COMMUNAL LAND TENURE IN NINETEENTH CENTURY JAVA

THE FORMATION OF WESTERN IMAGES OF THE EASTERN VILLAGE COMMUNITY

By

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A thesis submitted for the degree of Masters of Arts at the Australian National University.

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DECLARATION

Except where otherwise indicated
this thesis is my own work.

Taro GOH

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FOREWORD

Being a sub-thesis, the time allowed to produce the present thesis was limited to a year, though I went over the prescribe period by four months. Accordingly, the length of the thesis was limited to 25,000 words. The sixteen months I spent on this thesis included the time spent on writing numerous proposals in order to decide on exactly what I was to write on, and the time spent on learning, for me, a totally new language, Dutch, on my own (sixteen months ago all I knew of Dutch were the two words *bijdragen* and *mededelingen*). Thus, despite my running over the deadline by four months, I am in no position to pretend exhaustiveness in my coverage of the literature or my knowledge of Indonesian history. Though it may be noticed that references to some important works are missing, as long as they do not contain new materials that would topple my whole argument, I hope my oversight may be condoned on my being a layman in the field of history. Also, due to the large amount of reading I have done for this thesis, I have not been fully successful in incorporating many of them into the thesis due to lack of time.

Being well aware of my limited knowledge of the Dutch language, I have given the original Dutch text for all the quotations made from Dutch sources. And besides, I believe, the original texts, some of which may not be found to be easily accessible, would be of some interest to Indonesianists who are mostly capable of understanding the language. I have retained the old spelling used in the texts.

As for the Indonesian and Javanese spellings, I have used the new spelling except in original quotations, i.e. I have changed the old spelling to the new one in my translations. Though it is permissible to attach "s" to indicate plurality of Indonesian and Javanese words in Dutch, and to a certain extent in English, I have used Indonesian and Javanese words as singular and plural without any affixation as it is done in the respective languages.
It may well be that we belong to an age of criticism whose lack of primary philosophy reminds us at every moment of its reign and its fatality: an age of intelligence that keeps us irremediably at a distance from an original language... We are doomed historically to history, to the patient construction of discourses about discourses, and to the task of hearing what has already been said.

Michel FOUCAULT
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CHAPTER 1

INTRODUCTION

This thesis is meant to be an anthropological discourse upon the discourse concerning the so-called communal land ownership (tenure is a better word) in nineteenth century Java. Though some of my remarks made in this thesis may be interpreted as if I am attempting to come up with the actual situation, as far as land tenure is concerned, in nineteenth century Java, that is not where the real purport of the present thesis lies. It would be presumptuous of me to attempt such a thing, which properly belongs to the realm of historians, and besides I do not think that there is enough data from the middle of the last century and earlier to make any conclusive statements about land tenure in Java, especially as to whether there was a change from an individual system of tenure to communal tenure as is often claimed. In fact, when I started to work on this thesis, it was my intention to either prove or disprove whether there was actually a shift from individual to communal land tenure in nineteenth century Java. If the present thesis still gives the impression of being a history thesis, rather than an anthropology thesis, it is only so in the sense of being a historical analysis of the European image of Java, as expressed in the literature about communal land tenure in Java, but not in the sense of being a historical work about Java.

In the above-mentioned sense, this work is my attempt to follow in the footsteps of Foucault and to aim at presenting the "archaeology" of the Western knowledge of a non-Western country, though within a very modest scope, namely the Western knowledge about land tenure in Java with the focus upon that of the nineteenth and the early twentieth century, when much of the literature was written. In my stressing the cross-cultural aspect of this knowledge, the reason I regard the present thesis as an anthropology thesis should be apparent. Works by Asad (1973), Alatas (1977), and Said (1978) played an important role in steering my interest in this direction.
1.1 ANTHROPOLOGY AND HISTORIOGRAPHY

Since the early part of this century when functional anthropology held its sway, the anthropologists's interest in history has been fairly limited until recently with the important exception of Evans-Pritchard (1949). Evans-Pritchard expresses this situation as "the collapse of the bridge between the two disciplines (1961:12). The "anti-historical prejudice" (ibid. 1) on the part of anthropologists is often explained as their overreacting against the kind of history represented by the evolutionists and diffusionists. It is also suggested that the societies which anthropologists study are more often than not without any written history. As Evans-Pritchard anticipated in 1961, since then there have been both anthropologists approaching history and historians approaching anthropology.

The two trends in the anthropologist's approach to history can be aptly labelled by using Nadel's notions of "ideological history" and "objective history" (Nadel 1942:72). Those anthropologists who approach history "from the point of view of history as a record of events which have brought about social changes" (Evans-Pritchard 1961:19) are seeking historical facts which are in concordance with the criterion of objectivity required in Western historiography, thus the objective history. Those who approach history "from the point of view of history as a representation of . . . events in the thought of the present day" (loc. cit.) are not interested in the empirical facts but how the past is represented in the minds of people today, thus the ideological history.

On the other hand, there have been attempts on the part of historians to make use of anthropological data and methods. For instance, in the context of Indonesian historiography, Koentjaraningrat (1965:301) suggests that functional methods and the genealogical method as being useful to historiography. He also states that "anthropology can be most useful to Indonesian historiography by sketching in the social background of historical events," that is "to fill in the background" (ibid. 313-314). This assertion is based on the very detailed nature of ethnographical data compared to the kind of data usually available to historians (see Thomas 1963:12). Evans-Pritchard expresses this point nicely:
There is a big difference between reading about feudal institutions in capitularies and annals and living in the midst of something similar for a couple of years or more, between shall we say, reading about Louis IX in scanty texts and talking to him and observing his actions daily over many months. (1961:12-13)

Recently there have been new trends in historical anthropology which do not easily fit into the ideological and objective history scheme. For instance, Dening (1980), though coming from history, looks at the history of the Marquesas by applying anthropological perspectives. Sahlin (1981) tries to understand how the Hawaiians perceived a historical event, the visit by Captain Cook. His work concerns "a way of looking culturally at a certain history" (ibid. vii). He is not only interested to know "how events are ordered by culture" but also "how, in that process, the culture is reordered" (ibid. 8). Fox (1977) suggests to look not only at history of the people studied but also Western historical knowledge of these people as culturally and otherwise confined. In his words:

the historical documents are themselves an aspect of the problem to be studied. They present a picture of mutual social and economic stereotyping that has contributed to the conditions they are intended to describe. (stress mine; ibid. 54).

The present thesis is an attempt to take up this point. By applying anthropological perspectives to Western accounts of land tenure in Java, the present thesis attempts to delineate the contours of the discursive formation of Western knowledge about land tenure in the East, as most typically exemplified in the notion "communal land tenure."

1.2 THE STRUCTURE AND SCOPE OF THE THESIS

In Chapter 2, I review contemporary (i.e. post-1945) literature on communal land tenure in Java to point out their inadequacies in terms of clarity and coverage of details due to their lack of awareness of the historically imposed limited nature of the data they rely upon.

In Chapter 3, I summarise various accounts of communal land tenure from the nineteenth century and the early part of this century. I also attempt to relate these accounts to the wider debate on the village community and the origin of property.
In Chapter 4, I apply anthropological perspectives to these accounts. First, I point out that the concepts used were inadequate to describe a system of land tenure different from Western systems. Secondly, I apply the notion of "authoritative discourse" to these accounts to show the two perspectives—the court and village perspectives—that can be discerned in the accounts. Here I attempt to collate the apparently conflicting accounts: one claiming that land was owned by the sovereign and the other by the village community. I point out that the court perspective which focuses only on the authoritative discourse is inadequate for an understanding of the state of affairs in the villages. And thirdly, I discuss the limited nature of the village perspective, most typically that of Van Vollenhoven's school of adat-law. Though apparently focused on the village, this school's perception of the village was based on an European-based image and was thus deficient compared with the more detailed accounts offered today by anthropologists and historians.

In Chapter 5, I allude to the possibility of seeing the formation of Dutch knowledge about land tenure in Java in the wider context of Western knowledge about land tenure in the Eastern societies.

Because of the constraints imposed in terms of time and length, I have decided to concentrate in the present thesis only on cultivated fields, especially sawah (wet rice fields). Discussions about the political and economic background as reflected in the actual colonial policies are limited to a minimum so that I could deal with the images adequately. It should be remarked that any exact congruency between the actual policies and the images of Javanese society is not implied.
CHAPTER 2
THE REVIEW OF CONTEMPORARY VIEWS ON COMMUNAL LAND TENURE IN NINETEENTH CENTURY JAVA

2.1 GEERTZ (1963)

Since it is not my intention here to review the whole of Geertz's "Agricultural Involution", even if it is a notorious classic (see White 1983 for references to various reviews and critiques), I focus only upon its comments on land tenure. Thus, it suffices to say here, that the general direction taken in this book is to look at the changes in Javanese society under Dutch influence as a process of "involution", i.e. "the overdriving of an established form in such a way that it becomes rigid through an inward overelaboration of detail" (Geertz 1963:82).

While Geertz admits that the communal land tenure was strengthened under the Corporate Plantation System, he is of the opinion that communal land tenure was a traditional form of tenure, thus constituting another example of "shared poverty" in the "involution" process. Therefore, he states:


the so-called "communal ownership" systems under which the village as a corporate body exercises various kinds of residual rights of control over fields seem actually to have been strengthened, at least in relative terms, in the sugar-area villages. The need on the mill's side for a simple, flexible, and comprehensive land-owning unit within which cane cultivation could move freely from one block of terraces to the next, unobstructed by a cloud of separate, individualized land rights, and the need of the villagers' side for a reasonably equitable sharing throughout the community of the burdens imposed by the system as it so moved from field to field, made the collective apportionment procedures of traditional communal tenure functional to both parties. (ibid. 90-91)

This assertion, as far as I can tell from my reading of the book, seems to be based on the following statements of Van der Kolff:

... the development of the common land property of the
dessa community at the expense of individual possession, which process was attended by a splitting up of the ground in uniform petty allotments, as a base for a great number of minute holdings. As regards the conversion into communal property: if the indigo and sugar crops were to be a success they had to be grown in rotation on different sites, and since, from the point of view of supervision and irrigation, it was much easier to deal with compact blocks of land, it was to the advantage of the government to regulate matters with a powerful village council rather than with individual land owners.

This sub-division of the fields was carried to the utmost limits and was due partly to the reduction of the area of land available to the inhabitants and partly to the desire to divide the burdens attendant on the possession of ground among all the villagers, i.e. among those who did and those who did not possess ground. This brought with it the advantage for the government that it could increase the total quota while it lightened the burden of the land owners individually by making the landless proletariat partners in the communal fields. (Van der Kolff 1929:111 [partially quoted in Geertz 1963:91 note 13])

However, it seems to me, that Geertz's statement is too general and imprecise to give any detailed picture of the change which took place in land tenure. It is not clear what the difference was, if any, between the communal land tenure prior to and after the "involution" process. Also his suggestion that the strengthening of communal ownership took place under the Corporate Plantation System in the late nineteenth or early twentieth century seems to conflict with the more common opinion which relates it to the Cultivation System (Geertz 1963:90-91). The fact, however, that his emphasis is rather on the land-working side (i.e. labour relations and sharecropping) than on land ownership per se (i.e. proprietary control) must be appreciated (ibid. 97-98). Hence, though he takes notice of the utilization of the communal land tenure system by the Dutch, he does not really tackle the problem of communal land tenure.

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1 The involution process per se, however, is claimed to have gotten firmly under way during the Cultivation System period. See Geertz (1963:82; 1984:525 note 5).
2 See Chapter 3.
3 For a contrary interpretation of Geertz (1963), see Van Niel (1983b:10).
Van Niël is of the opinion that there were no real changes in terms of land holding under the Cultivation System. He maintains:

The Cultivation System certainly produced new pressures upon the villages of Pasuruan, but the villages' response to these pressures was a flexible adjustment just as responses to superior force and authority had traditionally always been made. (Van Niël 1969:271)

Though the difference between viewing a certain process as an imposed change or as a voluntary adjustment is so subtle that it is almost irrelevant to the facts in this case, how he describes the actual state of affairs is quite significant.

He characterises the village in the early nineteenth century as "still in transition from a community of mutual social relationships to one based on a territorial concept with designated and fixed land arrangements" (ibid. 268-269). Since "use of the land was neither clearly defined nor fixed in individual holdings" (ibid. 269), the alleged change from an individualistic system of tenure to communal holding was not possible. Hence he observes:

De Vries's major contention [(1931), based on the findings of the Eindresume and Fokkens (1901-02)] that the impact of the Cultivation System in Pasuruan destroyed the independent class of farmers by forcing communal landholding upon them presumes a more modern socio-economic development than is warranted by the facts. . . . This charge against the Cultivation System is one that is frequently made, but it is hardly borne out by the evidence either in Pasuruan or elsewhere in Java. (loc. cit.)

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4This subtlety emerges in the following statement:

"The frequently stated maxim of all European officers that there must be no interference in the internal land arrangements of the village was undoubtedly closely adhered to, but did not prevent the village from making adjustments on its own initiative, or at the 'suggestion' of higher authority." (Van Niël 1969:271)
This assertion runs counter to "the prevailing impression," which even Van Niel himself admits as "a point-of-view widely held and certainly supported by compelling evidence" (Van Niel 1982:1). Then how does he substantiate this claim and how does he depict the land holding system?

He relies on Domis's observation in 1831:

The inequity in land still exists although the increasing population in some places has caused the farmers to resort to setting aside several bouws for the newcomers. Each relinquishes a proportionate share of his possession which is then divided equally among the newcomers. (Letter dd.23 February 1831 quoted in Van Niel 1969:270)

By admitting the inequity in land holding, he rejects Geertz's presumption that "the Cultivation System . . . resulted in a social leveling through the encouragement of a pattern of communal holding" (ibid. 271). But the fact that farmers were requested to relinquish a part of their land to newcomers is a feature that would be sufficient, for many, to call it communal land ownership. This example reveals how the lack of a clear definition for the term "communal holding" results in a muddled argument.

Van Niel further argues that not only were individual ownership patterns not established but that "the village's landholdings were frequently reapportioned because of the work arrangements for higher authority (corvee)" (loc. cit.). He reports the relationship between corvee and landholding as the following:

An individual's obligation to perform corvee was based on

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5Van Niel himself once shared this impression. See Van Niel (1963:285-286), where he claims that:

"the Cultivation System altered the landholding pattern of Java. The government dealt with the village as a unit, both for the levying of taxes and for the recruitment of labor. Though individual landownership in the Western sense was not generally known in central and eastern Java, there had been a system of individual and familial dispositional rights over certain plots of ground. In many areas, the application of the Cultivation System rode roughshod over these rights and forced the population to accept a communalized system with periodic redivision of the land."

Also see Van Niel (1972:98-99).
the extent of his landholdings, but in Pasuruan it was not uncommon for a person's willingness to obligate himself to corvee to determine the amount and the quality of the land which he would hold for a given year. Thus the farmers frequently were divided into three classes based upon the extent to which they wished to be subject to call—the more work, the more land. These arrangements frequently led to an annual redistribution of the village's lands. (*loc. cit.*)

He also states in his later paper:

In the densely populated areas there was a trend toward co-opting more and more able-bodied people into the status of landholder which, just as in earlier times, was done by dividing up the existing lands and bringing newly opened lands into the communal pool after a few years. The reason for this was partly the need to get able cultivators on the land in order to pay the landrent and partly to have more persons to meet the corvee services which, although abolished by Raffles on paper, continued in practice without abatement. (Van Niel 1982:18-19)

Since the above description of land holding, which is precisely that which is commonly understood as communal land tenure, is regarded as corresponding to the traditional Javanese system, Van Niel seems to assert the exact opposite of those who relate such a system to Dutch influence, and specifically to the Cultivation System. This, however, is not necessarily the case. The apparent impression of opposition is the result of a very extensive view of tradition and a very limited perception of the Dutch influence on the side of van Niel. Everything prior to 1830, the year the Cultivation System was introduced, is considered traditional, for he does not see any significant Dutch influence, or the possibility of its effects remaining latent, until after 1830. Although he correctly pinpoints "the pressure of added labor and growing population" (Van Niel 1982:5) as the key factor for changes in land arrangements, the possibility that the so-called communal land tenure could be a fairly recent, rather than traditional, phenomenon cannot be dismissed on the basis of his arguments. As he himself admits, his arguments are "as conceptually heavy and as factually light as some of Van Vollenhoven's" (*loc. cit.*) , whom he criticizes extensively in his 1982 paper.
2.3 ONGHOKHAM (1975) AND (1979)

Ong portrays the situation concerning land in pre-colonial (i.e. the eighteenth century) Java, especially that of Madiun in West Java, from the perspective of two classes, namely the priyayi (the aristocratic elites who constituted the bureaucracy) and the sikep (land-holding) peasants.

He claims that because "[c]ontrol over people rather than over territory was the elite's concern", "the development of strong concepts of property rights over land among the priyayi" was "prevented" (Ong 1979:619).

From the viewpoint of the sikep, there were two kinds of sawah in Madiun, firstly, sawah asli or sawah pusaka which were individually owned by the first cultivators of the village (cakal-bakal) and their descendants (Ong 1975:167, 186), and secondly, sawah lanyah, which can be regarded as the traditional form of communal land. The sikep who held the sawah pusaka were the wealthy elite in the villages who could be compared to the yeomanry in Europe (Ong 1979:623). The richest among them sometime held more than 10 hectares of land (ibid. 622). They were able to increase their holding by clearing new lands (tanah yasa) with the aid of their numpangs (landless peasants dependent upon the sikep). The position of the sikep, however, was not so secure in relation to the state. This was the case for they were forced to part with their property when there was a need for more sikep who were responsible for tributes and corvee labour.

Whenever the state had extensive programs of palace, road, irrigation or other building plans the number of sikep had necessarily to be increased. When the king needed a new number of officials or had to grant livelihood to members of his family, new sikep peasants had to be created and this again usually meant at the cost of the old sikep peasant class. This dreaded process of having to part with their lands was called by the established sikep peasant panchasan (panchas= to cut off) meaning the cutting off of one's property. (ibid. 623)

The sikep also faced the danger of losing their land when the priyayi with whom they had a patron-client relationship was dismissed and replaced by a new priyayi who tried to put his own following on the lands of his predecessor (ibid. 624).

The communal land (tanah lanyah) was used either by the
cakal-bakal families in rotation (Ong 1975:170) or by the middle class peasants. Thus Ong suggests:

Next to the sikep the elite of the peasantry and the numpang, there was a middle group of peasants. Numpang peasants who got married and had served the sikep peasants of the village long enough were given a share in village (or communal) lands (lanyah-land). These shares in the village communal lands, the middle-peasants did probably not hold permanently but in rotation with other peasants in this middle group. The main function of the lanyah-land seemed to have been to hold the peasant labor within the village for community's purposes and for the sikep peasants as well. Land was still abundant and labor scarce in this pre-colonial period. Shares in the lanyah-land was [sic] an inducement for the labor force to stay within the village. (Ong 1979:621)

Ong claims that it was the combination of the traditional theory that the state is the superior proprietor (oppereigenaar) of all land and the Dutch need for more labour that gave rise to a new form of land tenure, which was called the communal ownership of land by the village. The Dutch imposed for the first time the hitherto unenforced, theoretical right of the Javanese kings to claim ownership of all land. Hence Ong describes this new phenomenon of the communalization of the formerly individually owned sawah pusaka as follows:

What in fact happened was that for the first time the state practiced in Madiun the theory that it was the owner of all the land. It did so by declaring all land as [sic] owned by the village, the lowest form of the state, or the state in miniature. Erroneously the Dutch and later scholars would call this the pattern of communal ownership of land by the village. (ibid. 631)

Ong also explains why the Javanese kings never implemented the theory that the state is the universal landlord:

[They] had never the power unlike the colonial government to impose fully its theoretical rights on the population with land still in abundance the peasantry could flee to uncultivated lands and escape from too strict royal demands. The factionalism so rife in dynastical politics enabled the peasant to switch his loyalties among the warring elite in order to get better terms from his overlord. The new boundaries of villages and plantations made this a harder thing to do during colonial times. (ibid. 632)

Further he says:

The new system of land ownership meanwhile had nothing to do
with communal property by the villagers . . . . Nor was it the same as the old lanyah (communal land) of the village held in rotation by former numpang peasants. (ibid. 631)

The Dutch also justified the large-scale recruitment of corvee labour of the Cultivation System by giving landless peasants a share in the newly established village land, thus abiding by the principle that tax was on the land and not on the individual. Thus:

With the land now declared owned by these villages and taxes or corvee labor imposed village wise [sic], this institution could expand the number of peasants with a share in the land according to the demands imposed by the culture system for labor. The older tradition of rotating landshares within the lanyah (old communal system) helped it. (loc. cit.)

2.4 BREMAN (1982), (1983a) AND (1983b)

Breman holds a view similar to that of Ong on the nature of the rural villages in nineteenth century Java. His article (1982) constitutes:

an attempt to question and revise the conceptualisation of village Java--especially prevalent in the colonial literature--which represents it as an endless number of homogeneous communities of cultivators, living closely and harmoniously together, with a high degree of institutional self-sufficiency. (Breman 1982:189)

He lays emphasis on the "internal differentiation" rather than on "homogeneity and static rigidity " as it is the case with "stereotyped conceptions concerning rural Java's past." Hence he states that at least one-third, possibly more than half, of the population was excluded from landownership and that they constituted the lowest stratum of wuwungang or penumpang, who were tied to the landowners in dependency relationships (Breman 1983a:9).

Thus he claims that "[n]ot until the early colonial state was established did the agrarian base take on a marked communal character" (Breman 1983a:7). As for the system of land tenure, he observes that:

the fields were for all practical purposes at the disposal of individual households and their use was based on principles of inheritance and of transferability. The fact that the first is lacking in several respects does not necessarily mean the overall presence of the second principle. As a reflection of the right to land that then existed 'communal ownership' was
little more than a euphemism: the negation, on quite reasonable grounds, of the existence of private property. (loc. cit.)

He then goes on to explicate the process of communalisation of the fields about 1830 when the Cultivation System was introduced (ibid. 8). He quotes from a Dutch source:

When the Cultivation System was introduced, the yasa land caused a great deal of trouble, principally because of the problems involved in a fair distribution of the sawah fields which had to be set apart for the cultivation of imposed crops. The European civil servants thus gradually, and most probably quite arbitrarily abolished the hereditary transfer of rights to sawahs in this Residency, with the exception of the region of Indramayu [his note: where the Cultivation System was not applied]. (Bijlage Handelingen 1862-63, 73, 7:1380 quoted in loc. cit.)

He, however, also adds:

Nevertheless, the communalization of the agrarian basis of existence cannot be blamed entirely on the Cultivation System. It was the continuation of a long existing tendency which had become clearly recognizable a few decades earlier when it had been decided to institute a land rent system in which each village was assessed as a single unit. (Breman 1983a:8)

So he considers "the village-based tax levies and the attendant obligatory distribution of the rice fields among the peasantry" as "the equivalent to negating the differential access to land on which the cacah system rested" (ibid. 13). Though he recognizes that "the tendency, which developed early under colonial rule of spreading obligatory services among as many peasants as possible, led to a steady expansion in the number of sikep" (ibid. 56), he does not believe that this tendency had a leveling effect (Breman 1983b:34; Breman 1983a:21) as Geertz's concept of "shared poverty" implies. He maintains that "shares in the communal fields varied considerably according to the status of the various households" (ibid. 22).

As he admits, however, the sources he uses to sustain these claims "generally date from the second half of the 19th century and are decidedly liberal in tone" (loc. cit.). Here, he means by "liberal" those who opposed the Cultivation System on the basis that it had destroyed those hereditary rights and private property thought to have been the original situation in Java.
2.5 FERNANDO (1982)

Fernando's thesis (1982), together with the work of Van Niel (1972; 1982), Fasseur (1975; 1978), and Elson (1978; 1979, 1983; 1984), belongs to the recent trend in historiography of Java in its claiming that there was growing material prosperity among the Javanese under the Cultivation System. Their new views derive from consideration of archival materials which hitherto had remained unused. They call our attention to the great range of variations in the ways the system actually worked at the local levels and to the positive effects of the system, at least for some peasants; e.g. payments made for the crops delivered (plantloon), in contrast to earlier works which put emphasis on the negative effects at the cost of ignoring the positive ones. Another characteristic worth mentioning is the narrow geographical focus; e.g. Pasuruan for Elson and Cirebon for Fernando, which enables more concrete statements to be made than in the earlier very general works.

Fernando argues that the Land Rent System and the Cultivation System did not cause the levelling of the peasants as traditionally had been claimed, most typically by Geertz (1963), but rather the differentiation of the peasants in terms of their prosperity (1982:i, 14-15). He also criticises what he calls the "conventional view" which claims that an expansion of the sikep peasants took place in response to the pressures exerted by the Cultivation System (ibid. 100-104). He states that "this conventional view, when examined closely against the contemporary evidence at the local level, at least in Cirebon, seems to have little or no basis" (ibid. 105). Even though he is aware of the non-sawah-holders' refusal to take part in the new system of cultivation and their leaving the villages to evade the increasing demand of the Cultivation System, he only cites money payments and providing of some padi as means of enticing them to stay in the village, but not rearrangements in land tenure (ibid. 101). It seems that this argument is based on the fact that "there is no reference to any such change in the thorough official reports compiled by

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6 For a good synopsis of the development of this new trend, see Van Niel (1983b).
contemporary students of social institutions” (ibid. 105-106). He also argues that:

the need to allocate sawah for the cultivation of commercial crops as well as for food crops did not pose any serious threat, because the area of sawah was increasing greatly in the early 1830s, which seems to indicate that the various ad hoc methods adopted to ensure an adequate labour supply for the sikeps served their purposes quite adequately. (ibid. 106)

I, however, do not find this argument too convincing, since the Dutch interest in the internal working of the villages remained so limited up to the late nineteenth century that any argumentum a silentio on the basis of lack of any mention in the Dutch reports seems unwarranted. He further continues:

Where any such periodic reallocation of sawah did occur for the purposes of ensuring the cultivation of commercial crops, it seems to have been due less to the need to spread the labour burden among more sikeps than to the normal practice of periodic reallocation of sawah for the sake of equity in the distribution of land of different qualities. . . . When such periodic allocations took place, the sikeps were said to have often incorporated their adult sons into the group of sikeps, and also to have accommodated some others as well. (loc. cit.)

Here it should not escape our attention that, though the equity in the land allocation is given as the primary rationale for periodic reallocation, incorporation of sons of sikep peasants and others into the sikep class is also mentioned, which constitutes the central tenet of the "conventional view." Fernando also mentions the increase in the number of sikep peasants in other parts of his thesis (see ibid. 100, 159, 162). His argument is, in fact, that sikep class did not expand as rapidly as the population as a whole was increasing (ibid. 100), which does not really amount to negation of the conventional view.

JAPANESE LITERATURE

The Japanese interest in land tenure in nineteenth century Java, especially in communal land tenure, can be said to have started with Tanaka’s pioneering work published in 1969. Since then several younger historians; namely Hiroyuki Mori, Yoshifusa Naito, Hiroyoshi Kano, Kensuke Miyamoto and Yasuo Uemura, have studied changes in the land tenure system in nineteenth century Java. They differ from other
earlier scholars in sharing a common interest in the changes in land tenure system caused by colonial policies, in the structure and working of the desa and in the use of the Eindresume (cf. Uemura 1982:579 and passim).

2.6 TANAKA (1969)

Tanaka's 1969 work, titled "Outline of the History of the Indonesian Land Tenure System", gives a concise picture of the changes in the land tenure system in Central Java and reviews the Dutch colonial policies in the nineteenth century. He relies heavily on Lette (1928), but also uses Van Vollenhoven (1909, 1918-33, 1919), Krom (1926), the Eindresume, Scheuer (1885), and Van Ossenbruggen (1905).

Though he believes that communal land tenure existed prior to the introduction of the Cultivation System, he asserts that it was essentially the penetration of Dutch power that gave rise to such a system of tenure (Tanaka 1969:386). He states the following about the core villagers (kern dorper, gogol, kenceng):

Originally (the number of households in) this class was fixed. But because of the great burden of the duties toward the king and nobles, warfare, and the Dutch Cultivation System, which devastated the desa, the core villagers made their rights open to lessen the duties. Thus the number in this class began to grow and the phenomenon of splitting the land emerged. So they again closed entry into the class to limit members or they fixed the number of those who missed out on the redistribution of the land and gave them a share in a certain order. (ibid. 378)

He also ascribes to the Land Rent System (Landrentestelsel) introduced by Raffles the practice of redistributing the land to lessen the burden of the land rent. The Land Tax System (Landelijkstelsel) introduced by the Commissarissen-Generaal also caused some redistribution of the
land. This tendency was put under control by Staatblad 1819 No.5.\footnote{art.12. De hoofden en oudsten des volks in iedere dessa, zullen de velden onder de ingezetenen verdeelen, naar billijkheid, zonder partijdigheid, en uit de verdeeling geene winsten mogen ontleenen, noch meer omslaan dan de algemeene huur bedraagt; op straffe van, anders handelende, als knevelaars te worden beschouwd.

"art.13. Deze verdeeling zal onverwijd in alle dessa's moeten gevolg nemen, zonder dat men daarmede tot den aanslag zal moeten wachten.

"art.14. De residenten zullen toezien, dat bij deze verdeeling, de wettige bezitters der velden, zoo als daar zijn: de eerste ontginners der gronden of derzelver erfgenamen, en anderen die, volgens de herkomsten der inlandsche bevolking, of uit eenigen anderen hoofde, als wettige bezitters beschouwd moeten worden, in hunne regten niet worden verkort." (Van Deventer 1865-6,deel 1:403)}

in 1819 in its articles 12-14: that the once and for all only redistribution of the village lands, thus a legitimate 'communal possession with fixed shares', must have been the rule, provided that, however, that no infringement of the older rights of the heritable individual possessions be made thereby (Rouffaer 1918:343).\footnote{In 1819 in hunne art. 12-14: dat de een-malige verdeeling der desa-gronden, dus het echte <communaal bezit met vaste aandeelen> regel zou wezen, onder voorwaarde echter, dat daarbij geen inbreuk zou worden gemaakt op de oudere rechten der erfelijk-individuele bezitters.}

Overall he claims that communal tenure (gemeen bezit) was not very common prior to the enforcement of the Cultivation System in 1830 (ibid. 393). The causes of communal land prior to 1830 can be attributed to abandoned land, confiscated salary-fields and appanage land, and the imbalance in occupation of land caused by a vast area of land falling in the hands of a small minority, with resultant inefficiencies in cultivation [due to difficulties in procuring the necessary labour force] (ibid. 392). The communal land tenure of this period was without periodic redistribution in contrast to that with periodic redistribution promoted by the Cultivation System (ibid. 394).

The communal land tenure caused by the Cultivation System, especially that involving sugarcane and indigo, can be characterized by its periodic rotation. The cultivation of these two crops required removing the dikes between sawahs and thus obscuring the boundaries between sawah belonging to different owners (ibid. 395). Under the Cultivation System the former right to possess land had been turned into a duty to possess land since those able-bodied family heads with a
farmyard (erf) or house of their own were required to hold a share (aandeel) in the village communal land (loc. cit.).

2.7 MORI (1975) AND THREE OTHER WORKS PUBLISHED IN 1976

In 1975 and 1976 four works which make extensive use of the Eindresume, though three were not more than reviews of it, were published; i.e. Mori (1976), Naito (1976), Kano (1976a; 1976b). 9

Both Naito and Kano describe the contents of the Eindresume and evaluate it as a very useful source for the historical study of the land tenure system in nineteenth century Java. Using the data available from the Eindresume, Kano attempts to place the Javanese society of the last century into a unilineal scheme of development based on Otsuka (1970 [1955]).

It was, however, Mori who has to date made the most convincing use of the Eindresume to shed some light on the communal land tenure system in nineteenth century Java.

In contrast to Tanaka (1969), which, being based on Lette (1928), 10 was more theoretical than factual, Mori (1975) succeeds in coming up with some new evidence to suggest that communal land tenure was caused by the Cultivation System, especially that of sugarcane and indigo. By combining the data from the Eindresume with those from the Governmental Survey of Land Tenure in Java in 1863 (Anonymous 1924a) and from the report on agricultural production by regency (regentschap) (Bleeker 1863), he demonstrates the correlation between communal land tenure and the Cultivation System. He also gives several cases of Dutch colonial officers forcing the adoption of communal land tenure into an area where previously it did not exist.

He also comes to distinguish the communal land tenure system prior to the penetration of the colonial rule and that under colonial rule. He quotes (1975:63):

The confiscation of land possession must be attributed to the circumstance that the heir left at the death of the owner is too young to execute his right, or to the greed of newcomers

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9 The English version of this is Kano (1977).
10 I shall deal with this work in the next chapter.
and village officials, in some cases to [the owner's] moving without attending to the fields left behind, or to the Cultivation System.\textsuperscript{11} (Anonymous 1924a:26)

In one village sawah held in communal possession is distinguished between sawah playangan, which was without an owner at the time of the introduction of the communal land tenure, and sawah bumen, which was taken into communal possession by the order of the government and whose owners are still known.\textsuperscript{12} (Eindresume 2:71 (a))

Thus he criticizes Lette for his failure to distinguish between these two, which were recognized as different by the peasants (1975:63).

2.8 NAITO (1977)

Among the Japanese scholars Naito (1977) was the first to cast doubt on the conceptual categorization of "heritable individual possession" (erfelijk individueel bezit) and "communal possession" (gemeen bezit) used in the Eindresume and other Dutch publications. He writes:

it appears to me quite doubtful that, in most areas of Central and East Java where at the time of the survey [i.e. 1868-69 when the survey to culminate into the Eindresume was carried out] "heritable individual possession" and "communal possession" coexisted, the clear-cut distinction of these conceptual categories was in fact based on reality. (Naito 1977:46)

Naito describes the right of heritable individual possession as being based on actual occupation; as soon as the occupation ceased the land returned to the control of the desa (ibid. 52). After listing the various restrictions on dipositions of land under heritable individual possession, he concludes as follows:

\textsuperscript{11}"Het afnemen van het landbezit moet toegeschreven worden aan de omstandigheden dat er erfgenamen achterbleven bij den dood des eigenars, te jong om hunne regten te doen gelden, of aan de hebzucht van nieuvelingen of van dessa's-bestuur; in enkele gevallen aan verhuizing zonder zorg te dragen voor de achtergelaten velden, of aan het cultuurstelsel."

\textsuperscript{12}"In een desa onderscheidt men de sawah's in gemeen bezit in sawah plajangan, die onbeheerd waren bij de invoering van het gemeen bezit, en sawah boemen, die op bevel van het bestuur in het gemeen bezit zijn overgegaan en waarvan men nog weet aan wie zij hebben toebehoord."
as far as Central and East Java are concerned, the "heritable individual possession" found there, in spite of the name "individual" possession, is aside from a few exceptions under the communal control of the desa and the fluidity is very limited. In this sense it must be clearly distinguished from the concept of modern "property". (ibid. 56)

He distinguishes two types of "communal possession", one type appeared for the first time in the nineteenth century with the introduction of the Land Rent-Land Revenue System (1813-16) and drastically expanded after the introduction and expansion of the Cultivation System. The second type covers the lands left without any owner and the land cleared by individual peasants, which returns after a certain period to the desa (ibid. 65). He also remarks that the earlier "individual possession" must have been based on an unstable foundation, for it was easily turned into 'communal possession' by government order (ibid. 65-66). In regard to this earlier form of "individual possession" he declares:

at least in the outer provinces (montjonegoro) of Mataram in the early nineteenth century, the right of the inhabitants to land was only a right of cultivation whereby cultivation was allowed as long as the taxes demanded by the native chiefs and their agents (bekel) were paid and the labor service fulfilled. The right of individual possession to individually cleared land was also with a time limit. (ibid. 71)

Bearing in mind the variation in time and place of what is understood as "individual possession" and "communal possession", he thus concludes that the existence or non-existence of "communal possession" and the distinction between "communal possession" and "individual possession" must give place to a study based on the actual use of the land (ibid. 74).

2.9 MIYAMOTO (1981)

Miyamoto (1981) attempts to analyse the land tenure system in mid-nineteenth century Java, in terms of Amin's "underdevelopment" thesis (though he does not acknowledge it), as a product of a deliberate reorganization by the Dutch. He criticizes the views which consider the Dutch rule as a purely indirect one. His major sources are the Eindresume, the Koloniaal Verslag, and the Onderzoek naar de Mindere Welvaart der Inlandsch Bevolking op Java en Madoera.
He claims that the Dutch reorganized the land tenure system so that they could make use of the native hierarchy.

After 1830 in the area under direct control of the Dutch on Java, excluding the Principalities and the private estates (particuliere landerijen), the land system from the Mataram era was revised and the land holding relations were reorganized. While keeping the ultimate right of disposition over land, the Dutch colonial authorities let the regents and districthoofds share proprietary rights (oppereigendomsrecht) over land and at the village level retained the salary land (ambtsveld, bengkok) system for the village heads and village officials. Thus the Dutch gave the native hierarchy the right to collect taxes including the corvee service (heerendienst) so that they could be used as a prop for local rule (under the Dutch). Thus this native chief class came to play an important role as the medium to collect government services (especially those which had to do with the Cultivation System). (Miyamoto 1981:5)

Then he moves on to his analysis of the land rights of the peasants and says:

... the terms "individual possession" and "communal possession" are artificial concepts introduced by the Dutch by rearranging what the peasants were calling under various names. In reality there were subtle variations in time and place. But viewed from the perspective of land commercialization it is useful to distinguish the two. (ibid. 6)

As for the communalization of the land in the nineteenth century, taking sides with Van Delden Laërne, Lette, and Mori, Miyamoto believes that communal possession existed prior to the introduction of the Cultivation System and that it only expanded under Dutch influence. He comes to this conclusion by analyzing the causes of the emergence of communal land in each village mentioned in the Eindresume.13 Thus, he characterizes the communal possession of the land as neither purely traditional nor entirely derived from the Dutch, but as a Dutch assimilation of a uniquely Javanese custom for the purpose of recruiting more peasants into corvee labor by increasing the number of landholders who are fully taxable (ibid. 6,7).

He then proceeds to examine the land system reorganization during the Liberal Period. The changes which took place in this period are

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13 As mentioned in the next chapter, the number of villages surveyed in the Eindresume amounted to 808. Among these villages, we know the causes for the emergence of communal land in 293 villages.
Table 2-1: NUMBER OF VILLAGES BY CAUSES OF THE EMERGENCE OF COMMUNAL LAND AMONG THE VILLAGES SURVEYED IN THE EINDRESUME

<table>
<thead>
<tr>
<th></th>
<th>West Java</th>
<th>Central Java</th>
<th>East Java</th>
<th>Total</th>
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<tbody>
<tr>
<td>Dutch Order</td>
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<td>at the time of</td>
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<tr>
<td>Cultivation System</td>
<td>4</td>
<td>45</td>
<td>32</td>
<td>81</td>
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<td>at the time of</td>
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<tr>
<td>Land Revenue System</td>
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<td>Village Custom</td>
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<td>burden of corvee</td>
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<td>Others</td>
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<tr>
<td>Total</td>
<td>8</td>
<td>120</td>
<td>165</td>
<td>293</td>
</tr>
</tbody>
</table>

(firstibid. 6)

firstly, the prohibition of hierarchical land ownership on the part of the regents, districthoofds, and assistent districthoofds (1867, in the Priàngan’s 1870), secondly legislation to facilitate land hire by private plantations (Domeinverklaring of 1870), and thirdly the conversion (conversie) of communal lands into private individual lands (ibid. 9-10). The process of conversion, however, was slow and faced opposition from the peasants. Thus the increase in the land under heritable individual possession was more due to the increase in the newly cleared land which followed the Ontginnings-ordonnantie of 1874.

2.10 UEMURA (1982)

This is a review article of various Japanese works on the question of land in Java. It gives a summary introduction to, among others, all the Japanese works mentioned so far. These works are classified under two headings, the origin of communal possession and the dissolution of communal possession.

Under the first Uemura mainly discusses the distinction between communal possession before and after the Cultivation System. He
praises Mori, Naito, and Miyamoto with for distinguishing the two. He points out the disagreement between Mori and Naito on the right of the reclaimer of waste lands: the former believes that the restriction was introduced for the first time at the time of the Cultivation System, while the latter is of the opinion that temporal restriction was a tradition in force before the Cultivation System. Uemura attributes this disagreement to unsatisfactory analysis of the communal land tenure prior to the Cultivation system. Being aware of the limitation imposed by the availability of historical sources, he suggests that we investigate the local administration under Mataram to determine the relationship between the superior proprietorship of the local chiefs and the land tenure system (Uemura 1982:583).

Under the second heading he discusses the dissolution of communal land tenure in relation to the concentration of the control over land and the class differentiation of the peasants.

He points out the inconsistency between Kano's earlier works (1976a, 1976b, 1974), which regard the Javanese society as fairly static at least up to 1870, and his later pieces (1979a and 1979b14), which criticize Geertz's involution thesis as static, for the impetus for class differentiation can be seen in the loosening of the communal relations. Uemura indicates that Kano's analysis is based on solid evidence only at both ends of the process of change, namely, the stage before change where he relies on the Eindresume and the stage after the change where he relies on his own fieldwork. I take this to be another example of a misdirected attempt to refute Geertz's involution thesis from the point of view of contemporary Java (e.g. White 1976; Collier 1981). Uemura points out that Kano lacks detailed analysis of the exact period when the change was actually taking place (ibid. 131).

He then reviews works by Miyamoto (1978, 1979, 1982), who regards the salary field as the source for land concentration and the emergence of landlordism. Uemura concludes by criticizing the hasty generalizations made by both Kano and Miyamoto, and calls for more detailed analysis of various cases from many areas.

14The English version of this is Kano (1980).
2.11 CONCLUSION

The striking thing about the contemporary literature on communal land tenure in nineteenth century Java is the entangled confusion as to what they are talking about. This is most aptly brought out when Naito claims that we are applying the notion "communal land tenure" to two different things. Further, while many of the Japanese writers do at least mention Laveleye, reference to the wider debate over whether communal land tenure always precede individual tenure is lacking in the Western literature. Also, while Ro"ll (1976:46 note 2, Fasseur (1975:13), Van Niel (1983b:10), and Fernando (1982:104 note 101) refer to the nineteenth century debate on whether the shift from individual to communal land tenure took place in nineteenth century Java or not, they do not elaborate on this debate. It must also be remarked that many of the authors, including one of the latest to write on this topic——Elson (1984), seem to rely heavily on the Eindresume. To understand what improvements, if any, these authors have brought about since the nineteenth century debate, I proceed to look at this debate in the next chapter.
CHAPTER 3
REVIEW OF THE NINETEENTH AND EARLY TWENTIETH CENTURY
DEBATE ON THE ORIGIN OF COMMUNAL LANDOWNERSHIP WITH SPECIAL
REFERENCE TO JAVA

3.1 INTRODUCTION

In this chapter I present a very short and selective review\(^1\) of
the debate on the nature of the village community, which is the
framework within which much of the literature on Java can be situated.
I follow then with a review of the literature which constituted the
debate on the origin of communal land tenure in Java. And at the end
of the present chapter I try to situate the Javanese debate within the
wider debate on the nature of the village community.

3.2 THE VILLAGE COMMUNITY DEBATE

The problem of the nature of the village community was a very
important, if not the most important, issue of debate, or at least part
of it, for many nineteenth century social scientists; including
historians, lawyers, sociologists, economists, anthropologists and
others. Though the concept of the village community can be regarded as
the central notion in the debate, it cannot be separated from the
problem of the origin of property. The term "village community"
signified a small, homogeneous, agricultural community where land was
not divided into private property but was the communal property of all

\(^{1}\)Though there are already several works (e.g. Kotani 1982; Dewey
1972; Dumont 1966; Rachfahl 1900; Weber 1923:19-39; Vinogradoff
1892:1-39; Schmidt 1937:3-17) that can be referred to as a review of
this debate, none of them is sufficient by itself to provide a general
overview within which the material on Java can be situated. Since it
was not possible for me to read all the relevant works in the wider
debate, my summary of the development of the debate is a synthesis of
these review articles.
the village members. Here I prefer to use "village community" to label the debate which was in fact only a part of a much wider controversy, because it is beyond the scope of the present thesis to cover the whole debate, which involved such issues as the origin of property in pre-agricultural society, the origin of family, the supposed transition from matriarchy to patriarchy, the origin of the state and other similar concerns. Thus, I will not look into the literature which speculates upon the nature of the community and its land tenure system prior to the beginning of agriculture. In other words, I concentrate upon what Weber labelled the problem of agricultural communism (Agrarkommunismus) (Weber 1923:19). The debate can be seen as consisting of three overlapping phases.2

I call the first stage the Germanist Consensus Phase.3 This phase lasted from around 1830 to 1870. It was during this phase that interest in the village community was inspired by the Germanic4 school of history. It was by two Germanic historians, Hanssen (1835-37) and Von Maurer (1854), that attention was drawn to the supposedly unique features of ancient Teutonic village communities (Markgenossenschaft). They pointed out that among all Germanic tribes land was originally under communal ownership (die ursprüngliche Herrschaft des Gesamteigentums am Grunde und Boden bei den germanischen Völkerschaften). These works resulted in the same perspective being adopted in historical studies of non-Germanic societies (e.g. Kemble 1849, Viollet 1872). Combined with the pervasive nationalism of the day, which took the form of seeking glory in their own past, there was a general consensus in attributing positive value to the village community. The village community was regarded as representing the lost golden age, the utopia.

2When I give the dates for each phase below, it will be by artificially cutting off each phase at the time the next phase came into being to show the period each phase held its unchallenged sway. In fact, each phase continued much beyond the period given.

3Though this is my original naming, its conception can be traced to Dewey (1972) and Vinogradoff (1892:16).

4I use the term "Germanic" because not all scholars of this phase were Germans, e.g. there was a Danish scholar who made an important contribution. What the English term "German" denotes is narrower than what the German term "germanisch" signifies.
The accumulation of this type of study led to the generalization that in all societies there was a period, between nomadism and sedentary agricultural life based on private property in land, when land was communally held by the village. This second phase, which I label the Generalization Phase, lasted from about 1850 to 1880. The works that belong to this phase include, for example, Von Haxthausen (1847-52), Roscher (1858), Maine (1871), Laveleye (1874), Morgan (1969 [1877]), and Engels (1884). In contrast to the first phase there were conflicting attitudes about the virtue of village communities, especially since the range of the village community was extended to include not only that in the past history of Europe but also that of contemporary societies in the East, especially India and Russia. Dewey (1972) recognises the dilemma faced by those radicals who sought change in their own society by advocating a return to the village community as an alternative to a system of private property under capitalism, but had to resign themselves to being called conservatives in their acceptance of the status-quo in the East, where it was believed that communal property still existed. On the other hand, the conservatives, who were satisfied with the private property system in the West, were labelled radicals in the East for their negative view of the village community.

A total rejection of the very existence of the village community, in the sense of an ancient agricultural community with communal land tenure, marked the third stage of the controversy. I call this third phase the Denial Phase. This phase lasted from about 1880 to 1930. Works that belong to this phase include, among others, Dargun (1884), Coulanges (1889), Maitland (1893), Baden-Powell (1892 and 1896), Rachfahl (1900), Hildebrand (1896), and Lewinski (1913). These authors scrutinized all the alleged cases of the village community and demonstrated that they were without any empirical foundation. For example, it is Coulanges's contention that:

If you think you see it [i.e. the village community], it is assuredly not because it is in the original, but because your preconceptions have put it there. We have here one of the most striking examples of the result of the subjective method. Your

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5. The English translation of this is Coulanges (1927).
theory requires that a village community should be mentioned in some early document, and you introduce the community into a document where there is nothing about it.

The other angle of denial adopted was to demonstrate the rather recent origin of alleged cases of village community following the footsteps of those scholars who studied the Russian mir and revealed the fact that it, far from being a survival of an ancient institution, can be traced back only to a ukase of the Czar Fedor Ivanovitch in 1593 (e.g. Schedo-Ferrotti 1868, von Keussler 1876-1887, and Kovalevsky 1891).

3.3 THE DEBATE ON THE NATURE OF COMMUNAL LAND IN JAVA

The late nineteenth century Dutch literature on land in Java centres around the issue of the origin of communal land tenure. And this interest in the origin of communal land tenure is partially the reflection of the wider debate's obsession with origins seen from an evolutionary point of view. Since most students of anthropology are familiar with this aspect of the background of the Java debate, I shall concentrate here in presenting the political and economical background of the debate.

As Breman correctly points out:

The discussion of the nature of agrarian property rights which had started early6 in the last century did not result from any genuine wish for a better understanding of Java's past and present in this respect, but derived from colonial considerations, i.e. how to provide legal justification for organizing government administration in such a way as to ensure that the greatest possible surplus could be extracted from the peasantry. (Breman 1983a:7)

Thus, the fact that the period when the debate on communal land unfolded, i.e. circa 1850 onwards, overlaps with the ascent of the

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6 It was only later in the century that communal land tenure became an issue.
liberals\(^7\) in Dutch politics is not coincidental. As Van Vollenhoven states, the Dutch were not interested earlier in finding out about the customary law of the Javanese, because they took Islamic law to apply, because they assumed that Islamic law applied. Later scholars had to "discover" the \emph{adat}-law at the cost of great time and trouble (Van Vollenhoven 1928:1). Suddenly from 1860 onwards \emph{adat}-law is repeatedly mentioned in order to discredit the Cultivation System that the originally individualistic native system of tenure had been destroyed under this system.\(^8\) Although there are some earlier sketchy descriptions\(^9\) of land tenure, I failed to find those literature strongly representing the conservative camp by claiming the antiquity

\(^7\)Here we mean by "liberals" those who supported "free labour" for the Javanese and a system of Western capitalistic private enterprise as means to exploit the colony (see Van Welderen Rengers 1947:34-36 and De Kat Angelino 1931.2:72-73). Thus the liberals were strongly against the Cultivation System. On the other hand, those who were for retaining the Cultivation System were called "conservatives". The liberals, however, were not necessarily more concerned about the welfare of the Javanese, as might be expected from the word "liberals", than the conservatives. Hence, a distinction between positive (i.e. true) and negative liberals is suggested (Van Welderen Rengers 1947). For criticisms against the inexact nature of these terms, see Van der Kroef (1963:22-23, 36).

\(^8\)For a fairly early account of communalisation, see Anonymous (1863).

\(^9\)For example, around 1806 G.H. van Hogendorp wrote:

"Let us grasp . . . the characteristics in terms of which the indigenous cultivator is represented to us. He is a landholder, who harvests his crops, who owns implements and animals, who pays taxes to his Regent, who makes purchases, who enters into mortgage contracts, who has enough to be lavish. [In contrast] the monopolists [the conservatives] have intended to delude us that the common cultivator of Java is little more that the serf of his regent, that he works for the latter, and that he is recompensed for his labour by the transfer of a small enclosure, which he cultivates for himself and his family."

("Saisissons .... les traits sous lesquels on nous presente le cultivateur indigène. C'est un propriétaire, qui fait une recolte, qui possede des instrumens et des animaux, qui paye des impots a son Regent, qui fait des marches, qui forme des contrats d'hypotheque, qui a de quoi etre dissipateur. Les monopolistes [daarentegen] ont pretendu nous faire accroire [croire?], que le simple cultivateur de Java est a-peu-pres le serf de son Regent, qu'il travaille pour celui-ci, et qu'il est paye de ce travail par la cession d'un petit enclos, qu'il cultive pour soi et sa famille.") (Anonymous 1921:339)
of communal land tenure. There are several possible explanations for this. Firstly, it was not necessary for the earlier writers to claim the traditionality or to trace the origin of communal land tenure because it was not an issue until the late nineteenth century, both politically and theoretically. Secondly, my research was mainly limited to the journals representing the liberal camp. Thirdly, the conservatives chose political venues (e.g. parliamentary debates, Dutch press) to air their views and I was not able to look into these sources. Now I move on to give summaries of the various works on land tenure in nineteenth century Java. I do not at all assume exhaustiveness in my coverage of the literature. They are dealt with in a chronological order. Though the fact that each work is treated separately without any theoretical arrangement may seem tedious and sometimes redundant, I find it worthwhile to do this in this fashion since these work have never, neither in Dutch or English, been put together in the context of this debate.

3.3.1 RAFFLES (1814) AND (1817)

Among the readily accessible published sources that I am aware of, Raffles's account of land tenure in Java is one of the earliest that can provide us with some details of the system. The gist of the way Raffles understands the state of land tenure in Java can best be brought out by quoting him rather extensively. For the original state (i.e. prior to foreign influences), he states as his hypothesis that:

... before the introduction of the Mahometan system and the encroachments of despotic sovereigns, all the lands on the island were considered as the property of those who cultivated them; but that, as the value of the most fertile spots became more apparent, while the labour which had been originally expended in clearing them, and constituted the title to their

10 Charles Darwin's *The Origin of Species* was published in 1859, E.B. Tylor's *Researches into the Early History of Mankind and the Development of Civilization* in 1865, and L.H. Morgan's *Ancient Society* in 1877. See Burrow (1966) for references to other evolutionary works of this period.


12 My selection of the works to be summarised in this chapter is made on the basis of originality and the extent to which they represent the trends of the era. Reference to other works is often made in the next chapter to supplement the rather narrow selection made in this chapter.
original occupancy, was gradually forgotten, the government found inducements and facilities to increase its demands, and thus became possessed of the rights of some by violence . . . (Raffles 1965 [1817]:139)

And as for the situation as he found it:

Generally speaking, no proprietary right in the soil is vested in any, between the actual cultivator and the sovereign; the intermediate classes, who may have at any time enjoyed the revenues of villages or districts, being deemed merely the executive officers of Government, who received those revenues only from the gift of their lord, and who depended on his will alone for their tenure. Of this actual proprietary right, there can be no doubt that it originally vested solely in the sovereign; but it is equally certain, that the first clearers of the land entitled themselves, as their just reward, to such a real property in the ground they thus in a manner created, that whilst a due tribute of a certain share of its produce for being well governed was paid to the sovereign power, which, in return, was equally bound not to disturb them or their heirs in its possession. The disposal of this Government share was, therefore, all that could justly depend on the will of the ruling authority; and consequently, the numerous gift of lands, made at various periods by the several sovereigns, have in no way affected the rights of the actual cultivators. All that Government could alienate, was merely its own revenue or share of the produce. (Raffles 1814:193-194)

Though it may not be too clear from this quotation alone, Raffles's main impression was that the sovereign is the actual owner of all land. And, in fact, it was this view that justified his imposition of the land-rent and sales of land in order to improve the financial status of the colony. The imposition of the land rent was simply explained as the British administration taking over the role of the sovereign. His emphasis upon the fact that there is no middle

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13The same view was later adopted in 1827 by Du Bus de Gisignies and in 1828 by Elout. Du Bus "accepted that, in matters of land ownership and possession, cultivated land was, 'according to ancient customs and institutions' in the whole of the eastern territories, the property of the Prince and thus was now the property of the State" (Ball 1982:190). Elout states that "not only in Java but in the whole country land ownership belongs to the sovereign according to Indonesian constitutional law: every farmer is a small tenant of the state" ("niet enkel Java, maar 'het gansche land' volgens Indisch staatsrecht grondeigendom is van den souverein: 'elke landbouwer is een kleine pachter van den staat'.") (Van Vollenhoven 1928:41).

14See Emori (1966) and Ong (1975:54).

15See Bastin 1954:92.
class with proprietary right\textsuperscript{16} can also be understood as a rationale for his intention of introducing the \textit{ryotwar}\textsuperscript{17} system of taxation, by which he thought the revenue lost to the intermediaries could be circumvented. Thus he understands land grants traditionally made by the sovereign to reward his subjects or to establish or maintain religious institutions as constituting a transfer not of proprietary right but only of the right to taxes due to the sovereign. Accordingly, the actual cultivators were not affected by these grants and "they still retained their share of the crop" (Raffles 1814:79-80).

When it comes to the right of cultivators, however, Raffles is not too successful in accommodating it into his pre-conceived scheme of the sole proprietorship of the sovereign. He repeatedly criticises the despotic nature of the Javanese kingdoms and the Dutch system of rule as manifested in encroachments on the rights of actual cultivators. He states that "those individual rights of property which are created by the laws and protected by the government . . . are unknown" (Raffles 1965:137).\textsuperscript{18} Thus he proudly proclaims, to the merit of his administration, his policy of securing the right of cultivators (Raffles 1814:3, 10, 26). However, if the right of the sovereign was limited to the right of imposing taxes, even if it was called land rent, the right of cultivators seems to have been fairly secure (cf. \textit{ibid.} 170).\textsuperscript{19}

Though not using the term himself, Raffles does give descriptions of tenurial arrangements which were later to be called "communal". For instance, he quotes from Knops's report from Samarang [Semarang] that:

\begin{quote}

\textsuperscript{16}This claim appears repeatedly in his work. For instance, see Raffles (1814:6, 45, 79, 145; 1965:136).

\textsuperscript{17}A system of taxation used by the British in Madras in India. Its characteristic is the direct individual taxation of the cultivators, in contrast to the \textit{zamindari} system adopted in Bengal, where the landed gentry was the unit of assessment. For further details, see Bastin (1954:1-14) and Mulherin (1971:17).

\textsuperscript{18}Tjondronegoro (1983:8) claims that "[t]he Rafflesian perception of the village in 1811 was that of an indigenous community in which private ownership of land prevailed." This opinion, however, is based on Raffles's idea of how things should be, and not on how things were in 1811. On the whole, Tjondronegoro fails to distinguish between what Raffles thought should be done and what he actually did.

\textsuperscript{19}Bastin (1954:159) claims that there was a reversal in Raffles's view from the sovereign as proprietor to cultivators as proprietor.
\end{quote}
A Javanese has no rice-fields which he can call his own; those of which he has the use this year, will be exchanged next year for others. As there are more people than rice-fields (I speak only of the Regency of Semarang) the latter are circulating from one person to another, through the whole village; and if any one were excluded, he would infallibly emigrate.

This usage, of high antiquity, meets with no objection; and since they all are enjoying the same land alternatively, there can be no room for complaint. \((ibid. 131)\)

He also reports a similar system of annual change of the cultivators of sawa [sawah] lands from Passoruwang [Pasuruan] \((ibid. 133)\). Raffles, however, also quotes from Crawfurd's report that:

Each cultivator labours the lands which he rents, for his own separate advantage; and though for purposes of mutual protection, a number of cultivators are assembled together in one village, there exists no community of property among them, and it may even happen, that cultivators who live as next-door neighbours in the same village, are frequently as distinct and unconnected, as those who live twenty miles off. \((ibid. 82)\)

And Raffles himself also reports cases of land sale among cultivators, a fact which is hard to reconcile with his own assertion that they have no proprietary rights in the soil \((ibid. 81)\).

Thus I must conclude that in spite of Raffles's confident statement that "[t]he nature of landed tenure throughout the Island is now thoroughly understood" \((ibid. 193)\), he had to disregard the wide range of variations in land tenure, of which he was very well aware, in order to make the case clearer than it actually was. He himself admits that:

In the explanation which I have attempted to give of the state of landed tenure, I have only endeavoured to establish sufficient to justify the revenue system which I have dictated, and have avoided a consideration of those minute and interesting particulars, which will, no doubt, be found materially to vary in different parts of the Island. \((ibid. 169)\)

If those who wrote about land tenure after him had heeded his remark that "it is of more consequence in an agricultural point of view . . . to inquire how that right [i.e. the proprietary right to the soil] is generally exercised, than in whom it resides" \((Raffles 1965:143)\),

\(^{20}\)This view is close to that of Geertz \((1963:97-98)\) and Lyon \((1970:11)\).
there would not have been any of the confusing descriptions in the literature or even the debate on the origin of communal possession in Java.

3.3.2 Anonymous (1870a)

This anonymous article titled "The Right of Property in Java" (Het Recht van Eigendom op Java) is a very early critique of the position which claims that land tenure in Java was and is communal and not individual. The author lists at the beginning of his article many theoretical positions which are no longer tenable: Oriental despotism, the claim that Islam completely permeated Indonesian society, and last but not least, the assertion that the sovereign is the sole proprietor of all land (Anonymous 1870a:101). The author states, as if a matter of common sense, that:

It should not be surprising to find among the Javanese, who have passionately engaged in agriculture from time immemorial, sound notions of the right of property. The opposite would be difficult to explain.21 (ibid. 102)

He criticises the 1863 land rights survey,22 included in the Bill of the Agrarian Law submitted by the Minister for Colonies, which claims that there is no individual land possession in Madiun and that newly reclaimed land is incorporated into communal land after 3 or 5 years. The author reveals that this claim is based only on the opinion of one regent (ibid. 103). He quotes from an unnamed source:

It is not true that reclaimed land will always be taken into communal possession after 3 or 5 years. On close investigation... I have come across many cases where the owners have already had lands under individual possession for 10, 20 years or more, or cases where the right of possession has been transferred to them from their parents or others. The truth is that the individual right was not disputed by the inhabitants, but it is also true that high native officials have opposed individual possession, even where government cultivation did

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21"Het is niet te verwonderen, dat men bij de Javanen, die sedert onheugelijke tijden de landbouwbedrijven met hartstoch toegedaan zijn, gezonde denkbeelden omtrent het recht van eigendo aantreft. Het tegendeel zou moeilijk te verklaren zijn."

22See Anonymous (1924a).
not force it into communal possession.\textsuperscript{23} \textit{(loc. cit.)}

In his view there is a definite preference among the Javanese for individual possession rather than communal possession \textit{(ibid. 105)}. Thus, he criticises the government for not recognizing individual possession or property \textit{(ibid. 106)}. The article ends with a call for legislation that recognizes individual possession, noting that this will not mean forcing new concepts on the Javanese \textit{(ibid. 112)}.

3.3.3 TydeMAN (1872)

Tydeman, who was one of the members of the commission in charge of conducting the survey for the \textit{Eindresume}, claims that land tenure in Java was originally individualistic before becoming communal as the result of the Cultivation System and other Dutch policies. So he writes that:

\begin{quote}
it now appears that the basis of the original land possession, which was earlier mostly mistaken to be communal, was specifically (anyhow in many residencies) individual. It seems that during the introduction of the Cultivation System people laboured under the delusion that this system was based on an existing communal land possession. Now it is obvious that the opposite was rather the case and that the latter possession [i.e. communal] must be taken correctly as a consequence of the Cultivation System (in connection with the landrent and corvee labour system).\textsuperscript{24} (Tydeman 1872:4)
\end{quote}

As for the situation prior to the communalisation of the land

\textsuperscript{23}"Niet waar is het dat ontgonnen gronden altij na 3 of 5 jaren tot gemeentebezit worden gebracht. Bij een nauwkeurig onderzoek ... zijn mij menigvuldige gevallen voorgekomen, dat de eigenaars die gronden al tien, twintig en meer jaren in individueel bezit hadden, of dat het recht van bezit van hunne ouders of anderen op hen was overgegaan. Waar is het dat het recht van individueel niet betwist wordt door de inwoners; maar waar is het ook, dat hooge inlandsche ambtenaren het individueel bezit hebben tegengewerkt, zelfs daar waar de gouvernements-cultures niet tot het communaal bezit dwongen."

\textsuperscript{24}"het thans gebleken is, dat de grondslag van het oorspronkelijke landbezit, vroeger veelal voor communaal gehouden, bepaaldelijk (althans in veel residenties) individueel geweest is. Tijdens de invoering van het cultuurstelsel schijnt men in de waan verkeerd te hebben, dat dit stelsel op een bestaand communaal grondbezit gebaseerd was. Thans is gebleken dat het tegendeel veeleer het geval geweest is en laatstgenoemd bezit juist voor een uitvloeisel van het cultuurstelsel (in verband met het landrenten- en heerendienst-stelsel) moet gehouden worden."
tenure, though the land was made available for cultivation by irrigation channels constructed by communal labour under the order of the lord (vorst), the clearing for the *sawah* and the use of the irrigation channels was on an individual, voluntary basis at their own calculation and risk (*ieder voor zich, d.w.z. voor eigen rekening en risico*) (*ibid.* 21). Since clearing the land for *sawah* and constructing the subsidiary channels are a costly business, which was not what everyone could afford, this resulted in vast differences in the size of holdings and the amount of tax and corvee to which each was liable (*ibid.* 22).

Tydeman then goes on to describe the communalisation process by which the number of landholders, and thus the number of taxpayers, was increased (*ibid.* 23-29). He relates this to the forced cultivation of sugar and indigo under the Cultivation System. Increasing the number of people liable to forced cultivation benefitted the Dutch. And the Dutch also considered it essential to appropriate the desirable lands in blocks without considering the boundaries between each holding. It was also in the peasants' interest to share fairly by rotation the burden of receiving a plot of land exhausted by the cultivation of sugar or indigo.

As for the nature of the earlier individual possession, he remarks that it was less secure compared to land tenure in the West, for it was subject to various infringements due to the autocratic aspects of Indonesian society (*ibid.* 28).

It is important to note, however, that Tydeman was an advocate of an individual system of tenure, which is one reason that his argument must be treated with caution. Moreover, no source, other than his personal observations made long after the introduction of the Cultivation System, is mentioned to back up his contention, a fact which further weakens his position.

3.3.4 LAVELEYE (1874) AND ANONYMOUS (1880)

Laveleye's book first published in 1874 is the best example of the works belonging to what I call the "Generalization Phase." He claims that:

In all primitive societies, whether in Europe, Asia and Africa, alike among Indians, Slavs and Germans, as even in
modern Russia and Java, the soil was the joint property of the tribe, and was subject to periodical distribution among all the families, so that all might live by their labour, as nature has ordained. (1878:xxxvii-xxxviii)

Hence, it is his contention that:

In the dessa of Java, and in the Russian mir, we can grasp, in living form, civilization in the earliest stage, when the agricultural system takes the place of the nomadic and pastoral system. (ibid. 60)

In his descriptions of communal land tenure in Java, he is careful enough to note the wide range of geographical and local variations. As for the eminent domain possessed by the sovereign, he wrongly attributes it to Islamic law (ibid. 44). He is also aware that in some places a fairly large portion of the peasants was excluded from the partition (ibid. 45). In spite of all this, it does not cross his mind at all that the institution of communal land may not be an ancient custom.

Laveleye's purpose in writing this book was to demonstrate that an alternative to quiritary (i.e. legal, as opposed to equitable) property, which he opposed, can be found in the form of primitive communal property. On the other hand, he saw the "inequalities of landed property" as offering "formidable dangers to society" (1878:xx-xxi). He saw "common property" as embodying "equality of wealth" (ibid. xviii). Dewey correctly comments that Laveleye "exploited the quondam existence of collective property as an argument in favour of greater state-enforced economic equality" (1972:315).

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25I have only been able to get hold of the 1878 English translation and 1931 Japanese translation. The English translation seems to be based on the second (or third) edition of the French original. The Japanese version is a translation of this English edition. There is also a German translation, but judging from the year of publication (1879), it must also be based on the same edition as the English translation. Naito (1977:48) uses the fourth edition published in 1891 and Lewinski (1913:14 note 2) refers to the fifth edition. Though there does not seem to be any major changes in the main arguments, the part on Java may have been revised extensively. Though Naito and Lewinski refer to Laveleye's use of the Eindresume, no reference to it can be found in the English edition.
Interestingly, however, in the two typical cases, namely Java and Russia, where, according to Laveleye, the "living form" of the earliest stage of civilization was still to be observed, and thus the most detailed descriptions must be obtainable, he is forced to acknowledge the existence of a large class of landless peasants (1878:45, 17). This also applies to his favourite example, the Swiss cantons (ibid. 72). He asserts, of course, that this is a later introduced corruption.

Thus, his tendency to force the data into his pre-conceived scheme is apparent enough to caution us against any naive acceptance of his theory.

In 1880 an anonymous review of this book appeared under the title "The Individual and Communal Land Tenure" ("Het individueel en communaal grondbesit") in the Tijdschrift voor Nederlandsch-Indie. The anonymous writer states:

The agricultural history of Java does not attest to the thesis that communal land tenure was the primitive form of land possession everywhere, but teaches [us], on the contrary, that despotic measures are sufficient to force this form [communal land tenure] upon a people who had divided their fields in individual heritable property for centuries. (Anonymous 1880:270)

And further:

There is no denying that in Java earlier many desa residents converted the lands held from time immemorial in individual inheritable property into communal possession in order to be able to share the cultivation and corvee services among more hands.27 (ibid. 267)

This author also refers to works which claim that the Russian mir was of a rather recent origin (ibid. 264).

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26 I should perhaps add here that Laveleye did not necessarily suggest a return to communal land tenure as the prescription for the concentration of land in large estates in Europe, typically in Ireland, but any system, including peasant proprietary (la petite culture), which achieves equitable distribution of the produce was acceptable to him (see 1881:444, 450 and passim).

27 "Voor Java valt niet te ontkennen dat vroeger vele dessabewoners de sints onheugelijke tijden in individueelen, erfelijke eigendom bezeten gronden converteerden in communaal bezit, ten einde de kultuur- en heerediensten over des te meer handen te kunnen verdeelen."
Being an advocate of liberal policies, he criticises the Cultivation System and the communal land tenure under that system for the "levelling influence" (niveleerenden invloed), but does not deny, as seen above, that there was communal possession in pre-colonial Java. He maintains, however, that:

before the influence of that system already prevailed a [type of] communal possession, which did not prevent a great difference in social positions among possessors [of communal land] from arising. (ibid. 274)

He does not, however, offer us any evidence to support this claim other than his liberal political conviction, which prefers individual property to communal possession (see ibid. 279).

3.3.5 VAN DELDEN LAÈRNE (1875)

Van Delden Laërne suggests that an exclusive right of private property (uitsluitend eigendom, privaat-eigendomsrecht) through first occupation or reclamation (door eerste occupatie of ontginning) was already in existence in the pre-Hindu period (Van Delden Laërne 1875:260). He also claims that uncultivated land first came under the control of the overlords (opperheer) during the Hindu period (ibid. 261). Though irrigation work was commonly carried out through mutual assistance, when wet rice cultivation was introduced during this period,

The sawahs obtained were most probably handed over to the [irrigation] workers in inheritable usufruct, on condition that they pay a certain portion of the produce or an agreed, fixed amount per bouw as rent or lelanjan to the lord.28 (ibid. 271)

Hence, he shares with many others the opinion that only since European rule has communal land possession come into being. As he states:

According to our opinion the private property right must have already at the time of the East-India Company slowly receded into the background to receive the first sharp blow

28"De verkregen sawahs werden hoogstwaarschijnlijk in erfelijk gebruik afgestaan aan de arbeiders, op voorwaarde dat zij een zeker gedeelte van het produkt of een zekere bij overeenkomst vastgestelde hoeveelheid per bouw als huur of lelandjan aan den vorst zouden opbrengen."
probably under the rule of Mataram's last king.\(^{29}\) (ibid. 272)

This was the case since the tax introduced during the Hindu period had to be increased substantially to cover the increased expenditure of the Mataram court (ibid. 275-276). So he claims that the increased tax combined with the resulting uneconomical nature of share-cropping and land hire discouraged large holdings (ibid. 277). Ultimately the tax burden became so oppressive that holding land itself became uneconomical. Under these circumstances, communal possession had to take the place of private property rights so that the burden could be equally shared (ibid. 278). However, in the interior at a great distance from the centre of power, individual property rights were maintained, only to be taken over by communal possession with the introduction of the Cultivation System. Van Delden Laërme explains:

> Where communal possession already existed, it was easy to put aside one fifth of the land for forced cultivation; however, in those areas where individual possession was prominent, such oppositions were experienced which could hardly be overcome without totally or partially dropping the accepted principle [of individual possession].\(^{30}\) (loc. cit.)

3.3.6 THE EINDRESUME (1876-1896)

As the earliest detailed account of Javanese land tenure and the source most often referred to in all historical discussions on Javanese land tenure, this summary of the Eindresume deserves extra space in order to cover the backgound of its creation and the various criticisms it attracted.

In 1865 the Cultivation Bill (Ontwerp van Cultuur) was submitted by the liberal Minister of Colonies, Van de Putte. This legislation included provisions to convert the indigenous inheritable individual possession into a right of property in the Western sense, to promote

\(^{29}\)"Onzes inziens moet het privaat-eigendomsrecht reeds ten tijde der oost-indische compagnie langzamerhand op den achtergrond zijn geraakt, om vermoedelijk onder het bestuur van Mataram's laatste vorsten den eersten gevoeligen slag te ontvangen."

\(^{30}\)"Daar, waar reeds gemeentebezit bestond, was het gemakkelijk een vijfde der gronden voor de verplichte cultuur af te zonderen; maar in die streken, waar het individueel bezit op den voorgrond trad, ondervond men bezwaren, die noode konden overwonnen worden, zonder het aangenomen beginsel geheel of gedeeltelijk los te laten."
the conversion of communal possession into inheritable individual possession, to allow expansion of Western private enterprise by granting waste land in leases (erfpacht) of 99 years, and to permit the hiring of land belonging to the Javanese by Western entrepreneurs. The strong opposition to the bill offered by the conservatives resulted in the withdrawal of the bill and the resignation of Van de Putte. Though the main purport of the bill was to provide land and labour for capitalist enterprise, it was opposed on the ground that not enough was known about native forms of tenure to justify the conversion of inheritable individual possession into property. Thus the need felt then to know more about the native system of land tenure in Java in order to justify the liberal policies resulted in the Eindresume survey (See De Kat Angelino 1931,2:450-451, Furnivall 1944:163-164, Tanaka 1969:410-411).

The actual investigation, carried out in 1868 and 1869, covered most of Java excluding the Principalities (Jogjakarta and Solo), Batavia, Kedu and the private estates (particuliere landerijen). Following the principle that at least two desa in each regency must be surveyed, the number of the desa surveyed amounted to 808. It is almost a miracle, by the standard of contemporary anthropological surveys, that this extensive survey (the questionnaire used contained 370 questions on 27 items and fills 54 folio pages, see Eindresume 1:XIX-LXXIV) was carried out by 34 Dutch officials (3 residents and 31 controleurs) with the assistance of native chiefs in less than two years, though it took almost thirty years to publish all three volumes of the Eindresume (see Anonymous 1893a).

Thus, the Eindresume is not without its problems.31 The most common and understandable criticism concerns the way it was edited. Ong describes it as "loosely organized and the historical and contemporary materials, as well as those from different regions, tend to be mixed" (Ong 1975:167 note 17). Similarly, Rouffaer calls it "a gigantic arsenal of facts, but more just piled up than worked up into a

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31 Koentjaraningrat (1975:55) uses a rather harsh expression that "the results could hardly have been expected to be anything more than superficial". See also Koentjaraningrat (1967a:13).
whole comprehensible to everyone" (Rouffaer 1918:311). From an anthropological point of view, the cardinal defect would be the arrangement of enormous amounts of data under each survey item in a topical fashion reminiscent of Frazer or Lowie, as it includes such categories as sawah in inheritable individual possession, sawah in communal possession and so on, rather than treating each phenomenon in the context of each residency or village. Naito also remarks:

"being the final resume (as the title Eindresume shows) which has undergone several processes of editing, it lacks the concreteness which must have inhered in the original data gathered in the villages. For instance, it is difficult to get a clear image of the relationships among peasants concerning land. (Naito 1977:436)"

And when the data are given in a summary fashion under each residency, as in the second volume, the liberal bias of the editing seems to have overshadowed objectivity to a certain extent. Van Niel also takes note of the liberal bias present in its editing:

"The report, while undertaken by a government anxious to discover individual land ownership rights among the Javanese, is extremely contradictory in its detailed findings though some of its summary statements would not lead one to think so. (Van Niel 1982:1)"

Ong, likewise, states that "Bergsma, who was chairman of the project[,] had a strong liberal bias for individual ownership of land" (Ong 1975:169 note 17; see also Knight 1982:135). And Van Niel reveals that:

"The conception and execution of the investigation which led to the Eindresume was the work of liberals whose dislike of the government-managed cultivation system was clearly manifest. The policy of individual land ownership was consciously pushed by the investigators; this was evident at the time, and W.B. Bergsma, the chief investigator, tried to defend himself against this charge and others in De conversie van Communaal in Erfelijk Individueel Bezit op Midden Java... (Leiden, 1881). This tendentiousness of the investigation in seeking out individual ownership of land was exacerbated by the Eindresume's inconsistency [or, I would say, consistency] in..."
the translation of the word jasa, which is mostly incorrectly translated as hereditary ownership. (Van Niel 1982:21 note 65)\textsuperscript{34}

Furthermore, in regard to the claim made in the Eindresume (2:245) that the people would gladly return to the old system of individual possession, Van Niel remarks that:

I am rather skeptical of this. I incline to the opinion that the Javanese would answer whatever was expected of him, and that consequently the presumed answer tells more about the predispositions of the interviewer than of the attitude of the Javanese. (Van Niel 1969:269 note 37)

This tendency of asking leading questions can be seen in the way the question on the manner of land possession was phrased in the Eindresume questionnaire:

In what ways are the land, whether cultivated or not, belonging to your desa possessed by you: do you have it communally in possession or does each of you have a share in it, which stays yours always or for a certain time? Does this apply to all lands or only to cultivated land?\textsuperscript{35} (Eindresume 1:XXI)

As already seen above in Van Niel's remark, when given a closer look, the enormous data contained in the Eindresume contradict each other to the extent that they do not easily fit into any simple framework. However, the main impression one gets from reading the Eindresume is that there was a shift from individual to communal land tenure in the late eighteenth century and the early nineteenth century.\textsuperscript{36} And I think it would suffice here to make a note of the historical background which coloured the summary statements in the Eindresume, since there is already an excellent summary of the Eindresume available in English (see Kano 1977).

\textsuperscript{34}See also Fernando (1982:104-105).

\textsuperscript{35}"Op welke wijze worden de gronden tot uwe desa behorende, hetzij bebouwde hetzij onbebouwde, door u bezeten: hebt gij die gemeeenschappelijk in bezit, of heeft ieder uwer een aandeel daarin, dat immer of voor zekeren tijd het zijne blijft? Betreft dit alle of slechts de bebouwde gronden?"

\textsuperscript{36}See Kern \textit{et al.} (1913:153).
3.3.7 PIERS (1877)

Being a prominent liberal scholar, Pierson strongly criticises the Cultivation System. He strongly criticises the view used to justify the system, among others by Van den Bosch,\textsuperscript{37} that it was based on adat. He states: "I think it may be called as an indisputable truth that no system has ever violated the adat more than precisely that of Count van den Bosch"\textsuperscript{38} (1877:140). He points out that the Cultivation System was based upon many misunderstandings of the villagers' right over their fields. For example, he states:

[Only] a few words are sufficient to prove this, because there can be no difference in opinion on this matter. According to the Javanese legal ideas, a farmer who pays his taxes regularly may not be dispossessed of his fields. With the introduction and expansion of the Cultivation System, however, this [dispossession] took place continually: how arbitrarily one has dealt with the sawah of the natives!\textsuperscript{39} (ibid. 143).

It is his contention that "under the operation of the Cultivation System the communal land tenure was expanded at the cost of the individual tenure.\textsuperscript{40} (ibid. 144). It is not clear, however, in spite of the word "expanded" which assumes the pre-existence of communal land tenure, whether he thinks that there was originally no sawah held in communal possession.\textsuperscript{41} His liberal position is reflected in his negative view of communal land tenure in comparison with peasant proprietorship (see ibid. 296-305).

Pierson was well aware of the wider debate and mentions Von

\textsuperscript{37}Van den Bosch was the founder of the Cultivation System.

\textsuperscript{38}"mee ik het een onbetwistbare waarheid to mogen noemen, dat geen stelsel ooit de adat meer geschonden heeft dan juist dat van den Graaf van den Bosch."

\textsuperscript{39}"Om dit te bewijzen zijn weinig woorden voldoende, want hierover kan geen verschil van gevoelen bestaan, dat naar de Javaansche rechtsbegrippen een landbouwer, die geregeld zijne belastingen betaalt, niet van zijn velden ontzet mag worden. Maar bij de invoering en uitbreiding van het cultuurstelsel is dit aanhoudend geschied: hoe willekeurig heeft men gehandeld met de rijstvelden der inlanders!"

\textsuperscript{40}"onder de werking van het cultuurstelsel het communaal grondbezit is uitgebreid ten koste van het individueele."

\textsuperscript{41}It is clear that he thinks that there were non-sawah land held in communal possession prior to the Cultivation System (see ibid. 144-145).
Maurer, Maine, and Laveleye (ibid. 276-278). Writing before the wider debate entered the Denial Phase, he agrees with these writers and states that "the communal land tenure has existed among all civilized people"\(^{42}\) (ibid. 296, see also ibid. 275). He, however, does not believe that this institution of great antiquity existed in nineteenth century Java. After pointing out the absence of clan organization (familievereeniging), which was then thought to have existed in, if not all, most primitive societies, and the existence of individual tenure in Java, he writes:

> the communal life of the ancient time belongs here mostly to the past and Java is [already] "modernized" much more than one usually presumes, not by our administration but by her own development.\(^{43}\) (ibid. 270)

Thus, he regards the Javanese desa as being comparable to the Russian mir and the Germanic mark and claims that the German or English peasant from the fourteenth century would feel at home in contemporary Java (loc. cit.).

Pierson completely ignores the fact that it was exactly these institutions, the mir and the mark, that were considered as a survival from great antiquity characterised with communal land in the wider debate. He also fails to elaborate on the difference, if any, between the communal land tenure expanded by the Dutch and the supposedly universal, ancient type.

3.3.8 BARLAGEN BUSSEMAKER (1887)

Barlagen Bussemaker discusses firstly the supreme proprietorship (oppergrondeigendom) of the State over uncultivated land as a prelude to his discussion of that over cultivated land, since he reasons that if it is denied on uncultivated land, it would not hold on cultivated land either (Barlagen Bussemaker 1887:20).

He resorts to the use of data from outside Java (especially from

\(^{42}\)"het gemeentelijk grondbezit bij alle beschaafde volken heeft bestaan"

\(^{43}\)"het gemeenschappelijk leven van den ouden tijd er voor een groot deel tot het verleden behoort en Java--niet door ons bestuur, maar door zijn eigen ontwikkeling--veel meer dan men gewoonlijk aanneemt, is "gmoderniseerd".\)
Sumatra and Borneo), for he believes that there the concept of landownership would be least affected by European influence (ibid. 16). Using such data, he demonstrates that all that was required to clear uncultivated crown-land was the permission of the chief (panghulu) and that such permission was almost never denied (ibid. 29). Hence, he concludes that, the right over land of the Sovereign, whether it is a community (gemeente), a district, a village, a regent, a sultan, or the State of the Netherlands, is not a right in private law (ibid. 36, 42).

This also applies to already cultivated land; so he claims that the existence of restrictions on alienation of the land and the custom of land reverting to the community when the owner dies without an heir does not mean that the right of the community can be considered to be that in the sense of private law (ibid. 43). He also calls attention to the fact that the concept of property is a modern one and has its place only in private law (ibid. 40).

He then proceeds to discuss the communal possession of cultivated fields in Java. Criticising Laveleye's position that communal possession is the most primitive form of land ownership, he maintains that:

Far from being a time-honoured relic from days long gone by, almost nowhere [in Java] has communal possession existed for [as long as] a century, often not even a half century... Before this time communal possession of cultivated fields was also unknown in Java.44 (ibid. 71-72)

It is his contention that:

If one insists on talking of land possession already in the period of nomadic life, then communal possession in Indonesia is as old as mankind, and individual possession as old as agriculture.45 (ibid. 87)

It seems that Barlagen Bussemaker has three stages in mind in regard to the changes in land holding relations. He begins relying on

44 "Wel verre van te zijn een eerwaardig overblijfsel uit lang vervlogen dagen, heeft het communaal bezit bijna nergens een eeuw, veelal nog geen halve eeuw bestaan... Voor dien tijd was ook op Java communaal bezit van bebouwden grond niet bekend."

45 "Wil men in het tijdperk van het zwervende leven reeds van landbezit spreken, dan is in Indië communaal bezit zoo oud als de menschheid, individueel zoo oud als de landbouw."
the *Eindresume*, with a stage where land is under the inheritable possession of the reclaimer or his successor according to the *adat* that, as long as the *pajeg* (tax) is paid and service rendered, the reclaimer can keep the land (*ibid.* 89). Then he claims that this inheritable right of possession was invalidated during the Mataram period, due to the increasing burdens, which resulted in land falling into the hands of the *bekele*\(^{46}\) and being farmed out to the highest bidder (*ibid.* 89-90). The third stage is that of communal possession as described in the *Eindresume* (*ibid.* 99-104). In his view, the position of the actual cultivators was improved compared to that during the preceding stage, because they had an inheritable right, though not exclusive and not as owners, but as shareholders to the land (*ibid.* 105).

He elaborates further on this transition from the second to the third stage. It is his contention that communal possession in the former principalities (*vorstenlanden*) which came under the Dutch East India Company (*Compagnie*) dates only from the time of the introduction of Dutch rule (*ibid.* 105-106). According to him, communal possession resulted from an effort to lighten the increase in corvee service (*ibid.* 110-111). This brought about a complete reversal in the tax system; earlier the landowners were taxed, but later all able-bodied men were taxed and given *sawah* in return (*ibid.* 112-113). In summary: "If formerly land possession regulated the corvee service, now it was the corvee service which regulated land possession"\(^{47}\) (*ibid.* 113). He also states that "land possession, instead of a privilege, became a burden"\(^{48}\) (*ibid.* 115).

However, he claims that it was the Cultivation System which was decisively responsible for the introduction of communal possession (*ibid.* 117). Communal possession which came into being earlier as the result of the burden of corvee service in the coastal areas (*strandresidentien*) is considered an exception (*ibid.* 120). He then

\(^{46}\) *Bekel* is usually glossed as village head. For more details, see Mulherin (1971).

\(^{47}\) "Had in vroeger tijden het grondbezit de heerendiensten geregeld, nu was de heerendienst regelaar geworden van het grondbezit."

\(^{48}\) "grondbezit in stede van een voorrecht, was geworden een last."
The Dutch administration burdened the populace with corvee service and claimed to do this according to the *adat*, which tied the duty to render personal service to land possession, while the extent of the services was calculated according to the extent of land possessed. This was completely right; in the imposition of these services, however, two things had to be taken into account. It was not only a matter of how large the land possessed by those liable to corvee was, but also how much of their time could be disposed without making the pursuit of their concern impossible; in other words, following the *adat*, a whole *desa* was burdened with the delivery of a certain number of men, not only the extent of their fields, but also the number of landowners was taken into account in deciding the figures. That this last standard was not applied by the Dutch administration is the foremost cause for the indirect genesis of communal possession.49 (ibid. 131-132)

He says that all this was based on a misunderstanding:

The Sovereign and his subjects each had different ideas of their rights and duties. The Company regarded all Javanese as obligated to it. Not all Javanese, however, regarded themselves as servants of the Company.50 (ibid. 134)

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49 "De Nederlandsche regeering bezwaarde de bevolking met heerendiensten en beweerde dit te doen volgens de adat, die aan landbezit de verplichting vastknoopt tot het praesteren van persoonlijke diensten, terwijl de mate dier diensten wordt berekend naar de mate van het landbezit. Dit was volkomen waar; bij het opleggen dier diensten moest echter rekening worden gehouden met twee zaken. Het was niet alleen de vraag: hoe groot is het landbezit van den heerendienstplichtige, maar ook, over welk gedeelte van zijnen tijd kan men beschikken zonder hem de uitoefening van zijn bedrijf onmogelijk te maken; m.a.w. waar men, volgens de adat, een geheele desa belastte met de levering van een zeker aantal manschappen, behoorde men bij de bepaling van dat getal niet alleen rekening te houden met de uitgestrektheid harer velden, maar ook het aantal der landbezitters. Dat deze laatste maatstaf door de Nederlandsche regeering niet werd aangelegd, is de voorname oorzaak van het indirect ontstaan van communaal bezit."

50 "Souverein en onderdaan maakten zich eene verschillende voorstelling van hunne rechten en verplichtingen. De compagnie beschouwden alle Javanen als hare dienstplichtigen. Niet alle Javanen echter beschouwden zich als dienaren der compagnie."
3.3.9 DAY (1904)

Though admitting that the data on the pre-colonial situation of the native institutions in Java are such that "any treatment of it must be general in terms and hazy in details", Day mentions that the Eindresume:

shows that at that time the Dutch had not only completely changed the superstructure of native government, but had profoundly modified its substructure as well, and that the village organization of to-day cannot be taken as evidence of what existed one hundred or even fifty years ago. (Day 1904:4-5)

Also relying on the Eindresume, he claims that pre-colonial "[l]and tenure was individual and hereditary" (ibid. 29). And further:

As long as the villagers paid their taxes, they were free to conduct their own affairs as they chose; officers elected by them attended to all the business of local government, including taxation, the judicial settlement of minor disputes, and the maintenance of local police. There was no equality of possessions among the members of the village. Some were well-to-do, with more land and stock than they needed for their own subsistence, and some were landless and had to work for others to gain their living. (ibid. 30)

As for communal land tenure, he relates it's increase to the Cultivation System (especially where it involved cultivation of sugar or indigo) and states that:

There was a pressure from above to maintain the communal system of land tenure and to extend it at the cost of villagers whose land had become individual and hereditary property. The village strove to bring under its control all land that it could get to satisfy the government demands. Claims to individual rights disappeared with the decrease in the individual interests and voluntary labor of the natives. In spite of an abundance of free land the population heaped itself up in the villages, to divide the burdens among more families, and the land share of each family grew smaller and smaller. (ibid. 303)

Thus it is his contention that:

Communal land tenure in Java is not an aboriginal institution as supposed by Laveleye and others; it represents a modification of individual tenure by government influence, and hence resembles the Russian mir . . . While this, I think, can be held to be absolutely certain since the publication of the ample evidence in the Eindresume, some points in the rise of communal tenure are still obscure. The land-tax worked with
the culture system to bring about the change; the fiscal demands of the government, expressed either in tax or cultures [sic], were the motive force. (ibid. 303-304 note 1)

Here we again encounter assertions based almost totally on the Eindresume.

3.3.10 BEZEMER (1912)

In this article Bezemer attempts to defend his position, that communal land possession in Java is of a fairly recent date and due to European influence, against those who claim that the strong resemblance with the Indian system can be only explained by its Indian origin (see H.B. 1912:548 note).

Bezemer remarks that what he means by "communal possession" when he asserts its recent origin, is "communal possession with periodic redistribution" (communaal bezit met periodieke verdeeling) (Bezemer 1912:1027, 1036). Thus, he makes a clear distinction between "communal possession with periodic redistribution" and "communal possession with fixed shares" (communaal bezit met vaste aandeelen). He also makes it clear that what he is dealing with has nothing to do with a hypothetical ancient communism.

Bezemer discusses the land tenure system in India in detail and points out the existence of various forms of land tenure, specifically the non-Aryan raiyatwari (ryotwar) system, which is not communal, and the Aryan communal system based on conquest (ibid. 1028-1031). He concludes that the older tenure system is not communal even in India.

Then Bezemer goes on to discuss communal possession in Java. As for the communal possession with fixed shares, he states that it belongs to the descendants of the first clearer and not to the recipient of a royal gift of land or to the descendants of conquerors as it is the case in India (ibid. 1035). This form could have "evolved from individual possession under the influence of a strengthened village bond or could have come into existence from communal possession with periodic redistribution through an aspiration for a more fixed form of possession" (ibid. 1036).

51"onder invloed van een sterker geworden desaverband, uit het individueele bezit heeft kunnen ontwikkelen, als ontstaan kan zijn uit het communaal bezit met periodieke verdeeling, door een streven naar vaster bezitsvorm."
As for the other form of communal possession, i.e. that with periodic redistribution, he argues that it is a result of foreign, not Indian but European influence (ibid. 1035). Relying on the Eindresume and the Welvaartverslagen, he specifically refers to the influence of the Cultivation System and the burden of corvee service (heerendiensten) in general and the cultivation of sugar in particular (ibid. 1035-1036).

By denying any Indian influence upon Javanese communal possession, Bezemer demonstrates to his own satisfaction the tenability of his position.

3.3.11 LEWINSKI (1913)

Since the main contribution of Lewinski's book to the debate on the origin of property and the formation of village community is a theoretical one, only those observations which have to do with Java will be dealt with here. The rest will be touched upon throughout the thesis when necessary.

Criticising those who relate the origin of communal property to the necessity of joint labour by large groups in clearing a forest, Lewinski maintains that:

"The common clearing" in Java of which Laveleye speaks consists in reality in a mutual help of three or four households. Every one cultivates his land individually, and there are no traces of a village community. . . . in Java, as everywhere, private property was the primitive form of ownership. (Lewinski 1913:20)

He also states that:

In Java, in the thinly populated districts, individual hereditary property is the general rule. Only where population is dense the village community exists. In these parts, however, this institution is of a more recent origin, and was preceded by individual ownership. (ibid. 30)

He supports his argument against Maine and Laveleye, who maintain that private property can only follow communal ownership, by referring to Java in these places. All of his remarks on Java, however, are

52 The results of a large scale investigation into native welfare conducted from 1902. See Koentjaraningrat 1967:13-14.
based solely on the *Eindresume*, which was used by Laveleye in his fifth edition of *De la propriete et de ses formes primitives* to claim the exact opposite. Lewinski criticises Laveleye for using the material "in such a form as rather to obscure the results, which clearly demolish his theory" *(ibid. 30 note 4).*

3.3.12 LACEULLE (1916)

Laceulle asserts that the native right of possession (*Inlandsch bezitrecht*) is almost the same as the right of private property (*eigendom*) and criticises the confusing concept of right of usufruct and of possession on state land (*gebruiks- en bezitsrecht op staatsdomein*) (Laceulle 1916:274-275). Hence he states:

The "native right of possession" always in practice conforms totally to what we shall call "property"; it [native right of possession] only differs insofar as it, as a "customary (adat) law", is subject to popular institutions.53 *(ibid. 274)*

This position leads him to denounce the concept of the so-called communal arable field (*de z.g.n. communale bouwvelden*) in Central Java, for it is worked individually by members of a certain group of cultivators and its produce is enjoyed by each respectively *(ibid. 275).* He only considers those fields for which the native right of possession is ascribed to the village itself as proper cases of communal possession (*communaal of gemeentelijk bezit*). Thus, he lists village-green, communal pasture, graveyard, and those lands used for the benefit of the village (e.g. salary field, *sawah titi-sara, -srana, -tamoe*) *(loc. cit.)*.

He then proceeds to discuss the legal status of the so-called communal fields. Referring to the *Eindresume* and Barlagen Bussemaker (1887), he remarks that "the so-called communal possession of arable land in Central Java is of relatively recent date"54 *(ibid. 277).* This brings him to criticise the theories of Maine and De Laveleye, who

53"Het 'Inlandsch bezitrecht' komt immers in de praktijk geheel overeen met wat wij 'eigendom' zouden noemen; onderscheidt zich daarvan slechts in zoover het als 'adatrecht' aan de volksinstellingen is onderworpen."

54"dat het zgn. communaal bouwvelden-bezit in Midden-Java nog van betrekkelijk jongen datum is."
maintain that communal possession as the oldest, most primitive form of
land ownership always precedes individual possession. He also
dispenses with those who compare the present situation in Central-Java
with the Germanic mark (e.g. Scheuer 1885). By alluding to Raffles's
remark that possession of arable land in Java cannot be considered
village possession and that the Sovereign is the owner of all land, he
proposes that the native right of land ownership was up until then only
a right of cultivation (bouwrechten) (ibid. 278). He sees the early
form of the so-called communal fields in the tjatjah selawe in Demak
reported in the Eindresume (vol.2, Bijlage K.K.). Though there were to
be 24 household heads for an explanation why this system is called
25 when there are to be only 24 households] liable to render services
to the chief (hoofd) in each tjatjah selawe, it was divided among 30 to
40 heads where the population was abundant. He comments:

Here the phenomenon thus already presented itself, which is
to be found later everywhere in Central Java with the pressure
of corvee service becoming increasingly heavy: the splitting of
the cultivated field area among as many able-bodied men as
possible, among a greater number [of people] than officially
recorded as liable to render corvee in the register in relation
to the area of cultivated land.

Nevertheless it was up to the farmers' group belonging to a
tjahtjah selawe whether to continue the splitting of the
cultivated land or not. (ibid. 279)

He, however, does not consider this to be a form of communal land
tenure, though he takes notice of the fact that:

The excessive administrative meddling during the expansion
of forced cultivation more often than not caused the idea to
take form at a later period that all adult male residents
capable of rendering the corvee service and ready to pay the

55 Selawe means 25 in Javanese (Ngoko form). See Rouffaer (1931:309
[1906:621

56 "Hier deed zich dus reeds het verschijnsel voor, dat later bij
toenemende verzwaring van den druk der persoonlijke diensten alom in
midden-Java zou worden geconstateerd: verdeeling van het
bouwgrondareaal onder een zoo groot mogelijk aantal werkbare mannen,
onder een groter aantal dan officieel in verband met de
uitgestrektheid der bouwvelden als heerendienstplichtig te boek stond.

Niettemin was de tot een tjahtjah selawe behorende landbouwgroep
geheel vrij de verdeeling van den bouwgrond al dan niet voort te
zetten."
land rent were equally entitled to sawah in the village.57 (loc. cit.)

This is the case, because he does not consider the village as the corporate body in charge of the so-called communal fields, but a group of gogol-class peasants (gogolvereenigingen) (ibid. 279-283). He remarks that "the gogol constitute in most cases only a part of all those qualified to vote in the villages."58 (ibid. 283). But it was the gogol who alone had a say in the so-called communal fields. Thus, it is claimed that, the non-gogol do not have any title in public law to the so-called village fields (ibid. 287).

On the basis of the above-mentioned contentions, he opposes regulations59 which restricted the natural development of the Native Right of Possession into a full-fledged Property Right by forbidding the conversion (conversie) of the so-called communal field into private property or by forbidding its alienation (ibid. 283-284, 290).

3.3.13 LETTE (1928)

Lette's book attempts to compare land tenure systems in pre-revolution Russia with that in Java. The Russian side of this work will not be dealt with in the present review. The theoretical framework adopted (Lette 1928:6-16) is completely that of Lewinski (1913). Thus Lette is in agreement with Lewinski, Barlagen Bussemaker and others in supporting the prior existence of an individualistic system of tenure before that of a communal one. He also correctly pays attention to the important distinction between hayfields, forest, and pasture on one hand, and cultivated fields on the other (ibid. 13). As far as Java is concerned, he focuses upon cultivated fields only.

57"Te ver gedreven bestuursbemoeienis bij de uitbreiding der gedwongen cultures heeft in later tijd veelal de idee doen postvatten, dat alle volwassen mannelijke ingezetenen, geschikt de persoonlijke diensten te verrichten en bereid de landrente te betalen, gelijkberechtigd zijn op de sawahvelden in de dessa."

58".. de gogols in de meeste gevallen slechts een deel uitmaakten van de gezamenlijke kiesgerechtigden in de dessa's,..."

59They are De Inlandsche Gemeente Ordonnantie (Inlandsch Staatsblad 1906 No.83), which gave the control over the so-called communal fields to the village, and the Regeeringsbeslissing of 1916, which declared the so-called communal fields as village land (gemeenteigrond) and forbade its alienation.
Firstly, he deals with what he calls "the old Javanese land tenure" (het oud-Javaansche grondbezit). He refers to an inscription of 919 A.D. which mentions that though the king may simply designate a certain plot of uncultivated land (in this case a forest) as a free area; if the land is a sawah, he is obliged to buy it first from the owners. Hence he suggests that it does not seem an all-embracing royal right of domain (een alomvattend domeinrecht van den Vorst) was in force (ibid. 100). He also refers to an inscription of 966 A.D. which shows that land was possessed by individuals and could be freely sold, donated, pawned or inherited (ibid. 101). But he also points out that there are cases of land possessed by a village and of land being transferred between villages (loc. cit.). The existence of core villagers called dapur, who were entitled to compensation in case of cession of certain village lands, is also mentioned in the Nagarakrtagama. Thus he concludes that:

From what the inscriptions indicate, it seems probable to me that in old times a native right of possession [in Van Vollenhoven's sense] existed, but, in addition to or superordinate to [this right], the right of disposal of the village [also existed]. (ibid. 102)

Then he proceeds to discuss the land tenure situation under the Mataram dynasty. It is his contention that while the old system was maintained in the Outer Provinces (Mancanegara) where almost no land was put under the apanage system, in the Core Regions (Negaragung) where land was under it, the old village system and land tenure system suffered a devasting blow from rule by the princes (vorstenbestuur) (ibid. 104).

After describing the categories of peasants in the village; the core villagers (kerndorpers), the secondary villagers (bijwoners), and boarders or lodgers (kostgangers of inwonenden), he remarks that this division, though muddled by the Landrent and Cultivation System, is obviously the basis of the old system of indigenous village rights and

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60."Uit hetgeen de oorkonden meedeelen lijkt het mij waarschijnlijk, dat er in denouden tijd een inlandsch bezitrecht bestond, maar daarnaast of daarboven een beschikkingsrecht van de desa."

61De Roo de la Faille (1919) and Rouffaer (1918) maintain to the contrary that it was so even in the Outer Provinces.
duties (ibid. 105). It is also remarked that village service was rendered on the basis of this division irrespective of the extent of each peasant's land holdings (ibid. 106).

Lette then gives examples of self-cleared lands (jasa-gronden) being appropriated by the princes or their representatives (bekel). Thus the cultivators came to be sublessees of the bekel. It was primarily the increased burdens which caused the cultivators to give up their lands to the bekel. He states that "the possession [of land by the cultivators] was thus very precarious"62 (ibid. 107). The situation was basically the same in the areas which came under the V.O.C.63 (ibid. 117). As for the communal land tenure in this period, he states that:

In the former principalities there is no trace of redistribution, let alone of equal redistribution, of "communally occupied lands" among all the farmers of a village. "Communal"-possession occurred there for the first time through our [i.e. the Dutch] influence.64 (ibid. 108)

It was common for members of the same village to belong to anywhere from two to six different apanages which resulted in the solid native community (inlandsche gemeente) fading away simply into a loose local settlement (een locale nederzetting). Apanages, however, gave no right to the land itself, only to those benefits due to the prince from the cultivators (ibid. 111).

Next, Lette deals with the influence on land tenure of the Landrent System introduced by Raffles. He states that "[i]n order to make the pressure of the burden bearable a change was made to a new redistribution among present farmers"65 (ibid. 118). This response is quite understandable, because:

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62"Het bezit was dus zeer precair."
63Abbreveation for Vereenige Oostindische Compagnie (Dutch East India Company).
64"Van verdeeling, nog minder van gelijke verdeeling der 'gemeentelijk bezeten gronden' onder de gezamenlijke landbouwers eener desa, treft men in de vroegere Vorstenlanden geen spoor aan. 'Communaal'-bezit is daar eerst ontstaan door ons gezag."
65"Om den druk der belasting dragelijk te maken werd tot een nieuwe verdeeling onder de aanwezige landbouwers overgegaan."
The sum of the land rent was thus not dependent upon the extent of the land of the native, but the other way around, his land was reduced, enlarged or allotted according to the amount [of land rent], for which the village head thought proper to count on him ("to redistribute the land in equity"\(^66\)).\(^67\) (ibid. 119)

Though he is basically of the opinion that the introduction of communal land tenure was coincident with the introduction of the Landrent System, he seems to contradict himself in stating that:

Also already in the time of the V.O.C., to meet the inconvenience caused by the pressure of the corvee service and the considerable migration, an order was given by the regent to redistribute the fields. It seems that already before the English interregnum in many desas (in Semarang) the fields were annually redistributed.\(^68\) (loc. cit.)

Lette concludes the section on the Landrent System by stating that:

Communal possession generally did not exist much before the Cultivation System. Various causes worked together for its emergence (promotion):

1st. land becoming ownerless;
2nd. imposition of heavy services;
3rd. the Java war (1825 to 1830);
4th. non-cultivation lasting four or five, sometimes two to three years (Japara).\(^69\) (ibid. 120)

Further he states that:

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\(^66\)This is a phrase, though not word for word, from article 12 of Staatsblad 1819 No.5 (see the footnote on page 17). The clumsiness of inserting this phrase in this sentence also applies to the original Dutch text.

\(^67\)"De landrentesom was dus niet afhankelijk van de grootte van den grond van den inboorling, maar omgekeerd, zijn grond werd verkleind, vergroot of toebedeeld naar gelang van het bedrag, waarvoor het dorpshoofd goed vond op hem te rekenen ('naar billijkheid de grondten te verdeelen')."

\(^68\)"Ook in den tijd van de V.O.C. was reeds, om te voorzien in de ongelegenheid, ontstaan door den druk van de heerendiensten en de talrijke verhuizingen, door de regenten last tot verdeeling der velden gegeven. Het bleek, dat reeds voor het Engelsche tusschenbestuur in vele desa's (in Semarang) de akkers jaarlijks werden verdeeld."

\(^69\)"Gemeen bezit bestond voor het cultuurstelsel lang niet algemeen. Tot haar ontstaan (bevordering) werken verschillende oorzaken mede:
"1e. onbeheerd raken van grond;
"2e. oplegging van zware diensten;
"3e. de Java-oorlog (1825 tot 1830);
"4e. niet-bebouwing gedurende vier a vijf, soms twee a drie jaren (Japara)."
The Landrent System had indeed caused a few equal redistributions, but as a rule no periodic redistribution, like those which would be advanced later by corvee and cultivation services.\(^70\) (loc. cit.)

Next he moves on to the influence of the Cultivation System. He states that:

Of more influence on the "communal" possession was the Cultivation System. What previously occurred only rarely was then strongly promoted in the name "communal" possession with periodical redistribution.\(^71\) (loc. cit.)

He mentions that it was particularly the forced cultivation of sugar and indigo which was detrimental to individual possession of self-cleared fields (jasa-bezit), for it destroyed the dikes (galengans) between the sawah and thus made it difficult to relocate the boundaries between sawah (ibid. 121-122). This was how the annual redistribution of the sawah came into being (ibid. 123). The situation was further exacerbated by the flight of the population out of the forced cultivation areas (volksverloop), which resulted in more communal possession due to the reversion of the abandoned fields to the village (ibid. 122). Thus, he states, "the right to land was here changed into a duty to possess land"\(^72\) (loc. cit.).

It seems, however, that the lack of arable waste land also played a role in causing this transformation. Relying on the Eind resume he reports that:

Sometimes it is explained that individual possession had always existed, which was also inheritable; but when there was no more waste land and thus there was no more opportunity for newcomers to receive land, it was agreed upon unanimously that

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\(^70\)"Het landrente-stelsel had wel een enkele gelijke verdeeling ten gevolge, maar in den regel geen periodieke verdeeling, zooals die bevorderd werd door latere heeren- en cultuurdiensten."

\(^71\)"Van meer invloed op het 'communaal' bezit was het cultuurstelsel. Wat voordien nog verspreid voorkwam, werd toen sterk bevorderd, met name het 'communaal' bezit met periodieke verdeeling."

\(^72\)"Het recht op land werd hier veranderd in een plicht om land te bezitten."
all sawah would be communally possessed.\textsuperscript{73} (ibid. 124)

And also that:

In Chirebon residents of two villages wished to maintain their individual possession. And this was successful, for one thing, because their land was too far from the closest sugar mill to be incorporated by it, but mainly through the circumstance that there was abundant land available for new clearing in these desas.\textsuperscript{74} (ibid. 126)

He also mentions that the old custom, which was incorporated in article 16 of the \textit{Staatsblad} 1819 No.5, of self cleared land being exempt from tax for the first several years, was applied by local authorities so that after the period the newly cleared land would be brought into communal possession (loc. cit.).

Then follows his discussion of the influence of corvee service on land tenure. He remarks that under the \textit{Compagnie} the use of the cultivated fields was recognized as a reward for the services rendered (ibid. 128). Also under Daendels it was declared in the \textit{Organieke Besluiten} that all ordinary Javanese were to be liable to render service (ibid. 129).

It is worth paying attention to the fact that Lette distinguishes between an annual redistribution of the land (\textit{jaarlijksche verdeeling}) and an annual rotation of cultivators (\textit{jaarlijksche verwisseling van bebouwers}) (ibid. 133). Unfortunately, however, he fails to elaborate further or make use of this distinction.

\textsuperscript{73}"Soms werd verklaard, dat altijd individueel bezit had bestaan, hetwelk ook erfelijk was; maar toen er geen woeste gronden meer waren en er voor nieuwelingen dus geen gelegenheid meer was om gronden te krijgen, werd met algemene stemmen bepaald, dat alle sawah's gemeenschappelijk zouden worden bezeten."

\textsuperscript{74}"In Cheribon wisten ingezetenen van twee desa's hun individueel bezit te handhaven en dit gelukte eensdeels, doordat hun gronden te ver lagen voor de naaste suikerfabriek om daarbij te worden ingedeeld, maar vooral door de omstandigheid, dat bij die desa's overvloed van gronden beschikbaar was voor nieuwe ontginningen."
3.4 THE POSITION OF THE DEBATE ON JAVA IN THE WIDER FRAMEWORK OF THE
VILLAGE COMMUNITY CONTROVERSY

What first comes to our attention is the fact that, in spite of
the apparent relevance of the general debate on the nature of the
village community in determining the parameters of the specific debate
over the original form of land tenure in Java, the reciprocal influence
of the Javanese data on the wider theoretical controversy remained
minimal. While the Javanese data were taken up only by Laveleye (1874;
1878) and Lewinski (1913) among the participants\(^75\) in the wider debate,
on the Javanese side, Pierson (1877), Anonymous (1880), Barlagen
Bussemaker (1887), Van de Werk (1899), Day (1904), Bezemer (1912),
Laceulle (1916), and Lette (1928) refer to the debate then waged in
Europe over the nature of the village community and the origin of
property (in land). One explanation for this lack of feedback is the
language barrier. While most Dutch scholars were capable of reading
other European languages, few non-Dutch scholars read works written in
the Dutch language.\(^76\)

Pierson (1877) and Van de Werk (1899) fit into the Generalization
Phase of the general debate. Pierson, though accepting that communal
land tenure precedes individual land tenure, maintains that Java has
already passed that stage. Van de Werk, who considered communal land
tenure in Java to be a rather recent phenomenon due to foreign
conquest, regarded the situation in Java as exceptional.

The rest belong to the Denial Phase. Anonymous (1880), Day (1904)
and Lette (1928) refer to the rather late origin of the Russian mir to
support their case. And Barlagen Bussemaker (1887) and Bezemer (1912)
refer to Indian village studies for the same purpose. Though the
points made in the literature in this last category seem plausible, I
do not find them sufficient to decide the case. Even the literature in
this category has not escaped the restraints imposed by the very
framework of the wider debate. In the next chapter I will attempt to
criticise the very terms of the whole debate by making use of some
anthropological perspectives.

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\(^75\)Coulanges (1927:111-113) does refer to Java, but this is only in
relation to his criticism of Laveleye.

\(^76\)For this explanation I am indebted to Dr. R. Fernando.
CHAPTER 4

CRITIQUE OF THE DEBATE ON THE ORIGIN OF COMMUNAL LAND TENURE IN JAVA

4.1 THE PROBLEM OF TERMINOLOGIES

4.1.1 Ownership (eigendom), Right of Possession (bezitsrecht)

As is already apparent from the preceding two chapters, the land tenure system in Java has often been analyzed in terms of two notions: inheritable individual possession (erfelijk individueel bezit) and communal possession (communaal bezit, gemeen bezit, gemeentelijk bezit, gemeenschappelijk bezit). The term "possession" is used rather than "ownership" because it was assumed that there was no right of property (eigendom), at least among the actual cultivators,¹ in nineteenth century Java.² This application of a Western distinction is not without its problems.

The problem of applying our (in most case Western) established terms, which are inseparable from our own cultural framework and heritage, to foreign (non-Western) situations has been one of the classic problems in anthropological discourse (e.g. the long controversies over religion vs. magic, law vs. custom³). With regard to the work of early Dutch writers on Indonesia in general, Koentjaraningrat (1975:21) remarks that they "applied Western

¹See Lyon (1970:2) for an opinion that denies the existence of the concept of ownership in any Western sense, even in the case of rulers. I shall deal with this problem later in this chapter when I look into the concept of supreme proprietorship.

²For example, see Bezemer 1912:1030 note 3.

³See De Josselin de Jong (1948), Von Benda-Beckmann (1979:14-16). See also Roberts (1979:17-29) for cases of distortion caused by naive application of one's own conceptual and institutional framework in legal anthropology, and Pospisil (1971) for an example of an elaborate attempt to define "law" in a heuristic cross-cultural sense.
categories to the description of Indonesian customs and beliefs." As Ter Haar states in the context of investigating Indonesian customary law: "[a]ny description of adat law written in the Dutch language has to cope with the difficulty generated by the fact that Dutch is the language which 'naturally' belongs only to Dutch law" (Ter Haar 1948:224). He also refers to the "many barriers between adat law and the conception of it as formulated in Dutch" (ibid. 225). Referring to the spiritual ties between a community and the soil, s'Jacob also correctly points out:

This state of mind cannot be translated into western legal terms. One cannot just assume that there is 'therefore' a joint ownership of the soil or that the idea of individual right is unknown. (s'Jacob 1951:140)

The same point is raised in a study of Pacific land tenure systems:

Terms like freehold, leasehold, customary and communal have little comparative value, for each is used to describe a diversity of tenure arrangements and each can be used as a catchword with unwarranted emotional significance. (Crocombe 1971:381)

As a solution to this problem, Gluckman (1949:63), in agreement with Ter Haar, suggests the use of neutral terms. In a more general context, Van Leur remarks that "[t]he historical categories borrowed from Mediterranean and western European history are not usable as they stand ..." (Van Leur 1955:124). Then he suggests that: "[a] system of categories of its own, built up with the available historical factual material, is a chief requirement for a correct view of Indonesian history" (ibid. 125). As will be demonstrated after the examination of the concepts "communal possession" and "inheritable individual possession", the use of non-indigenous categories not only

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4See also Darmawi (1972:288-289).

5Similarly, Mulherin (1971:2) notes "the inapplicability of Western concept words" and remarks that "apparently innocent words such as 'village', 'community' or 'ownership', especially ownership of lands, become misleading word-concepts which reflect none of the complexities of the Javanese situation." See also Firth (1929:330-331), Sonius (1963:5-6), and Gluckman (1972:77).

6See also Moore (1969:342). As far as land tenure is concerned, cross-culturally useful neutral terms remain yet to be formulated.
masked the huge range of variation in types of land tenure, but also created the whole question of communal land tenure in Java.

Another point to be made here is that not only were the terms "ownership" and "right of possession" unsuitable for representing the actual state of affairs in Java, they were an unrewarding starting point altogether. As Lyon, following Geertz, correctly points out:

rather than land ownership being the important index of the rural economic situation, land use and land control (with or without ownership) are the key concepts to be considered in examining change in the village social scene. (Lyon 1970:11)

From the perspective of cultivators themselves, which an anthropological examination of the issues aspires to delineate, what is of importance is how the actual access of cultivators to the soil is controlled, not whether they have ownership or not. However, I am not able to present, at least in the framework of the present thesis, how this was done in actuality because I do not have the data necessary for this task. Thus, this thesis remains a discourse upon the discourse about actual affairs rather than an attempt to reconstitute the actual system as it was in pre-colonial Java. At least for the purpose of delineating the subject of the present thesis, I regard the control over land as manifested in the ability to have a say in who is to actually use, i.e. cultivate, the land, as being most important for the peasants.

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7 Alternatively, Von Benda-Beckmann (1979:42) suggests using "property" instead of "ownership".

8 Similarly, Van Vollenhoven (1919:5) criticises those who frame their inquiry in the form of asking whether land ownership (grondeigendom) is known or not in Indonesian adat law.

9 Though Elson (1979:36) states that, where "the relationship of peasants to the land they cultivated was highly flexible," "the notion of ownership of land was not a meaningful one", I believe taking the ability to decide who is to till the land as the core meaning of "ownership", or more precisely, "control over land." would resolve the problem for our purpose.
4.1.2 Communal Possession

As Ter Haar suggests:

Earlier concepts in the literature covering these interrelations, such as "communal ownership" with "alternating or fixed shares" in the land and "hereditary individual ownership" (where the observer was blind to the communal rights10) served only to produce theoretical confusion and sociological error. (Ter Haar 1948:86)

Similarly, Kern criticises the concepts, "inheritable individual possession" and "communal possession", as incorrectly named (de benamingen zijn niet juist), and further comments that these terminologies "are not juridical and cannot claim any scientific character"11 (Kern et al. 1913:151). Van der Kraan also noted in his study of Lombok this problem of establishing proper concepts. In his words:

In discussing land rights on Lombok it is essential that a well-defined set of concepts with constant meanings be employed. The subject of land rights all too often becomes utterly incomprehensible owing to the inadequacy and inconsistency of the concepts that are used. (Van der Kraan 1975:101)

I shall first discuss the concept "communal possession" and then proceed to "inheritable individual possession" in order to demonstrate that these categories were indeed ill-defined and that there seems to have been no real consensus on what they denote.

4.1.2.1 Definition of "Communal Possession"

Although the Eindresume does not give any clear definition of the term "communal possession", the following passage gives us some idea of what the term signified:

The sawah in communal possession are in individual use by all the share-holders, namely: the [village] head and the members of the [village] administration insofar as they have no fixed salary-fields . . ., and all those in the village who are reckoned as [belonging to] the rank of [full] service

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10 What is here meant by Ter Haar by the term "communal rights" is the right of disposal (beschikkingsrecht) exercised by a community.
11 "niet juridisch zijn en geen aanspraak kunnen maken op wetenschappelijkheid."
liability.12 (Eindresume 1:60, footnotes omitted.)

Kano, who gives an excellent summary of the Eindresume, states:

"Communal possession" is a form of tenure in which an individual (or family) uses the definite land that is only [a] share of communal land of the desa (or of the hamlet as desa component), i.e., the individual is not authorized to dispose of or hand over the land, and, usually a periodic rotation of shares takes place. Needless to say, communal constraints over individual "rights" are far more rigorous than with "heritable individual possession." (Kano 1977:15)

As will be demonstrated later, the concept of "communal possession" is very problematic. Actually, it was the use of this word which caused most of the polemic about land tenure in nineteenth century Java. For instance, Breman criticises reducing the complex character of land tenure to a crude contrast between private and communal ownership and states that lacking private ownership (in the strict Western sense) in several respects does not necessarily mean the overall presence of communal ownership. Thus, he writes: "'communal ownership' was little more than a euphemism: the negation, on quite reasonable grounds, of the existence of private property" (Breman 1983a:7), hence a wastebasket category in which a number of phenomena not fitting into the mould of "private property" (as defined in the West) were lumped together. I find it worthwhile first to discuss the various typologies of communal possession put forth to come up with a better understanding of the phenomena covered by the concept "communal possession". After that I will look at the various features attributed to "communal possession" in an attempt to clear up most of the confusing descriptions of it.

12"De sawah's in gemeen bezit zijn in individueel gebruik bij de gezamenlijke aandeelhebbers, te weten: het hoofd en de leden des bestuurs, voor zoover die geene vaste ambtsvelden hebben . . . , en allen die in de desa tot den stand der dienstplichtigen worden gerekend."
4.1.2.2 Typologies of "Communal Possession"

The *Eindresume* (1:68-69) divides communal possession (*gemeen bezit*) into that with fixed shares (*met vaste aandeelen*), whereby a peasant is allowed to keep on tilling the same plot, and that without fixed shares. Then the latter type is subdivided into that which has both the redivision of the shares and the rotation of the cultivators (*nieuwe verdeeling met verwisseling van bebouwers*), and that which has only the annual rotation of the cultivators unless changes in the number of shareholders require a new redivision ("waar eene nieuwe verdeeling der sawah's alleen geschiedt, als het aantal deelhebbers verandert, maar waar toch jaarlijks verwisseling van bebouwers plaats heeft") (1:69).

Similarly, Rouffaer (1918:345-346) first divides communal land possession (*communaal grondbezit*) into that with fixed shares and that with fortuitous redivision (*met wisselvallige verdeeling*). Then as a subdivision of the latter type he gives communal possession with annual redivisions (*met jaarlijksche verdeeling*). He also comments on his typology as representing the historical development in the above order.

Lette follows a similar line. He divides communal possession into that with fixed shares and that with periodic redivision or with rotating shares (*met periodieke verdeeling of met rouleerende aandeelen*) (Lette 1928:159). Then he subdivides the latter into that with periodic redivisions (*met periodieke verdeelingen*) and that with periodic exchange [of shares] but no change in the divisions or the numbers of the shares (*vaste aandeelen met periodieke verwisseling*) (ibid. 165).

Van der Zwaal (1941:81) divides communal possession, using Javanese terms, into three types. The first, called *atok tetep*, is characterised by fixed shares and continued occupation by the same shareholders (*met vaste aandeelen en steeds dezelfde deelgerechtigden*). The second, called *atok galeng*, is characterised by a fixed number of shares but changing shareholders (*met onveranderlijke aandeelen maar wisselende deelgerechtigden*). The third, called *giliran boeboer*, has periodic redivision (*periodieke verdeeling*). He comments that the second type, *atok galeng*, is rare (ibid. 82).

The most common typology, however, is the simple division between

In order to clear the rather confusing typologies given above I suggest using "redivision" (verdeeling) always in the sense that the boundaries between each share are redrawn to accommodate changes in the number of shareholders; and "rotation" (verwisseling) in the sense of reallocation of shares taking place, but not necessarily accompanied with any change in the number of shareholders. I suggest to make this explicit and clear distinction, which is not made not only in the Dutch literature but also in any of the contemporary literature, because the rationale for adopting each mechanism of redistribution is not the same. Also, it would have a bearing upon the assertion that only communal possession with periodic redistribution or rotation was recent and not the type with fixed shares.

FORMAL ANALYSIS

Making use of the above-mentioned distinction I offer a formal analysis of the various types of communal possession. The features that need to be considered are changes in the number of shareholders (redivision) and rotation of shares. The value (-) accorded to the first feature means that there are no changes in the number of shares; thus the shares are fixed in number. The value (+) accorded to the first feature mean that there are changes in the number of shareholders (and hence the number of shares). The (+) value of the first feature can be further divided into two types by adding the regularity of the redivision as another feature. Thus (+) value of this feature means that redivision will take place regularly at fixed intervals; e.g. every year, every three years, etc. On the other hand, the value (-) of this feature means that redivision occurs more or less ad hoc; e.g. whenever the pressure from those missing out on the shares can no longer be ignored. Since redivision will take place less frequently

13 The Koloniaal Verslags and Hasselman do, in fact, divide periodical distribution into two; those taking place annually and those with two or more years of interval. Since we cannot equate annual redistribution with rotation, I put them in this category.
### Figure 4-1: SCHEMATIC REPRESENTATION OF DUTCH TYPOLOGIES OF COMMUNAL POSSESSION

**Eindresume (1:68-69)**

<table>
<thead>
<tr>
<th>fixed shares</th>
<th>without fixed shares</th>
</tr>
</thead>
<tbody>
<tr>
<td>redivision &amp; rotation</td>
<td>(+<em>ad hoc</em> redivision)</td>
</tr>
</tbody>
</table>

**Rouffaer (1918)**

<table>
<thead>
<tr>
<th>fixed shares</th>
<th>with fortuitous redistribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>annual redivision</td>
<td></td>
</tr>
</tbody>
</table>

**Lette (1928)**

<table>
<thead>
<tr>
<th>fixed shares</th>
<th>with periodic redivision or rotation</th>
</tr>
</thead>
<tbody>
<tr>
<td>periodic redivision</td>
<td>rotation (no redivision)</td>
</tr>
</tbody>
</table>

**Van der Zwaal (1941)**

<table>
<thead>
<tr>
<th>fixed shares</th>
<th>fixed number of shares, but rotating shareholders</th>
</tr>
</thead>
<tbody>
<tr>
<td>periodic redivision</td>
<td></td>
</tr>
</tbody>
</table>

**Most Common Typology**

<table>
<thead>
<tr>
<th>fixed</th>
<th>with redivision and/or rotation</th>
</tr>
</thead>
</table>

in this type, it can be said that the security each cultivator will feel in being allowed to continue tilling the same plot will approach that of communal possession with fixed shares. The second feature, i.e. rotation, will be a case of simple binary division. For a schematic representation of this formal analysis, see Figure 4-2, page 70. More detailed discussion of redivision and rotation will follow in the next section.14

The purpose of doing this exercise in formal analysis is not to demonstrate the usefulness of the typology thus obtained, but to show the inadequacy of descriptions offered in the literature. Because of this inadequacy in the descriptions available, my typology cannot be applied ex post facto. It is useful in showing the range of phenomena simply covered as communal possession (with fixed shares and with periodic redistribution).

4.1.2.3 Attributes of "Communal Possession"

A. REDIVISION

One of the things I find very problematic in the literature is its failure clearly to distinguish between "redivision" and "rotation", as I define them.15 The frequently used term "periodic redistribution (or reallocation)" (periodieke verdeeling) very often seems to designate both redivision and rotation. I regard redivision as the most important characteristic of communal possession in Java, because this aspect of communal possession is what was emphasised by the liberals as resulting from ill-conceived conservative policies, the most typical of which, of course, was the Cultivation System, and also because this is the aspect of communal land tenure whose descriptions are most obscure16 in the literature despite its significant role in dictating the popular image of Javanese rural life.

14See page 69 and page 72 respectively.
15See page 67. Though there are cases where this distinction is crudely made, they all fail to make use of this distinction (see Eindresueme 1:68-69; Rouffaer 1918:345-346; Lette 1928:165).
16I do not know of any account which gives us a description of the exact mechanism which regulated the increases in the number of shareholders. This criticism seems to be also applicable to descriptions of European system of communal land tenure. The mechanism must be considered in relation to inheritance rules as well as factors responsible for population increase.
Figure 4-2: FORMAL ANALYSIS OF COMMUNAL POSSESSION TYPOLOGIES

- REDIVISION
  (+)
  (-)

- REGULARITY
  (+)
  (-)

- ROTATION
  (+) with periodic redivision and rotation
  (-) with periodic redivision and without rotation
  (+) with ad hoc redivision and rotation
  (-) with ad hoc redivision and without rotation
  (+) with fixed shares and with rotation
  (-) with fixed shares and without rotation
What puzzles me most about communal possession in Java is the rationale behind relinquishing cultivated fields, the value of which is the result of the hard work involved in reclaiming them and of the continuous labour input, especially to maintain the irrigation channels, by the current cultivator. In view of the now well-accepted belief that there were different classes of peasants, according to landholdings, in pre-colonial Java, what were the circumstances that led the landholding gogol (or sikep) peasants to relinquish their right to land? Two explanations are possible. One is that those lands which were given away were fields that had become ownerless due to various circumstances—emigration of the owner, depopulation caused by warfare and epidemics and others, in which case no one had to really relinquish his right. This type of redivision probably predates Java’s coming under Dutch colonialism and does not, strictly speaking, constitute redivision (unless those who get the land are already shareholders). Because it does not entail any change in the total number of available shares, though new occupants may take up the vacancies. The other is the increasing pressure upon landholders to render corvee labour, which resulted in the diminishing appeal of being a landholder. This phenomenon is said to have first arisen in the late Mataram period, especially after the introduction of the Land Rent System and increasingly so after 1830 when the Cultivation System began.

Those who share this view claim that the number of gogol class peasants was fixed, except for the increase resulting from new land reclamation. They maintain that it was only under the increasing burden of corvee that the landholding peasants decided to give away land to non-landholding peasants in order to spread the burden over a larger number of peasants and thus alleviate the burden on themselves.

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18This did take place.
Only in the sugarcane planting villages can each Javanese receive *sawah* at the annual redivision. Outside these areas the number of shares is constant almost everywhere and sometimes one must try for years to lay a claim on a piece of *sawah*.\(^1\) (1901:33 [1879b:281])

Van Niel, however, though conceding that "in many villages landholding rights were extended to a broader segment of the population under the Cultivation System than had previously been the case" (1972:105), claims that this phenomenon already took place before 1830 (1969:269) and that it was "within the long established Javanese traditions" (1982:1). Hence, he claims:

In the densely populated areas there was a trend toward co-opting more and more able-bodied people into the status of landholder which, just as in earlier times, was done by dividing up the existing lands and bringing newly opened lands into the communal pool after a few years. (ibid. 18-19)

On closer look into the bases of this assertion, we find that he attributes this "pre-European" pattern to the Land Rent System of Raffles and pressure from increasing population, though he considers these as not being different from traditional population and work pressures (ibid. 21).

Though Van Niel admits that that under European influences this process of communalisation took place "on a larger scale and greater extent that before" (ibid. 24), his assertions do not help to remove my puzzlement. He does not consider that the population pressure could have also been the result of Western influences. I believe that another factor stressed by Lette, namely the diminishing availability of land for further reclamation (1928:124, 126) must also be considered in relation to population pressure.

B. ROTATION

As the literature indicates, there were two major types of rotation. In one type, the less common, the number of entitled shareholders was larger than the available shares. Thus, in this type a certain portion of shareholders had to do without *sawah* in turns. In

\(^{19}\)"Alleen in de suikerrietplantende desa's kan ieder Inlander bij de jaarlijkse verdeeling sawah's krijgen. Daar buiten is het getal aandeelen bijna overal vast, en moet men soms jaren lang om een stuk sawah verzoeken indienen."
the other type, the number of shareholders and the number of available shares were identical; plots of land circulated among the shareholders in a certain order.

One of the very early reports of communal land tenure happens to be that of the first type. Engelhard, who was the governor of Java's Northeast Coast from 1801 to 1808, reports as follows:

All planted fields, with the exception of fruit trees, belong to the lord of the lands, and are divided among the regents and chiefs for their subsistence, and remain attached not to the person, but to the post. The remaining rice fields (thus, those that are not necessary for the subsistence of the regents and chiefs) are divided in turns among the common men of the desa where the fields belong. This is because the population surpasses the cultivation by far in Java, so that the Javanese in Java (Java here means the government of the northeast coast) generally earns his livelihood one year by rice cultivation, and the other by another cultivation, or by trade, or even by performing services, either for daily wages or for a whole year under this or that European or Chinese.²⁰

(Engelhard 1816 quoted in S. Van Deventer 1865-6 1:49)²¹

The 1863 Government Survey of Land Rights in Java also reports upon this type of rotation in Tuban:

In a few villages (e.g. the villages Pabeiyan, Bancar, Ledok and Wangle), where they don't have enough sawah for all,²² every year only a part of the cultivators receives a share. The following year another portion [of the cultivators receives

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²⁰"Alle beplante velden, met uitzondering van vruchtboomen, behooren aan den heer van de landen, en zijn onder de regenten en hoofden, voor hun bestaan, verdeeld, en blijven niet aan den persoon, maar aan den post geattacheerd. De overige rijstvelden (dus die, welke niet noodig zijn voor het bestaan van de regenten en hoofden) worden, bij toerbeurten, onder den gemeenen man van de dessa, waartoe de velden behooren, verdeeld; vermits op Java de populatie verre overtreft de kultivatie, zoodat de Javaan op Java (Java beteekent hier het gouvernement van de noord-oostkust) zich, over het algemeen, het eene jaar geneeet met de rijstkultuur, en het andere met eene andere kultivatie, of met den handel, of wel met het presteren van diensten, hetzij in dagloon of voor een geheel jaar, bij dezen of genen Europeaan of Chinees."

²¹See also Knops' report about Samarang [Semarang] quoted on page 33.

²²It is problematic whether all householders or just those gogol class peasants entitled to land are meant. The same applies with Knops' report mentioned in the preceeding footnote. It was a matter of dispute whether communal land tenure entailed that all householders were assured a share in land. See the section on the landholding corporation on page 82 and the section on Laveleye on page 37.
Calling this type of rotation "beurtregeling" ("settlement in turns") Lette also reports cases in Grobogan where each gogol receives a share only every four years, in Pati where it was every other year, in Magetan, in Ponorogo, in Bojonegoro, and elsewhere for varying periods (Lette 1928:169).

As for the working of the second type, the most detailed report is that by Sollewijn Gelpke. Among all the nineteenth century accounts of land tenure in Java I have read, his description stands out in its coverage of details. Approaching the standard required of a good ethnography (and, I assume, a good history), his account makes it possible for us to feel what it must have been like to live under such a system. First giving the general principle that "who works a bad plot now will receive a good one the following year," he then goes on to describe what is called "koeli ingarep koeli ing boeri." Setting up a hypothetical situation where there are ten shares labelled 1 to 10 in declining order of value, and ten shareholders labelled A to K (excluding the letter "J"), he gives the following diagram (ibid. 40). Since most writers do not distinguish between rotation and redivision, I cannot give further references to this type of rotation in the literature.

Now I shall look into the rationales given for rotation in the literature. As far as the first type of rotation is concerned, there seems to be a consensus that it is a mechanism to overcome a shortage of land. There is no explanation, however, regarding how those who were not allocated shares for the year made a living. Since the areas

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23 "In enkele dessa's die te weinig sawah's voor allen hebben, krijgt jaarlijks slechts een gedeelte der landbouwers een aandeel, in een volgend een ander gedeelte (bijv. de dessa's Pabeiyan, Bantjar, Ledok en Wangie)."

24 See especially his description of the process of a newcomer settling into a village (1879b:281-284 [1901:33-37]).

25 "wie nu een slecht stuk bewerkt, het volgende jaar een goed stuk krijgt . . . ."

26 Koeli in the front [becomes] the koeli in the back.

28 See for example, Raffles (1814:131), Eindresume (1:77 (G)), Lette (1928:169), Elson (1984:13).
where this type of rotation is reported tend to be close to major port cities or to Surakarta, where there were employment opportunities outside the village and direct acquisitions of labour from the villages by the Dutch or by the court, this type of rotation may be also explainable as a response to losing a substantial portion of the population while they were away engaged in wage labour and corvee services. Ong offers a unique explanation which takes into account the class differentiation within the villages. He suggests that periodic allocation of land by this system of rotation was used as an inducement for the otherwise landless peasants to stay in the village as a labour force for community purposes and for the sikep peasants as well (Ong 1979:621).

27I must confess that I do not understand how ngalih mingser works. When we ignore the change from 1878 to 1879 as a mistake, there would be no difference between ngalih mingser and ngalih urut.
The second type is commonly explained as caused by the forced cultivation of sugar and indigo under the Cultivation System. To obtain a good harvest, sugar cane and indigo had to be grown in rotation in different sites (Van der Kloff 1929:111). It was also economical to plant them in one block disregarding the boundaries of different plots rather than have them scattered all over the village. These two factors are often adduced to explain the emergence of this type of rotation in communal land tenure (Eindresume 1:67 (c); Tydeman 1872:26; Geertz 1963:91; Tanaka 1969:396; Mori 1975). Sollewijn Gelpke gives us more details. He states that the Javanese villagers distinguish the recently reaped cane fields "sawah bungkillan", which have to be turned into sawah again, and the sawah which are going to be changed into cane fields the following year "sawah sedian", which have to be harvested early to allow time for this conversion, from other sawah.  

This distinction was utilised in rotation cycles whereby it was arranged that those who were allocated sawah bungkillan receive ordinary sawah for the following two years (Sollewijn Gelpke 1901:39). The adoption of this view would automatically commit us to regard this type of rotation as a rather recent phenomenon under the Dutch influences or at least a system recently adapted to this new regime. There is another explanation which would not result in this presumption. It postulates that this type of rotation functions to maintain an equality where there is a great difference among shares in terms of their sizes or the fertility of the soil (Eindresume 1:67 (d), 2:91; Lette 1928:165, 184, 195).

Perhaps it may be of some relevance to take note of other rationales suggested for the rotation of shares in Europe. The European system of rotation under communal land tenure contrasts with that in Java, where sawah cultivation plays a significant role, in having a system of rotation of crops and fields at its basis. For instance, the common image of communal land in Europe is that of the

29See Alexander & Alexander (1978), who direct our attention to the work involved in the conversion between sawah and cane fields due to the difference in the suitable irrigation system. See also Fernando (1982:141-142).
30I shall discuss this next.
open-field system or the three field system (*Dreifelderwirtschaft*) whereby land was often divided into three strips (sometimes other figures are given) to allow for fallowing of each strip every three years. Under this system the shifting of arable fields necessarily required the rotation of shares to take place. However, since each shareholder was allocated a plot in all three strips, it can be said that there was no real rotation as in Java. A closer look at communal land tenure in Europe cautions us against too naive a comparison with that of Java, where *sawah* cultivation was, and still is, important.

**C. EQUAL SHARES**

When we discuss communal possession in Java, whether there was an "equal redistribution" (*gelijke verdeeling*) or not is a very important matter, since this attribute of communal possession is often considered "the distinguishing feature of communal possession" (*het kenmerkende van het communaal bezit*) (Anonymous 1896:1257). For those who believed that communal land tenure in Java was an ancient institution, it was only proper that land should be equally divided as a sign of harmonious communalism, which suited their image of the ancient past. And even among those who did not share this view, the ideal-typical description of land tenure in nineteenth century Java was often that of land being equally divided among all the residents of the village, which was expressed as "equal burdens, equal benefits" ("*gelijke lasten, gelijke baten*") (*Eindresume* 3:68). When faced with this sort of description the immediate question that arises is what "equal" redistribution really means. It could be that land is divided into plots of equal size or that it is divided into shares of equal productivity. And, to be really equal other factors like distances from the residential area of the village must be considered. Moreover, Kano reminds us of Weber's concept of "formal equality" which makes:

> each share equal based on the concept of the equal right to land among sharers with no regards for [regard to] the economic reasons such as the size of [the] labor force, needs, or capability of delivery. (1977:19 note 35 [also 1976a:139 note)

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31 See Weber (1923:23).
32 See, for example, Anonymous (1917b:20, 21); *Eindresume* (2:161); V.S. (1890:34); Van der Kolff (1929:111).
Then in what sense was land "equally" divided in Java? When we delve into the literature it becomes evident that matters were not as simple as we were first led to expect. The 1863 Government Survey of Land Rights in Java (Regeeringsonderzoek naar het Landbezit op Java) reports that in Rembang "land was divided according to the size of the farmer's cattle holding"34 (Anonymous 1924a:22)35 and that in Blora "owners of draft-stock receive a larger share, usually double"36 (ibid. 27). The Eindresume states that:

In various villages the means which each of the shareholders can have at his disposal for cultivation are taken into account so that those who have more means receive a larger share, without it being apparent whether or not the aforesaid is paired with a proportional difference in the service performed.37 (1:70, note omitted)

Sollewijn Gelpke describes that:

Sometimes the kuli-shares are of the same size, [but] mostly they differ according to the concepts of loh and cengkar,38 and then depending upon the location, i.e. far from or close to the

33 "Formal equality" was not really developed into a special concept by Weber, as Kano leads us to believe. Weber did contrast the purely formal division of land into equal shares in the Gewanne system with the earlier Lagemorgen system in which the land was divided into plots which can tilled by a peasant with his draught-stock in the morning, but taking into account the quality of the soil, the location of the field, the distance from the village and others (Weber 1923:28). And he even refers to Java as an example of formal divisions (Weber 1904:464). Though Kano does not acknowledge Otsuka, the latter taking the idea from Weber, developed the concepts of "substantial equality" (materielle Gleichheit) and "formal equality" (formale Gleichheit) (Otsuka 1970 [1955]:97).

34 "gronden worden verdeeld naar mate van den rijkdom in vee van den landbouwer . . . ."

35 See also Eindresume (1:70 (F)).

36 "ontvangen de eigenaars van ploegvee een groter aandeel, gewoonlijk het dubbele."

37 "In verscheidene desa's wordt rekening gehouden met de middelen, waarover elk der aandeelhebbers voor de bewerking kan beschikken, zoodat hij die meer middelen heeft ook een groter aandeel bekomt, zonder dat blijkt, of zulks met een evenredig verschil in de dienstprestatie gepaard gaat."

38 "Loh" is the Javanese term for "fertile and well irrigated" (Horne 1974:347), thus "of good quality", and "cengkar" means "unproductive" (ibid. 637), thus "of poor quality".
Van de Werk states that "each duty bearer received a share, if possible, completely equal in terms of productivity"^9 (1899:45).^10 There are also reports that the size of holding in individual possession is taken into account in deciding the size of the share allocated in the communal fields (e.g. Eindresume 1:71-72). I shall leave discussion of the existence of various (often two) classes among the shareholders,^42 since all the discussion about equality applies to the shares within each class.

There are, however, those who completely deny that there was any equality in shares. For example, the Eindresume states that in the district Undakan in Japara sawah in communal possession has developed a very strong individual character to the extent that "the individual use of the shares in sawah bumi, as it is called, was fixed and inheritable, even with great difference in the size of the shares"^43 (2:159, note omitted). And Breman writes that under the Cultivation System in Cirebon:

There was . . . no question of an equitable distribution of land among shareholders. Their shares in the communal fields varied considerably according to the status of the various households. (1983a:22)

The summary of the Cirebon monographs in the Umbgrove report refers to "a distribution made in accordance with everyone's class and capability because the shares of the various sawah owners in the village are far from equal in size" (Bijlage Handelingen 1862-63, LIX 30:1051). (Quoted in Breman 1983a:37 note 28)

Thus, he declares that "[i]t has been established at any rate that there was no such thing as an equal division of rights and duties" (Breman 1982:212).

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^9"Soms zijn de koeli-aandeelen even groot, meestal verschillen zij naar de begrippen van loh en tjengkar, en dan naar de ligging ver van of dicht bij de dessa."

^10"jeder Dienstleistende einen nach Produktivität womöglich ganz gleichen Anteil bekam."

^41 See also Eindresume (1:69, 70-71, 3:69).


^43 "Was het individueel gebruik van de aandeelen in de—sawah boemi gelijk zij heeten—vast en erfelijk, zelfs met groot verschil in de uitgestrektheid der aandeelen."
As expected, those who claim that communal possession is a recent phenomenon are of the opinion that traditionally there was nothing like division of land into equal shares. For instance, Day claims that:

There was no equality of possessions among the members of the village. Some were well-to-do, with more land and stock than they needed for their own subsistence, and some were landless and had to work for others to gain their living. (1904:30)

The Eindresume states that in Banyumas:

While in the Javanese era wealth, estimated by the number of retainers, worked as the criterion to decide how much land the farmer can cultivate and how much tax he can pay, in communal possession, as it stands now, all shareholders are regarded as being equal in terms of work force and taxable fortune. (2:104, note omitted)

People in this camp hold the opinion that division in equal shares was caused by the introduction of the Land Rent System or the Cultivation System (Anonymous 1924a; Eindresume 2:83 (c), 84; Barlagen Bussemaker 1887:120; De Roo de la Faille 1919:61). In fact, as far as I am aware, the earliest reference to "equal" division is made in Art. 12 of Staatsblad 1819 no. 5, which was written to cope with the consequences of the Land Rent System. 45

D. LANDHOLDING CORPORATION

The popular image of communal possession among those who believe in its antiquity is that land is divided among all residents of the village and that the village is a landholding corporation. In fact, however, things were again not so simple. There seems to have been three different views on the nature of the landholding corporation. Firstly, there were those who endorsed the dogma of supreme proprietorship of the sovereign and hence regarded communal possession only as an administrative arrangement, not as joint possession of

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44 "Terwijl in den Javaanschen tijd de gegoedheid, geschat naar het aantal afhangeringen, tot maatsstaf strekte, ter beoordeeling hoevereel grond een landbouwer kon bebouwen, en wat voor belasting hij kon belalen, worden bij het gemeen bezit, gelijk het thans bestaat, alle deelgerechtigden als gelijk van werkracht en belastbaar vermogen beschouwd."

45 For the text of this article, see footnote on page 17.
individuals or as possession of the village as a legal person ("het gemeentebezit eigenlijk slechts eene bestuursregeling was, waarbij evenmin als van een gemeenschappelijk bezit van individuen, van bezit der dessa als rechtspersoon sprake was") (s'Jacob's remark in 1884 quoted in Laceulle 1916:281).

Secondly, there were those who claimed that the village possesses the land as a corporation. For example, A. Wiltens and S. van Eijk, who proposed the 1885 Conversion Regulation (Stbl. 102), wrote that the so-called communal possession is to be regarded not as a joint possession of some individuals but as the possession of a legal person, the desa (loc. cit.). This view can be supported by reference to various laws enacted by the Dutch: Art. 71 of the 1854 Regeringsreglement, which left the regulation of internal affairs to the native community; the 1870 Agrarische Wet (Stbl. 55), which explicitly states that communal land belongs to the desa as a legal person; and the 1906 Inlandsche Gemeente-Ordonnantie (Stbl. 83), which decided that the communal fields belong to the community (Laceulle 1916:281-284, Kleintjes 1929 2:188-189, Adam 1924:95).

Thirdly, there were those who maintained that communal land belongs to a group of individuals entitled to vote in a village head election and/or liable to render corvee service. For example, the Eindresume states that "the sawah in communal possession are also not

46 Art. 1 uses the phrase "communally possessed fields of village communities" (communaal bezeten bouwgronden der dorpsgemeenten) (Englebrecht 1932 2:1500).

47 The second paragraph of Art. 71 reads as the following:
"Aan de gemeenten wordt de regeling harer huishoudelijke belangen gelaten, met inachtneming der van den Gouverneur Generaal of van het gewestelijk gezag uitgegane verordeningen." (Anonymous 1858:203)

48 This is Laceulle's (1916:282) interpretation; the relevant clause reads as follows:
"Over gronden, door inlanders voor eigen gebruik ontgonnen, of als gemeene weide of uit eenigen anderen hoofde tot de dorpen behorende, wordt door den Gouverneur-Generaal niet beschikt dan ten algemeenen nutte, op den voet van art. 77 en ten behoeve van de op hoog gezag ingevoerde cultures volgens de daarop betrekkelijke verordeningen, tegen behoorlijke schadeloosstelling."

49 Art. 10 which refers to communal land (gemeentelijken grond) is included in the third section, which deals with "the properties and possessions of the community" (de eigendommen en bezittingen der gemeente) (Engelbrecht 1933 2:1500).
to be regarded as the possession of the community per se but only as a fund for the residents liable to render service"\(^{50}\) \((1:8)\). Laceulle also takes this view and criticises the view of Wiltens and Van Eijk. He suggests that communal land belongs to a gogol association and states that "the gogol, in most cases, constituted only a part of the total qualified voters in the villages"\(^{52}\) \((ibid. 282, 283)\). \(^{53}\)

Perhaps here it may be of some use for me to hazard a remark on the politico-economic background of these three positions. I believe we can identify the first position as that of the conservatives originally, and later of the supporters of the introduction of Western capital, the second as that of the liberals who had an interest in the rapid promotion of the conversion of communal possession into private ownership under Dutch direction to provide land and labour for Western private enterprise originally, and later that of the ethicans \((\text{ethici})\) who felt the need to keep a check on this process of land alienation. \(^{55}\) Thus, Kleintjes explains the motives behind the legislation of the \textit{Inlandsche Gemeente-Ordonnantie}:

\[\text{[\text{W}]}\text{as the so-called communal land possession . . . a possession of the community as such, thus a communal possession, rather than a joint possession of the villagers? The \textit{Native Community Ordinance (Inlandsche Gemeente-Ordonnantie)} has put an end to this doubt. When faced, in the Government's view, with assaults upon communal land possession, for example by alienation of shares in}\]

\(^{50}\)"de sawah's in gemeen bezit ook niet to beschouwen zijn als eene bezitting van de gemeente als zoodanig, maar alleen als een fonds voor hare dienstplichtige ingezetenen . . ."  

\(^{51}\)The \textit{Eindresume}, however, is equivocal about the details \((see 2:346 where it denies the existence of an association or a corporate body of communal possessors; 2:Bijl. 86 where it refers to an association of those liable to corvee service; and also 2:349-350)\).

\(^{52}\)"de gogols in de meeste gevallen slechts een deel uitmaakten van de gezamenlijke kiesgerechtigden in de dessa's, . . ."  

\(^{53}\)See also Adam \((1924:66)\).  

\(^{54}\)S'Jacob, whom I have quoted above, was once a sugar planter and later became Governor-General with the support of private enterprisers \((see Furnivall 1944:225. 326; Encyclopaedie 3:792-793)\).  

\(^{55}\)As Van der Kroef \((1963:30)\) aptly remarks "the Conservatives and Liberal positions had altered almost 180 (degrees)" between the the early nineteenth century and the end of colonial era. My ascription of political positions to views on the nature of landholding corporation reflects this shift.
communal land to Javanese living elsewhere, even by sale under
distress, the Government thought that provisions of a
legislative character, especially in the area of property law,
had to be enacted to protect the interests of the community.56
(1929,2:188-189) 57

The third position, which is the most plausible,58 can probably be
attributed to those liberals who wanted the individualisation process59
to take its natural course without much Dutch intervention.

E. COMMUNALISM

When the identity of the village community with the landholding
corporation becomes no longer tenable, the communalism commonly
attributed to the village must be put between the hammer and the anvil.
If we were able to demonstrate that communal possession is indeed
nothing but a very recent phenomenon, it may not be wrong, as Kern

56"was het z.g. communaal grondbezit . . . een grondbezit van de
gemeente als zoodanig, dus een gemeentelijk bezit, dan wel een
gemeenschappelijk, commuun grondbezit der dorpelingen? Aan dezen
twijfel heeft de inlandsche gemeente-ordonnantie een einde gemaakt.
Toen naar het inzicht der regeering aanrandingen van het gemeentelijk
grondbezit voorkwamen—o.a. door vervreemding van aandeelen in den
communalen grond aan elders gevestigde inlanders, zelfs bij
executorialen verkoop--, meende zij, daat er voorzieningen van de
gemeentebelangen, vooral op vermogensrechtelijk gebied."

57There is an English translation of this passage in De Kat Angelino
(1931,2:405-406). Though perhaps somewhat awkward as English, I give
my own translation here because the available translation, though made
in collaboration with De Kat Angelino, inserts phrases, e.g. "against
rampant individualism" at the end of the final sentence, which are not
in the original. This, in fact, could be more a matter of political
position than translation. De Kat Angelino wrote this work. There are
also views that explain the purport of this legislation in a
diametrically opposite fashion, i.e. as an attempt to develop the
Oriental community according to a Western model (see De Kat Angelino
1931,2:473, Boeke 1934:56). Kishi (1967:39), though aware of these two
views, fails to see the conflict between the two.


59By stating thus I do not assume that the actual transition was from
communal to individual in the late eighteenth and nineteenth centuries.
Here I mean the individualisation of land tenure encouraged by the
Dutch from the late nineteenth century onwards, which was expressed as
conversion (conversie) from communal to individual tenure. This
policy, which aimed at facilitating the acquisition of land and labour
by Western capital enterprise, was advocated by the liberals as "the
restoration of what was considered to be the original state of affairs"
(Breman 1983a:25). See also Furnivall (1944:164,319); Miyamoto
(1981:10-14); Tanaka (1982:75-76); Uemura (1980; 1982:584-590); and De
Kat Angelino (1931 2:450-452).
does, to regard communality (gemeenschappelijkheid) as the principal characteristic of communal possession, especially after 1906 (Kern et al. 1913:152). Since the attribution of communalism to non-Western societies is such a widely practiced convention, I shall discuss this more in detail in the Section 4.3 "The Images of Javanese Society in the Dutch Literature".

F. COMMUNAL LABOUR AND COMMUNAL ENJOYMENT OF THE FRUITS

Laceulle used the existence of communal labour and communal enjoyment of the fruits of the land as his criteria for communal possession. As a result of this comparatively strict definition of communal possession, he does not regard what is usually labelled as communal possession as such. For him only those special fields whose fruits are used for communal purposes may be so designated: salary fields used as emoluments of village officials and titisara which are used to finance village festivals (Laceulle 1916:275). It seems that it is generally agreed that fields were, nevertheless, usually worked individually (e.g. Crawfurd 1820 3:55; Anonymous 1880:263).

Thus, I come to the conclusion that the use of the term "communal possession" is not rewarding. Gluckman states:

Many jurists still do not recognise that the 'communal ownership' of tribal society can often be resolved into clusters of specific rights which groups and individuals hold over a piece of land, its uses, and its products. (1943:9)

In agreement with Gluckman, I suggest that investigating the specific rights would be more rewarding than covering everything with the blanket term "communal possession", on the definition of which there seems to be no consensus.60

4.1.3 Inheritable Individual Possession

The Eindresume (1:18) states:

Those who have sawah in inheritable individual possession may dispose of these in gift and in testament; they can be transferred to their heir upon their death, sold, leased or pawned. In a number of villages, however, the right of sale is not

60 See also Miyamoto (1981:6).
awarded to the occupants; in many villages sale is not usual.  

This form of possession is found to be predominant in West Java, the eastern half of Central Java, and East Java (Eindresume 1:2, 17). In West Java it is almost indistinguishable from private property in the Western sense. This unique situation in West Java is explained, in a number of ways: as due to ethnic differences (Van de Werk 1899:62; Breman 1983:18); as a survival of an older form of tenure (Van Delden Laërme 1875:260; due to the lack of centralized state development by Day 1904:9-10; due to less impairment by the princes and nobility than elsewhere by Burger 1956:27; due to lack of Moslem influences by Raffles 1965:139); as a development of a new form of tenure (due to Moslem influences by Van den Berg 1891:19-25, Anonymous 1891a:324, and Mulherin 1971:10; due to the weak control by the government by De Roo de la Faille (1919:57); due to the weakening of the village right of disposal by Lette (1928:159-160) and Fasseur (1975:13). Since I have to limit my scope of inquiry to Central and East Java in order to keep the size of the present thesis within the allowed limit, I shall leave my discussion of the situation in West Java for another occasion.

The most common indigenous term for inheritable individual possession is jasa (joso). Jasa means "everything that is obtained by the efforts of individuals who bring it into being." When applied to land it means "land brought into cultivation by clearing waste land." I shall discuss the nature of the right thus obtained in Section 4.1.5. "The Right of Reclamation."

The only reason this form of tenure is labelled "inheritable individual possession" and not property is the existence of communal

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61 "Zij de sawah's in erfelijk individueel bezit hebben, mogen daarover beschikken bij wijze van schenking, en van uiterste wilsbeschikking; kunnen ze bij versterf op hunne erfgenamen laten overgaan, verkoopen, verhuren, en voor schuld verbinden.
    In een aantal desa's wordt echter het recht van verkoop niet aan de bezitters toegekend; in zeer velen is het niet gebruikelijk."

62 Except for the northern coastal areas, Sundanese, rather than Javanese, reside in West Java.

63 See Kano (1977:12-14) for other terms and their geographical distribution.

64 See Eindresume (1:18) and Kano (1977:12).
restrictions upon the qualifications of the owner and upon free
dispositions. The Eindresume (1:18) states:

In order to be able to act as sawah-holder, it is
necessarily required that one is able to cultivate the sawah
oneself or is able to see to the cultivation. Thus, the sawah
belonging to minors and to unmarried women are occupied by
others for them, until they are of age and married.65

The rationale for this restriction on the holders can be found in the
system of corvee labour recruitment and taxation. It was the
sawah-holders who were liable to provide corvee labour. Thus, it was
required that the holder be capable of carrying out the labour service
and of cultivating his sawah to produce enough rice to pay the tax.
The fact that the alienation of sawah to non-villagers was rare and
often restricted can be seen as the natural result of the
above-mentioned restriction. In contrast to ownership in the Western
sense, possession of land in inheritable individual possession can be
said to have been based on the actual use (i.e. cultivation) of the
land. Thus, for instance, if the owner left the village without
designating someone to till the land, the land was, after a fixed
period of time, put under the control of the village.66

Thus, when we take note more closely of the various communal
restrictions, the difference between inheritable individual possession

65"Om als sawahbezitter te kunnen optreden, is het een noodzakelijk
vereischte, dat men in staat zij die zelf te bebouwen, of voor de
bebouwing te kunnen zorgen. De sawah's van minderjarigen en van
ongehuwde vrouwen worden daarom, tot dat zij meerderjarig en gehuwd
zijn, door anderen voor hen bezeten."

66Considering that the period proceeding the Cultivation System was
one with many disturbances (e.g. warfares), it may be a mistake to
attribute too much of a permanence to inheritable individual possession
under such circumstances. In fact, it is mentioned that jasa right
seldom lasted more than 50 years (Anonymous 1924a:21).
and communal possession seems to recede into the indistinguishable. Gluckman points out:

The concepts of "communal ownership" and "individual ownership" of land in tribal society have often been posed as mutually excluding alternatives, and this false opposition has led not only to the waste of so much polemic and paper, but also to decisions in courts which seem unjust . . . (Gluckman 1949:64)

Similarly, s'Jacob also remarks that "[s]een from TER HAAR's point of view there is hardly a contrast between individual and collective rights" (s'Jacob 1951:146).

Van Vollenhoven criticises the limited character of this sort of categorization: "We operate with three or four concepts: inheritable individual possession, communal possession, usufruct shares in communal possession; everything that falls out of these is chopped off." (1932:20). Alternatively, he suggests regarding Javanese land tenure as constituted by the interaction between the native right of possession (inlandsch bezitrecht) and the village right of disposal. As Fasseur remarks, "a more or less individually fixed native right of possession in land exists clothed within the village right of .

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67Eindresume (1:20-21) even regards a case where individually possessed sawah is totally incorporated into communal possession at the death of the owner as still constituting inheritable [sic] individual possession. Hasselman (1893:127-128) makes a clear distinction between communal possession with fixed shares and individual possession. He claims that in the former, the individual is both the possessor and the user, while in the latter, the shareholder is the user but the community is the possessor. Further, he claims that land in individual possession reverts to the state when it becomes ownerless, while land in communal possession reverts to the village in such a case. His claims are not tenable, because he treats individual possession as almost identical with private property, and thus ignores the communal restrictions upon it.

68See also Fasseur (1975:13) and Knight (1982:135).

69"Wij opereerden met drie of vier begrippen: erfelijke individueel bezit, communaal bezit, gebruiksaandeelen in communaal bezit; al wat daarbuiten viel werd afgehakt."

70For example, he (1981:183 [1918-33 1:698]) states that the village right of disposal "does not remain static but changes with time, gradually becoming weaker and losing its prominence as the adat-ownership [native right of possession] subordinate to it gains in strength and freedom." See also Darmawi (1972:289) and Van der Kraan (1975:102).
disposal" (1975:13). Hence, the concept of native right of possession used by Van Vollenhoven "embraces both what the Government calls 'individual property', and the so-called 'users' shares in communal land' which are in fact private property subject to a vigorous right of avail [village right of disposal]" (1981:184). Van Vollenhoven regards the native right of possession as originating from the right of reclamation (ontginningsrecht). He suggests that the right of reclamation, which at first was merely a temporary right of usufruct (genotrecht), developed into a temporary preferential right (voorkeurrecht), and finally into a full-fledged permanent hereditary possession (bezitrecht) (Furnivall 1944:5; Van Vollenhoven 1919:4-5; and Darmawi 1972:290-291). I shall first discuss the village right of disposal and then the right of reclamation.

4.1.4 The Village Right of Disposal (Beschikkingsrecht)

Van Vollenhoven suggests the concept of "the village right of disposal" (beschikkingsrecht) to clarify the confusions caused by the application of Western legal concepts to an Indonesian situation (Van Vollenhoven 1909:19-20, Van Vollenhoven 1919:8-9, Ter Haar 1948:81, Darmawi 1972:288-289). He regards this right as "the highest right with respect to land in the whole archipelago" (1919:9). He gives the following six aspects as manifestations of this right:

[F]irst, the community and its members may freely exploit any virgin land within this area (e.g. clearing it for

71 "In het dorpsbeschikkingsrecht ingeklemd zit een, min of meer individueel bepaald, inlands bezitrecht op den grond."

72 I follow the well-established convention since the publication of the English translation of Ter Haar's work (Ter Haar 1948) to translate this word as "right of disposal", which was what Van Vollenhoven himself once used (1918b:201). Holleman, however, suggests on good grounds to use "right of avail" (Van Vollenhoven 1981:278 Chapter IV note 2) and De Kat Angelino suggests in his work (1931 2:446) "village right of supreme dominion." The problem is not just a matter of translation but inheres in the original word "beschikkingsrecht". For example, Ter Haar (1948:81) notes that "this term is etymologically misleading, because no actual right of alienation is vested in the community." Bearing this in mind, I always attach "village" to "right of disposal" to make it clear that we are talking about a right quite distinct from one of individual disposition.

73 "voor den ganschen archipel het hoogste recht ten aanzien van grond."
agriculture, founding a village, gathering forest produce); secondly, outsiders may do these things only with the community's permission, and commit an offence (*maling utan*) without this; thirdly, outsiders, and sometimes even members, must pay some compensation (*sewa bumi*, etc.) or tribute (*ulu taon*) for such exploitation; fourthly, the community retains to a greater or lesser extent some control over cultivated lands within this area; fifthly, it is held liable for unaccountable delicts within the area (e.g. when the perpetrators remain undetected); sixthly -- and this is not the least remarkable feature of the right of avail [the village right of disposal] -- it cannot be permanently alienated.⁷⁴ (Van Vollenhoven 1909:19-20, the translation is from Van Vollenhoven 1981:XLVII)

Though the aspects are not altogether separable, I shall deal with the first feature in the following section and concentrate here on discussion of the the fourth feature, which is the village right of disposal as manifested in regard to already cultivated land. Van Vollenhoven sees the reversion to the village of abandoned arable land and the village's control of land alienation as the most typical manifestations of the village right of disposal in regard to cultivated land (1981:182). He is, however, less definite as to the extent and nature of the village's right to excise pieces from existing fields or to redivide them and states that information upon such reapportionment is especially scarce (*loc. cit.*). In one place he suggests that this *dadal*-right "usually remains suspended in the case of newly reclaimed fields" (*loc. cit.*). A view wrongly attributed to Van Vollenhoven explains communal land tenure as a strengthened version of the village right of disposal (see Adam 1924:76, 93; s'Jacob 1951:145; Van der Kroef 1960:414; and Fasseur 1975:13). To convey precisely Van Vollenhoven's own explanation, I find myself forced to quote him rather extensively:

⁷⁴"1. zij en haar leden mogen den woestgebleven grond binnen dien kring vrijelijk gebruiken (er ontginnen, een dorp stichten, producten zamelen enz.); 2. anderen mogen daar dat zelfde alleen met haar toestemming doen, en begaan zonder die toestemming een delikt (*maling oetan* enz.); 3. somtijds door haar leden, altijd door vreemden, moet haar voor zulk gebruik hetzij een retributie (isi adat; *sewa boemi*, *sewa oetan*, *boenga pasir*, *sewa soegai*, *sewa lebak leboeng*; *rahe kotton*; enz.) hetzij een huldegift (oeloe taon, *pemoehoen*, enz.) worden betaald; 4. zij behoudt in minder of meerder mate bemoeiing met den in cltuur gebrachten grond binnen dien kring; 5. zij is aansprakelijk voor wat binnen dien kring gebeurt en niet op anderen kan worden verhaald (bv. voor delikten welker dader onbekend blijft); 6. -- en dat is niet het minst merkwaardige--zij kan dit haar recht niet blijvend vervreemden."
The confusion is compounded because the Government, while ignoring the right of avail [village right of disposal] over virgin land, recognizes it in respect of cultivated fields and arable land, though on the illogical basis that the desa is not the bearer of the right of avail but the owner of the land; and that the individual right-holders are not adat-owners (subject to the village right of avail) but mere users of desa land. The most bitter fruit of this theory has been the conception that the village authority is fully empowered—in connexion with the land-rent system, compulsory cultivation and labour services, i.e. in our interests—periodically to remove land from the owners and to apportion it to other individuals for equally short periods: an excessive use of the dadal right [of expropriation] which led to shameless abuse. This whole system as regards arable land is then called 'communal ownership' of the fields. (1981:184 [1918-33 1:609-610])

It is clear from the above quotation that in his view "communal ownership" was not an extension, but rather a distortion of the village right of disposal. Here we must be careful to note that the existence of the village right of disposal did not originally entail that land is "owned" by the village at all. We must conclude that the village right of disposal denotes a kind of right of jurisdiction mainly over uncultivated land. The following statement by Sollewijn Gelpke seems an apt description of the manifestation of this right.

All lands, even if they are not yet cultivated, belong to the jurisdiction of a village or a hamlet, with the right, usually to the exclusion of others, to collect produce from the forest, to reclaim waste land, and to work the reclaimed land.

Then where does communal land tenure fit in Van Vollenhoven's framework? The answer is that it has no place in it except as a distortion caused by external pressures, because his conception of adat is so narrow that it cannot go beyond the jural community (in the case

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75See also Ter Haar (1948:85).
76As mentioned earlier, I am looking at the control over actual usage, i.e. cultivation, as the focal meaning of "ownership" for the peasants. I find statements like the following, if not wrong, at least highly misleading:
"Communal property.--This kind of property usually consists of land. In Indonesia, it is understood that land is owned by the community as a whole. Each community member has the right to cultivate the land." (Soerjono Soekanto 1972:250)
It was only after the 1906 Inlandsche Gemeente-Ordonnantie that the Javanese village owned any cultivated land (see page 82).
77See Adam (1924:14).
of Java, the village) and his interest is the original indigenous practice which is not tainted by despotic princes or by the colonial government. I shall deal with this aspect of his theory in Section 4.3. "The Images of Javanese Society in the Dutch Literature."

4.1.5 The Right of Reclamation (Ontginningsrecht)

There seems to be a general agreement among most writers that land individually reclaimed belongs to, or more precisely, is put to the use of, the reclaimer. Van Setten van der Meer describes it nicely:

The bond existing between the farmer and the land he had himself carved from the forest was indeed deep and lasting; ownership was considered paramount, to be passed on to the next generation and the next, to be valued and tilled with care, as the soil inherited from one's own ancestors. (1979:67)

There is, however, a great confusion as to what extent the right thus obtained was restricted by the community and/or the state.

Most writers claim that reclamation was permitted only to the residents of the village within whose territory the land lies and to non-residents only under the understanding that they are to obtain only temporary (3 to 5 years) use of the land.

Most debated was whether there was a temporal limitation to the use of the land thus obtained by the villagers. Referring to East Java, Hopkins, who was one of the first to recognise the right of reclamation, states:

it is evident that a certain right of soil actually belongs to the present occupier, either as he is the immediate clearer of the lands, or the heir or successor of that person; and that he is entitled by custom, the law in these cases, as well as by the considerations of policy and humanity, to remain in the occupancy of those lands, as long as he cultivates them with care, and pays the fair demands of the Government. (quoted in Raffles 1814:103)

In 1822 Le Clercq made an almost identical claim (Eind resume 2:153).

It seems, however, that a temporal limitation was later imposed. For instance, Ong claims, relying on the statement in the Eind resume (2:201) that a three-year restriction was imposed after the Dutch came into power, that this was actually a revival of an old adat principle by the Dutch (Ong 1975:199). The same sort of assertion has been made
earlier. On the other hand, it is also claimed that this temporal restriction was newly invented and contrary to the *adat*. Even among those who accept the fact of a temporal restriction disagree on what is to happen to the field after the expiration of this period. De Roo de la Faille performs a clever manoeuvre between these opposing views. He claims:

Land earmarked for reclamation is, as a reward for the opening up for cultivation (*opah bubakan*), left to him [the reclaimer] for three (sometimes more sometimes less) years rent-free (the so-called *bosokan* exemption). After that the land needs to be offered to the State, i.e. the Prince; the land becomes a domain (*kajuput keprabon*), but is left to the reclaimer to work, usually in whole, but sometimes when the plot is too extensive a patch will be taken away. As long as the cultivator fulfills his duties, he will not be disturbed in his use of the land. This is so because it is all in the Prince’s interest that the populace is liable to services, which could be the case only if they enjoy the reward for them. And according to the *adat* this reward consists in the use of a piece of domain land, for which *pajeg* [tax] and services are due. This [piece of land], as a rule, passes to the user’s eldest son capable of working [the land].

The most plausible way, however, to unravel this confusing picture, I believe, is to look at temporal limitations as being a corrupt form of a traditional convention that served a completely different function. It was customary to regard newly reclaimed fields exempt from taxation for the first several years (Van Deventer 1865-6:405 note.) It is explained that this was necessary because it

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78 See for example the 1863 Land Rights Survey (Anonymous 1924a:17 for Banyumas, 18 for Tagal), and Naito (1977:50).

79 “De ter ontginning bestemde grond wordt hem—als loon voor de in cultuur brenging (opah boebakkan) drie (soms meer soms minder) jaren pachtvrij gelaten (de zgn. bosokkan—vrijstelling). Daarna dient de grond aan de Negoro, d.i. den Vorst te worden aangeboden; de grond wordt domein (kadjoepoet keprabon), maar wordt aan de onginner ter bewerking gelaten, gemeenlijk geheel, doch soms, als het perceel te uitgestrekt is, wordt er een stuk afgenomen. Zoolang de bewerker zijne verplichtingen nakomt wordt hij in het gebruik van den grond niet gestoord, wiij de Vorst er alle belang bij heeft dat de bevolking dienstplichtig is, hetgeen alleen het geval is wanneer zij daarvoor belooning geniet, welke beloening volgens de adat bestaat in het gebruik van een stuk domein, waarvoor dan en padjeg en diensten verschuldigd zijn, en dat in der regel overgaat op den oudsten werkbaren zoon van den gebruiker.”
took some time to develop the land (Van Setten van der Meer 1979:67), or more precisely stated, because the harvests are unreliable during this initial period (Eindresume 2:309). Thus, the Eindresume claims that:

The rule given in article 16 of the first-mentioned Staatsblad, according to which the newly reclaimed fields had to be subject to taxes after a certain period, was applied so that the newly reclaimed fields were taken into communal possession after the same period.

4.1.6 The Process of Communalisation

In spite of the abundance of claims to the effect that there was a change from individual to communal tenure in Java around the early nineteenth century, as seen in Chapter 2 and 3, we do not really know any details of land tenure in the preceding periods. And, as Van Niel correctly points out, "[i]f Javanese society changed after 1830 it is essential that we know what it changed from" (1983b:7). Uemura's criticisms (1982:583) of Mori, Naito, and Miyamoto, reveal that it is precisely on this point that we are left in the dark.

One of the main causes of confusion in the literature was due to the lack of clarity as to exactly when the alleged change first took place. Though most writers emphasise the influence of the Cultivation

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80 The legislation mentioned here is Staatsblad 1819 No.5. Article 16 reads as follows:

"De residenten zullen niet toelaten, dat door de dessabewoners, ten einde de belasting der landrenten te ontgaan, nieuwe velden worden ontgonnen, zoo lang er nog bebouwde landen in de dessas, waartoe die bewoners behooren, voorhanden zijn, welke geene bezitters hebben, en zullen de gemelde ambtenaren mede gehouden zijn, om, na een behoorlijk onderzoek, van den ten deszyn aanzien bestaande inlandsche gebruiken en herkomsten, door middel van den hoofdinspecteur van financiën, aan het gouvernement voor te dragen, de meest doelmatige bepalingen, om de nieuw ontgonnen wordende velden, na zeker tijdsverloop, even als andere, aan de belasting te onderwerpen; bij deze voordracht in het bijzonder hunne aandacht vestigende, op de onderscheidene soorten en klassifikatiën der velden." (Van Deventer 1865-6 1:404-405, note omitted).

81 Lette (1928:126) also refers to this passage in the Eindresume.

82 "De regel, aangegeven in artikel 16 van eerstgenoemd Staatsblad, volgens welken de nieuw ontgonnen velden na zeker tijdsverloop aan de belasting moesten worden onderworpen, werd zoo toegepast, dat de nieuwe ontginningen op hetzelfde tijdstip in het gemeen bezit werden gebracht."
System, the Land Rent System and the increasingly heavy burden of corvee service are also mentioned as European factors responsible for the emergence of communal possession. Some reports explicitly delineate how this change was actually implemented. For instance, some even give the names of the Dutch or Javanese officials who forced this change upon the Javanese peasants by burning the piagem (deed) which was used as title of individual ownership (see Van Deventer 1865-6 3:94 note; Pierson 1877:145; Anonymous 1917b:22).

However internal causes of communalisation are also given. Most typically, for instance, the land becoming ownerless due to some reason is adduced. Mori and Naito call our attention to a footnote in the Eindresume (2:71 (a)), where it is stated that in one village in Tegal sawah which have become ownerless prior to the introduction of communal possession (sawah playangan) and sawah changed into communal possession by the order of the Dutch administration (sawah bumen) are distinguished. Referring to this footnote, Mori states:

Even though described in the same terms as the change from individual to communal tenure, we come to realise that, at least among the peasants, it was recognised that there are qualitative differences between that in pre-colonial times and that under colonial rule. (1975:391)

Naito remarks:

If the inhabitants regarded village control over ownerless, abandoned sawah, and the earlier custom of transferring the individually reclaimed fields to the village after a certain period as the emergence of "communal land tenure," it turns out that we had only one term "communal land tenure" to be applied to two similar, but substantially different, phenomena. (1977:65)

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83 See Eindresume (2:57, 70, 84, 101, 126-127, 184, 185, 200, 20, 202, 214, 215, 247-248, 249); Lette (1928:120-123); Geertz (1963); Mori (1975).
84 See Eindresume (2:56, 57, 83-84, 183, 227-228); Lette (1928:118).
85 See Eindresume (2:142-143, 185, 200, 215, 227-228, 247-248, 257, 302-303); Lette (1928:130). Elson (1984:14) attributes "the more permanent style of landholding in early nineteenth century [to] the government's success . . . in curbing the power of the supra-village elite to lay burdens arbitrarily and unequally upon villages."
86 According to the Eindresume (1:60 (D), 1:41 (k)), "playangan" means "ownerless."
87 Horne (1974:98) glosses "bumin" as "communally owned rice paddy."
Hence, I suggest, that in order to be able to tell whether the communalisation of land tenure took place or not, and if so when, we have to look at each of the attributes of communal possession which I distinguished above instead of just using the improper blanket concept of "communal possession." Only after this has been achieved, would we be able to say whether there was anything like a communalisation of land tenure and also whether something resembling "communal land tenure" existed in pre-colonial times, and how it differed from the version under colonial rule.

4.2 THE PROBLEM OF AUTHORITATIVE DISCOURSE: THE SUPREME PROPRIETORSHIP OF THE SOVEREIGN

In his 1979 Malinowski Lecture, Asad criticises "particular strands within social anthropology" which show "a theoretical preoccupation with essential human meanings—as embodied in the authentic social categories, actions and discourses of given cultures" (Asad 1979:608, 607). He contends that these result in creating (i.e. making something which was not there) "the 'authentic' structure of social life and of discourse of the people studied" (ibid. 619) and "leave unposed the question of how different forms of discourse come to be materially produced and maintained as authoritative systems" (loc. cit.).

Though I do not fully agree with Asad's arguments, I will make use of his critical stance to shed some new light on the problem of supreme proprietorship of the sovereign (oppereigendom, domeinrecht, un domaine eminent) in nineteenth century Java.

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88 In a study about communal land tenure in Europe with a focus upon England, Thirsk has demonstrated that not all elements attributed to communal possession came into being at once, but that the emergence of communal possession is "the outcome of a long and slow process of development" (1964:11).
4.2.1 The Supreme Proprietorship of the Sovereign

It has often been claimed that the Javanese king (vorst) is the sole proprietor of all land (e.g. see Raffles 1814:6, 79, 256-257; Crawfurd 1820 3:50-51; Eindresume 1:4; Pierson 1877:265; Van den Berg 1891:21; Rouffaer 1931:299; Rouffaer 1918; De Roo de la Faille 1919). And the Dutch (and the British) regarded themselves as succeeding to the role played by the Javanese king by right of conquest (see the section on Raffles in the previous chapter). This dogma of supreme proprietorship has been used to justify the land leases to Europeans by Daendels and Raffles, to justify the imposition of land rent by Raffles, and to deny the right of private property to the actual cultivators by introducing the Cultivation System. Since, at first glance, the relevance of discussing supreme proprietorship in a thesis about communal land tenure may not be readily apparent, a few words of elucidation may be in order here. In a sense, the concept of supreme proprietorship is the other side of the coin in relation to the concept of village right of disposal. Those who look at communal land tenure from below, i.e. the village level, see it as the manifestation of the village right of disposal, while those who look at it from above, i.e. the state level, see it as a local response to supreme proprietorship. Thus, we must not fail to note that the ascription of a communal character to the Javanese land tenure system is based on two distinctly different assumptions. As Breman points out:

Both interpretations, however, assumed that the rights of the cultivator were subordinated to superior claims, exercised either by a peasant collective or by a higher authority. (Breman 1983:7)

We have attempted above, by relying on the adat school literature, to resolve the problem of terminologies as inherent in the writings of both the conservatives and the liberals. This section on supreme

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89For contrary views which deny right of property to the king, see Van Welderen Rengers (1947:8), Van Naerssen (1963:15).
91See Bastin (1954:92).
92See Van Vollenhoven (1932:52).
93See Barlagen Bussemaker (1887:15).
proprietorship is meant as a critique of those writings that look at land tenure from above, while the next section on the image of Eastern society is meant as a critique mainly of the adat school perspective.

4.2.2 The Debates Between Rouffaer and Van Vollenhoven and Between De Roo de la Faille and Schrieke

As Rouffaer was the champion of the Supreme Proprietor dogma, I summarise and discuss his arguments in the context of his debate with Van Vollenhoven on the nature of supreme proprietorship.

Rouffaer claims in his report originally submitted to Van Deventer in 1904 that:

> It can now be *demonstrated* by way of history that the thesis that the Javanese King is the owner of land was not by any means a dogma which remained alien to the practicalities of life, but that it has actually governed agrarian phenomena on Java for at least the past two and a half centuries.94

(Rouffaer 1918:312-313)

He supplements the observation made in the *Eindresume* (1:4), which covered all of Java except the Principalities and Kedu, that "the land, appropriated or not, belongs to the sovereign and that the cultivators only exercise the right of usufruct on it"95 by quoting an 1875 report on Surakarta by A.J. Spaan:

> The first result from any survey undertaken on rights in land in the Principalities of Java would be the obvious, *complete correctness of the position*, appearing in the report of the Commissioner General Du Bus from the first of May, 1827, that the King is the owner, in the most absolute sense of the word, of the land.96 (quoted in Rouffaer 1918:312 [reprinted in the *Eindresume* 3: Bijlage B])

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94."*Langs historischen weg nu kan bewezen worden, dat deze stelling: de Javaansche Vorst is eigenaar van den grond, —geenszins een dogma is geweest dat vreemd bleef aan de prakjtijk des levens, maar dat zij in volle werkelijkheid, sinds minstens twee en een halve eeuw reeds, de agrarische verschijnseelen op Java beheerscht heeft.*"

95."*de grond, toegééigend of niet, behoort aan de soeverein en dat de bebouwers er alleen gebruikrechten op uitoefenen.*"

96."*Als eerste resultaat van elk onderzoek, dat in de Vorstenlanden van Java naar de regten op den grond gedaan wordt, zal wel onmiddelijk in het oog springen de volkomen juistheid van de stelling, voorkomende in het rapport van den Kommissaris-Generaal DU BUS, d.d. 1 Mei 1827, dat de Vorst in den meest absoluten zin des woords is eigenaar van den grond.*"
The most striking aspect of Rouffaer's argument is his assumption that the contemporary situation in the Principalities reflects the agrarian system of Java of the past (ibid. 316). His contention that the sovereign is the owner of the land is based on the existence of the taxation system which demands that half of the produce from the land be given to the sovereign, or to whomever the sovereign has delegated this right. He interprets this system as a form of sharecropping (Maron-stelsel, Halfbouw) in which the landowner and the tenant share the produce equally (ibid. 317, Rouffaer 1931:300). Thus it can be said that the mere existence of a 50% tax on the produce is the basis of his contention for the existence of supreme proprietorship. We must keep in mind that the analogy he draws between the taxation system and the sharecropping system is based on his observation of the situation in the Principalities since the late nineteenth century. Thus his position leads him to regard the free village lands (Perdikan-gronden) and private estates (Particuliere Landerijen) as based on the same old Javanese agrarian law in which the sovereign is the absolute landlord of all lands (ibid. 372). He contends that land rights were transferred from the sovereign to village heads of free villages and owners of private estates (ibid. 372ff).

In an article titled "AntiRouffaer", Van Vollenhoven disputes the arguments made by Rouffaer. It is Van Vollenhoven's contention that the focus must be on the village (desa) instead of the princes (vorsten), unless the rule by the princes is older than the land rights of the populace or the rule by the princes has completely destroyed the agrarian system prior to it (Van Vollenhoven 1918:399). He also stresses the importance of the pan-Indonesian "village right of disposal" (beschikkingsrecht), which, he claims, cannot be explained by the land rights of princes (ibid. 400-401). Thus, Van Vollenhoven regards the agrarian situation in the Principalities as completely exceptional in regard to the land rights of the populace (ibid. 403).98

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97 The sovereign's share of the produce was, in fact, 24% in the Mancanagara and 40% in the Nagaragung due to the existence of bekel and other intermediaries. See Rouffaer (1931:305).

98 See also Van Vollenhoven (1928:29, 1981:153) for his criticism of Raffles for taking the situation in the Principalities as the norm.
Furthermore, he correctly notes that the existence of land taxes (*pajeg bumia*) is not by itself evidence that a sharecropping relation existed between the prince and the populace (*loc. cit.*).

De Roo de la Faille and Schrieke also conduct their debate on very similar fronts. De Roo de la Faille labels his position the "old theory". He claims that the land was the property (thus, a domain) of the king in Java under the earlier and later rule by princes, just as it is still so in Surakarta and Yogyakarta. In contrast, he labels contrary claims made by Schrieke the "new theory" (De Roo de la Faille 1919:21). He speculates:

that in the pre-Mataram period the greatest portion of the land was domain land, and that in the later period this right of domain extended itself over the whole area, and that consequently the right of domain is indeed generally recognized in its effects as a right in the later period as well as in the earlier period.99 *loc. cit.*

Thus, he is a supporter of the old theory. And he states that he has arrived at this position by comparing the situation in other areas of the archipelago, especially Lombok.100

Hence, De Roo de la Faille claims that lands belonging to the king's subjects and *perdikan desa* were originally awarded to them by the king (*ibid.* 26-27). He understands this sort of transaction as transferring the power deriving from ownership of land. Accordingly, he criticises the view shared by Holle and Schrieke that though the king can hand over the royal rights in lands, he cannot transfer as property non-waste lands already occupied by individuals (*ibid.* 47). Strangely, however, he denies that this royal right of domain is a right of property in the sense of private law, but considers it as a right of possession in the capacity as king (*ibid.* 71). In a manner quite similar to Rouffaer, he remarks that "what right the small man had in those days can be deduced from what we learn about it from the

99 "dat in den voor-Mataramschen tijd het grootste gedeelte van den grond *domein* was, en in lateren tijd dat dit domeinrecht zich over het geheele gebied uistrekte, en dat, zoowel in vroeger als in later tijd, het domeinrecht in zijne gevolgen inderdaad algemeen als recht *erkend* werd."

100 See De Roo de la Faille (1918).
the contemporary situation in Solo and Yogya.*101 (ibid. 64). He criticises the supporters of the new theory, namely Van Vollenhoven and Schrieke, who argue that the focus must be upon "the genuine, equitable village customary law" (het echte, billijke desa-volksrecht) instead of "the despotic arbitrariness of princes" ('s Vorsten despotische willekeur) (ibid. 72). In contrast to their position, De Roo de la Faille states:

The history and contemporary situations in Lombok and Java, especially in the Principalities, teach us convincingly that the populace respects whatever pertains to the prince, is ordered by him, and that the populace acknowledges this as right, ...102 (loc. cit.)

He concludes by affirming the the claim that "the land belongs to the King was a real Javanese axiom.*103 (ibid. 86). He also states that this right of the sovereign was based upon conquest. However, he is careful enough to qualify his claim, unlike Rouffaer, by saying that "the royal right of domain in the village was not carried through to its final consequence in all parts of the Mataram kingdom, as it was in the Negara-agung.*104 (ibid. 90).

In his response to De Roo de la Faille, Schrieke argues that, if invoking the old-Javanese royal land right is to be justified as a means of explaining landrights in Java, the following four points must be proven (Schrieke 1919:122-124). Firstly, the agrarian system in the Principalities can be regarded as the norm for all Java. Secondly, during the Mataram period a yearly tax to the amount of 40% of the rice produce was charged and it was considered as the rent for the land

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101"Welk 'recht' de kleine man daar destijds had, kan men afleiden uit hetgeen de tegenwoordige toestand in Solo en Djokdja daaromtrent leert."

102"Lombok en Java, de historie en de hedendaagsche toestanden, vooral in de Vorstenlanden, leeren nu eenmaal overtuigend, dat de bevolking eerbiedigt wat des vorsten is, door hem wordt verordend, en dat zij dit als recht erkent, ... ."

103"de grond behoort den Vorst, is een echt Javaansch axioma geweest . . . ."

104"niet in alle deelen des Mataramschen rijks het Vorstelijk domeinrecht in de desa tot de uiterste consequentie was doorgevoerd zooals in de Negara-agung."
Thirdly, the royal construct of right (de vorstelijke rechtsconstructie) was not simply a pretension or a fiction but a de facto principle which governed and formed the popular law. And fourthly, the common view that the contemporary agrarian relationship in Java is of Indonesian origin is wrong and that the real foundation of it must be found in the Moslem agrarian system of Mataram.

Schrieke thoroughly scrutinizes the sources used by De Roo de la Faille to support his claims. He demonstrates that they are unreliable, that the interpretations made of them by De Roo de la Faille are wrong, or that the method used by him, i.e. induction and analogy, is problematic. A few interesting points emerge from this process of scrutiny. Schrieke asserts that there is no discrepancy between the theory and practice of free-villages (perdikan-instituut, vrijstift). Furthermore:

The grant of exemption has thus the form of a Hindu law, which involves, both in theory and practice, the grant of the whole or partial disposal of the royal prerogatives in regard to a specific eminent area, but by virtue of its nature does not give any right to land nor, when a certain person comes to enjoy the disposal mentioned, does it encroach upon the rights of the inhabitants.\(^\text{106}\) (ibid. 128)

Another point is the limited nature of the European sources, especially those of the Dutch East India Company, whose interest lay in political history, trade, chiefs (hoofden), administrative divisions, fiscal regulations, possibilities of exploitation and others, but hardly

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\(^{105}\) The Javanese term most commonly used to mean tax was pajeg. The source of the problem is that this word can be glossed both as tax and rent (Horne 1974:418). And this is another case of the discrepancy between Western classification and Javanese classification. And it was the fact that the pajeg was rather exorbitant compared to taxes in the West which caused some Dutch scholars and administrators to accept "rent" as its gloss (see Barlagen Bussemaker 1887:76 and De Kat Angelino 1931 2:435). We, however, must clearly distinguish between "rent", which means, in the present case, that the state was the owner of land (i.e. had disposition over who was to till the land), and "tax", which means the state was not the owner of land.

\(^{106}\) "Het vrijstift is dus een Hindoe-rechtsfiguur, die naar theorie en practijk het verleenen van geheele of gedeeltelijke beschikking over de vorstelijke praerogatieve ten aanzien van een bepaald 'geëmineeerd' gebied inhoudt, maar krachtens haar wezen geen recht geeft op den grond en evenmin--zoo een bepaalde persoon in het genot van de genoemde beschikking gesteld wordt--de rechten der opgezetenen verkort."
extended to popular laws (bevolkingsrechten) (ibid. 142-143). Interestingly, what Schrieke suggests to redress this is the use of Anthropology (Ethnologie).

Schrieke also points out that the study of adat-law, the old inscriptions, and the Buddhist literature has upset the illusion in Indonesia of the ancient sovereign's right of domain (ibid. 165). Since De Roo de la Faille stresses the Hindu influences upon the Javanese system of land rights and also asserts that the supreme proprietorship of the sovereign is based on conquest, Schrieke examines closely the various points which make up what he calls the "Right of Spoils Thesis" (de Buitrechtttheorie) (ibid. 165-182). He demonstrates that the dogma of supreme proprietorship is not tenable even in India. In addition, Hindu penetration "took place along the peaceful lines of trade and traffic" (Vogel 1918:193 quoted in Schrieke 1919:177). He quotes Kern's view that "it was understood in old Majapahit that one must try to win the subject populace's heart first of all by leniency"107 (Kern 1913-28, 7:285 quoted in Schrieke 1919:172) to reject the position that conquest immediately entailed the suzerain claiming ownership of the land. He also notes that the tax imposed in Java cannot be regarded as rent but as a compensation for the protection offered to subjects (ibid. 167), for "there is no mention of the identification of landrent with domain tax108 . . . , as far as I am aware, before the nineteenth century"109 (ibid. 168). Hence, Schrieke stresses the continuity of the Javanese system in spite of foreign influences (ibid. 180).

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107 "Men begreep in 't oude Madjapait, dat men onderworpen bevolkingen allereerst door zachtheid moet trachten te winnen."

108 The word in the original is pacht, which literally means "rent." In this context, however, what is meant is closer to "tax." This is due to the fact that the word "domein", which cannot mean "land owned by the sovereign" in Schrieke's sense, is used with it. The problem may also be related to the way the Dutch understood leasehold in relation to the radical title of the crown in English common law. In fact, though phrased in feudal terms, leasehold under the proprietorship of the crown was not insecure for the leaseholders compared to the right of grond verhuur in the post-feudal, continental Dutch-Roman law. See Anonymous (1865:8).

109 "Van 'landrente'=domeinpacht . . . is, voor zoover mij bekend, voor de 19e eeuw nog geen sprake."
He concludes his article by stating:

It seems the best chances, for the time being, are therefore to assume that the royal construct of right, in respect of the so-called "right of property" on land, originates from the old, but not pre-existing "right of taxation" in connection with the absolutist conception of the sovereign power. The available historical data do not give any further cause to challenge the view suggested by the study of adat-law that, generally speaking, in the long run this royal construct of right has driven out most of the ancient popular rights mainly only in the Principalities, which have formed the centre of despotic princely power for centuries, especially since the territory and therefore the income [of the sovereign] have been curtailed.\textsuperscript{110} (ibid. 180, notes omitted)

4.2.3 The Dogma of Supreme Proprietorship as Authoritative Discourse

We have seen above that the difference between Rouffaer and Van Vollenhoven and also between De Roo de la Faille and Schrieke can be ascribed to the different perspectives they adopt. Rouffaer and De Roo de la Faille adopt that of the Princes (\textit{Vorsten}) and Van Vollenhoven and Schrieke that of the villages (\textit{desa}). Thus, the former two scholars deal with the sovereign and the supreme proprietorship, and the latter with the village and the village right of disposal. This opposition overlaps with that between the \textit{Nagara-Agung} (Principalities) and \textit{Mancanegara}. In fact, it is another restatement of the very Indonesian opposition between the centre and the periphery, taking here the form as court (\textit{kraton}) vs. village (\textit{desa}).

In the past the divergence resulting from these two different approaches in regard to the problem of supreme proprietorship has been explained in two ways. One way is to apply the Western distinction

\textsuperscript{110}"Voorhandzijkt het daarom nog het meest waarschijnlijk om te veronderstellen, dat de vorstelijke rechtsconstructie ten aanzien van het z.g. 'eigendomsrecht' op den grond is voortgevloeid uit zijn oud, maar niet praëxisteerend belastingrecht in verband met de absolutistische conceptie de soevereine macht. De beschikbare historische gegevens geven verder geen aanleiding om te wraken de door de studie van het adatrecht gesuggereerde meening, dat deze vorstelijke rechtsconstructie, in het algemeen gesproken, op Java voornamelijk alleen in de Vorstenlanden--dwz. in landstreken, die sinds eeuwen het centrum van despotisch vorstengezag hebben gevormd--vooral sinds het gebied en daarmede de inkomsten besnoeid werden, de overoude volksrechten op den duur grootendeels verdrongen heeft."
between public and private law. Thus, the supreme proprietorship was regarded as having the character of public law (see, for example, Van den Berg 1891:21).

It was thus either misunderstood by Europeans as having the character of private law or it was transformed into a concept possessing the nature of private law as a result of the despotism of Javanese kingdoms (e.g. see Barlagen Bussemaker 1887; Van Ossenbruggen 1905:171). The other mode of explanation is to maintain that supreme proprietorship was not of a legal nature but of a religious nature (e.g. see Van Ossenbruggen 1905; Van Welderen Rengers 1947:22, 58; and also Mulherin 1971:4-6). For instance, Van Ossenbruggen (1905) claims that there are two aspects in the primitive concept of property: the religious and the economic. He maintains that it is only as a religious representative that the king could claim ownership over all land and that this did not entail economic control over the lands. Thus he is of the opinion that the Javanese right of possession (bezit) at the village level should be understood as a right of property according to the adat (eigendomsrecht volgens de adat) and not as a right inferior to the right of property of the sovereign.

It is, however, my contention that by applying Asad's thesis we can see the perspective from the court as authoritative discourse and that from the villages as non-authoritative discourse. It could be that, as Asad notes, there are different forms of discourse in a single society and that Rouffaer and De Roo de la Faille mistakenly attributed the status of an authoritative discourse to a specific single discourse at the cost of ignoring others which are at variance with it. And this has been the trend in historical studies of Indonesia. Lyon states:

[Historical studies in Indonesia] often concentrated on Javanese court life, not village society, and thus dealt with land only as it was peripherally involved in the administration

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111 Gluckman (1972:89-94) avoids the use of these Western concepts by using the two terms: estates of administration and estates of production.

112 See Mabuchi (1970) for a classic case of a divergence between magico-religious and actual ownership.
of the early kingdoms. (1970:1)

For instance, De Roo de la Faille takes the following claim made by Soenan Tegalwangi literally as a fact. Soenan Tegalwangi claimed to R. van Goens, "Unlike your people, mine have nothing of their own, but everything that is theirs is due to me" (quoted in De Roo de la Faille 1919:47).

On the other hand, focusing solely on the village without taking into account its relationship with the state is also problematic. Since much anthropology has been and, to a certain extent, still is primarily concerned with the bottom-up perspective, i.e. in this case from the village, the perspective adopted by Van Vollenhoven and Schrieke is more appealing to many of us. I will deal with the problems that adoption of this approach entails in Section 4.3.

Here we will look at several issues in which the difference between these two perspectives crystallises.

A. PERDIKAN-DESA

We have seen above that Rouffaer and De Roo de la Faille, who support the supreme proprietorship theory, regard establishment of free villages (perdikandesa) and grants of land (lungguh) as constituting land grants in the real sense of the term. They are not the only analysts to connect these two views. Fokkens, who supports the supreme proprietorship theory (1886:485), claims:

[Royal land grants in India] were limited to the right to collect taxes for the benefit of oneself and never extended to the land itself. Upon land the king had no command according to the old Hindu laws (laws of Manu). He was not regarded as the owner of the land. In Java, however, it seems to have been otherwise. According to old inscriptions found there, the grant of baronial [sovereign?] rights by the king was usually

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113 Van Naerssen (1963:14) remarks that "[i]n Indonesia the historian's focus is undoubtedly upon the kraton." Tjondronegoro (1983:1) also takes note of "the biased view towards court circles and a relative disinterest in the rural population" in the writings of Indonesian historians.

114 "Mijn volk heeft als ghijlieden niets eijgen, maar alle 't hunne comt mij toe."
paired with the grant of land.\(115\) (ibid. 484)

Similarly, Van den Berg (1891:12) claims that free villages in Java "can only be explained as a cession of property rights by the Prince, which he exercised over land in general, whether cultivated or not."\(116\) Mulherin (1971:12-13) also makes the same point.

Schrieke, however, is of the opinion that "[t]he king's 'ownership' in land originally includes, in Java as well as in India, practically only the power of tax levying" (1918:396).\(117\) Thus he sees the true nature of the perdikan institution as being the conferring of exemption from the royal duties (loc. cit.). His focus on the village level is most apparent in his following words: "In Java in the Middle Ages, notwithstanding the so-called 'property right of the king', the populace . . . could make all sorts of claims upon land"\(118\) (loc. cit.).

B. OLD LEGAL TEXTS

As evidence for the supreme proprietorship, article 100 of Koetara-Manawa is often given (Van den Berg 1891:6; Rouffaer 1918:313). According to Jonker's\(119\) translation, which was then the only one available,\(120\) it reads: "If someone pawns (pledges) his land, the pawn

\[115\]"bepaalden zich tot het recht om ten eigen behoeve belastingen te heffen en strekten zich nooit tot den grond uit. Daarover had de vorst volgens de oude Hindoesche wetten (wetten van Manu) geene beshikking. Hij werd niet beschouwd als eigenaar van den grond. Op Java schijnt dit echter anders geweest te zijn. Volgens oude inscripties, daar gevonden, ging het schenken van vrijheerlijke rechten door den vorst gewoonlijk gepaard met schenking van land."

\[116\]"slechts verklaren, als een afstand door den Vorst van de eigendomsrechten, welke hij in het algemeen op den grond, bebouwd of niet, uitoefende."

\[117\]"Het 'eigendomsrecht' van den vorst op den grond omvat oorspronkelijk op Java evenals in Voor-Indie practisch slecht de bevoegdheid tot belastingheffing."

\[118\]"in de middeleeuwen op Java, ondanks het z.g. 'eigendomsrecht van den vorst' de bevolking . . . allerlei aanspraken op den grond kon doen gelden."

\[119\]Unfortunately, Jonker's work was not available to me and all my quotations from his work are from quotations given in Van Ossenbruggen (1905).

\[120\]Now there is another translation available which reads: "If a person pawns land, no matter for how long, it never lapses because that land is owned by the prince (sang prabu), so it remains only with the pawn taker [as pawn]." (Hoadley & Hooker 1981:187)
(pledge) never expires, because the land is the property of the prince. It stays only with the pawnee (pledgee).”

Though this translation is hard to decipher as to what it really means, it seems that both Jonker and Van Ossenbruggen understand it to mean that, even in case of the possessor-pledgor failing to pay back the money borrowed after a fairly long period, the pledge transaction will not expire with the result that the land will be transferred in ownership to the tenant-pledgee\(^1\)\(^2\) (Van Ossenbruggen 1905:377 note 4; Jonker 1885:30 quoted in Van Ossenbruggen 1905:378). And this interpretation can be verified by Van Vollenhoven's description of what he calls "tenancy in return for loan." According to him, "[t]he arrangement can last decades without the slightest danger to the ownership itself of the land" (1981:192). Furthermore, in contrast to Van Vollenhoven, who allows for the appropriation by the tenant-pledgee under certain circumstances (ibid. 193), Ter Haar is of the opinion that even when there is "a clause to the effect that if the land has not been redeemed within the given period, it automatically passes in native possession to the pledgee," this will not directly lead to appropriation.

In practice the effect of that clause is that only when the time limit has been passed, may the pledgee demand that the pawn relationship be terminated. This means that if the borrower fails to redeem, the lender may demand that a second legal act—one of transfer of native possession to him--shall be performed. Possibly, if the loan was less than the market value of the land, he may make an additional payment to the

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\(^{121}\)"Indien iemand zijn land verpandt, vervalt dit pand nooit, want het land is eigendom van den vorst, het blijve slechts bij den pandnemer."

\(^{122}\)For those who are not legally-minded, the assumption here is that the absolute ownership (eigendom) resides in the prince or does not exist in Java. Hence, the one who pledges the land (pledgor) must be regarded as a possessor (bezitter), while the one who provides the money (pledgee) comes into possession of the land as a tenant. It was, however, common that the tenant-pledgee let the possessor-pledgor continue tilling the land on a share-cropping basis.
If we accept this as the correct interpretation of this article, the phrase "because the land is the property of the prince" does not have much significance. Jonker, for instance, does not see any legal significance in mentioning the ownership of the prince in this article. Van Ossenbruggen understands this phrase to mean "because the clan or family land cannot be passed into the hands of outsiders". We must conclude that assertions for the existence of supreme proprietorship based upon this phrase must be treated with caution.

C. INSCRIPTIONS

Most of the inscriptions found in Java concern land transactions, especially the creation of so-called freehold villages (*sima, perdikandesa*). It has been a matter of dispute to what extent the peasants in the villages were involved in these transactions. As seen above, those who support the supreme proprietorship of the sovereign claim that the peasants had no say in these transactions and that these constituted a transfer of land ownership from the sovereign to the beneficiary. Those who were against this view claim that villagers had to be at least consulted and often compensated for whatever loss they suffered as the result of these transactions.

The inscription, whose interpretations has crystallised difference in these two perspectives, is that from Saka year 841 (dated 919 A.D.). In this inscription it is simply mentioned that the king marked out the forest at Lintakan and the forest at Tunah as freeholds without reference to anyone (pl. 1:2). When the designated land was already made into *sawah*, however, it is stated that the king had to...

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123 Though I here quote from the translation, refer to the original (1939:93-99) to get a better picture of this transaction. This is because the translation is not particularly a good one, for example, the word "pledgee's need" in the first line of page 111 should read "pledgor's need". For a good English description, see Darmawi's section on *djual gadai* (1972:297-301).

124 "Want het stam- of familieland kan niet in vreemde handen overgaan."

125 See Van Naerssen & Iongh (1977:2) and Hoadley (1971:95).

purchase it from the *rama* of the village of Kasugihan (pl. 1:3). Lette (1928:100) and Van Setten van der Meer (1979:69) refer to this inscription as evidence for the limited nature of the so-called supreme proprietorship of the king.

Being aware of this inscription, Van den Berg tries to explain it in a way that would not be at variance with his theory of supreme proprietorship. He states that "such a purchase is of course unthinkable, when one accepts that the Prince was already the owner" (Van den Berg 1891:14). Hence:

One has to seek another explanation, and think of either a land given in property earlier by the King and now repurchased or of compensation for some personal claims [of the gentry who had interest in the land?]. The circumstance that the land concerned was purchased not from the residents but from their head (*rama*) makes such a supposition very acceptable.\(^{127}\) (loc. cit.)

I find this interpretation by Van den Berg very problematic and unacceptable. It is nothing but a work of pure imagination to claim that there was an earlier grant of the land by the King just on the basis of a logical extension of his supreme proprietorship theory without reference to any other evidence, such as another inscription which refer to this earlier transaction. Also, his understanding of the status of "*rama*" is problematic from the viewpoint of contemporary experts of Indonesian inscriptions. For instance, De Casparis, who is widely regarded as the authority in this field, refers to "the absence of a village headman of any kind" in the tenth century (1983:5) and translates the word "*rama*" as the "village elders" (ibid. 4).

Further, De Casparis states that the villagers were directly involved and thus consulted at the various stages of the transaction (ibid. 12 note 2). Moreover, he explicitly states that "most of the

\(^{127}\) "Men zal dus eene andere verklaring moeten zoeken, en denken, hetzij aan grond vroeger door den Vorst in eigendom afgestaan, doch thans teruggekocht, hetzij aan eene schadeloosstelling voor persoonlijke aanspraken. De omstandighed, dat de grond, in kwestie niet van de opgezetenen, maar van hun hoofd (*rama*) gekocht is, maakt eene dergelijke onderstelling zeer aanneembaar."

\(^{128}\) Van Naerssen (1977:75) also glosses the word as "elders" and describes their involvement in the creation of freehold villages (ibid. 78-79).
cultivated land was in individual ownership of peasants resident in the village" *(ibid. 2)*.

Another case of similar nature that I have come across concerns the inscription of Saka year 782 (820 A.D.). In one place, this inscription is referred to as evidence of a purchase from villagers (*markgenooten*) (*Anonymous* 1881b:771), but later considered as evidence of the non-involvement of the villagers in the transaction (*W.D. Bergsma* 1881). In this case the conflicting interpretations hinge upon the meaning of the word "*paravargga*" (*Sarkar* 1971-72 1:134). Kern, whom Bergsma follows, translates the word as "*Priyayi*, while the anonymous writer understands the word as denoting members of the village. This difference seems unsolvable to date, since Sarkar does not even attempt to gloss the word and keeps it as it is in his translation.\(^{129}\)

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**4.3 THE IMAGES OF JAVANESE SOCIETY IN THE DUTCH LITERATURE**

While the earlier image of Javanese society among Dutch writers was that of the Oriental despotism and supreme proprietorship of the sovereign, this image was replaced or supplemented by that of the village community with communal land in the nineteenth century. This shift can be explained by the increasing knowledge of the Dutch about Indonesian societies at a lower level than that of the court, which was necessitated in order to appropriate the agricultural surplus directly from the villages. In addition, criticism of despotic native rulers became unnecessary after their subjugation to Dutch hegemony. The political and economical situation in nineteenth century Europe also influenced this changing assessment, a point I shall touch upon in the concluding chapter when I attempt to place this shift in the image of Eastern society in a wider framework. Thus, I shall here concentrate on discussing the image of Java as consisting of village communities insofar as it is reflected in the Dutch literature from the late

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\(^{129}\)See *Anonymous* (1881:771).

\(^{130}\)The translation reads as follows: "The Rev. gentleman at Bodhimimba (accordingly) obtained lands against the payment of gold 7 *kati* 12 *suvarna* (and) 10 *masa* to the *paravargga*-s of Bungur South" (*1971-72 1:143)*.
nineteenth to early twentieth century, when the debate regarding communal land tenure in Java took place, and in the contemporary literature, where it is a sort of anachronism.

The image of Javanese society was then that of Village Java. And it was this image which became the basis of adat-law studies, as represented by Van Vollenhoven, and, to a certain extent, continues to affect the views of Western scholars today, especially those engaged in development projects. This image of Javanese society "represents it as an endless number of homogeneous communities of cultivators, living closely and harmoniously together, with a high degree of institutional self-sufficiency" (Breman 1982:189). This image of Village Java is constituted by four key elements: communalism, stagnation, self-sufficiency, and homogeneity.

4.3.1 Communalism

By communalism I mean the view which takes the community (the village) as its primary focus and pays less attention to the individuals in the community. The individuals are considered to be embedded in the community. Thus, communalism is the reverse of individualism.

Van Vollenhoven states that "Adat law can only be understood if this strongly communal element in Javanese-Madurese life is constantly kept in mind" (1981:164). Taking this point up, Holleman, a student of Van Vollenhoven, delivered a lecture in 1935 with the title De Commune Trek in het Indoneisch Rechtsleven (The Communal Trait in the Indonesian Legal Life), in which he describes the communal trait as the characteristic feature of adat. The central concept in the theories of adat studies is that of a jural community (rechtsgemeenschap), a small autonomous community with legal powers to deal with internal

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132 See for example, Van der Kroef (1960:415).
133 See Adam (1924:73-74).
134 Though he remarks that "the individual factor is never absent" ("de individualistische factor nimmer ontbreekt"), his emphasis upon the communal trait is such that he subscribes to the developmental psychology of Heinz Werner and attributes to the Indonesians a primitive mind, in which the ability to distinguish and differentiate is not developed (1935:6, 18).
affairs (see Holleman’s editorial comments in Vollenhoven 1981:43). The result of the adoption of this concept is remarked by Darmawi as the following:

In treatises about adat law, prominent communocentricity is recognized as the trait which contrasted most with other legal systems. It was the group that interacted with the environment, material and incorporeal; through the group, the individual dealt with fellow members and with other individuals, and jointly as a group, members took part in legal relationships. The individual was accorded a certain status which delineated his place within the group, his rights and obligations. (1972:286-287)

Adat scholars were not the only analysts to attribute communalism to Javanese society. For example, Boeke in his theory of dual societies contrasts the communalism of the pre-capitalist society with the individualism of the capitalist society (1953a:276). He describes the village economy as communal in contrast to corporative, which denotes a union of individuals (1934:5). Although his criteria of a community are different from those used by adat scholars to define a jural community, his attribution of communalism to Javanese villages is no different (ibid. 52-55). Thus he states:

the village economy in Java indeed has lost many of its virtues under the precariousness of the Land Rent System and Cultivation System but it has not lost its traditional, communal character. (ibid. 67)

4.3.2 Stagnation

Javanese society, especially the village community, is often described as being static. In the lecture already mentioned, Holleman uses the expression "society stagnating in tradition" (1935:21). Schrieke states that "the structure of the Java of around 1700 was not appreciably different from that of the Java of around 700" (1957:4). And further that:

in the intervening ages no developments in technology or

135 "de dorpshuishouding op Java onder de wisselvalligheden van landelijk en cultuurstelsel weliswaar veel van haar krachten heeft ingeboet, maar haar traditioneel, communaal karakter niet heeft verloren."

136 "in traditie stagneerende samenleving"
labour organization can be detected, no change in the method of production, so that the influence of the physical nature of the island on its history continued undiminished. (loc. cit.)

Schrieke also states:

The old society had only one aim: to leave matters as previous generations had formed them. The head-man was expected to maintain the customary law and everybody was willing to help him to that end. For this reason society bore a predominatingly static character. Nobody thought of the advancement of the community, for nobody aspired to "progress". There was no competition, no stimulus to improvement, no desire for a better and more comfortable existence. (1929:238)

This image of Javanese society can still be found among contemporary scholars writing as recently as 1980 (see Tichelman 1980; Geertz 1963).

4.3.3 Self-sufficiency

Under self-sufficiency I also include the characterization of Javanese villages as autonomous (i.e. independent from the state) and closed. As a result of the focusing on jural communities, the state is only treated as an external, corrupting factor that inflicts harm upon the otherwise purely autonomous communities. Van Niel aptly states:

To Van Vollenhoven the Javanese village was not one of a number of social institutions in Java, it was, from a legal point of view the "law making" entity [rechtsgemeenschap] par excellence. The only possible rival to this function was the self-governing kingdoms—other than recognizing that these existed, Van Vollenhoven does not dwell on their legal powers or rights. (1982:3, note omitted)

Similarly, Ong states in the preface to his thesis:

The state in Java had always rested on and interfered with village structure and politics. This study tries to dispel some attempts by Dutch scholars, notably C. van Vollenhoven, who in his search for an adat-law (customary law) in Java tried to present the village as an autonomous unit. (1975:xi)

Already in 1950 Burger had pointed out that:

The Dutch mostly judged the Javanese nobility partially by [stressing] their negative side, the abuse of power. In relation to this, the discussion of the Javanese society in the Dutch academic literature often looks too partially at the desa and ignores too much the connection with the superstratum.

The ancient nobility with the princely administration, however, formed the roof, in the widest sense, over the individual villages, which participated in the higher feudal
civilization. The Javanese village culture did not stand by itself as an autonomous peasant culture, but hung very closely together with the feudal culture.\(^{137}\) (1948-50 part IV:230)

4.3.4 Homogeneity

One seldom gets the impression, by reading the pre-1965 literature on Java, that the class differentiation within the village resulted in any conflict of interests, let alone any of a class struggle nature. Though writers have been aware of the existence of different classes of peasants based on land holding, this did not lead to any attempt of analysing the relationship between the different classes in any detail. Combined with other elements in the Village Java image, the picture one gets is that of a rustic, harmonious community.

The most cited case, for instance, would be Geertz's *Agricultural Involution* model (1963). It has been repeatedly criticised for stressing the involutional aspect of land tenure at the cost of neglecting the large class of landless. For example, Lyon sheds light on the "trends toward greater economic differentiation and concentration of control of land" in her criticism of Geertz's static equilibrium model (1970:13). Collier makes the further point that:

> Perhaps the most critical shortcoming in the shared poverty thesis is the fact that Geertz does not take into consideration the huge schism in village society between those who have land and those who do not. (1981:152)\(^{138}\)

When looking back at Van Vollenhoven's work, the impression is confirmed. He is very well aware of the different classes of peasants (e.g. 1981:156-157), but does not describe how these different classes of peasants interacted in settling the conflicts arising from opposing interests. Though this problem is common to most Dutch literature, it

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\(^{137}\)"De Nederlanders beoordeelden de Javaanse adel meestel eenzijdig naar zijn schaduwzijde, het machtsmisbruik. In verband daarmede is in de Nederlandse, wetenschappelijke literatuur bij de bespreking van de Javaanse samenleving dikwijls te eenzijdig naar de desa gezien en de samenhang met de bovenlaag te veel verwaarloosd.

De ouderwetse adel vormde echter met het vorstenbestuur de overkapping in de ruimste zin boven de afzonderlijke dorpen, die deelden in de hogere, feudale beschaving. De Javaanse dorpscultuur stond niet op zichzelf als een autonome boerenbeschaving, doch hing ten nauwste samen met de feudale cultuur."

\(^{138}\)See also Van Niel (1983b:4).
is more striking when even works by a lawyer show this trait. It has been remarked as a general criticism against the "ideological approach" taken by the Dutch adat-law scholars that they "pay little attention to the testing of principles by cases" (Hoebel 1954:33-34). I suggest that this shortcoming combined with preconceived ideas of a harmonious, traditional village community resulted in this ignoring of the clash of interests within the Javanese peasantry.

Hence, the problem is not that of lacking a knowledge of the existence of the different classes of peasants but rather that of not looking into the consequences of it. For instance, already in 1863 it was noted that the difference in wealth determined who could afford to reclaim land (see Anonymous 1924a:20). However, we are not told what significance this sign of class differentiation had in dictating the life in the villages. One possible explanation for this oversight is that the cognatic kinship system was reflected in the inheritance by all the children, and resulted in the dissolution of the differential prosperity of the previous generation rather quickly by splitting the wealth (see Oetoyo 1917:53). As far as land is concerned, the Eindresume claims that it was inherited by sons, but does not elaborate how it was distributed among them (1:77). Naito believes that only individually possessed land was divided between descendants and that communally possessed land was inherited by a single heir, but used separately by all those entitled to claim succession (1977:60). Though, from an anthropological point of view, these descriptions are too rough to make out the significance of the inheritance rules to class differentiation, a recent work has demonstrated that, even under a bilateral inheritance rule which requires the estate to be divided between all descendants, the wealth can be consolidated by certain marriage customs and maintained over a long period and not lead to fragmentation of land holding (see Husken 1984).

4.3.5 Critique of the Village Java Image

The image of Village Java and the assertion, that this image is sufficient as a description of the state of affairs according to the tradition based on adat, have recently been subjected to criticism. The most prominent of these critics are Breman and Ong. Breman criticises the Leiden school of adat law under the leadership of Van
Vollenhoven for erecting the village community "as an almost sacred edifice which had to be respected" (1982:202). It is his contention that:

the choice of the desa as a cornerstone of the colonial administration led in official reporting to the assumption of a 'traditional' Javanese community which remained current until decolonization and indeed for some time afterwards. (ibid. 196)

As far as the European (Dutch) image of Java is concerned, I find Breman's argument persuasive, but we must be careful to distinguish the image from the actuality on the ground. When Breman goes as far as to state that "[t]he Javanese desa as a community is a European creation" (ibid. 196), and that "the village as a collective unity did not antedate the colonial state but is rather the product of it" (ibid. 201), I find his arguments somewhat problematic depending on what he means by "desa as a community" and "village as a collective unity", because the existence of the Javanese desa is not dependent upon European observation. Since we know so little of the pre-colonial rural situation in Java, I shall limit myself to discussing the image insofar as it functioned as a strait-jacket in constraining the analysis of certain aspects of Javanese desa in the observations made by the Dutch in the last century.

Emphasis upon the communal aspect of rural life in Java tends to give the impression that individuals had no role except as members of the community and that there was almost a complete harmony between individual interests and communal interests, providing yet another instance of an image once popular in certain early anthropological works. For this reason the literature fails to give us a picture of the way communal land tenure worked in Java, for at times it must have been against the interests of the original owner of the land (the

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139 For a somewhat similar view, see Van Niel (1969:268-9). Also, earlier similar claims have been made on the basis of evolutionary theory—from consanguineal to territorial ties—that territorial village was not original in Java. For a criticism of this view, see Ploegsma (1936:1-32).

140 Malinowski's works on the Trobriand were influential in dismantling the image of the "natives" as automatons of custom (See Malinowski's works on the Trobriands and Roberts 1979).
original reclaimers, the first settlers, and their descendants) to cede their land to the landless.

Characterisation of Javanese society as static and always in harmony with ancient tradition (adat) results in the view that prior to Western influences there were no social and cultural changes. Already in 1938 Pigeaud had remarked that:

There is, however, enough information available to be able to establish on good grounds that it is an error to consider the form and the content of present-day Javanese culture as faithfully handed down from ancient times, unchanged by outside influences or by internal growth.¹⁴¹ (1938:6 quoted in Burger 1948-50 part III:6 [the English translation is from Burger 1956:5])

In general, however, sociological and anthropological studies on Indonesia before 1945 "placed most of their emphasis on the static and ancient aspects of Indonesian cultures" (Koentjaraningrat 1975:166). From the data available in inscriptions, De Casparis has recently stated that "the village community, at least in East Java, was by no means the kind of unchanging institution that has often been postulated" (1983:1). Emphasising the inapplicability of Western model of agricultural development to sawah cultivation societies, Bray suggests that it was the lack of appropriate models which resulted in the West's failure "to interpret change in non-European societies, or even to acknowledge its existence" (1983:4).

The bias inherent in treating the village as closed and autonomous

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¹⁴¹"Genoeg berichten zijn er echter beschikbaar om op goede gronden te kunnen vaststellen, dat het een dwaling is, de vormen en de inhoud der hedendaagse Javaanse beschaving te beschouwen als uit zeer oude tijden trouw overgeleverd, onveranderd door invloeden van buiten of door innerlijke groei."
has also been repeatedly pointed out. The importance of looking at the feudal superstructure of the state has been pointed out by Burger as seen above. He writes that "[w]ithout the ancient feudalism the ancient desa is a body without a head" (1948-50 part VII:531). Pointing out the existence of various taxes already imposed by the Court in the thirteenth century, Mulherin states that "[t]hese were signs of an administrative control which, while still loose, was far removed from the autonomy enjoyed by a self-governing community" (1971:7). Stating that "the personal bonds between lord and followers cut across the conceptual unity of the territorial villages", Kumar suggests that "we may have to revise our whole assumption that the unchanging, introverted, solidary village was the basic unit of traditional Javanese society" (1980:584).

As for the homogeneity within the village community, Breman's work (1982) stresses the vertical relations within the village. Taking notice of the differentiation at the local level as manifested in different classes of peasants; i.e. bumi or sikep, numpang, and bujang, he states that "[w]hat a large number of followers of the adat-law school assumed to be local common law meant in fact the enforcement of the law of the locally powerful" (ibid. 214). De Casparis points out that "[a]s far as the social structure of the village is concerned, the village was not an autonomous unit answerable only to itself but the basis of a complex political and economic framework which structured the whole society . . ."

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142 Koentjaraningrat (1975:215) points out:

"The most striking difference between the approach taken by the pre-war Dutch scholars and that of the post-war American scholars is that the former were mainly interested in understanding the ancient established principles underlying the ideological system of the Indonesian peoples and cultures in the context of closed rural communities. The latter, on the other hand, aimed at an understanding of the actual process taking place within the social as well as the cultural systems of the Indonesian peoples."

143 "Zonder de ouderwetse feudaliteit is de ouderwetse desa een romp zonder hoofd."

144 Elson (1984:12) also states that:

"the village was not an autonomous unit answerable only to itself but the basis of a complex political and economic framework which structured the whole society . . ."
much depends on whether one views the village from the outside or from the inside" (1983:3). He states that though from the outside the village may give the impression of homogeneity, "[i]nside the village, however, there is no question of equality" (loc. cit.). Raffles's view that the village heads are elected by the villagers in Java, which has contributed to giving the impression of a democratic, homogeneous community, also seems to be untenable (see Adam 1924:35-39).

These criticisms of the image of Village Java can also draw support from anthropological work on peasant societies. In later works by Redfield, the pioneer of peasant studies within anthropology, though we can see still see traces of his earlier naive dichotomy of folk versus urban in his characterisation of the little community as "homogeneous", "slow-changing", and "self-sufficient" (1960b [1956]:4), he sees the little community as "a community within communities" (ibid. 114) and says that "[w]e can consider the village . . . as a complex of folkways and stateways" (ibid. 130). In another place he is more explicit and states that "[t]he culture of a peasant community . . . is not autonomous. It is an aspect or dimension of the civilization of which it is a part" (1960c:40).

In fact, works written by anthropologist (mostly American) after Indonesian independence give us a much vivid and dynamic picture of rural life in Java. Recent works by historians also take into account the internal differentiation among the peasantry in the village and the flexibility of the peasant society. Only when freed from constraining image of Village Java, we can see Javanese as living human beings, who try to maximize their interests, at times, even at the cost of communal interests or conflicts with co-villagers, and are willing to make changes in tradition when necessary. They are subject, just as we are (if not more), to vicissitudes of national policies as well as world economy.

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145 Even where elections were held, "it was often little more than a formality, for the position of kuwu [village head] was normally handed down by father to son or the next of kin" (Fernando 1982:165).

146 See for example, Geertz (1956; 1957; 1960a; 1960b); Jay (1963; 1969); Stoler (1977).

147 See for example, Fernando (1982) and Elson (1984).
CHAPTER 5
CONCLUSION

In the previous chapter I have pointed out that different views on communal land tenure in Java can be classified as based on two different perspectives; one with its focus upon the court and the other with its focus upon the village community. The former view was initially adopted by the Dutch as they took over the position of the sovereign from the Javanese princes. This view fails to provide us with a picture of the state of affairs in the villages, because those in the court were not interested in this, unless it affected their acquisition of corvee and produce from the villages. I have also pointed out that the Dutch mistook the ideological statements made at the court as reflecting the reality in the villages, as in the case of the supreme proprietorship of the sovereign. They not only succeeded to the position of the sovereign but also to the ideological perspective of the sovereign with a hitherto unknown will and power to make the reality conform to this authoritative ideology. Those Europeans who subscribed to this perspective also lacked the vocabulary and concepts to describe a land tenure system based on a different conceptualisation from their own system.

As an example of the second view, I have reviewed various works of the liberals in Chapter 3 and described the way Van Vollenhoven analysed the land tenure system in Java in Chapter 4. Though claiming that the originally individualistic system of land tenure changed into a communal one under European influences, the liberal writers failed to give us any detailed description of the pre-colonial land tenure system. They also did not have the vocabulary to grasp the wide range of phenomena covered under the blanket concept "communal land tenure." Though Van Vollenhoven's school succeeded in providing us with the vocabulary necessary to describe the Javanese system, it was not free
from the confining trends of the time.¹ The pendulum has swung too widely in the opposite direction, resulting in the erection of the village community as an autonomous unit on its own, "a sacred edifice." This point has been taken up at the end of Chapter 4. It is not possible to look at the village independently from the state. We have to see land tenure in peasant society as the result of the interaction between the village and the state.

We must also pay attention to the differentiation within the village, especially that which manifests as differentiated access to land. Thus, it is not enough to see land tenure as the bottomline of the dialectical process between the village and the state, but also as the result of the power plays between different classes of peasants within the village. Van Vollenhoven's failure, despite his shifting of the focus from the court to the village, to give a sense of the dynamic interaction between different class of peasants within the village may be attributed to his never conducting fieldwork himself. In all likelihood, a large class of landless peasants already existed prior to the nineteenth century. Here, it is worth mentioning that though an ideology specific to a certain class within the society may be considered as dominant and authoritative, it does not necessarily entail that it would be shared, i.e. recognised as legitimate, by other members of the society. Leach had already recognised this fact in 1954:

I hold that social structure in practical situations (as contrasted with the sociologist's abstract model) consists of a set of ideas about the distribution of power between persons and groups of persons. Individuals can and do hold contradictory and inconsistent ideas about this system. (1964:4, emphasis added)

The focus on adat² also led to a very static view of Javanese villages as based on ancient tradition. We must bear in mind that tradition is only ancient and unchanging subjectively, and that it

¹We must note that, as Dewey (1972:291) remarks, "awareness of the village community was a creation of the latter nineteenth century."

²Though the word adat has been used in this thesis as meaning customary law, it also can mean tradition.
could actually be a recent construction to which is attributed the status of tradition.\(^3\) Fox, for example, in his anthropological work on the island of Roti and Savu, remarks that "[w]hat is locally conceived of as traditional can, in many instances, be shown to be the result of particular responses to Dutch intervention" (1977:188). Though this could very well be the case with communal land tenure in Java, the data available are not sufficient render conclusive judgement. At the level of the images embraced by the Dutch, however, there was a communalisation of the Javanese as seen in the development from the supreme proprietorship perspective to the village community view.

It is my contention that the notion "communal land tenure" was born out of the very confined limits of Western discourse about non-Western societies, another example of what Said (1978) labels as Orientalism (and of Western discourse about its past).\(^4\) As Breman aptly recognises, "'communal ownership' was little more than a euphemism: the negation . . . of the existence of private property [as understood in the West]" (1983a:7). The East was a foil to the West. As Said notes, in this Orientalist framework of discourse "the Orient is the stage on which the whole East is confined" (1978:63), "a wide variety of social, linguistic, political, and historical realities" (ibid. 50) are lumped together as representing "they" (the Orientals, the image of Otherness par excellence) in contrast to "us" (the Westerners) (ibid. 45, 54). Within such a framework, once land tenure is labelled as "communal", it was not necessary to look into "minor" variations of it, hence the failure to distinguish between redivision and rotation. This lumping of a wide range of phenomena, in spite of many individualistic characteristics, as "communal ownership" was not limited to Java. It has been recognised in the Pacific islands in general (Crocombe :396 note 11), in New Caledonia (Saussol 1971:232), in New Zealand (Firth 1929:358), in Fiji (Clammer 1973:211-212), and elsewhere.

Kotani (1979; 1982) attempts to place the development of these

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\(^3\)For example, see the various essays in Hobsbawm & Ranger (1983).

\(^4\)It is beyond the scope of the present thesis to discuss the Western image of its past and the relationship between it and the Western image of the East.
Western views of the non-Western system of land tenure within a framework of Western history. He maintains that the description of the East up to the eighteenth century as exemplified in the concepts of Oriental despotism and supreme proprietorship of the sovereign was a reflection of the criticisms against European absolutism, and that the idea of the village community with communal land was a negative reflection of the success of liberalism, which espoused private property and individualism in Europe (1979:7-8, 25-28, 136). Hence, in his words:

From the eighteenth till the early nineteenth century, the idea of the "Asiatic" in Europe was . . . primarily concerned with Oriental despotism. The eighteenth century theory of Oriental despotism stems from the actuality of the European regalities' turn to absolutism, hence, an image of Asia from the perspective of criticising the Absolutism as [akin to] "a barbaric Oriental despotism." The logical structure of this theory of Oriental despotism is the equalization of state ownership of land with "the absence of private property," and hence the absence of landed gentry and big private landlords, which meant the absence of the class which could keep the regality in check, resulting in the absolute rule by the monarch. It is characterised by its contrasting the characteristics of Asian societies with the existence of large private landholding, thus with the existence of landed nobility in Europe. It can be said that it reflects the ideology and values of this class. On the other hand, the Oriental despotism theory in the first half of the nineteenth century is characterised by its seeking the peculiarity of Asiatic societies in the absence of the bourgeois and of the liberal republics. And then the idea that the Asiatic patriarchial community lies at the base of the Oriental despotism becomes common in the latter half of the nineteenth century. At that time, the world beyond the realm of the modern European value system, where the individual freedom from state power and community, with its basis-in private ownership, and the rule of law which even restricts the state obtain, was the "Asiatic" world expressed in terms of despotism and community. Thus, it can be assumed that this shift in the European conception of "Asia" from Oriental despotism to Asiatic village community was based on the change in the value system prevailing in Europe rather than on any deepening of factual knowledge about Asian societies. (1979:7-8)

Though he tries to cover a wide range of societies—India, Java, and Russia—it is apparent that his expertise lies in India. As far as Java is concerned, his scheme of argument is in need of considerable emendation.

The Dutch view about Javanese land tenure can be seen as going through three phases. Up to the middle of the nineteenth century, the
Dutch subscribed to the dogma of the supreme proprietorship of the sovereign. Though critical about the absolute despotism of the Javanese prince, their policy was largely that of continuing the system so that it could be used to their advantage (e.g. Daendels and Raffles). Here the Dutch image of Java was clearly a negative one, as befits Kotani's scheme. Indeed, Van der Kroef (1963:7) characterises the earlier records of Javanese society from the VOC era by the "proud burgher's revulsion of the aristocratic ostentation and royal arbitrariness evident in Indonesia." The second half of the nineteenth century was the era of the ascent of the liberals. Criticising the conservative Cultivation System, they claimed that the originally individualistic system of land tenure was transformed into a communal one under the system. They demanded the abolition of the Cultivation System and the admission of more European private enterprise into Java. Their view of land tenure in Java was based upon the universality of individual ownership. The opposition of the image of the East with that of the West as claimed by Kotani was not present as far as land tenure was concerned. From the very end of the last century to the end of Dutch colonial rule in Indonesia, the Dutch colonial government adopted what is known as the "ethical policy." The government tried to keep a check on European private enterprise in order to protect the welfare of the Javanese in their traditional society. Here, the focus of the Dutch image of Java was on the village, which was conceived as the stronghold of tradition which had to be protected. Here, the contrast between the West and the East is stressed, as can be seen in Van Vollenhoven's works on adat-law and Boeke's "dual society" thesis.

Hence, it is not correct to say that the negative projection of the European self-image alone was the basis of the Western image of the East as claimed by Kotani. Some Western romantics even discerned virtue in the East. S. Takdir Alisjahbana claims that:

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5 See Day (1904:16-18) and Doorman (1924), for typical descriptions of despotism in Java.

6 Dewey (1979:293) notes that once *laissez faire* was established in the West: "'The system of economic freedom' and the village community were conceived as mutually exclusive alternatives."
In the broadest sense van Vollenhoven found in Indonesia only what he himself, as a European reacting against the individualism and formalism of European law (especially its Romanized civil law), was looking for, namely, certain primordial elements in ancient European customary law, such as had existed among the Germanic tribes before they were conquered by the Romans. (1968:9)

In fact, the Western image of the East does not necessarily contrast the East against the West. There were also those who sought the common thread between the East and the West. Van der Kroef (1963:5) calls the view which seeks to contrast the East and the West "particularistic" and the view which seeks similarities between the two "universalistic." These two trends can still be recognised in the post-1945 works on non-Western societies. For example, those who advocate Boeke's dual economy thesis, the Substantivists in economic anthropology, the supporters of the revived Asiatic mode of production thesis, and the moral economists show the particularist trend. On the other hand, the Formalists in economic anthropology and those advocates of the "rational peasant" perspective--the political economists--continue the universalistic trend. Both trends, however, share the same starting point, the Western self-image. One contrasts it against their image of the East, the other projects it onto the East.

I embarked on this thesis with a puzzlement over how communal land tenure actually worked in Java and with an interest in finding out whether there was a change from individual to communal land tenure. I hope I succeeded in demonstrating the inadequacy of the notion "communal land tenure" in the present thesis. I have also dealt with the background as to why and how this inadequate notion came into use in

7 It seems highly probable that the European romanticism toward the village community from the late nineteenth century onwards was a reflection of its attack against private property in the several and absolute form. For instance, Dewey writes that:

"Liberty, equality, fraternity: these were the principles which social radicals believed the village community had realized, because 'based' on communal landholding." (1972:309)

In the case of Van Vollenhoven, it was the village right of disposal rather than "communal landholding" which was the chief virtue of the village community.
the nineteenth century as a reflection of the constraints inherent in the nineteenth century discourse about supposedly ancient system of land tenure both in the West as in the East. Surprisingly, we are yet to have a good description of the phenomena covered under this notion. It is of significance, I believe, to obtain detailed data on the so-called communal land tenure while there are still many people around who remember how it worked up to 1960, with a historical awareness to the inadequacies of the earlier accounts of it as demonstrated in this thesis.

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8The so-called communal land tenure persisted in many parts of Java up to the enactment of the 1960 Basic Agrarian Law (*Undang-Undang Pokok Agraria*). The post-independence descriptions available are, as far as I know, of very limited depth (see for example, Jay 1969:308-320, Soentoro et al. 1981).
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VERKLARING

I. Provincie West-Java (hoofdstad Batavia)
   - Resident: Batavia
   - Regentschappen:
     1. Serang
     2. Cirebon
     3. Majalengka
     4. Indramayu
     5. Tangerang
     6. Tangerang
     7. Serang

II. Provincie Midden-Java (hoofdstad Semarang)
   - Resident: Semarang
   - Regentschappen:
     1. Pekalongan
     2. Tegal
     3. Semarang
     4. Kulon Progo
     5. Blitar
     6. Blitar
     7. Pekalongan

III. Provincie Oost-Java (hoofdstad Surabaya)
   - Resident: Surabaya
   - Regentschappen:
     1. Surabaya
     2. Madiun
     3. Probolinggo
     4. Ngawi
     5. Magelang
     6. Pamekasan
     7. Malang

IV. Het Gouvernement Soerakarta
   - Resident: Soerakarta
   - Regentschappen:
     1. Soerakarta
     2. Probolinggo
     3. Malang
     4. Pamekasan
     5. Magelang
     6. Malang

V. Het Gouvernement Jogjakarta
   - Resident: Jogjakarta
   - Regentschappen:
     1. Jogjakarta
     2. Wonosobo
     3. Magelang
     4. Magelang

This map was taken from Lekkerkerker (1928). Kaart aangevende de nieuwe administratieve indeling van Java en Madoera.