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Village and State Regimes on Sumatra's Forest Frontier: A Case from the Leuser Ecosystem, South Aceh.

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“The informal constraints that are culturally derived will not change immediately in reaction to changes in the formal rules. As a result the tension between altered formal rules and the persisting informal constraints produces outcomes that have important implications...”

Douglas North, 1990.

Introduction

Since 1988, in the “outer islands” of Indonesia long suppressed bitterness towards the pattern of resource management over the New Order period has come to the surface. For instance, in South Aceh local groups have expressed opposition to logging concessions previously operating in what they consider to be community lands, calling for the cancellation of existing concessions. In a few cases, villagers have taken the law into their own hands and burnt down logging camps.² Across Aceh activists advocating separation from Indonesia have also fanned long standing resentment towards the State forestry regime, calling for the disbanding of State forestry agencies in the troubled province (Waspada, 13/11/99).

Meanwhile, NGO activists, Indonesian academics, international agencies and government officials have engaged in an (at times) heated discussion regarding the property rights of local communities and the need for policy change. As the place of customary socio-legal orders (known as *adat*) within the unitary Indonesian State has once again emerged as a burning issue, debate has focused on the nature and possible role of *adat* in resource management. On the one hand, activists have increasingly deployed the concept of *adat* in a political debate asserting local claims over forest and land resources. To overcome conflicts in the State forest zone, reformists have called for the revival of *adat* as a basis for natural resource management. On the other hand, government critics have argued that most *adat* systems have largely broken down. Even where they do exist, it has been argued that the difficulty of defining exactly what constitutes a functioning *adat* system precludes using *adat* as a substantive basis for natural resource policy (Campbell, 1999: 5; Fay and Foresta, 1998; McCarthy, 2000).

In a context where the notion of *adat* is so contested, there is a need for more nuanced accounts of the role of these local institutional arrangements in the management of natural resources. Based on research carried out over 1996-9, just prior to the current crisis in Aceh, this paper will consider the nature of the customary (*adat*) forest regime in one community in South Aceh. Specifically, the paper will explore the complex ways in which *adat* institutional arrangements interact with external legal and political influences. Considering *adat* institutional arrangements as dynamic and evolving, the paper will examine the role of *adat* in shaping forest outcomes.

This research reveals that, while the ambitions of a State to impose its own systems of authority have had some impact on resource management, the reality in the field is far more complex than is often suggested. At the local level, during the New Order State institutions increasingly penetrated local society, subsuming and to some degree displacing indigenous institutional arrangements, particularly those relating to village government. On the one hand, this has meant that local *adat* regimes have come under pressure. To continue to operate, to some extent *adat* leaders have had to make accommodations with the State. In this process, *adat* arrangements have also become dependent upon and embedded within the State institutional order.

On the other hand, there have been real limits to the capacity of the State system to make the rules at the local level. As this case shows, despite the increased reach of State agencies over the New Order period, in many respects institutional arrangements have not worked according to the State

² ‘Bila Izin HPH tak Dicabut, Rimueng Lamkaluet akan Mengamuk’ *Serambi* 17/9/98. “Seluruh HPH Di Aceh Selatan Diancam Akan Dibumihanguskan”, *Waspada*, 26/8/98.

management system or the formalised norms of the bureaucratic system. On the contrary, in many ways the norms and assumptions derived from longstanding practices associated with older localised institutions (referred to as *adat*) have continued. In effect, these institutional arrangements often play the primary role in determining practical outcomes – such as who gains access to local natural resources – at times in direct contrast with the rules laid down in state legislation and forestry policy.³ In other words *adat* concepts and practices have proved surprisingly dynamic and resilient. Moreover, at least in this case, the community has successfully defended its property rights, maintaining territorial control over their *adat* territory against outside claims supported by the Government. This is despite the almost invisible status of *adat* claims over forest under State laws during the New Order.

Background

As Bowen (1988) has noted, the concept of *adat* has various referents and diverse resonances in public discourse. “Borrowed from Arabic and taken into general usage throughout archipelagic South-East Asia”, the term ‘*adat*’ “encompasses an extensive, perhaps unique, range of meanings. *Adat* may cover single cultures ... or the archipelago as a whole. In each of these geographic frames the meaning of *adat* varies from a general sense of cultural propriety and social consensus – sometimes explicitly measured against Islam – to specific forms of speech and ritual action, to a set of local sociolegal procedures” (Bowen, 1988: 275).

As a 1978 report into *adat* in South East Aceh by researchers from the University of North Sumatra demonstrated, in New Order discourse the term *adat* was confined to a rather limited field of meaning. This report into *adat* institutions uses the term to refer to “custom” in the narrow sense – in terms of marriage ceremonies and inheritance law (Lembaga Penelitian dan Pengabdian Masyarakat, 1978). As Acciaioli has argued, New Order discourse generally truncated *adat* to include only such things as etiquette, the ways to sit before elders and to dress before guests: “almost by definition beliefs and even procedures for ordering social life are simply not considered *adat* or even culture” (Acciaioli, 1985: 157-58).

However, in another discourse that continued to exist within Indonesia, *adat* refers more widely to local institutional arrangements and sociolegal procedures. For instance, non-government organisations (NGOs) and studies of community management of natural resources in Indonesia have described how forest areas adjacent to villages are clearly the possession of specific clans, lineages, or village communities. These studies describe how communities maintain *adat* rules governing access and use of these resources (Alloy, n.d.; Lembaga Penelitian dan Pengabdian Masyarakat, 1978; Moerdani, ; Moniaga, 1993; Moniaga, 1994; Nababan, 1996; Rahail, n.d.; Safitri, 1995; Sirait, Fay et al., 1999; Sugangga,).

This approach resonates with the tradition of Dutch scholarship and colonial practice. In developing a colonial State, the Dutch constructed a dual system of administrative and legal practice. In some areas colonial administrators ruled directly, and in general Europeans were subject to Dutch statute law. However, in other areas the Dutch preferred to rule indirectly, and set about co-opting local chiefs and remaking local institutions, creating ‘self-governing territories’. Under this system, local heads were given the powers of government “with some limitations laid down by treaty” (Sonius, 1981b: LX). As a part of this process, the Dutch scholars paid attention to the local customary rules that regulated activities within small autonomous “jural communities”. Constructing what colonial scholars called *adatrecht* (*adat* law), in some places scholars and officials invested in codifying local practices or customs (*adat*) which were then used to help form the basis for rule by Dutch-appointed “traditional” leaders (Li, 1997: 6). Consequently, ‘self-governing heads’ were authorised to use ‘*adat* law’ to regulate and to administer the internal affairs of their communities under the paternalistic guidance of colonial administrators. In many cases the colonial recognition of what were known as “traditional jural communities” meant that, at the village level, particularly in the “Outer Islands”, local headmen were able to administer local sociolegal rules “more or less in the manner of their forefathers” (Sonius, 1981b: LXIII). While after independence

³ Cf Migdal, 1994 p12.

the Indonesian State abolished the dualistic pattern of administration, in many villages local communities continued to apply their own *adat* sociolegal practices. This ensured that the problem of how these local 'jural communities' – subsequently referred to by the Indonesian term *Masyarakat Hukum Adat* – nested in the wider nation State has persisted.

In discussing the nature of local institutional orders, contemporary Indonesian scholarship draws on this tradition. For instance, according to Sariat et al. (1999), an *adat* community is typically a residential or kinship based group subject to a single *adat* authority structure which then gives the community a “unitary character”. Sariat et al. also notes that *adat* communities also tend to have an “autonomous character”: this is best exemplified by the reality that the community organises rules governing its own existence – for instance *adat* rules relating to kinship and inheritance, access and use to resources, and dispute resolution. In contrast to institutional arrangements such as the unitary village government constructed according to State guidelines laid out in the village government law (Act No.5 /1979), historically each *adat* community founded its own community structures. However, Sariat et al. noted that nowadays the existence of the *adat* communities is no longer fully autonomous: *adat* communities tend to be integrated into the unitary structure of the national State organised on an extensive scale according to a national format (Srait, Fay et al., 1999: 4).

With respect to access and use of natural resources, the notion of “right of avail” (*hak ulayat*) is considered central to the existence of an *adat* community. The Dutch Adat law experts developed this concept to refer to the territoriality that an *adat* community usually maintained over neighboring lands and forests - a type of *lebenraum* where under specified conditions members of a community had the right to open plots of land, to harvest forest products, including timber for housing, fire wood, food, fibres, medicines and other forest products (Benda-Beckmann, 1988: 247; Parlungan, 1997: 218; Sonius, 1981a: LIV). For instance, land cleared for swiddens was often held in common by the community, and “cultivators were given temporary use rights extending through a rotation cycle or cycles.” (Poffenberger, 1990: 9).

In parallel with local institutional arrangements, the Indonesian State has also developed a national policy framework for the management of natural resources. State forest management draws its authority from Article 33 of the 1945 Constitution, which states: “land and water and the natural riches contained therein shall be controlled by the State and shall be made use of for the people”. During the Suharto period, in accordance with the Basic Forestry Law (Act No.5/1967), the government interpreted this to mean that the state had exclusive authority over all aspects of human activity within any territories classified as State forest zone (*kawasan hutan*). To advance state control over the vast area of forest found in this territory, the New Order government embarked on a series of forest mapping exercises. These mapping exercises aimed to overcome planning problems between various State sectors and to assist the development of the forestry industry by facilitating the allocation of concession rights over forest lands. The culmination of this process occurred in 1980, when the Minister of Agriculture (then responsible for forestry) asked each provincial Governor (in areas outside Java) to prepare a Consensus Forest Land Use Plan (*Tata Guna Hutan Kesepakatan* or TGHK).⁴ The TGHK classified 143.8 million ha of Indonesia's land surface (approximately 75% of the nation's land area) as “forest land” – a land area subsequently under the jurisdiction of the Ministry of Forestry (Dephut, 1992; KLH and UNDP, 1997).⁵ As

⁴ After intersectoral discussions at the regional level, regional TGHK were prepared and recorded on provincial maps known as peta Rencana Penguikuan dan Penatagunaan Hutan (RPPH). After Ministerial agreement at the national level, ministers then signed these maps. Subsequently, the Ministry of Forestry used the TGHK as the basis for allocating HPH and HTI.

⁵ The TGHK classified areas for land use according to six land-use categories. The TGHK process classified 30.8 million hectares as “protection forests” and set aside another 18.8 million hectares as nature reserves and conservation areas. Another 64.3 million hectares mapped as “production forest” or “limited production forest”. In this area, the forest authorities granted long terms leases to log the forest (HPH) to over 400 logging concessionaires and timber estates. In areas mapped as “conversion forest” (26.6 million ha), land was set aside for “planned deforestation”: here the forestry department received requests for

shown in Map 1, this process placed all areas of South Aceh outside of those marked unclassified (UNC) under the formal jurisdiction of the Ministry of Forestry.

Consequently, as a spatial planning and mapping process, the TGHK formed part of a large-scale accumulation strategy that worked to the disadvantage of forest dwellers. (Peluso, 1995: 383). In many of these areas, local communities historically depended on resources and had developed customary (*adat*) arrangements for their management. Yet, the forest authorities marked out the acceptable boundaries for different forest land uses within the boundaries of the vast 'forest area' largely without taking into account local *de facto* property regimes - the concepts of territoriality and land tenure in use among the local communities surrounding the forest. Consequently, the subsequent allocation over 400 logging concessions and timber estates in the vast forest estate occurred despite the reality that this huge area was inhabited or used by some 65 million people.⁶ In the post-Suharto era, due to the inequity associated with this regime, the system has fallen into disrepute. To overcome conflicts in the State forest zone, the central government has attempted to reform the framework for resource management. At this point, many reformists have called for the revival of *adat* as a basis for natural resource management.

Sama Dua

Sama Dua, the subject of this case study, lies some just north of Tapaktuan, the capital of South Aceh district (see map). Sama Dua is a sub-district (*kecamatan*) that consists of 27 villages. According to Dutch colonial statistics, in 1901 approximately 2,650 people lived in the Sama Dua administrative area (Bijdragen tot de taal-, 1912).⁷ In 1995, according to the Regency Statistics, 13,111 people now live in the Sama Dua area (Pemerintah Kabupaten Daerah Tingkat II Aceh Selatan, 1995).

For the most part, the inhabitants of Sama Dua are descendants of Minangkabau (or Padang) people from West Sumatra who migrated to South Aceh in the nineteenth century. Yet, at the northern end of the valley the pocket of these people ends and the villagers are Acehenese. For some time after settling the area, the Minangkabau people, now known as *Aneuk jamee* (literally children of guests), retained the distinctive matriarchal forms of social organisation of their homeland. The headmen bore the Minang title of *Datuk* rather than the Acehenese title of *Teuku*. However, the *Aneuk jamee* lived closely with the Acehenese and learned to accommodate *adat* Aceh: sometimes the headmen combined both titles, becoming known as *Teuku Datuk* (Maksum, 1983: 13). By the early twentieth century colonial sources reveal that over time the *Aneuk jamee* had subsumed Minangkabau *adat* to Acehenese forms of social organisation that more closely reflected Islamic precepts (Adatrechtbundels, 1938b; Bijdragen tot de taal-, 1912).⁸ These included Acehenese tenurial and inheritance traditions. While Sama Dua residents report that they follow *adat* Aceh, they maintain that their *adat* still has a "Minang aroma".⁹ Nonetheless, up to the present day the *Aneuk jamee* around Tapaktuan and Sama Dua speak a dialect of the Padang language.

In Sama Dua there is a very limited amount of land suited to wet rice cultivation: the statistics record that Sama Dua has only 306 hectares of irrigated land. The population had increased

conversion of forest to plantation agriculture, leading to the development of over fifteen million ha of plantation concessions (KLH & UNDP, 1997).

⁶ This figure is subject to debate. Lynch has quoted the estimate that 65 million people were living on State forest zone (Lynch, 1992: 8). Meanwhile, the Ministry of Forestry has estimated that 16.5 million people directly depend on the forest. (KLH and UNDP, 1998: 79).

⁷ The Dutch figures were for a smaller area: at that time the Sedar settlement of predominantly Acehenese villages was not included in Sama Dua 'self-governing territory'.

⁸ Colonial sources reveal that there was continuing conflict over whether to apply the matrilineal Minangkabau *adat* or the Acehenese *adat*, particularly that relating to inheritance. As different parties appealed to Minang or Islamic precepts to increase their inheritance of titles or goods, colonial sources reveal that there was some switching between Minangkabau and Acehenese traditions, but that finally Acehenese traditions prevailed.

⁹ For example, in Sama Dua, during the marriage ceremonies the man wears a hat known as a *peci* in the Aceh style while the woman wears Minang style head dress. Interview, 6/1/99.

approximately five fold between 1901 and 1995, and by the 1960s, villagers had brought all the land suited to wet rice cultivation under cultivation. With increasing population, each passing generation holdings of wet rice (*sawah*) have become increasingly fragmented. This has meant that many families have very little or no sawah. Those wishing to work as farmers would have to open dry land plots in the hills. This has meant that the predominant land use in Sama Dua has been agroforestry – the cultivation of perennial tree crops. At different times farmers have cultivated pepper (*Piper nigrum*), cloves (*Syzygium aromaticum*) and nutmeg (*Myristica fragans Houtt*), lucrative cash crops that provided powerful incentives for farmers to open agroforest plots in the hills.

Agroforestry in Sama Dua

The history of the agroforestry in this area can roughly be divided into three periods, each relating to a specific land use. The first period was that of the pepper boom, the period of settlement. Historical sources concerning South Aceh in the 19th century describe small self governing coastal principalities (*negari*) centred on coastal port towns dealing in pepper. While Acehenese chiefs ruled some of these principalities, others were predominantly Minangkabau. At this time settlers found that pepper grew well on virgin forest lands that had relatively infertile soils with little humus content, that were sandy and well drained. Farmers working the sloping lands of South Aceh discovered how well suited the area was for the cultivation of pepper. At the same time, the nearby bay of Tapaktuan offered an excellent anchorage, and in the 1870s Veth reported that Tapaktuan was the most important port in this area for the export of pepper (Veth, 1873). During the 19th century, coastal districts of Southern Aceh ('the pepper coast') played a primary role in the world pepper trade, pepper cultivation finally declined after the First World War. In 1920, pepper exports virtually ceased due to a sudden price fall that "played havoc with the plans of pepper farmers", and subsequently farmers in South Aceh turned increasingly to Clove and Nutmeg production (Kreemer, 1922: 477; Kreemer, 1923: 19).

During the second period stretching up to 1965, the farmers of Sama Dua integrated cultivation of cloves (*Syzygium aromaticum*) with shifting agriculture. Farmers would open new dryland plots (*ladang*) in the hills just behind Sama Dua. The first year they would open the forest, cutting and burning the vegetation. They planted dryland rice (*padi ladang*), seasonal crops such as onions, garlic, sweet potatoes, chilli, bananas and other fruits and food crops, primarily for their own use. With enrichment planting of clove trees the next year, the initial swidden area was succeeded by a more complex system of agroforestry.¹⁰ As the clove trees took 5 years to mature, to meet their everyday needs they would continue to plant *padi ladang* and seasonal crops or even cash crops such as *nilam* (*Pogostemon cablin*) and coffee (*Coffea robusta*) in adjacent areas, extending their plots or even opening new *ladang* somewhere else.¹¹ When the clove trees began to bear the nail shaped flower-bud known as a clove, there was less need to open new land. Nevertheless, in this way the thick forest was thinned out and disappeared from the hills immediately behind Sama Dua.

At this time the swidden practice was integrated with cash crop production from permanent clove agroforestry. Clove production from permanent agroforest gardens and the production of rice and seasonal crops from shifting plots formed mutually supporting elements of an agricultural practice. According to Conklin's typology of swidden agriculture, this is a "partial supplementary" swidden system in that the agriculturist "devotes only part of his agricultural efforts to the cultivation of the swidden". Conklin contrasts such "partial systems" with more environmentally benign "established integral systems" that were "largely self-contained and ritually sanctioned ways of life" and involved the clearance of very little or no climax forest each year (Conklin, 1975: 3).

In the early 1960s, the hills around Sama Dua were covered in clove trees, and Sama Dua was the center of clove production in South Aceh. However, around 1963 a Clove pest struck the clove

¹⁰ As tends to be the case today, agroforest were not uniform, and tended to vary with price fluctuations. According to one older informant, at one time during the colonial period, villagers planted rubber trees between the clove trees. The clove trees were spaced approximately eight metres apart (Interview, 7/1/99).

¹¹ Interview, Dinas Kekubunan, Tapaktuan, 12/1/99.

gardens, and the clove trees all died.¹² In response to this crisis, the farmers abandoned clove gardens on the foothills behind the coast and began cultivating nutmeg, finding that nutmeg grew well in fertile and cooler forest land in the steeper hills beyond the first foothills. The abandoned foothills became infertile *Imperata* grasslands (*alang-alang*). These grasslands tend to catch fire spontaneously in the dry season, and to this day the foothills of the Bukit Barisan mountains behind Sama Dua remain bald testimonials to clove cultivation and less stable “partial” swidden system.

The coastal hillsides of South Aceh are well suited to cultivation of the nutmeg tree (*Myristica fragans* *Houtt*), and agricultural scientists list the district as one of the seven major nutmeg producing areas in Indonesia, a country that produces 70% of the world’s annual nutmeg supply (Lubis, 1992). Like clove production, nutmeg agriculture also fitted into a more complex agroforest succession that began with opening a *ladang* and ended with the existence of a productive agroforest *kebun*. As seedlings require protection from the sun for the first years and need to be well spaced, when they opened a new plot farmers would leave other larger trees in their gardens, including towering forest durian trees and the *rambung* trees.¹³ The first year farmers would open a plot and plant dryland rice (*padi ladang*). The second year, depending on the preference of the farmer and the market prices, the land would be enriched with other crops such as nilam, coffee, pinang, rambutan, salak, papaya and gula merah. Farmers would generally plant the nutmeg the second year or even a year later. As the nutmeg only begins to fruit after 7 to 10 years, farmers would then open a second plot further out. This strategy enabled the farmers to harvest other crops while waiting for the nutmeg trees to bear fruit. After the nutmeg tree matured, fruit production would then continue to rise until the tree reached peak production at around 25 years. Trees would then bear fruit twice a year until the tree reaches 60 to 70 of age. After this time fruit production begins to decline. However, unlike clove production, nutmeg agroforestry did not form an element of a “partial supplementary” swidden system. Since the 1970s, nutmeg cultivation was integrated into a new pattern of agroforestry: *ladang* became a transitory stage in the preparation of a *kebun* yielding perennial crops that provided cash income.¹⁴

For at least three reasons, since the 1970s villagers have shifted away from agroforestry. First, nutmeg farmers were subject to wild fluctuations in the price of nutmeg from year to year, and even over the course of a single year. In June prices rose to 3,200 rupiah per *bumbu* (1.3 kg), but by October the price had fallen to 2,300 per *bumbu*.¹⁵ Large fluctuations in nutmeg prices are common: in 1989, the Medan based broadsheet, *Sinar Baru Indonesia* (30/8/89), reported that the price of nutmeg oil had fallen from Rp 46,000/kg to Rp 24,000/kg in a short space of time. The economic well-being of villagers dependent on nutmeg production swings with these changes. Local newspapers even report that the number of pilgrims from the Tapaktuan area setting out for Mecca also rises and falls with the nutmeg price (*Sinar Indonesia Baru*, 12/6/89). For this reason, farmers have needed to look for other sources of cash income.

Accordingly, when the price of nutmeg fell in Sama Dua during the 1970s, people began to pay less attention to their *kebun*. When nutmeg gardens are weeded and well tended, the trees don’t have to compete with weeds and colonising tree species, and nutmeg production increases. However, when nutmeg prices are low, farmers are reluctant to invest labour maintaining a productive nutmeg garden for negligible returns. This meant that many villagers abandoned their nutmeg gardens and let them run to weed. However, when nutmeg prices increased, farmers would return to their gardens, weed the area, harvest the fruit or even open new plots. Consequently, farmers are unable to manage their nutmeg gardens efficiently.

¹² Local informants recall that the local name of the pest was *dawawak-dawawak*. According to the agricultural literature, the ‘trunk driller’ (*penggerek batang*) that attacks cloves is *Nothopeus fasciatipennin* and *N. hemipterus* (Najiyati and Danarti, 1992).

¹³ Genus: *Ficus*, Family: *Moraceae*.

¹⁴ Interview, former village head, November 1997.

¹⁵ Interview with Nutmeg wholesaler, Sama Dua, November 1997. A *bumbu* is a small bamboo container commonly used to measure volumes. It contains 1.3 kg of nutmeg fruit.

This dynamic was strengthened by a second factor: the increased importance of the cash economy. The sealing of the road between Sama Dua and Tapaktuan in 1984, and the improvement of road transport to Medan and Banda Aceh, meant that Sama Dua was better connected to outside markets and job opportunities. As the effects of Indonesia's long economic boom began to reach South Aceh, many people found paid work in other sectors – in construction, as drivers, day labourers, fishers or in the timber industry. As young men began moving to other areas seeking cash work, they could buy motorbikes and televisions. Rather than wait long months for an uncertain nutmeg harvest, young men preferred to see the direct results from their work in the form of cash, and over time work in the forest gardens enjoyed lower status.

A third factor in the changed role of the agroforests was that the nature of nutmeg agroforestry supported the changing patterns. Once established, compared with other crops, nutmeg gardens are low maintenance: they only require intermittent weeding. This means that villagers employed in other sectors can visit their nutmeg gardens on holidays or on a Sunday to weed the garden or harvest the nutmeg fruit. These considerations meant that, for many farmers, agroforestry moved from being the main activity to being a side activity. As a nutmeg farmer explained in 1997, “a farmer cultivating 50 trees can harvest 300 *bambu* every 3 months,” he said. “This amounts to enough to live on for one month. So the farmer will need to find other income for two months.”¹⁶

Nonetheless, over the last decades the story of agroforestry in Sama Dua became one of the progressive conversion of natural forests in the hills behind the coast into nutmeg agroforests – a story of the marching agroforest frontier. There are no maps of the forest paths behind Sama Dua; nor are there formal measurements of this conversion of the forest. However, forest farmers always open new kebun at the frontier end of the seuneubok territory.¹⁷ Therefore, by considering the time taken to reach a kebun as a rough guide to distance, noting the year a farmer opened a kebun, and considering how long it takes to reach the kebun, we can gain a rough measure of the pace of the agroforest's march into the forested hills behind Sama Dua.¹⁸

The head of one particular Seuneubok walks for a half hour to reach his first kebun, an area he carved out of the forest in 1956. In 1966, he opened a second kebun, an area reached after one and a half hours walking up the seuneubok path. That year he planted padi ladang, and then in 1967 he planted the plot with nutmeg trees. The following year, 1968, he decided to extend his kebun. However, in the meantime many farmers had opened plots behind him and the unopened forest was now considerably further out: it now took 2.5 hours to walk to the forest frontier where he opened new ladang. However, by 1998 the forest frontier has moved even further out, and farmers wishing to open new kebun need to walk around 3.5 hours. To analyze these rough figures, we can see that the time taken to reach the forest frontier tripled between 1956 and 1966. Then, in just 2 years the time taken to reach the frontier increased by the same measure again. However, after this time agricultural expansion slowed: it took 30 years (1968-1998) to increase by this amount once more. These figures suggest that agroforestry was expanding rapidly in the 1950s. In the 1960s, when the clove gardens were abandoned, growth was greatest. Then the expansion slowed until the economic crisis of 1998 when large numbers of farmers opened new plots.

Informants also noted farmers opening far-flung *kebum* waste long hours trekking through the hills. If they wish to sleep in the village, the journey needs to be made twice a day. For those with far away *kebum*, this is well nigh impossible. Farmers with remote *kebum* leave the village on a Saturday

¹⁶ Interview with Nutmeg wholesaler, Sama Dua, November 1997.

¹⁷ As explained below, a *seuneubok* consists of a specific area, all the forest gardens lying along a certain forest path.

¹⁸ Interviews with farmers in early 1999 revealed that this method might provide only a very rough measure. Due to variability in the terrain, the time take to reach a kebun is not always proportional to the distance. Moreover, steep terrain may be a major disincentive to opening land in a particular *seuneubok*. For instance, when the frontier of the *seuneubok* (ie the closest areas of land available for opening) can only be reached after a steep climb, farmers will attempt to avoid the effort involved opening kebun there by attempting to find more accessible land in an adjacent seuneubok.

and do not return to the village until Thursday. They face the difficult labour of carrying seedlings, agricultural supplies and food up to the *kebun* and big sacks of nutmeg back from the mountains. The time and energy expended on these long journeys are large disincentives to opening new gardens. "This life is very difficult for them," according to the former village head, "especially during the time when the nutmeg garden has not yet come into production. Many of these people are poor, but what other choice is there?"¹⁹

From late 1997, with spiraling prices and the collapse of cash jobs in the towns, villagers began seeking plots of land to plant cash crops.²⁰ With the prospect of making windfall profits from the inordinately high nilam prices in 1998, farmers increasingly turned to nilam cultivation on the forest frontier.²¹ Farmers enthusiastically opened ladang in the distant forest: here the land was better and the chance of the nilam being cross-infected from the agricultural pests from other cultivated crops was low. As the income earned from this cash crop far outstripped what could be earned from other crops, farmers now concentrated on nilam, a crop that grew well in the cool and fertile environment offered by newly opened ground in the distant hills.²² As a farmer interviewed in early 1999 described it, during 1998 groups of villagers ranging from five to thirty people were proceeding into new forest to open their own plots.²³ The new *ladang* was up to a five hour walk from the coastal villages, and farmers were building huts to live alongside their hillside plots, only returning to the village once a month.

Adat and Village Institutions.

The Adat Community.

Dutch colonial report from the turn of the century reveals that the residents of Sama Dua were divided by the Sama Dua River. Those to the south of the river were predominantly descendants of settlers from the RAOE area while those on the north bank were descendants of settlers from Priaman area of West Sumatra. Each group was originally organised as a clan (*Suku*) and each had their own headman or *Datuk*.²⁴ Originally there were two *Datuk*, one for each side of the river. The Dutch report reveals that in Tapaktuan the *Datuk* appointed assistants known as *panglima* (commander) or *keucik* (village head) to act as their spokesmen at the village (*kampung*) level, and it is likely that the *Datuk* of Sama Dua also played the decisive role in Sama Dua's government.²⁵ While formally the two *Datuk* ruled the area together, the colonial report notes that actually there was little cooperation between the two and each ruled his own area. Eventually in the course of a

¹⁹ Interview, February 1998.

²⁰ In 1999 Angelsen and Resosudarmo reported that during 1998, with a falling rupiah prices of export crops increased dramatically. "Price data reveal that some groups of export crops-orientated farmers enjoyed a short-term gain during the first 2-3 quarters of 1998. Soaring food prices and a stronger rupiah since October 1998 have, however, gradually made real prices move towards their pre-crisis levels" (Angelsen and Resosudarmo, 1999).

²¹ As a result, during early 1998, farmers deserted the village. While carrying out fieldwork after Idul Fitri in February 1998, there were few informants available for interviews. In South Aceh in late 1997 nilam seedlings sold for Rp 25 per seedling, and farmers can only harvest nilam after 6-8 months. As farmers required capital to move into nilam cultivation, poorer farmers had difficulty making the transition. (For a discussion of nilam cultivation, see Menggamat case study).

²² Interview, official from the District Agricultural Office.

²³ Interview with Tamzsie and Sudiman, Sama Dua, 1/1/99; Interview, Dinas Perkebunan, Tapaktuan, 12/1/99.

²⁴ According to colonial records, at first the Minangkabau settlers around Tapaktuan retained the clan (*Suku*) structure of social organisation used in their homelands. However, over proceeding generations the memory of the old *Suku* connections was lost and a new *Suku* arrangement "spread its roots". Henceforth people belonged to a *Suku* named after their place of origin. For instance, there were *Suku* Priaman and *Suku* Pasaman. While the *Suku* identity was strong, the Dutch source notes that the *Aneuk jamee* did not faithfully follow the original West Sumatran *adat*: for instance, marriage was allowed within the *Suku*. The head of a *Suku* went by the title of *Datuk* (Bijdragen tot de taal-, 1912: 408).

²⁵ Writing of the situation amongst the *Aneuk jamee* of Tapaktuan, colonial source notes that the *keucik* do not have any authority but only speaks for the *Datuk*, occupying a role best typified by the saying "tangan kaki *Datuk*" (hands and feet of the *Datuk*) (Bijdragen tot de taal-, 1912: 407).

dispute within the community, the southern settlement established a second *Datuk* (Bijdragen tot de taal-, 1912).

Following the Dutch conquest of the area in 1900, as elsewhere, the colonial authorities gradually embarked on process of consolidating the people into definite tribe-like group under a centralised, hierarchal leadership through whom their rule could be exercised (Li, 1997: 6). As a part of this process the Dutch needed to identify a “Self-governing head” (*Zelfbestuurder*) for Sama Dua. As a consequence, Kreemer notes:

In 1903 these *Datuk* gave control over the whole *Landscaap* (district) to a certain Teukoe Paneu who as next of kin to one of the *Datuk* stood above the heads in Sama Dua. The intention was that he would bear responsibility to the European government (Kreemer, 1923).

Consequently, in the colonial system Teukoe Paneu became the *Landschapshoofd*, or district head; older residents of Sama Dua refer to the position as that of *raja* (see Table 1 below). This meant that, from this time Sama Dua constituted what the Dutch considered to be an *adat* ‘jural community’ (*masyarakat hukum adat*).

However, the colonial power needed to also specify the Sama Dua territory. For within the colonial schema a clearly defined *adat* community needed to be associated with a circumscribed territory. Consequently the colonial authorities territorialised local administration, constructing administrative territories (*Landschapp*), and mapping out the territories responsible to each head. This amounted to a process of setting geographic boundaries, a process that in many cases facilitated the control of access to natural resources within those boundaries (Vandergeest and Peluso, 1995: 388).

Historically the people of Sama Dua used to range widely across the mountains behind the coast gathering forest products, fishing in the streams and rivers and hunting prey in the forest. Within this area, at times farmers also opened *padi ladang* and planted cash crops on suitable areas of land. Furthermore, older members of the community hold that men of ascetic disposition withdrew into the forest to practice religious austerities. Over time all these practices marked the features of the forest behind Sama Dua in the local sense of place. Natural geographic boundaries, such as the river watersheds and mountain ridges, and the presence of neighbouring communities – such as the Menggamat people along the Kluet river on the other side of the mountains – all helped consolidate local notions of territoriality. In the course of a process of setting up administrative territories, the Dutch fixed these as boundaries on district maps. Today these form the administrative boundaries between North Kluet and Sama Dua *kecamatan* within the South Aceh region.²⁶

According to a village elder (*pakar adat*) and former village head Sama Dua extends to Tanah Hitam (see map 1):

Tanah Hitam is the boundary of Sama Dua. It is a half day walk from here. Our ancestors had already opened land here, and the Dutch put the boundary here. A half day further from Tanah Hitam lies Sarah Baru [a hamlet of Menggamat on the Kluet River].²⁷

As the head of a *seuneubok* explained, in a cave here Tengku Dagang, a Padang holy man, took up a contemplative life (*bertapa*) and became an *Aulia* (protective spirit of the area).

This cave is a most pure place, and those wishing to pass – to fish in *Pucuk Kluet* which is the best fishing spot – must ask permission [from the *Aulia*] and burn incense (*kemenyan*).²⁸ If we don’t, it can be dangerous.²⁹

²⁶ Interview, 1/1/99.

²⁷ Interview, 1/1/99.

²⁸ *Kemenyan* is an incense derived from gum benzoin obtained from *Styrax* trees, mainly *S. benzoin* [Indonesian Heritage, 1996 #880: 71].

²⁹ Interview, 12/1/99.

The head of another *seuneubok* remembered how, during the colonial period, groups of up to thirty villagers collecting forest products in the forest would sleep in this cave, despite the fact that a tiger was also known to stay there.³⁰

In many areas of Indonesia, the colonial authorities applied the ‘domain principle’ according to which all land not under settled agriculture was considered to belong to the State and could be made available for commercial use. Accordingly, in other areas, the colonial authorities allocated leases for developing a rubber plantation or for logging operations. In Sama Dua the colonial authorities did not set aside areas for plantations or other uses, probably due to the difficulty of the terrain. This meant that colonial territorialisation did not proceed any further. When the Leuser Reserve was created, the Reserve did not extend to Sama Dua: its Western boundary lies some 15 km east of the Kluet River (see map) beyond the eastern administrative boundary set at Tanah Hitam. In respect to colonial mapping, local informants mention that the Dutch put small cairns on the tops of mountains to mark the peaks. However, villagers do not recall the existence of colonial forest boundaries. In contemporary Sama Dua, when questioned on the issue, villagers say that there are no forestry boundary markers in the Sama Dua territory.

Table 1: Administrative structures

| Contemporary | Colonial period – Sama Dua |
|--|---|
| Governor of Aceh Province | <i>Keresidenan Aceh</i> <i>Asisten Residen</i> stationed at Meulaboh administer Division of West coast of Aceh (<i>Afdeeling Westkust Van Aceh</i>). |
| <i>Bupati</i> of <i>Kabupaten</i> of South Aceh (South Aceh Region) administered from Tapaktuan | Dutch <i>Controleur</i> administered Tapaktuan Subdivision (<i>Onderafdeeling Tapaktuan</i>) |
| <i>Camat</i> administers sub-district (<i>Kecamatan</i>) | <i>Raja</i> or <i>Landschapshoofd</i> - district head |
| <i>Kepala mukim</i> (ceremonial <i>adat</i> role only), head of village league (<i>Mukim</i>). | <i>Datuk</i> – <i>suku</i> head |
| Village Head (<i>kepala desa</i>) | <i>Keucik</i> (<i>Panglima</i>) with decision making in consultation with council of village elders (<i>petuhapet</i>). |
| After village government law, LKMD/LMD village councils (under leadership of village head) replaces <i>petuhapet</i> . | |

Post Independence.

After independence the administrative boundaries of Sama Dua were extended to include several Acehenese villages just to the north of the Sama Dua valley. Moreover, the structure of local government also changed: the model of village administration found in northern Aceh was now to be followed throughout the Special Region of Aceh (*Daerah istimewa aceh*). The positions of local heads were now renamed: the *Datuk* were now replaced by *Kepala Mukim* who were now elected. At the same time the *Landschapshoofd/Raja* was replaced by the *Camat* (or sub-district head), a government appointed official.³¹ Henceforth, the *Kepala Mukim* became the *adat* heads in Sama Dua under the *Camat*. Village heads (*Keucik*) were elected and village decision making was guided and advised by a permanent council of elders (*cerdik pandai*). As elsewhere in Aceh, this council was

³⁰ Interview with *Ketua seuneubok*, 15/1/99.

³¹ Previously Northern Sama Dua, an area predominantly Acehnese, had formed a part of administrative area (*Landschap*) of South Lho Pawoh (Bijdragen tot de taal-, 1912). But now these hamlets formed the Mukim of Sedar and joined Sama Dua district.

known as the *petuhapet* – a coordinating body for the management of village affairs.³² The *petuhapet* consisted of six to eight people recognized for their wisdom and knowledge of *adat* including a *petuhapet* head (*ketua petuhapet*), the religious leader (*imam mesjid*) and other village elders. The *petuhapet* was independent of the village head (*keucik*): the *petuhapet* would make a decision and the *ketua petuhapet* would hand this over to the *keucik* for consideration. As the membership of the *petuhapet* could not be changed by the *keucik*, and as the balance of power rested with this council, the *keucik* had to work with the *petuhapet*.³³

A village elder who had served as village head (*keucik*) of a Sama Dua village during the 1980s, at a time when the structure of village government changed, described the previous pattern of village government. As he recalled, in the past many villagers had never left the village: communications were very poor and “every village was like its own country”.

Before everything was tied up with tradition. The *petuhapet* might say we have to do it this way because it has always been this way... The *petuhapet* was dominated by old people of limited vision and education. You would have to approach them slowly and skillfully suggest some innovation. But people would say, this is how it was done by our ancestors and so why do you want to change. We received it from our parents and it will be the same until we die. For example, Acehenese all wore black, and only certain rich or special people could wear other colours. You would be fined or face sanctions for departing from village norms.³⁴

However, during his period of office, village government was reformed in accordance with the village government law (Act No.5/1979). The law aimed to make the structure of village government across Indonesia uniform. In essence, as Mattugengkeng has argued, the reform cut off the head of the previous structure of *adat* government (Mattugengkeng, 1987). Under the new law the village head (*kepala desa*) was to be responsible to the sub-district head (*camat*). This meant that in Aceh the *kepala mukim* were to lose their formal position in the structure of government and be reduced to symbolic *adat* leaders. The implementation of this law meant that the *petuhapet* was also replaced. The new law prescribed that each village would have two village councils the Village Assembly (*Lembaga Musyawarah Desa* or LMD) and Village Community Resilience Council (*Lembaga Ketahanan Masyarakat Desa* or LKMD). Both these bodies would now be under the leadership of the village head.³⁵ However, one informant remembered how when he first became village head in 1981, he recalled,

The LMD and LKMD existed in name but hardly functioned. Slowly after this they were brought into functioning. If someone [on the LKMD or LMD] made a mistake or no longer agreed with the village head, he could be changed. The village head (*kepala desa*) now had more power - he could move things - whereas before things were restricted by what had occurred in the past... Before the village head had difficulty implementing anything, but by the end [of his period of office], the *kepala desa* could determine things. Whereas before people would say this is how it has always been done, by this time you could say these are the regulations, and we have to go according to them.³⁶

While according to former village head, the greater autonomy of the village head enabled him to facilitate development projects and make decisions more efficiently, other villagers were less

³² Interview, 5/1/99.

³³ Interview, 20/1/99.

³⁴ Interview, 5/1/99.

³⁵ According to the village government law, the *kepala desa* is the head of both the LKMD and LMD. The LKMD is the village council involved in routine business in the village, and its members are elected. However, the suitability of villagers for office has to be confirmed by the *kepala desa* and the *camat*. The LMD is a body that meets less regularly, for instance to oversee the election of the *kepala desa* and other village offices, to receive reports from the village head, approve villages' decisions and the village budget. The LMD itself is not elected, but rather members of the LMD are appointed by the village head in consultation with other prominent members of the village (Warren, 1993: 242). This was also discussed in the Menggamat case study.

³⁶ Interview, 5/1/99.

sanguine about the changes. With the increased executive power of the *kepala desa* who was now more directly responsible to the *camat*, discussion (*musyawarah*) among the village elders had a diminished role in deciding village affairs. As one informant noted, before all village affairs and disputes had to be dealt with at the *petuhapet* and only then could they be finished. However, under the new structure many issues were not subject to *musyawarah* and were left unresolved.

Disputes should be taken to the LKMD and the LMD and then the *kepala desa*, and only then to the police if they can't be finished - at least in principle. However, in fact most issues are taken directly to the police, even though this should only be the case for big problems - for example war between kampung... However, the police need money [to solve a dispute].³⁷ While now there is progress, issues can no longer be solved at the *petuhapet* level: those who are happy are even happier while those in difficulty face more difficulties (*yang senang tambah senang yang susah tambah susah*) because those with money can fix things [with the police].

Yet the changes had effects outside the administration of justice, affecting the capacity of villagers to participate in decision making. While the *petuhapet* was able to resolve many village affairs through *musyawarah* within a village context, now a lot of decisions were made without consulting the LKMD or LMD.

Before a lot of things were from below, whereas now [they proceed] from the *camat* down. Often problems are not even discussed by the LKMD - no consultation - so the basis [of the legitimacy of decisions] in the village is lost.³⁸

As a consequence, he concluded, the village was no longer "straight" (*lempang*).

The *seuneubok*

In addition to the *adat*/village government structures, the Sama Dua people maintain institutional arrangements relating to agroforestry in the Sama Dua territory known as *seuneubok*. Originally a *seuneubok* was a pepper agriculture complex that consisted of 10-20 pepper gardens. According to the pattern Ismail describes in the 19th century East Coast of Aceh (where the pepper frontier moved after the South Aceh pepper boom), migrants from the Aceh hinterlands wishing to grow pepper formed groups of ten to twenty farmers, each lead by a head called a *peutua seuneubok*. The followers of this head were known as *aneuk seuneubok*. The *seuneubok* itself constituted a form of territorial control over an area. As Ismail explains, when the farmers had located the area of land suitable for cultivation, they would establish the boundaries of what would then be known as a *seuneubok* (Ismail, 1991: 67-9). The boundaries of the *seuneubok* were only fixed on three sides. Unopened forest remained on the frontier side of the *seuneubok* as an area where, with the permission of the *peutua seuneubok*, *seuneubok* members or new comers could open new pepper gardens as required. In this way the *seuneubok* included the intention of an expanding agricultural frontier.

In territorial terms, in contemporary Sama Dua a *seuneubok* consists of a specific area - all the forest gardens lying along a certain forest path. Once a village path leaves behind the last rice fields and village gardens of the coastal plain, moving toward the East, the path winds through valleys and begins to climb and descend the spur lines of successive ranges of hills. Moving in the direction of the mountains behind the coast, each path forks in several directions. A *seuneubok* begins with the first forest gardens to the left and right of a main forest path. All the kebun on all the paths accessed by the main path of a *seuneubok* belong to it. The boundaries with adjoining *seuneubok* are usually marked by a stream or a hill, while the rear of the *seuneubok* consists of unbounded forest.³⁹ If a *seuneubok* continues to expand, eventually it becomes too large and the head is no longer able to manage the expanding frontier. He will then appoint a representative (*ketua kemplok*) to look after this area, and if farmers continue to open plots on the frontier end of the path, the area will eventually become a new *seuneubok*.

³⁷ That is, the police can be induced to solve a dispute in favour of one party with payments.

³⁸ Interview, 20/1/99.

³⁹ As we discussed above, the original founders of the *seuneubok* marked the geographical boundaries of this area when the *seuneubok* was founded.

Accordingly, in addition to the territorial dimension of the *seuneubok*, a *seuneubok* also has a social dimension: besides belonging to a village, all forest farmers with *kebun* located off a certain main forest path belong to a *seuneubok*. While the original farmers opening *kebun* in a *seuneubok* may have come from the one village, farmers from several villages may have *kebun* in a particular *seuneubok*. This means that the membership of a specific *seuneubok* does not correspond with a particular village: a *seuneubok* is not the territory of a village but rather a social and territorial entity in its own right. Indeed, as a frontier institution, a *seuneubok* was a nascent village and, in the days when villagers lived for extended periods in their *kebun*, oftentimes the *seuneubok* would eventually split from the parent village and become a village in its own right.⁴⁰ In South Aceh today we find some contemporary villages bearing the name of a former *seuneubok*.

The *seuneubok* has its own norms and rule-making and enforcing functions. As each *seuneubok* crafts its own regulations, the regulations tend to vary somewhat between *seuneubok*. Table 2 gives a list of the most important regulations set down at a meeting of one of Sama Dua's *seuneubok*. As this Table demonstrates, the primary preoccupation of the *seuneubok* is the control of property in the agroforest gardens within the *seuneubok* territory. While the agroforest gardens are theoretically subject to the State legal regime, here the State legal apparatus is remote. Land titles are not formalised with the government land office, and property disputes seldom involve state courts. The personal property rights that a forest farmer enjoys over an agroforest garden are embedded in the collective arrangements that constitute the *seuneubok*. Within this social field, a farmer is considered to have permanent rights over a piece of land covered by perennial tree crops he or she has either cultivated, bought or inherited.

Each farmer's property rights depend on the existence of an authority structure to enforce them. As Table 2 demonstrates, by taking responsibility for many of the everyday functions of the *seuneubok*, the head of the *seuneubok* (*ketua seuneubok*) provides the first level of the authority structure for the everyday operation of the *seuneubok*. For instance, a farmer wishing to gain access to land at the frontier end of a *seuneubok*'s forest path needs to ask permission from the *ketua seuneubok*. The *ketua seuneubok* will then accompany the farmer into the forest and allocate a piece of unused land. By clearing the land and planting trees there, a farmer becomes a member of the *seuneubok*. In a similar fashion, someone wishing to buy or sell a *kebun* in a *seuneubok* must also inform the *ketua seuneubok*.

While the *seuneubok* can craft rules to suit its own scale of organisation, it is also embedded or nested within the next scale of organisation. For instance, the wider village institutions support the authority of the *ketua seuneubok* and have a role in the resolution of disputes. Usually, if a *seuneubok* member has a problem with another member of the *seuneubok*, he will take it to the *ketua seuneubok*.

⁴¹ The *ketua seuneubok* will listen to the issue, and if necessary he will organise an *adat* session (*sidang adat*), calling in the village head and other *adat* functionaries (*para cerdik pandai*) for formal deliberation and decision making (*musyawarah*). The most common type of dispute arises when a member is found stealing nutmeg fruit from another member's forest garden. Usually, the deliberation (*musyawarah*) with village elders and the village head will hear the case and impose sanctions on the offender according to the *adat* principles.

Seuneubok rules then are "quasi-voluntary": *seuneubok* members choose to comply in situations in which they are not being directly coerced. However, this is *quasi*-compliance in that noncompliance is subject to sanctions if the offender is caught (Ostrom, 1990: 94). However, there is no formal policing or monitoring systems apart from other *seuneubok* members noticing infringements (such as theft) and reporting them to the head or to those whose property rights have been violated.

⁴⁰ Interview with Dr Mumammad Ismail Gade, February 1998.

⁴¹ Farmers working in the hills are usually men; women tend to go to the hills in groups to collect firewood. Some women also accompany their husbands or fathers to their *kebun* and have considerable knowledge and skill concerning agroforestry. However, women do not generally become the main workers in the *kebun* unless they have been widowed. However, in common understandings within Sama Dua, *seuneubok* members are almost entirely men.

However, as in other institutions of this type, besides the risk of sanctions, a thief also risks losing their good name in the community.

Table 2: Regulations of seuneubok.

| |
|---|
| <p>Meeting of Entire Management of <i>seuneubok</i>, Kec Sama Dua. 30 September 1987 Residence of ..., under the chair of village head. With the decisions as follows:</p> <ol style="list-style-type: none"> 1. Whoever imposes a fee (<i>memajakkan</i>) on someone else [in exchange for the use of] a nutmeg <i>kebun</i> must give notice to the <i>ketua seuneubok</i>. If notice is not given, the <i>ketua Seuneubok</i> will take steps in accordance with the valid regulations. 2. Whoever violates these rules, the <i>ketua seuneubok</i> will impose a fine which will take the form of improving the <i>seuneubok</i> path for no less than 10 metres. 3. If a party is interested in selling a nutmeg <i>kebun</i> in this <i>seuneubok</i> to another party, they must give notice to the <i>ketua seuneubok</i>. This is because in the past <i>kebun</i> nutmeg have been sold without the knowledge of the <i>ketua seuneubok</i>, and the <i>ketua seuneubok</i> has been forced to become involved in this matter. If the <i>ketua seuneubok</i> is not given notice then the parties involved will have to take responsibility for all the problems involved. 4. Concerning empty land in the this <i>seuneubok</i> or in the respective <i>kebun</i>, if another party is to work the land and notice is not given to the <i>ketua seuneubok</i>, and then a dispute ensues, the <i>ketua seuneubok</i> will not get involved in the problem concerned 5. A party who has a nutmeg <i>kebun</i> in the <i>seuneubok</i> cannot take an outsider to carry produce except their own family. This is because already many times loss/theft of nutmeg has occurred – with the result that the owner of the <i>kebun</i> accuses the wrong person when in fact his friend who accompanied him was involved. 6. If the fruit of respective <i>kebun</i>, for example durian or other fruit, are stolen in the <i>kebun</i> of others, then the <i>ketua seuneubok</i> will take steps. This means a fine will be imposed such as constructing the path over not less than 10 metres according to point 2 above. The exception is when there is already permission. 7. Concerning the theft of nutmeg. If theft of nutmeg occurs in <i>seuneubok</i> then whoever discovers it must report it to the <i>ketua seuneubok</i> together with the evidence. The <i>ketua seuneubok</i> will report this to the responsible authority. 8. With these decisions are made with the serious intention that they are known by the members of the <i>seuneubok</i> and will be used wherever they are necessary. <p>With the ascent of the Village Head (signature) <i>ketua seuneubok</i> (signature) [with names and signatures of seventy four <i>seuneubok</i> members, and nine village elders (<i>para cerdik pandai</i>)]</p> |
|---|

Many of the theoretical models of institutions use a logical framework derived from rational choice theory that are based on the assumption of a utility maximising self-interested individual (Kato, 1996: 554). However, in addition to individuals engaging in a rational calculus about consequences and preferences, in Sama Dua there are “institutionalised conceptions of action” that are connected with what March and Olsen (1996) have called “the demands of identity”. According to this understanding, within an institutional setting individuals take on identities and roles that “are expressions of what is exemplary, natural, or acceptable behaviour according to the (internalised) purposes, codes or rights and duties, practices, methods, and techniques of the constituent group and of the self” (March and Olsen, 1996: 251). March and Olsen argue:

Within an institutional framework, “choice”, if it can be called that, is more based on a logic of appropriateness than on the logic of consequence that underlies conceptions of rational action. Institutionalised rules, duties, rights, and roles define acts as appropriate (normal, natural, right, good) or inappropriate (uncharacteristic, unnatural, wrong, bad) (March & Olsen, 1996: 252).

In Sama Dua, notions of identity – of what it is to be a member of the community – are clearly important guides to action. Yet it is unlikely that there is a simple binary opposition between situations where “identity-driven conceptions of appropriateness” drive the action of individuals and conditions where “conscious calculations of costs and benefits” dominate. It is possible for these orientations to co-exist: those who are acting to fulfil an identity associated with a conception

of proper behaviour may also balance up the costs of behaving otherwise. For those who indulged in behaviour that violated basic norms regarding what it means to be a member of the community may also face social shame.

For instance, in Sama Dua *seuneubok* there is a precept that farmers should not pick fruit from the durian tree; rather, they should wait until the durian ripens and falls of its own accord.⁴² This principle helps to ensure no villager will be fooled into buying an unripe durian, only to open it and discover it is unpalatable. It also guarantees that Sama Dua durians enjoy a high reputation: as buyers can be assured that the Sama Dua durians are good, Sama Dua durians earn higher prices. However, the rule also causes some inconvenience: if farmers are to harvest the durian, they have to stay in their *kebun* during the durian season to ensure that forest animals or passing farmers do not consume the succulent fruit. Interestingly enough, this rule is not enforced by sanctions, but rather by the weight of shame attached to breaking such a strongly held norm of village life: if a villager earned a reputation for selling inedible durian, or were discovered picking durian from a tree, they would lose their reputation in the Kampung. As an informant explained: “they would be considered evil, because if one person does it, all can be effected. Because of this there are no sanctions. Therefore, durian from Sama Dua are highly appreciated in Banda Aceh.”⁴³

Another example of such a phenomenon involves the social norms inhibiting irresponsible use of the land. While shifting agriculture was once acceptable, nowadays if a farmer keeps shifting their plot of land, “they will feel ashamed (*malu*).”⁴⁴ Other farmers do not want to be affected by the misuse of resources by their neighbours, by the land degradation and erosion caused by careless use of steep land. Therefore, while there are no stimulations about this in the written version of the *seuneubok* rules (see Table 2), there are strong feelings about this type of practice. If a farmer kept shifting plots without his permission, the *ketua seuneubok* would be angry with the person concerned: because he was offended by a farmers failure to ask permission before opening a new plot, the *ketua seuneubok* would no longer assist the offending farmer in the resolution of any problem he might face. In this way a farmer would lose access to the dispute resolution process and other social functions provided by the *seuneubok* – they would be on their own. But what is worse, they would lose perhaps their most valuable possession – their good name in the kampung. According to one farmer, “if it is like this, for what reason would you live in the kampung.”⁴⁵

Apart from any notion of appropriateness, this reveals that many of the norms that govern the behaviour of *Seuneubok* members are not written in the list of rules formulated by the *ketua seuneubok* and signed by its members. This is because as a set of arrangements, *seuneubok* rules are not totally analogous to a legal code. Drawing on a range of studies as well as their own research in Northern Sumatra, the Dutch legal anthropologists, Slaats and Portier (1992) draw similar conclusions. In an *adat* system, many of the principles guiding behaviour do not depend upon a clearly recognised institutional apparatus for their operation – such as constables and courts. Unwritten traditional law is characteristically not organised in rules or even rule like formulations:

Even if rules can be found in these traditional systems, it is questionable whether these have the same function and significance as rules in written law systems. More often than not what seems to be a rule turns out to have the character of a principle or even only a general guide-line for behaviour (Slaats and Portier, 1992: 6).

Thus, rather than attempting to reduce the *seuneubok* to a set of law like formulations, the approach here is to consider *seuneubok*'s institutional arrangements (and other *adat* institutions in this thesis) as a pattern of social ordering.

⁴² The durian season has somewhat of a festival character in Sama Dua and the durian occupies a special place in Sama Dua life. The eating of durian is a social activity that readily lends itself to festivity. As groups of young men camp out under the durian trees, they consume many durians on site.

⁴³ Interview with Azwar, February 1998.

⁴⁴ Interview with Azwar, February 1998.

⁴⁵ Interview with Azwar, February 1998

As a customary *adat* system, the *seuneubok* incorporates religious, legal and social functions. At times the *seuneubok* combines its everyday business with a supra-mundane function. This is seen when, in his role as the *seuneubok* leader, once a year the *ketua seuneubok* calls what is known as a *kenduri seuneubok*, a ritual gathering that involves a common meal. At this time farmers and their families gather in the *seuneubok* itself to discuss the functioning of the *seuneubok* and any conspicuous problems. Besides reviewing any outstanding *seuneubok* business, the *kenduri* is also a ritual feast. Members pray for the continued prosperity of the nutmeg gardens in the *seuneubok*, prayers addressed to the *Aulia*, a spiritual forest being (*orang rimba*).⁴⁶ At the end of the prayers each farmer takes water from the *kenduri* and rice, placing an offering of rice below each nutmeg tree and blessing the trees with water. This is said to help protect trees against illness and ensure that the tree bears lots of fruit.⁴⁷

To ensure that the *seuneubok* runs well, farmers generally chose someone of standing: as an *adat* leader the *ketua seuneubok* traditionally enjoyed high status within the village. While the *ketua seuneubok* does not receive a salary, the person occupying the position does receive a honorarium: members of the *seuneubok* cover *seuneubok* transaction costs by paying the *ketua seuneubok* a contribution at the time of the nutmeg harvest as well as at the time of the *kenduri*. Transaction costs for meetings to discuss *seuneubok* problems are usually met by the party that is held to have offended *seuneubok* regulations. The *ketua seuneubok* often also receives a payment or contribution in kind on wood cut or hunting done in the forest behind the *seuneubok*.

Tigers and the seuneubok.

As the customary (*adat*) institution concerned with farming in the hills, in the past the *seuneubok* mediated relations with tigers. Over the course of this research, interviews concerning other issues would frequently turn toward the subject of tigers. Informants revealed that, both physically and metaphorically, the tiger has in many ways preoccupied villagers. Older villagers remembered how earlier this century, tigers were quite common, and villagers walking down the village path at night would sometimes meet tigers sitting by the side of the village path. While in the past tiger attacks were reasonably rare, they did occur from time to time. As many forest farmers were understandably afraid, villagers would usually only go into the hills in parties of three or more. If such a person was available, a *seuneubok* chose a man respected for their forest skills known as a *pawang* to act as *ketua seuneubok*, someone able to help mediate relations with resident tigers. A *pawang* has special esoteric knowledge: he can contact the *Aulia*, a guardian spirit of the forest, who would appear to him in dreams. In addition, *pawang* could call tigers.⁴⁸

By tradition, each *seuneubok* had an agreement with one or more tigers known as the *harimau seuneubok*, tigers that spent part of each year resident in the *seuneubok* territory.⁴⁹ Villagers explained that there was something like a tacit agreement between *seuneubok* members and the tiger: the

⁴⁶ According to Islamic tradition, the *Aulia* is a holy man who retreats from human society to become close to god - and then develops mystical powers. *Aulia* are said to be able to help people, and the spirits of dead *Aulia* may appear in dreams etc. Reza, personal communication, March 1998. According to another informant, "if we are lost we can ask for help from the *Aulia*... Ibrahim is a kind of *Aulia* or *kermat*, an *orang alus* or something of this kind. If one is lost in the *Rimba*, the *Aulia* is the one that invites the person ...first to his place where he offers food and a place to pray. For those who are not clean enough, if they are lost they should ask for help and he will show the way... If they are not clean, they are just shown the way -- and it happens that people are shown the way back." Interview with *Kepala seuneubok*, January 1999.

⁴⁷ Interview with Azwar, January 1999.

⁴⁸ Griffith's' (1990) account describes how dreams are understood to work as a medium for awareness of tigers. "Years ago, the lady had a dream in which two orphaned kittens approached her and begged for food. She consented and the kittens expressed their gratitude. The next day while working in her *ladang*, she saw two tigers at the forest's edge. Recognising the significance of her dream, she prepared food and left it at the place where she saw the tigers, whistling as she left. After that she continued to leave food out, and periodically the tigers came to eat - perhaps learning to associate her call and whistle with the opportunity for easy food" (Griffiths, 1990: 94).

⁴⁹ In the past there were up to three tigers in any *seuneubok*. However, nowadays a *seuneubok* is lucky to have one.

harimau seuneubok would hunt pigs and other pests in the *seuneubok* while leaving human beings alone. The tiger would also warn farmers of the presence of dangerous tigers from outside the area by leaving distinctive claw marks on the main path of the *seuneubok* territory. When villagers saw these marks, they understood that there were wild tigers in the territory, and they would not proceed to their forest gardens that day.⁵⁰ In return for the *seuneubok* tiger's benevolence, villagers also provided for the tiger. For instance, even to this day, an unwritten *seuneubok* norm holds that during the durian harvest, farmers leave 5 durian fruit from each tree for the *harimau seuneubok*. Once a year, at the time of the *kenduri seuneubok* members would also provide a feast for the tiger. At this time, those *ketua seuneubok* able to act as *pawang* would call the tiger and provide rice, meat and vegetables. This meant that, in the course of their duties, a *ketua seuneubok* with these skills became familiar and might even befriend the *seuneubok* tiger, meeting them regularly in their forest gardens. At the time of the year when the *kenduri* was held, resident tigers in the past have been known to seek out the *pawang* to remind him of the feast, leaving signs in the dirt, calling out, or even sleeping under the *pawang's* forest hut.

The *adat* rules relating to the *seuneubok* had a sacral element to which both humans and tigers were subject. The *seuneubok* tigers were thought to enforce infringements of laws, and those subject to attack were held to be evil people who had broken *adat* precepts. At the same time the tiger was subject to *adat* rules and would be caught if he violated them: if a tiger attacked and killed someone, the *pawang* would set out to trap it.

In Aceh Selatan tiger attacks continue to cause fear in the villages. In January 1999 a tiger killed a schoolboy picking nutmeg in a forest garden in the nearby sub-district of Labuhan Haji.⁵¹ To deal with this problem, the Forestry Department have regularly made use of the skills of the *pawang*. At one time the forestry department in South Aceh even had a *pawang* on staff. However, as most *pawang* are now over 50, and the next generation are uninterested in learning to become *pawang* like the tiger itself the *pawang* are becoming increasingly rare. While the departmental *pawang* subsequently died, nonetheless, according to a forestry official interviewed in early 1999, whenever a tiger attack occurs the forestry department hires *pawang* to help track the tiger.⁵² When a villager was killed behind a Sama Dua village in the mid 1990s, a *pawang* caught the errant tiger. Before the forestry department took it away, the tiger was put on exhibition for a week. When the forestry department released this endangered species near Tapaktuan, villagers were very disappointed: the tiger had killed someone and they felt it wasn't right to return its freedom.⁵³

Institutional Change in the *seuneubok*.

When the author first visited Sama Dua during 1996-7, several informants explained how the *seuneubok* had fallen into decline. Interviews across Sama Dua revealed that there were approximately 23 *seuneubok* in the sub-district. However, one former village head estimated that "perhaps only one in four *seuneubok* are still strong, the other seventy-five percent are out."⁵⁴ This decline was the cumulative outcome of several changes affecting village life.

⁵⁰ The *ketua seuneubok* described the role of the Harimau *seuneubok* as follows: "He is on duty (*dinas*) there. If there is someone who steals from the *kampung* and takes it to the mountain (*gunung*), he will be disturbed by the tiger."

⁵¹ Newspaper reports on this tiger attack reveal the problems associated with tigers. "BKSDA Tidak Serius. Harimau di Labuhan Haji Masih Berkeliaran." *Serambi*, 10/1/99.

⁵² Interview, Fakmawan, Balai Konservasi dan Sumber Daya Alam, Department Kehutanan, Tapaktuan, January 1999.

⁵³ Former village head, pers comm November 1997.

⁵⁴ Interview, February 1998. In January 1999, interviews with village and *seuneubok* heads in the three village areas mentioned in the table corroborated this statement, also revealing a complex range of situations. While some heads had died and villagers were unsure whether they had been replaced, others continued to function in many ways without a *seuneubok* head. For instance, many of the seven *seuneubok* in Subarang/Gunung Kretek area existed without a *ketua seuneubok*. However, the village head fulfilled dispute resolution functions while the village Imam fulfilled the ritual function of leading the *kenduri seuneubok*. In this village, some *ketua seuneubok* had died and villagers were unclear whether they had been replaced. On earlier visits *seuneubok* existed with a head who was still alive but who no longer carried out

First, under the nutmeg regime that emerged since the 1960s, farmers invested less in their nutmeg gardens. As mentioned earlier, farmers planting nutmeg would open new plots, planting dry land rice (*padi ladang*) and other crops, and later enriching the plot with nutmeg trees. While waiting for the nutmeg trees to mature, farmers would then open a *ladang* plot further out, leaving their nutmeg *kebun* unattended for long periods of time. Over time this became more of a necessity: due to price fluctuations of nutmeg and the increased importance of the cash economy villages could no longer depend on income derived from nutmeg agroforestry. In response, many villagers found other income earning opportunities. In this way the practice of farmers having permanent rights over some area and ephemeral use rights over temporary plot declined: farmers now only had enduring property rights over agroforest plots.

As noted earlier, in the past the *seuneubok* was about as important as the village, and the *ketua seuneubok* had about as much authority and respect as the *keucik*. Just as the *keucik* played an important role in the operation of village institutions, the *ketua seuneubok* was responsible for the operation of the *seuneubok* institution. Now, farmers invested much less time in their *kebun*. Rather than living in the mountains as they formerly did, most farmers now lived down in the kampung. As the key institution governing what occurred in the agroforest, the *seuneubok* became less important to local life.⁵⁵ Farmers were now much less identified or involved with their *seuneubok*: the resource inputs in terms of labour fluctuated with the profits yielded from nutmeg farming. Accordingly farmers were less willing to carry the costs of transacting – defining, protecting, and enforcing the property rights in the *seuneubok*. Farmers invested less time and energy maintaining the *seuneubok*'s institutional arrangements. As a consequence, *seuneubok* functions declined.

Second, cultural change also affected the *seuneubok*. According to a former village head, as the cash economy penetrated Sama Dua more thoroughly, “people now look for money and do not pay as much attention to *adat*.” Previously there was usually a program for a Friday or Saturday night, such as a prayer meeting at the mosque, and the village often held *kenduri*. “But now there are satellite dishes and other entertainments. The village isn't so self-contained, and people are orientated to Medan or even Jakarta.”⁵⁶ As people aspired to more of the trappings of development (*pembangunan*), traditional arrangements came under challenge, and this included the *seuneubok*. As the former village head argued, the old role of the *ketua seuneubok* was no longer in accordance with the culture. Formerly, the *ketua seuneubok* was like a “commandant”: “there were sanctions for many things. For instance, if you didn't attend a meeting you could be fined. But now people are much more individual.”⁵⁷

Third, the authority of many *ketua seuneubok* also began to decline. In the past, *ketua seuneubok* were chosen largely due to their considerable agricultural experience and other skills: the *ketua seuneubok* used to be an accomplished farmer and village member (*orang arih*). As a consequence, they were respected and considered wise: they could advise other farmers and make effective leadership decisions. However, as *ketua* grew old or died, new heads would be elected - younger farmers who had spent less time in the *kebun* and did not necessarily possess the necessary expertise. However, as a the former village head asserted:

While some *ketua seuneubok* were chosen by the *seuneubok* for their wisdom, others lobbied for the position, but maybe they are not competent.⁵⁸

seuneubok functions. However, as noted below, by 1999 these *seuneubok* revived in response to the economic crisis.

⁵⁵ However, according to a *ketua seuneubok* interviewed at the onset of the economic crisis, there was a strong connection between the viability of agroforestry in the *seuneubok* and the strength of the *seuneubok* as an institutional arrangement. “If prices of *kebun* products are high,” he said, “many people go to their *kebun*. People support the *seuneubok* and are enthusiastic: the *seuneubok* is strong.” pers. comm., 2 February 1998.

⁵⁶ Interview, November 1997.

⁵⁷ Interview, November 1997.

⁵⁸ Interview, February 1998.

The result was that “some *ketua seuneubok* don’t weight things up wisely; they don’t have a head for this, or they misuse their position.” For instance, in the past *ketua seuneubok* maintained their impartiality in disputes: they would even bring up cases involving their own extended family. But now some *ketua* treat family members differently to other farmers. “And so the farmers are offended (*sakit hati*) and no longer respect the *ketua seuneubok*.” Without a charismatic and respected *ketua seuneubok*, a *seuneubok* would not function so effectively.

Fourth, the increased activity of local government agencies also affected the status of the *ketua seuneubok*. As noted earlier, the state legal and administrative structures were now reaching into the village. Yet *ketua seuneubok* tended to be uneducated, or even illiterate, and they didn’t necessarily understand the legal/administrative system. As a former village head noted: “as villagers began to know the law, they didn’t feel that they had to follow the instructions of the *ketua seuneubok*. This was very different from before, when it was obligatory to follow *adat*: if you didn’t, you would be fined.”⁵⁹ As *seuneubok* members were less inclined to accept the word of the *ketua seuneubok*, some came to understand that State law did not back the *seuneubok*’s authority. Moreover, in the case of a dispute, rather than relying on the *ketua seuneubok*, if they saw some advantage in doing so, they could choose to take a case to the police.

This problem bears out Ostrom’s observation that when institutions governing common pool resources are isolated, *de facto* organisation by local resource users is sufficient. However, once an area falls more readily within the jurisdiction of wider State structures, the danger arises that government agents will support those who refuse to follow the rules. Thus when the formal government does not support the authority of local institutions to make rules, effective local institutions may fall into rapid decline. Consequently, if such institutions are to continue to function, it is important that the government does not challenge the rights of local users to devise local institutions for governing common pool resources (Ostrom, 1992: 75).

Moreover, State agencies challenged *ketua seuneubok* in other ways: older *ketua seuneubok* lacked knowledge of the new agricultural techniques promoted by the government extension officers. As one informant said,

The *ketua seuneubok*’s knowledge is just ancestral practice... They are people of former times (*orang jaman*) which were different: it is modern times now, and farmers go to school.

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When government extension officers came to the village with new agricultural techniques, the agricultural agency created their own farmer groups; extension officers did not work through the *ketua seuneubok*. As a result many *ketua seuneubok* would see the new techniques as a threat. Moreover, “slowly the role of the *ketua seuneubok* is taken over by the extension officer (PPL) and the *ketua seuneubok* has no function.”⁶¹

Fifth, as an institution suited to the frontier, the *seuneubok* became less important in long established agricultural area: the decline was more pronounced in older *seuneubok* many of whom no longer had a *ketua seuneubok*. As an informant noted, farmers carving new plots out of an area of remote, wild and lonely jungle need the solidarity offered by the *seuneubok*. However, after a few generations, the *kebun* are already productive and the area is now benign. The solidarity of the first pioneer farmers is no longer even a living memory. Villagers no longer feel such a need for fellowship and support, and farmers are happy to work on their own. For this reason, the agroforest areas closest to the village are no longer organised into *seuneubok*.

However, where the *seuneubok* no longer functions, in some cases other village institutions took over *seuneubok* functions. In some villages, the village head carried out the dispute resolution functions while the religious head (*Imam*) fulfilled the ritual function of leading the *kenduri seuneubok*.

⁵⁹ Interview, February 1998.

⁶⁰ Interview, February 1998.

⁶¹ Interview, February 1998.

However, in other areas, farmers have to solve problems on their own.⁶² An informant, who bought a *kebun* in an area where the *seuneubok* no longer functioned, complained that he missed the social and ritual functions offered by the *seuneubok*. For instance, to ensure the productivity and to protect his nutmeg garden, he had to organise his own small *kenduri* with neighbours.

There is usually a *kenduri* for the kampung, and a *kenduri seuneubok*. This hasn't happened because my *seuneubok* hasn't had a head these last 20 years or more... So when I bought the land, I held one myself - inviting orphans and having it in my house. Then I took some rice and placed a portion on each durian and on each nutmeg tree - and so after that the trees were very productive...The reason the pests are attacking the nutmeg is because there is no longer a *kenduri seuneubok* - if people did this correctly - we prayed together and asked Allah for protection - then it would be safe...⁶³

Where *seuneubok* no longer functions, farmers also lose the dispute resolution offered by this institution. While disputes can be taken directly to the *keucik*, many cases are also taken straight to the police. This farmer had taken a dispute over *kebun* boundaries with a neighbour directly to the law. The local court sent a legal team to check the issue before making a decision. Although he felt vindicated by the court's final decision, it turned out to be a long and costly process.

In those areas where *ketua seuneubok* still functioned, *ketua seuneubok* attempted to face these challenges. To reassert the authority of the *ketua seuneubok* and create a procedure for overcoming *seuneubok* problems, *ketua seuneubok* sought ways to embed their authority and the customary principles governing the *seuneubok* within the wider state authority system. As the former village head observed:

Some *ketua seuneubok* found someone with knowledge of the law. By finding the overlap between the law and the *seuneubok* regulations, he could use the law to make the *seuneubok* stronger."⁶⁴

For instance, a *ketua seuneubok* explained how during the 1970s theft in the *seuneubok* began to become a problem that the *seuneubok* regulations could no longer handle. Eventually, in 1987 he called a meeting and prepared a letter of agreement specifying the principal *seuneubok* regulations. The letter of agreement that the farmers signed is reproduced in Table 2 (above). As this was legally binding, an infringement could then be taken to court. To further support his authority, he also obtained a letter from the police and army recognising his authority. In this way, the *seuneubok* could continue to function, but now with formal legal status and the support of the police.⁶⁵ Subsequent to this letter, if an offender continued to offend and disregarded a decision of the *ketua seuneubok* and a village deliberation (*sidang adat*), the person would then be taken to the police. Under a court's discretion, a letter could then be made stating that if the problem re-occurred, without further investigation, the culprit would be taken directly to jail, and jailed for a period of time proportional to the severity of the violation. He reported that this innovation had led to a large decrease in cases of theft.

The problem of theft in the *seuneubok* illustrates an instance where the *seuneubok* now nests in the wider state legal regime. Theft in a busy kampung is generally rare. However, up until the economic crisis, with low nutmeg prices *seuneubok* were generally quiet places, and farmers walking through deserted *kebun* were tempted to take nutmeg fruit as they passed. The ability of the *seuneubok* to protect the property of its members depended on other farmers reporting strangers in

⁶² Interview, 6/1/99. In January 1999, interviews with village and *seuneubok* heads revealed a complex range of situations. While some heads had died and villagers were unsure whether they had been replaced and whether *seuneubok* continued to function, other *seuneubok* continued to function in many ways without a *seuneubok* head (under the village head).

⁶³ Interview, 4/2/98. As the prophet Mohamed was an orphan, Muslims are enjoined to pay special attentions to orphans.

⁶⁴ Interview, February 1998.

⁶⁵ Interview, 2/2/98.

the *seuneubok* and instances of theft, however, even if they saw a theft, farmers were loath to report it because they were reluctant to make enemies in the village.

If there are two witnesses then they can report it. But one person alone is wary of reporting. At most he will report to the victim of the theft. Anyway he can't do anything without proof.

When a case is reported to the *ketua seuneubok*, he is initially responsible for the handling it.

Basically, after someone reports a theft case to me, we look into it, and if need be, we hold a session (*sidang*), calling in the *keucik* a few other *adat* experts (*tokoh adat*)... The person is presented with a choice - we can handle it quietly (*secara damai*) in the kampung, or we can hand the case over to the police... In the later case I write a letter to the police or go and report and the police go looking for me and get the person.⁶⁶

If a case is heard in a session of the village council (LKMD), in accordance with the principles of *adat* justice, the session will make a decision and impose a penalty. However, sometimes the case cannot be solved at this level. For instance, one of the disputants refuses to accept the decision and continues to offend. The next time the dispute arises, the case will then be taken to the police and subject to the legal system. However, taking a case to the police is considered a serious step that can lead to long term enmities in the village.

If someone steals, the first time it is handled by a session of the LKMD. A person will be offended (*sakit hati*) if they are taken to the police the first time. If we use kampung law, only this kampung will know, and so the culprit isn't so ashamed (*malu*). But after repeated offences, they will be reported to the police. The police will come and arrest them, and they will sit on the back of the police car bench in the open air before the whole *kecamatan*. After that everyone will know and they will be very *malu*...⁶⁷

This means that at times villagers make strategic choices, 'shopping' for the forum that best suits their needs. If a disputant wants to humiliate their opponent, they will take the case directly to the police.⁶⁸

However, a *ketua seuneubok* observed that cases are often not brought to a conclusion if they end up with the police. To illustrate this conclusion, he cited a recent case.

Two people recently had a dispute over ownership of two nutmeg trees. Deliberation (*musyawarah*) occurred in phases. The first time just with the *ketua seuneubok*, the second also with the village head, and the third time with the police. But one-party didn't want a settlement (*damai*). But the police couldn't solve it and in the end they also called in the *ketua seuneubok* who solves it in the police station in the name of the police. The trees are divided into two, but in the end one side still takes revenge, stealing nutmeg, so the case reemerges. The person is a stubborn (*keras kepala*) egoist. In October he was contented, but now agreement has been broken again. Tuahempet, *keucik*, and the *ketua seuneubok* will gather for another session... Now 20 people will join in the session: members of LMD, LKMD [village councils], elders (*cerdik pandai*, *tokoh adat*) and religious leaders.⁶⁹

Consequently, over time the *seuneubok* authority system has necessarily become enmeshed in a complex way with the wider authority system of the state. When the *seuneubok* were more isolated, *de facto* organisation by members was sufficient. However, as the area fell more readily within the jurisdiction of wider state structures, the problem increasingly arose: would government agents support those who refuse to follow the *seuneubok* rules. If local government officials did not support the authority of *seuneubok* to make and enforce rules, the *seuneubok* would fall into rapid

⁶⁶ Interview, 2/2/98.

⁶⁷ Interview, 9/2/98.

⁶⁸ On this note, K. von Benda-Beckmann has described how parties in a conflict seek out the forum and the idiom that best serve their purpose (forum shopping) (von Benda-Beckmann 1983).

⁶⁹ Interview, 17/1/99.

decline.⁷⁰ In response, some *ketua seuneubok* sought to reassert their authority: by mobilising the state on their behalf, they were able to support their own authority with the state law enforcement system. Consequently, while the *seuneubok* had crafted its own rules and in the first instance was still able to enforce them, to support its operation, the *seuneubok* also needed support from the wider state apparatus. The support of local government officials for the *seuneubok* was also strategic: if *ketua seuneubok* could solve disputes on their own, local officials would have fewer problems to deal with.

This meant that the *seuneubok* now operated more within the context of “legal pluralism”. Thereafter, if a villager saw some strategic advantage in doing so, they could now choose to use the state law enforcement system rather than the *adat* dispute mechanisms. However, if the state system could not solve the dispute, it could then be referred back to mediation by village leaders. In this way the *adat* system is no longer a totally separate system: in some respects it depends on the wider State system.

Revival

As noted above, through the course of interviews in several villages during 1996-7, villagers observed that the *seuneubok* were in serious decline. However, when the author returned to Sama Dua in early 1998, it was clear that villagers were responding to the economic crisis by turning back to agriculture. At this time, a *ketua seuneubok* observed that, due to the strong connection between agroforestry and the *seuneubok*, a consequence of the economic crisis would be the revival of *seuneubok* institutional arrangements.

With a boom in the price of patchouli oil, farmers began planting *nilam* plants in new forest plots.⁷¹ To facilitate land pioneering farmers formed groups of ten to fifteen and appointed their own head (*ketua ladang*) to coordinate their activities. Before heading off into the forest, it was long standing practice to report first to the *ketua seuneubok*. If a party failed to return, the *ketua seuneubok* would take responsibility for organising a search party. Moreover, as the *ketua seuneubok* carried the institutional memory of the *seuneubok*, the new groups needed to approach *ketua seuneubok* to ask information regarding land suitable for farming as well as to seek leave to open new areas. By seeking permission first, the new groups ensured that the *ketua seuneubok* would provide advice and guidance as well as helping to resolve problems.

In interviews during 1997, the head of a *seuneubok* had described how this *seuneubok* had fallen into disuse. The forest path led up a precipitous hillside behind the village.⁷² He explained that villagers had once collected forest products, including *damar*, *getah* and rattan in the forest here. In the Dutch time, at various times villagers had also planted *rambung* (*ficus* spp), rubber and cloves as well as seasonal crops in forest gardens in a *seuneubok* here. However, around the end of the Dutch period, farmers abandoned their plots, either due to the difficulty of managing the area, he said, or due to a fall in prices. Around 1950 villages shifted to planting *nilam* in small plots next to their houses. However, when nutmeg prices rose, in 1979 the *seuneubok* was re-established under his leadership, now accessed via a less steep pathway into the forest. Sixty-five villagers began as active members, but by 1983 many villagers had abandoned their *kebun*: nutmeg prices had collapsed, and “it was easier to find building work or work cutting wood”.⁷³ Subsequently only a few farmers were still prepared to make the trip up the steep hillside path and actively work their *kebun*. By 1997 the *seuneubok* had all but ceased to function, and he no longer felt the need to hold *musyawarah* or *kenduri seuneubok*.

⁷⁰ On this note, in her criteria for robust CPR institutions, Ostrom writes that it is important that the government does not challenge the rights of local users to devise local CPR institutions (Ostrom, 1992: 75).

⁷¹ *Nilam* (*Pogostemon cablin*) is a cabbage sized leafy plant that grows to a height of 30 to 70 centimetres. From distilling the dried *nilam* leaves farmers produce patchouli oil, a product used in cosmetics and perfumes and now popular with aromatherapists (Publikasi/Dokumentasi, 1970).

⁷² Some name and place names have been changed to protect the confidentiality of informants.

⁷³ Interview, 3/2/98.

When the author returned to Sama Dua in February 1998, the price fetched by agricultural cash crops had risen in proportion to the rapid decline in the value of the Indonesian rupiah. As the economic crisis hit Sama Dua, villagers began to approach the *ketua*, seeking out unused plots in the *seuneubok*. “There are maybe 5 or 7 active in the *seuneubok*,” he said at the time, “but now about 6 people a day come asking about opening a *kebun*.”⁷⁴

When the author next visited Sama Dua in January 1999, another *ketua seuneubok* described how his *seuneubok* was now very busy. He was now the *seuneubok* head for thirty farmers working *kebun* located along the *seuneubok* forest path. However, at a certain point the path forked to the left and right. During the nilam boom, some farmers had opened *kebun* two hours further up the left hand fork and three hours up the right hand fork. He felt unable to handle these areas, and he appointed heads to look after the left and right hand pathways. “These are representatives”, he said, “if they need my help they can call it. Otherwise they handle problems on their own”.⁷⁵ These nascent *seuneubok* had their own names: thirty farmers worked plots on the left hand pathway, while ten farmers worked the right hand pathway.⁷⁶

In a similar fashion, in January 1999, a farmer with wide experience in the logging and agribusiness sectors across South Aceh, described how he joined a group of ten farmers opening nilam plots four hours walk into the mountains. The group chose to open a flat area some 90 minutes walk past the last cultivated area - beyond the mountain that marked the furthest boundary of that particular *seuneubok*. As the new *kebun* were so far out, the *ketua seuneubok* said he was unable to take responsibility for affairs there. In response, the group asked him to act as a head of what now constituted a *seuneubok* in its own right. To facilitate this process, the *seuneubok* head helped him to learn the functions of the *ketua seuneubok*, inviting him to follow mediation sessions (*sidang*) to learn how to settle disputes. The group of pioneers worked together to construct a large camp with a large hut (*pondok*), where they stayed up to one and a half months at a time. Working together, they opened an area sufficient to give each farmer a plot of around one hectare. At first they planted nilam, supplementing it with nutmeg and durian.⁷⁷

This discussion indicated that generally the rate at which the agroforests expands behind the hills is largely determined by the interplay of local institutions and socio-economic change. Yet, based on the State map exercise discussed earlier, on at least one occasion there was also an attempt to open the area to outside exploitation. These cases are interesting because they demonstrate that *adat* claims over the forest territory continue to have meaning. Moreover, these interactions testify that, at key moments the people of Sama Dua community can mobilise to defend assumptions and property claims referred to as *adat*.

Control of the Forest

As discussed earlier, during the New Order period the State engaged in a mapping exercise that cumulated with the TGHK agreements.⁷⁸ As elsewhere, in Aceh, the governor coordinated a team involving provincial level sectoral agencies including Agraria, Plantations, Agriculture, Bappeda, Public Works and Transmigration. Based on an agreement between these agencies, the team produced the TGHK maps setting out the boundaries and respective classifications of State forest land area for Aceh. In December 1981 the TGHK map for Aceh was finalised and subsequently

⁷⁴ Interview, 3/2/98.

⁷⁵ Interview, 15/1/99.

⁷⁶ Nilam farmers also prefer to open new areas rather than cultivate older plots. This is because the nilam plant is affected by diseases prevalent in tomatoes and other cultivated plants. For this reason agricultural researchers have advised that nilam seedlings are best raised some distance from other cultivated areas. A publication of the Directorate General for Plantation has noted that the nilam gardens do well in areas such as grassland scrub (*alang-alang*), in plots away from cultivated plants or in areas that have been left fallow for 3-4 years (Perbenihan, 1994/1995).

⁷⁷ Interview, 17/1/99.

⁷⁸ This exercise was reviewed by RePPPProt (1990) to produce the RePPPProt maps.

signed by the Governor and the Minister of Agriculture, thereafter serving as the framework for allocating forestry concessions (Surya Karya, 3/8/90).

However, the TGHK classification system did make some allowance for the existence of community territory. During the TGHK process, state planners calculated the area of land that the local community needed for agriculture, and areas of forest land near kampung were left outside the permanent forest zone (*kawasan hutan*). These areas were classified as *Hutan Negara Bebas* (Unrestricted State Forest) in TGHK and RePPPProt maps, and villagers were subsequently allowed to convert this forest to agriculture. Accordingly, the RePPPProt map (1988) for the Sama Dua area classifies a thin band of forest immediately behind Sama Dua as *Hutan Negara Bebas*.⁷⁹ This area does not extend further than 5 km from the coast. Beyond this band, there lies a band of *Hutan Produksi Terbatas* (limited production forest). This band expands from a width of around 5km at the northern end of Sama Dua to around 10 km in width further south to include the Kluet River (RePPPProt, 1988). Forest legislation holds that that this forest forms a part of the *kawasan hutan*, and as such should not be converted to other uses but maintained under permanent forest cover. However, as its name suggests, state forest policy does allow that *Hutan Produksi Terbatas* can be exploited for logging.⁸⁰

This classification was subsequently revised in accordance with a new classification system laid out in the Presidential Decree (Keppres No 32 1990) regarding 'Protection Forest' and in accordance with the 1992 Spatial Planning Act.⁸¹ This Act directed regional government to prepare a Spatial Use Management Plan for each district. In South Aceh this plan reported that most of the hilly forest areas surrounding Sama Dua had a slope of over 40% and accordingly listed it as a protected area (Pemerintah Kabupaten Daerah Tingkat II Aceh Selatan, 1991/1992). This meant that, in accordance with the stipulations of the new legislation, most of the Sama Dua territory previously classified as limited production forest in the RePPPProT maps, was now classified as "protection forest" and was excluded from logging and agricultural use (see Table 3 below). This status was later confirmed by regional and provincial government regulations (Serambi, 13/11/95).

Table 3: Protect and Cultivation Areas in Sama Dua District according to district Spatial Plan.

| Status | Total |
|--|--------|
| Protected Area | |
| Nature Reserve (<i>Hutan Suaka Alam</i>) | 0 |
| Protection Forest (<i>Hutan Lindung</i>) | 9,671 |
| Cultivation Area | 1,129 |
| Total Area | 10,800 |

Source: Pemerintah Kabupaten Daerah Tingkat II Aceh Selatan (1991/1992).

Yet another territorialisation and mapping exercise occurred under the auspices of a European Union sponsored Integrated Conservation and Development Project, the Leuser Development Project (LDP). According to the LDP masterplan the problems associated with the capacity of the

⁷⁹ Interview, LDP, 16 Feb 1998. Interview with official, Dinas Kehutanan, Tapaktuan, 15/1/99. In the RePPPProt framework, the *Hutan Negara Bebas* category of forest is listed in the same category as *Hutan Produksi Biasa* (Normal Production Forest) (RePPPProT, 1990: 156). However, in contrast to 'Production Forest', *Hutan Negara Bebas* can be converted to other uses, and villagers are allowed to convert it to agriculture. With the Bupati's or Governor's permission *Hutan negara bebas*, can also be freed up for other uses without seeking the permission of the Minister of Forestry.

⁸⁰ Interview with official, Dinas Kehutanan, Tapaktuan, 15/1/99. Initially hutan produksi was only subject to logging concessions (HPH), but later many areas were also given over to plantation concessions (HGU) which according to the original classification system was really an "aberration"

⁸¹ In brief, according to the new framework land areas would now be classified as either protection (*kawasan lindung*) or cultivation areas (*kawasan budidaya*). As protection areas were primarily set aside to protect ecological functions, such areas could not be cultivated or in any other way used except where such uses "improved their environmental functions" (Pemerintah Kabupaten Daerah Tingkat II Aceh Selatan, 1991/1992: 4-6).

Gunung Leuser National Park (GLNP) complex to conserve viable populations of the biodiversity of Northern Sumatra, a group of European Ecologists selected a more extensive conservation area known as the “Leuser Ecosystem”.⁸² The area that is now subject to the Leuser Ecosystem “concession” includes important areas outside GLNP, such as lowland rainforest and other significant wildlife habitat.⁸³ Preliminary LDP maps of the ecosystem reveal that in the Sama Dua area, the Leuser Ecosystem includes the Limited Production Forest and some limited areas of the Unrestricted State Forest. While LDP had developed guidelines for marking the Ecosystem boundaries and has begun to designate these in some areas, at the time of this research, in Sama Dua these boundaries remained unmarked. However, in most respects Sama Dua the state forest and Leuser Ecosystem remain as many ink markings on state maps: as noted earlier, local residents consider this area to be the territory of the Sama Dua community.

This was revealed during 1989-90, when the villagers of Sama Dua acted collectively to defend their territory. At this time controversy erupted over two timber concessions the Ministry of Forestry had granted in the steep mountainous forest of the Kluet watershed behind the coast. In 1977, the Ministry of Forestry had issued a timber concession south of Sama Dua to PT Dina Maju. Just to the north, the timber company PT Remaja Timber had obtained a concession to log over 40,000 hectares of forest in the limited production forest behind Sama Dua and neighbouring coastal sub-districts. In a series of colourful and emotive articles, in July 1990 the Medan based paper *Waspada* reported that the concession included thousands of hectare of local people’s plantations, graveyards, *adat* land and other community areas.⁸⁴ As the concession encompassed very steep mountains containing the headwaters of rivers subject to flood, *Waspada* reported that seven sub-districts (including Kluet Utara and Sama Dua) were “threatened with sinking” (*terancam tenggelam*) (*Waspada*, 6 July 1990). At that time the District Head (*Bupati*) vehemently opposed this and other concessions (*Kompas*, 26/2/91). When interviewed in late 1997, he pointed out that government regulations did not allow logging on slopes greater than forty degrees. However, the forestry department had issued concessions on steeper land. These permits were based on the TGHK classifications made without accurate information concerning local conditions. The bupati saw the consequences for local people if the logging of steep mountainous areas behind village settlements occurred.

It is very rich forest here, with *Kuring* and *Damar* trees, but is also very steep. The rivers are very swift and so if the upstream areas are cut, the areas of settlement will be damaged.⁸⁵

In his view the areas should never have been set aside for logging. “The TGHK was completed before more sophisticated knowledge was available”, he said, “and so I said to the people in Jakarta if there is already a mistake, we shouldn’t continue it.”

When the forestry department opposed him, the Bupati organised local meetings to mobilise villages against logging companies. After community deliberations (*musyawarah*), the Sama Dua

⁸² Ecological evaluation revealed that the National Park area was poorly designed and covered too small an area to preserve the ecosystem types predominant and the typical mega-fauna of Northern Sumatra. The problem was that in Northern Sumatra “high biodiversity corresponds with a general low population density and typical patchy distribution of most species”. This meant that while GLNP was very extensive, it was comprised almost exclusively of “forbiddingly steep mountain ranges” which offered “insufficient habitat conditions for the mega-fauna”. According to Rijkssen and Griffiths, “it is estimated that for the elephant and orang utan populations the extent of the current reserve complex offers formal protection to less than anything between 10% (for elephants) and at most 25% (for orang utans) of suitable habitat”. Moreover, all of the significant lowland sectors of the reserve have been despoiled by logging and timber poaching, further reducing the area of suitable habitat within the reserve, as well as “migration to outside the confines of the current reserve complex” (Rijkssen and Griffiths, 1995: 177).

⁸³ It includes the 905,000 ha national park, the complex of upper water catchment forests within the southern part of Aceh and North Sumatra provinces, in addition to adjacent production and protection forests. This area is designed to contain the ranges of the major elements of the biological diversity of Northern Sumatra. Extending over approximately 2 million hectares, the Leuser Ecosystem is said to constitute the largest rainforest reserve in the world (Rijkssen & Griffiths, 1995: 30).

⁸⁴ This seems to be a more accurate description of PT Remaja Timber’s concession in South Kluet. The concession behind Sama Dua covers the Limited Production Forest area discussed earlier.

⁸⁵ Interview with Sayed Mudhahar Akhmad 15/12/97.

community decided that they did not want to lose arable land to outsiders. They would only allow logging to occur in their territory on their own conditions: the company could take the wood on condition that the 1500 hectares of arable land there would be given to the community. Moreover, the company would have to build a road to enable local farmers (“local transmigrants”) to settle there. In June 1990, the dispute came to a head. He threatened to resign if logging of the mountainous area surrounding behind the coast went ahead. The Bupati told reporters:

I cannot imagine if all the HPH cut the forest, causing West and South Aceh to change function and become ocean. Therefore it is better if I stand down from the position of Bupati - because I cannot take responsibility to the people, to nature and to God. For what purpose do I become Bupati, if my people and region are sacrificed to enrich oneself only on the basis of a permit from the central government (Waspada, 6 July 1990).

Following articles in the regional and national press, his stand came to national attention. The Governor of Aceh, the Minister of Home Affairs, Rudini, and the Minister of Forestry, Hasjrul Harahap, all made statements on the issue (Peristiwa, 1/7/90; Serambi, 5/7/90). After meetings with the Governor in Banda Aceh and the Minister of Forestry in Jakarta, the Minister agreed to review the two timber concessions. Eventually, the company decided not to go ahead.⁸⁶ According to the former bupati, PT Remaja Timber was not able to continue “because they were not game enough.”⁸⁷

Around this time another challenge to the Sama Dua territory occurred: the department of transmigration announced a plan to settle 200 transmigrants in an arable area behind Sama Dua. In 1989 officials had scoped the area by helicopter to consider the feasibility of opening a transmigration site behind Sama Dua in a 2000 hectare area (Sinar Indonesia Baru, 14/7/89). In response, the local community attempted to defend their property rights by establishing a prior claim to the area. The villages of Sama Dua pooled their resources and built a road with village development funds (*bundes*) and voluntary labour (*gotong-royong*). The idea was to open land, plant crops and establish a village before the government gave the area away for transmigration or for logging. “The area is ideal for a HPH,” a villager said, “it is flat land and the trees are very big. But really this is our ancestral land – not for them. So we should establish 20 huts (*pondok*) there. But after we built the road, around 1980 nothing happened and the road turned back into forest or was subject to landslide.”⁸⁸

Overlapping Territorialities: Right of Avail in the State Forest.

A reading of colonial reports concerning forest issues in this area reveal the continuity of local norms regarding access and use of the forest as well as the colonial origins of the overlapping property regimes mentioned above. In maritime South-east Asia, pre-colonial states had depended on controlling the bounty of the forest resources in their hinterlands, and kingdoms rose and fell according to their ability to maintain this control. (Peluso, 1992: 52) In this context, the sovereignty of the pre-eminent local chief was tied to control of the stream of benefits derived from forest and other resources within the territory which the chief claimed control. In the Aceh areas, the local heads sustained their resource base and personal positions by levying a tax such as the *pantjang alas* on forest products and the *wase uleebalang* a fee levied on pepper and pinang trade.

A 1931 report by a Dutch official (*controleur*), van de Velde, noted that in pre-colonial times, the local chiefs had a right known as *hak Allah* (‘right of God’) over the unopened forest surrounding their territories.⁸⁹ In accordance with this right, outsiders wishing to collect forest products had to first ask permission from the pre-eminent local head. The head then levied a fee (commonly known as the *pantjang alas*) of around ten percent on the collection of forest products in

⁸⁶ Interview, former village head.

⁸⁷ Interview with former bupati, November 1997.

⁸⁸ Interview.

⁸⁹ The notion of a *hak Allah* follow from the Islamic understanding that forest and natural resources ultimately belonged to Allah – at least until they become subject to the property claims of a community or other party.

surrounding territory (elderly informants in Sama Dua note that the *Datuk* "enjoyed" the *pantjang-alas*). However, there was also a partial payout to the local villages' heads, *Sjahbandar* (port chiefs) and almost certainly to the *ketua seuneubok* who collected the fee in the area concerned on behalf of the pre-eminent local head (Adatrechtbundels, 1938a: 137). The forest products on which this tax was levied tended to vary from area to area. However, the major products included timber, bark, cinnamon, camphor, benzoin (incense wood), *getah* (latex tapped from native trees), *damar* resin, thatch (atap and nipah), rattan, wax, honey, rhino horn, deer horn and elephant tusks (Adatrechtbundels, 1938a: 137). Bearing in mind that forest products were a large part of exports from the area, these fees constituted a key source of income for local chiefs. Consequently, in 1901 the first Dutch administrator stationed in Tapaktuan, Colijn, reported that large groups of up to 300 people from outside the area were making expeditions into the forest to collect forest rubber (*getah*). Colijn noted that these expeditions were only possible with the permission of the local head who levied taxes of five dollars per *pikul* (60 kg) on the forest rubber (Adatrechtbundels, 1938a: 136-7).

As the Dutch colonial authorities in Aceh first encountered the fee in the ports, they first believed that the *pantjang-alas* was an export duty (Kreemer, 1923: 142).⁹⁰ Colijn, the first Dutch administrator in the Tapaktuan area, held that this fee was a regular tax that should be taken over by the colonial authorities. Only later did they begin to realise that it was a fee paid to local heads for access to forests under local 'right of avail'.⁹¹ While the fee was paid to the head who exercised control over the resources, interestingly enough, the fee only applied to members of the local community under certain conditions. Community members would pay this fee only if the products that they collected were for sale or trade, while outsiders had to pay *pantjang-alas* whether the products were for their own use or for export. From this it is clear that what Dutch *adat* scholars termed a 'right of avail' was at work here: the *pantjang-alas* was an access fee paid for use of what was considered a common pool resource of a community.

After the conquest of Aceh, colonial texts reveal the gradual foundation of a State forestry regime. In its thirst for revenue, over time the colonial government attempted to take over control of the *pantjang-alas*. At first the Dutch took over the fees levied on the export of forest products at the ports: these fees now became a colonial government excise. However, later the Dutch discovered that local heads continued to levy a *pantjang-alas* in addition to the export duty. In 1912, when Swart, then Governor of Aceh and dependencies, was looking for extra state revenues, he decided to take over this fee as well. Henceforth, according to colonial regulations, the self-governing territorial heads (*Zelfbestuurders van de Landschappen*) such as the raja of Sama Dua levied a 10% *pantjang-alas* fee in addition to the export tax on forest products "for the benefit of the *Landschap* coffers" (Adatrechtbundels, 1938a: 138; Kreemer, 1923: 23). However, it is unclear how successful the colonial authorities were in implementing these ordinances or collecting this tax. Van de Verde's 1931 entry in the *Adatrechtbundels* noted that the *Zelfbestuurders* gave their consent to the changes that now gave over the *pantjang-alas* to the territorial coffers. Van de Verde describes the colonial regulations that pertained to the forest: those wishing to take forest products for commercial reasons now needed to obtain permits for harvest and transporting the wood from the forest service (Adatrechtbundels, 1938a: 143). However, as far as implementation went, he noted that there were no changes in the ordinances implemented by the *Zelfbestuurders*. This implied that local

⁹⁰ Kreemer (1922) noted that in Aceh and dependencies, the local authorities primarily levied the *pantjang-alas* at the point of export from their territory. On the coast, *pantjang-alas* was levied in the port; in the interior the fee was imposed at the *pintu rimba* (lit. forest door), the point where the footpath connecting two territories left the inhabited plain and entered the forest. (Kreemer, 1922: 124)

⁹¹ Van de Velde assumed that, while in other areas this fee constituted a form of compensation for common property rights (the 'right of avail'), in Aceh this probably did not apply anymore. Van de Velde made this assumption because the *pantjang-alas* in Aceh was paid to the head rather than (as he argued) to the community as in West Sumatra. This error may be based on the difference between areas of Aceh (such as the Gayo area described by Bowen) where the primary unit of social organisation is the village rather than the clan. Under Gayo and Acehenese *adat*, the 'right of avail' is then vested in a village head who does not necessarily correspond to the clan head as it is in the Minangkabau area. (Bowen, 1988). Where the fundamental unit of community organisation was the village rather than the clan, it made sense that the fee for access was paid to a community leader rather than a clan leader.

heads may not have implemented the regulations or may have continued to collect the fee outside the colonial tax regime.

At the same time as the colonial regime attempted to ensure that the fees entered the coffers of the local heads, forestry ordinances also expanded to the concept of 'right of avail' to the point that it almost lost its original meaning. In keeping with the long-standing practice of allowing members of a community free access to forest resources for non-commercial use, the colonial forestry ordinances for Aceh exempted subjects of a territorial head in Aceh and dependencies from the *pantjang alas* if they were collecting forest products for their own use (or "self-use"). In a note published in the *Adatrechtbundels*, Van de Verde observed that the definition of "self-use" had been extended to include forest exploitation by the regional government for uses such as road and bridge building. This broadening of the concept of "self-use" under the colonial ordinances reached its "zenith" in 1927 when the rights to collect forest products for local use were opened to non-residents in all forest areas not subject to a legal concession. Consequently, while the colonial ordinances began by recognising this residual 'right of avail', in the course of broadening its tax base the colonial government gradually attempted to alienate access fees flowing from forests adjacent to communities from the local communities as well as ensure that the local government did not have to pay such fees to local communities. However, as we will see later, in practice local heads have continued to levy these fees (informally) up until the present day.

As various informants note, nowadays in a formal legal sense, the unopened forest behind Sama Dua belongs to the state: it is only subject to local property rights once it has been opened and planted with trees. However, in practice the residents of Sama Dua consider all the land up to Tanah Hitam to belong to the local community. As one informant noted, "up to *tanah hitam* this is land for all Sama Dua people to open, and if someone else wants it, Sama Dua will not give it up".⁹²

Indeed, the *de facto* rights enjoyed by local villagers are acknowledged by village practices. Interviews with villagers and officials alike leads to the conclusion that the local forestry regime allows for a local "right of avail" (*hak ulayat*): local villagers open *kebun* in the "unrestricted state forest" (*hutan negara bebas*) immediately behind Sama Dua without asking for permission from the State. Although villagers do not use the term, this "right of avail" also allows local villagers to cut wood for non-commercial uses. Indeed, villagers have always obtained timber from the forest to build a house, a hillside hut (*pondok*), a fishing boat or meet some other timber need. Village houses, shops and coffee houses (*warung*) are generally built from forest timber.

However, as an interview with a villager who had cut logs to build a coffee shop (*warung*) revealed villagers were aware that the forest is considered state property. This meant that villagers are forbidden from taking wood for commercial purposes, that is, without an official logging permit under the state licensing system.⁹³ This means that if a villager cuts large quantities of timber for sale, this constitutes "illegal logging" (*penebangan liar*), and they are liable to arrest.⁹⁴ However, the Sama Dua area is not directly adjacent to an active logging concession and does not directly face onto national park land; there are rarely forestry officials in the immediate vicinity. However, as a major provincial highway passes through many Sama Dua villagers, villagers transporting timber would need to be careful: large scale logging might draw the attention of local officials or the police. In this case, according to one informant, to avoid legal sanctions, loggers might be able to negotiate an unofficial payment to the official concerned. This meant that, given that logging was illegal and was not taking place on a large scale, unlike in the Menggamat area, village leaders usually avoided discussing illegal logging.

Given the sensitive nature of the issue, several *ketua seuneubok* were reluctant to speak about *seuneubok* rules relating to logging the forest behind the *seuneubok*. However, during 1996-7, villagers noted that, when opening new plots of land, *seuneubok* norms allow that, rather than leaving

⁹² Interview with Azwar, 5/1/99.

⁹³ This system is discussed in the Kluet case study.

⁹⁴ Interview with Mujais, November 1998.

valuable timber to rot, farmers can cut wood into planks and carry it back to the village for use or for sale. However, in addition to cutting wood on their own plots, those wishing to obtain wood can negotiate with farmers with significant trees on their land. Alternatively, they need to travel to the *seuneubok* frontier where all *seuneubok* members enjoy timber rights to what constitutes a common property resource. However, as the forest frontier has moved further out, the supply of wood has become increasingly restricted. Given the distances involved, it has become more difficult to carry more significant quantities of wood back to the village.

As an interview with a *ketua seuneubok* revealed, at least in some *seuneubok*, there are rules relating to timber within the *seuneubok*. In this *seuneubok* local villagers could find large trees in abandoned *kebun* which they would cut and drag down the stream back to the road. During the time of year when there was little agricultural work, occasionally someone with sufficient capital would fund a team of up to fifteen villagers to make an expedition into the *seuneubok*.⁹⁵ The organiser and the team members take a chainsaw up, fell large trees, cut them neatly into planks and carry them back down. He ensured that a tax was paid to the village. According to this informant, outsiders wishing to cut wood or villagers wishing to take timber for sale, need to inform the *ketua seuneubok*. If they are not a member of the *seuneubok*, they will need to negotiate with the *ketua seuneubok*: they will usually have to make a contribution to the village development funds or to the local mosque, or they may have to make a gift of wood.⁹⁶ In this *seuneubok* at one time all members signed a letter of agreement similar to that discussed earlier (see Table 2). One of the conditions in the letter of agreement related to taking timber from the *seuneubok*: members signed under a clause recognising what he called the “village development rights” (*hak bangunan kampung*). Accordingly, outsiders taking timber for any reason at all or *seuneubok* members extracting timber for sale were obliged to pay this fee (*uang pembangunan*) to the village.⁹⁷

He revealed that as *ketua seuneubok* he was prepared to defend local property rights. Ironically, on at least one occasion this had been done by mobilising the State law enforcement agencies to protect local *adat* claims over what was formally “state forest”. This occurred when someone took timber without first reporting to the *ketua seuneubok* and was in turn reported to the police. In another case, he recalled how during the 1980s police from the neighbouring district of Sawang (*Polsek Sawang*) went up into the *seuneubok* in disregard of the *seuneubok* rules governing access.

They said they were looking for deer, but they had a chainsaw and were looking for wood. When they came down it was clear that they had gone after wood. So we called the Head of the Sama Dua police station (*Kapolsek*). In the end the case was taken to district headquarters (*Kapolres*) in Tapaktuan who oversaw a consultation (*musyawarah*), wrote a letter, and the problem was solved. Anyone who seeks wood or rattan must report and pay a fee (*uang pembangunan*) which is used for the mosque. If they [*seuneubok* members] use the wood themselves then they don't have to report. Outside people have to [pay], whether for sale or for use. People from here pay this if they sell the wood on – also pay to the village. Payment depends on the amount [of wood]. 1 cubic metre is 10,000 to 15,000 Rp.⁹⁸

However, given the limited supply of large trees and the steepness of the terrain, compared with the logging that occurred on such a large scale in more accessible areas of Kluet and Bakengon (neighbouring areas of South Aceh), prior to the economic crisis, local people did not carry out “commercial” logging on a wide scale. In 1996-8, interviews with furniture manufacturers and others with significant commercial needs revealed that they obtained timber from Kluet, Bakengon and other areas where wide scale “illegal logging” was occurring.⁹⁹ Yet, when the author visited Sama Dua in January 1999, it was clear that logging was now occurring on a much wider scale.

⁹⁵ Interview, *ketua seuneubok*, 11/11/98.

⁹⁶ Outsiders wishing to hunt in the forest behind the *seuneubok* must also ask permission. And they will have to make a payment or make a gift of meat. Interview, *ketua seuneubok*.

⁹⁷ Interview, February 1998.

⁹⁸ Interview, 18/1/99.

⁹⁹ Interview with furniture manufacturer, 2/12/97.

Following the economic crisis, by January 1999 the collapse of *nilam* prices and the decimation of nutmeg gardens due to a pest infestation meant that many villagers needed to find any source of income available.¹⁰⁰ As one *ketua seuneubok* explained, if people did not earn income from logging the forest, they would have “to eat rocks” (*makan batu*). According to another informant, before very little wood was taken because it did not fetch a price. However, with many in the community in dire straights and with so few other job opportunities, now this wood had a price: villagers participated in the widespread logging of Sama Dua’s forests.¹⁰¹ Before, trade in wood occurred on a small scale within the *kampung*. For instance, if someone wanted to build a house they might buy wood from someone else in the *kampung*. However, now it was sold on to wood traders from outside the area who in turn sold it on to Medan. This meant that a large amount of the profit fell to outside businessmen, such as wood traders from Subbuslam.¹⁰²

The logging was taking place in diverse ways. For instance, in some cases someone with capital would supply costs for a logging team involving a chainsaw operator. The chainsaw operators would cut trees on the summits of hills, trees left on steep uncultivated slopes or at the forest frontier. After that a tree was felled, a chainsaw operator cut it into planks. Villagers in need of cash would leave the village before 7am, walking up and then carrying planks down on their shoulders into the village. After returning to the village around 11am, they would then turn and make a second trip into the hills.¹⁰³ Depending on bargaining between the parties, bearers would earn around 3,500 Rp per plank, which was enough for one *bambu* of rice. If they were able, they would carry three planks down in one trip, earning 10,500 Rp. However, this would not be enough to feed their families, and so they would make two trips in one day. “It is hard work,” an informant said, “and people in the *kampung* age quickly because there is no medicine.”¹⁰⁴

In other cases farmers wishing to open new plots supported the logging. In the past, when a farmer opened a new plot, often a lot of wood was just left to rot. But now they were obtaining up to four cubic metres of wood from one tree. Farmers would solicit the assistance of chainsaw operators and ask friends to help. Alternatively they gave loggers permission to take trees remaining on their land. Under such arrangements, they would sell the wood onto a trader and divide the profits, perhaps paying a group of villages to help carry the wood down to the village. In yet other cases loggers were just taking the wood. For instance, while it was unclear under what rights this was taking place, one informant reported that a logging team would choose the trees they would take, asserting their property claim by painting a red mark on tree trunks in the forest.¹⁰⁵

Following the fall of Suharto and at a time of increased tension in Aceh, it was clear that the state forest authorities were even less able to control logging of what was nominally state forest. According to one informant, if the forestry apparatus was notified, the loggers would be arrested and the chainsaws confiscated.

According to the apparatus, this is destroying the forest. I had a friend in Bakengon who was arrested, hit, and his chainsaw was taken away. But here now there is no one who is

¹⁰⁰ In the mid-1980s a caterpillar pest also known as ‘trunk driller’ (*pengerek batang*) and identified as *Batocera hector*, began to attack the nutmeg, boring into the trunks of trees and causing them slowly to die. To complicate things further, in the 1990s a second, smaller insect pest appeared. Known locally as *bubuh cabang*, this predator attacks from the end of the branches. The combination of the two pests proved extremely deadly: nutmeg trees can die within three days and a whole *kebun* that has taken years to reach maturity can be destroyed in a matter of months. In 1998 the situation continued to deteriorate: according to an agriculture official, in 1994 nutmeg covered an estimated 11,300 hectares, but by 1998 this was reduced to 8,906 hectares. As Indonesia slipped into a deep economic crisis, nutmeg fetched higher prices and farmers were now increasingly dependent on nutmeg. The attack of the pest could not have occurred at a worse time.

¹⁰¹ Interview, 20/1/99.

¹⁰² Interview, 20/1/99

¹⁰³ Interview, 20/1/99.

¹⁰⁴ Interview, 20/1/99.

¹⁰⁵ Interview, 20/1/99.

arrested. The apparatus are afraid because of *reformasi* - they are afraid of people. Under Suharto officials, people in responsibility took the profits for themselves and so trust in the army and the government apparatus is lost. For example, they even shoot children in Aceh. It will take a long time to go back to basics and rebuild.¹⁰⁶

However, there were some local controls on logging. While reporting to the *ketua seuneubok* and paying *uang pembangunan* was voluntary, a villager who logged the *seuneubok* forest without obtaining permission risked alienating the *ketua seuneubok*. As one villagers noted, the *ketua seuneubok* had to be told or otherwise he would not take responsibility for any disputes.¹⁰⁷ While there was some acceptance on the part of the community and the *ketua seuneubok* for poor villages logging the forest, village norms precluded taking more than one's fair share.

If they take one or two logs, this is OK, but it is not acceptable to continuously take [trees]. Some ask for permission first, and there is some acceptance if the person doesn't have anything to eat. It is just a temporary need. Once they have enough they can find another source of livelihood.¹⁰⁸

However, many loggers mainly worked helping farmers open new plots, and this was an acceptable activity.

Those who have a chainsaw cut the wood into planks for sale in the kampung for people opening land. Those who help are given a small salary. Those who are skilled in managing this can make something of a living this way.¹⁰⁹

Yet at times loggers also cut *seuneubok* forest surreptitiously.

There are also those who just go and take trees without permission, but [these are] only once off acts. Once or twice, taking a group up there and logging. But this can depend on the existence of buyers.¹¹⁰

These reports suggest that the disjunction between the *adat* regulations regarding access to local common pool resources and state regulations governing access to what is formally State forest began during the colonial period. Under the Indonesian Republic this disjunction has continued, and with the granting of concessions and the setting up of protected areas even widened. The Basic Forestry Law (Act No /1967) held that all forest land belonged to the state and that the management of state forest is the responsibility of the state. However, within the local social field, rules of long standing continue to operate with respect to surrounding forests. In particular, the practice of levying *uang pembangunan* is a continuation of long-standing *adat* rules regarding access and use of local common pool resource. Hence, the disjunction between the local rules and the State law has continued: *adat* heads continue to levy fees that are outside the formal State regime to this day.

Conclusion

Previous scholarship has shown how colonial scholarly and administrative practices constructed the notion of the *masyarakat adat* (Holleman, 1981; Warren, 1993). However, the concept was not a mere fiction constructed from the air. Just as colonial scholars adapted concepts and practices used in Indonesian communities to construct the terms used in the edifice of *adatrecht* literature, colonial administrators adapted and coopted indigenous institutions to create the 'jural communities' or 'adat law communities' through which social control was maintained. In the case of Sama Dua, prior to the colonial regime, the community may have been more diffuse: the colonial interventions seem to have helped to solidify local identities and fix local notions of territoriality on district maps. This

¹⁰⁶ Interview, 20/1/99.

¹⁰⁷ Interview, 23/1/99.

¹⁰⁸ Interview, 23/1/99.

¹⁰⁹ Interview, 23/1/99.

¹¹⁰ Interview, 23/1/99.

meant that while the colonial State may shaped indigenous arrangements for their own purposes, at least in Sama Dua, these concepts had referents in aspects of community life and identity.

While the strategy of the colonial State had been to coopt and modify indigenous institutional arrangements in the Outer Islands, in contrast the Nationalists embarked on a more ambitious nation building project that entailed establishing the primacy of the State system.¹¹¹ As Migdal has noted, this was in keeping with other post-colonial situation where States were wanting to penetrate throughout the society, “regulating the nitty-gritty of social relations, extracting revenues, appropriating resources that determine the nature of economic life, and controlling the most dearly held symbols” (Migdal, 1994: 14). Consequently, the unitary State of the Indonesian Republic attempted to institutionalise its own rules, it set up a unitary administrative system across the archipelago, abolishing the ‘native municipalities’ and the dualistic system of law and administration

In keeping with this strategy, in Sama Dua the State gradually dismantled the indigenous institutional structure that had defined Sama Dua as an *adat* law community. In appointing officials down to the sub-district level, the State removed the positions of the *raja/landschapshoofd* and the *Datuk/Kepala Mukim* as local *adat* heads responsible to the State. In effect the State cut off the head of what had been the Sama Dua ‘jural community’. However, as we have seen, even today *adat* regime(s) have continued to operate in the villages and *seuneuboks* of Sama Dua.

Clearly, State law is not the only game in town: Sama Dua residents continue to live in a situation of “legal pluralism”: in addition to the formal state legal order, there are other social fields that generate their own normative, self-regulatory orders (Griffiths, 1995). For instance, the sociolegal *adat* regime(s) – the *seuneubok* – exist as *adat* arrangement(s) with their own rules relating to access and use of resources within a defined territory subject to *hak ulayat* have persisted. This reveals that in the lived experience of the Sama Dua community we find the referents of concepts of “*adat* jural communities” found in colonial *adatrecht* and post-colonial NGO discourse. For instance, the notion of a “right of avail” is not merely a contingent concept: when it counts, the Sama Dua community is capable of collective action to defend its territory. On more than one occasion this was apparent when the common property of the Sama Dua – the area subject to Sama Dua’s *hak ulayat* – came under threat. Despite this, the legalistic concept of an “*adat* law community” does not exist in the lexicon of the people of Sama Dua. Unlike the people of Lore Lindu described by Tania Li (1998), the Sama Dua people have not deployed the internationally powerful “indigenous people” concept to defend their rights. As they are so far removed from the activist discourse, they do not argue that they constitute an *adat* law community. While people have a strong sense of belonging to the Sama Dua community, this is simply not the way people in Sama Dua explain their identity.

At the same time, the researcher searches in vain for the “original” or “authentic” *adat* Sama Dua has no *magna carta*, foundation document or constitution. *Adat* institutional arrangements are dynamic and in subject to negotiation. For as the Dutch legal anthropologists, Slaats and Portier (1992) conclude, unwritten traditional law is characteristically not organised in rules or even rule like formulations: *adat* is more like a set of principles guiding behaviour. Consequently, not only are attempts to reduce the *seuneubok* or other *adat* systems to a set of law like formulations rather ineffectual, they risk reifying something which by its nature is constantly subject to mediation, compromise and change.

Over recent decades the *seuneubok* has come to depend upon external sources of authority and legitimacy - village *adat* regime(s) and the wider State legal apparatus. As the *seuneubok* regime came under threat, some *seuneubok* leaders have written down some aspects of *adat* rules pertaining to the *seuneubok*: this has formed part of a strategy to mobilise formal State regime to support the

¹¹¹ For instance, the Judiciary Act of 1970 laid down that ‘all administration of justice in the Republic shall be done by the State’ (Sonus, 1981b: VXIV). In a similar vein, the Basic Forestry Law (Act No. 5/1967) stated that “all forests within the territory of the Republic of Indonesia, including the natural resources they contain, are taken charge of by the state”.

existence of the *seuneubok*. This indicates that in some ways the *seuneubok* arrangements have increasingly depended upon or nested within the wider State regime. At the same time, other *adat* practices – such as the levying of fees for access to common property within *seuneubok* territory – contradict State law. This suggests that the *seuneubok* has a complex relationship with the State regime. The *seuneubok* exists as a "semi-autonomous social field" (Moore, 1973): it is perched between independence and dependence – partly nested within the wider State regime, but in some respects contending with the formal State forestry regime.

The Sama Dua case also demonstrates that, contrary to many accounts that portray local communities as mere victims of development projects imposed from the centre, at times local communities have defended property rights in their own territory. Other examples of conflicts across South Aceh indicate that it is not unusual for a community to defend territories held to be subject to local 'right of avail.'¹¹² Yet, perhaps because of exceptional circumstances, the Sama Dua community was unusually successful in defending its turf. First, the personal qualities of the district head at the time when the logging concession and transmigration project arose had a key role in this outcome. Sayed Mudhahar refused to accept the payments offered by logging interests attempting to buy favour from his administration.¹¹³ Moreover, Sayed Mudhahar showed unusual courage in standing up to the Ministry of Forestry. As the national daily *Kompas* reported, "district heads usually always agree with projects from the centre", yet "for the sake of the environment" Sayed threatened to resign if the Ministry of Forestry agreed to the new logging concessions. Sayed's behaviour was extraordinary, and he became something of a hero of the environmental movement (*Kompas*, 26/2/91). Second, compared to other districts in South Aceh, besides the area known as Alur Rimbia, the Sama Dua territory is mountainous and relatively inaccessible. This has meant that outside interests have tended to concentrate their efforts elsewhere.

This case also demonstrates how *adat* regime(s) in Sama Dua operate in regard to forest and agroforest areas. As villagers are primarily agriculturalists, this *adat* regime is primarily concerned with agroforestry: local villagers pursue their interests within a social field that principally serves their needs as farmers. For instance, in regard to the unopened forest, the *seuneubok* provides for the transformative use of the forest – clearing and conversion of native forest into agroforest. As an institutional arrangement concerned with farming, the *seuneubok* is concerned with protecting the property rights of farmers in their hillside gardens. However, the *adat* regime allows for collection of forest products and some timber extraction by local residents. In essence then, these *adat* arrangements govern access and use of land and forest resources within what is considered the territory of the people of Sama Dua. In other words, the *adat* regime(s) relating to the Sama Dua territory is fundamentally concerned with defining, protecting, and enforcing the property rights in the Sama Dua territory.

At the national level, the focus has shifted towards addressing the problems bequeathed by the New Order regime – by a policy framework and administrative practice that disregarded the reality of legal pluralism and the *adat* regimes of local communities. Consequently policy makers, researchers, NGO activists and others have increasingly discussed the need to redress the injustices of the previous regime and find a way to recognise *adat* regimes within the State system. Clearly, this is a difficult task. Yet, as this case study attests, it should no longer be possible to disregard or dismiss *adat* regimes.

As this case study indicates, in Sama Dua at least, *adat* arrangements have not only survived, during the economic crisis they have emerged with new meaning. As villagers turn back to agroforestry, they necessarily turn back to the *adat* arrangements (such as the *seuneubok*) that sustain it. However,

¹¹² For instance, in April 1998, during a dispute in Kualabatee, South Aceh, under the leadership of a village headmen, the community demonstrated against a concession (HGU) for oil palm production issued over 7,000 hectares of community land. On April 13, the dispute came to a head when the community "ran amuck", destroying plantation buildings and eventually wrecking the local police station.

"Kerusuhan. Kemarahan di Aceh Selatan, *Forum Keadilan*, p90. April 20, 1998.

¹¹³ Interview with Sayed Mudhahar, Medan, 5/12/97.

analysts need to avoid simplifying, reifying or romantizing *adat*. As Campbell has noted, there is a need for a “nuanced understanding of *adat* as a dynamic and evolving process of community decision making interacting and interlocking with external legal, political, social and religious influences”. *Adat* is not necessarily “a glorious living tradition of harmony with nature that is fully operative in forest dependent communities” (Campbell, 1999: 4). In Sama Dua farmers convert native forest into agroforest, an agroecological system that in some respects mimics the species richness and structure of natural forest and is conducive to the retention of high levels of biodiversity (WWF, n.d.). However, property rights rather than ecological sustainability is the central preoccupation of the *seuneubok* arrangements. Rather than merely assuming that *adat* can serve as a basis for the sustainable management of resources, analysis would be better served if *adat* was seen more as a foundation for understanding, dialogue and possible partnership.

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