None
M (Majalengka)	Common[a)]	None	Rare/ declining	None
S (Sumedang)	Rare/	Common	Rare/ declining	Rare/ declining
C (Garut)	None	Common	Rare/ declining	None

Source: Rural Dynamics Study, field notes October-November 1978.

a) A form of rental similar to mortgage (common also in Central Java), in which the owner becomes a labourer or sharecropper on his own land.

10/ Makali, "Labour Relation System in Agriculture and Its Development in 1967-1978". Paper no. 17, Workshop on Rural Socio-Economic History, Cipayung, Bogor, 1979.

In village W (Cirebon) there is an impression that the practice of ceblokan (traditional agreement to exchange the performance of specified task in rice cultivation for a portion of the harvest) is generally rare or declining. However, a year later in 1979, when the RDS team did a fieldwork during the Research Training Workshop mentioned above using a full-enumeration approach of a sample-kampung of that village they found that during the 10-year period of 1968-1979 the percentage of households who practice ceblokan was increasing as Table-7 shows.

Table-7 : Percentage of Households By Various Harvesting methods and by Periods of Time, in Village W (Cirebon), West Java, 1968-1979.

Period of time	Normal harvest with bawon [a]			Ceblokan [b] (1/6) (%)	N=138 Total (%)
	POH (%)	OV (%)	LH (%)		
Before 1968	61	3	15	21	100
1968 - 1969	61	3	16	20	100
1970 - 1971	54	5	15	26	100
1972 - 1973	52	4	15	29	100
1974 - 1975	51	4	14	31	100
1976 - 1979	41	3	17	39	100

Note: a) POH = Purely Open Harvest
OV = Open only for harvesters within the Village
LH = Principally open, but with limited number of harvesters.

b) 1/6 = the amount of share for harvesters (bawon).
In this village ceblokan comprises unpaid works for transplanting (though in some cases also for hoeing and weeding).

Source: Gunawan Wiradi, et.al.: Aspek-Aspek Penguasaan Tanah dan Hubungan Agraris. Kasus satu Desa di Jawa Barat (Aspects of Land Tenure and Agrarian Relations. A case of one Village in West Java). A Preliminary Reports, 1979.

In April 1980, when the RDS team once again came to that village to check this contradiction, the key informants there explained that what they meant previously by "declining" is relative to what had happened before the new rice varieties were introduced. Thus they do not deny the possibility that the practice of ceblokan during 1968-1979 was increasing. However, according to them, during the last two seasons ceblokan was really decreasing due to the practice of simultaneous transplanting. In the fight against brown-rice hoppers (wereng) the government is compaigning the use of pest-resistent-high-yielding rice varieties and suggesting simultaneous transplanting method. Consequently, the harvesting period is much shorter than before. To seek first for harvest-share as earlier as possible any where available, is therefore much preferred by the harvesters than to harvest their ceblokan field which is their own right to harvest it anyway. On the contrary, the landowners do not like it, because by that way their own rice (in the ceblokan field) could be too late to harvest. As a result most landowners do not want to operate their land by ceblokan system, anymore.

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