

# LAND DISPUTES AND THE CHURCH: SOBERING THOUGHTS FROM FLORES

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## **Introduction**

Land disputes are dramatically on the increase in Flores and the Catholic Church is closely involved. Land disputes are a vital issue and not only because land with its natural resources is the foundation of the local economy. Just as importantly, land, village and house map out the religious, cosmological and cultural values of the indigenous people of Flores (Erb 1999, Lawang 1999, Prior 1988, Tule 2004). Land disputes also focus our attention upon the globalizing market and the local economies of Flores as they are appropriated by wider commercial concerns. In addition, land disputes reflect a resurgence of local culture and the demand for both dignity and identity by the Florenese peoples. They also might indicate the breakup of the indigenous communities of Flores as we have known them.

I examine two cases. In the first I look at a clash between the government and people in Western Flores regarding the use of land claimed by both sides. In the second I turn to the church as landowner and look at a move by indigenous people in central Flores to reclaim land which has been used by the church for over 70 years.

Flores is a long and narrow island, 360 km long and 12 to 70 km wide. Mainly mountainous with large forest reserves, its economy is largely small-scale agricultural with some plantations, especially of coffee. Part of the Province of Nusa Tenggara Timur (NTT), until recently Flores was divided into five Districts (*Kabupaten* or Regencies).<sup>1</sup> Manggarai in the west has Ruteng as its district capital while Sikka in central Flores has Maumere. For centuries the coastal regions of Manggarai were

claimed by the Sultan of Bima from the neighbouring isle of Sumbawa, ties formally broken only in the 1920s. There have been smaller settlements of Macassarese and Buginese Muslims in Geliting to the east of Maumere since at least the nineteenth century (Steenbrink 2007, 85-86). After two centuries of rivalry in the area, the Portuguese sold Flores to the Dutch in 1859. The state's role in the subsequent colonization was fairly minimal; it was the Catholic Church which brought the modern world to Flores through schools, health centres and social outreach. Only in the mid-1970s did the government budget overtake that of the church in social and economic development. The population is predominantly Catholic, with various fusions of local traditional beliefs.

### **Case One: Outside Interests versus Indigenous Communities**

In this clash over land use, ethical principles and ecological rights can be found on each side. The case highlights conflicts involving local people and NGOs versus government, ecology versus economy, local versus global, positive law versus *adat*, and the institutional church versus its own members.

Before its division in 2003, Manggarai was the largest regency in the Province of Nusa Tenggara Timur, a little over 7000 square kilometers with a population of about 600,000, of whom nearly 90% live from the soil. 15% of this large upland area of western Flores has inclines above 30 degrees. There is wet-land rice cultivation, shifting dry-land cultivation and land for grazing water buffaloes, goats and cattle. The Forestry Department has classified 40% of Manggarai as covered by forest under seven categories: Protected Forest, Forest of Natural Importance, National Park, Tourist Natural Park, Production Forest, Limited Production Forest and Conservation Production Forest. 30% is Protected Forest (Tim Advokasi 2003,1).

In 1937, in consultation with the local population the Dutch authorities declared some 3,000 hectares of Manggarai forest 'closed'.<sup>2</sup> In 1972 a team was established by the Provincial Government to redraw forest boundaries. In October 1984 the boundaries of Kuwus forest were extended,<sup>3</sup> thereby encroaching upon cultivated land. Documents state that the redrawing was made with the agreement of the local population, but the only fingerprints on the document are those of the administrative village head (*kepala desa*). According to the government, the *kepala desa* signed on behalf of the villagers, but according to the indigenous community a village headman (*kepala desa*) has no right to sign on their behalf, only the traditional village head (*tu'a golo*)<sup>4</sup> and ritual land guardian (*tu'a teno*) can do so after consultation with community members. Nevertheless, on 21<sup>st</sup> January 1986 these extended boundaries were confirmed by the Minister of Forestry in Jakarta. The villagers claim that the new Protection Forest boundaries do not conform to those agreed to by the Dutch in 1937, and were made without due consultation (Erb 2008, 225-227). As a result of the redrawing, coffee trees planted in the extended Kuwus forest became illegal. Forestry Law No. 41 (1999) became the legal basis for the clearing of the villagers' coffee trees to make way for hard wood reforestation.

For many years indigenous communities in Manggarai have been planting coffee in protected forestry areas, claiming that the land belongs to them. Also, they allege that they received explicit permission in 1977 from the former Bupati of Manggarai who gave them Forestry Use Rights (*Hak Pakai Kawasan Hutan*, HPKH) on the condition that 60% of produce was handed over to the District administration. The villagers accept that they have not handed over the government's portion for some years.<sup>5</sup>

The alleged 'deal' led to an ambiguous situation whereby the villagers continued to claim the land as theirs by traditional right, while the HPKH could be evidence that their "ancestral lands" in fact belong to the State. Parts of the area now classified as protection forest, have been populated and farmed for generations. Cash crops in the forest include cloves, coffee, vanilla and coconut. Trees more than a hundred years old grow beside banana trees and close to crops such as maize and ground nuts. The villagers also gathered wood, rattan and medicinal plants. However, the ancestors had declared other areas as sacred and therefore protected (Mirsal 2004, 43-45) and which have been maintained uncultivated to date.

The ecology of Flores is fragile, yet rain erosion is averted by undergrowth rather than larger trees; that is why soil on Florenese hillsides over 40% gradient should never be cultivated (*Pos Kupang* [hereafter *PK*] 6/11/03). Crucially, given the geology, geography and climate of Flores, any form of mono-culture, whether the villagers' coffee or the Bupati's teak, is unsuitable for long term conservation (*PK* 11/11/03).

On 14<sup>th</sup> October 2002, Manggarai Bupati Antony Dagur Bagul<sup>6</sup> signed an Instruction (Dk 522.11/1134/10/2002) to implement a reforestation program by the District Forestry Department. He instructed that registered forest area be cleared of all trees planted by the local villagers in designated areas and that any villager who opposed the program should be arrested. The first phase of clearance was executed in October 2002 and subsequent phases completed in early December 2003. The Department planned to replace the thousands of coffee trees with mahogany, two types of teak, and sandalwood. While the coffee was in the hands of the local villagers, the hardwoods would belong to outside businesses working with government contracts. Six such permits had been signed by the District government in

'protected areas' (Walhi 2003, 39). Thus the politics of conservation were supporting capital investment and not the local economy of the farmers or people's customary rights. Local villagers suspect that coffee trees were being cleared not only in protected areas but also in sites which have been designated as '*wisata alam*' (nature tourist areas) because they contained mineral deposits including magnesium and gold.

The felling of villagers' coffee trees began on the day of the signing of the Bupati's Instruction, 7<sup>th</sup> October 2002.<sup>7</sup> The Bupati himself was present as were other members of the Local Leaders Council (Muspida, *Musyawah Pimpinan Daerah*), comprising senior local government and security officials. He declared, "First, the confiscation of unauthorized chain saws; second, the regulation of wood products such as planks and posts and unauthorized non-wood produce such as candle-wood nuts, rattan, sandal-wood, ebony, cinnamon bark and honey; third, the protection of the forest from the inhabitants who steal wood, unlawfully destroy trees and move the borders".<sup>8</sup>

A joint team, consisting of the District Police Chief, Military Chief, Forestry Police<sup>9</sup>, sub-district head, village heads, and officials of Manggarai District, oversaw the implementation of the instruction. The first phase was carried out by a 356 person team (80 soldiers, 50 police, three personnel from the District Public Prosecutor's Office, 11 from the Agency for the Conservation of Natural Resources (BKSDA) and 212 from the District Office (FP 22/10/02). Also present were *preman* (hired youth gangs) sporting red headbands to show they were ready to fight, and hundreds of students from a state senior high school as a lesson in forestry conservation. Rumors abound about some villages whose fields would be exempted thus raising tension with villages whose trees had already been cut down (*PK 6/11/03*).

The Head of the District Forestry Department and coordinator of the joint team subsequently explained the three objectives of the total operation: (a) to protect the forest, land and water by restoring the rights of the State over the forest which had been irresponsibly encroached upon by the local population; (b) to ‘sterilize’ (*men-steril-kan*) the Protection Forest from the villagers’ plants; (c) to restore the ecology of the forest (cited in Walhi 2003, 25). He had no problems with the threatened court case brought by Colol village as he was convinced that he was working within the law, and even that “God’s law” was on his side (*PK 8/12/03*).

During the first phase in October 2002 some 4,000 hectares of coffee were cut down (*PK 21/10/03*) across several sub-districts. By the end of the program in December 2003 nearly 87,000 hectares had been targeted (Mirsal 2004, 47). Several phases of the clearing process have been reported by NGOs.<sup>10</sup> One well-reported case, involved about 1100 hectares of the RTK 118 forest area in several sub-districts, when the Colol villagers lost their main source of livelihood. It was claimed that Colol’s annual coffee harvest had enabled its expansion from about 70 inhabitants in the 1960s to 2000 at the time of the dispute, but the District lost an estimated 4000 tons or 52% of Manggarai’s recorded annual harvest.<sup>11</sup> One hundred and sixty families had their coffee trees cut down, while bananas, avocados, taro, tobacco, beans and maize were taken by members of the joint team clearing the forest, 51 huts were burnt, chicken runs were destroyed and the chickens taken as were fish from the villagers’ ponds. While the government was acting “to restore a protected forest area” the villagers claimed the land as theirs, “the ancestral lands of Colol”, an “inheritance from many generations back.” (Embu 2004, 114)

The presence of the military meant that, at first, local villagers “could do little but weep” (*PK 20/10/03*). A 300 member joint team moved into the Colol area on 6<sup>th</sup>

October 2003. The clearing operation took place over a succession of two to three day actions from the 14<sup>th</sup> to the 23<sup>rd</sup> in each of several villages amidst protests and the beating up of one of the team. On 22<sup>nd</sup> October around 1000 people from three villages massed in the forest to thwart further destruction of their coffee trees in the Colol area; their sheer numbers prevented the forestry police from felling more trees.

Public statements, protests, demonstrations and threatened court action were legion. The Manggarai University Students Alliance Forum (*Aliansi Forum Mahasiswa Manggarai*, Siomama) and the Socially Concerned University Students Forum (*Forum Mahasiswa Peduli Sosial*, FMPS) in the District capital Ruteng held a 'long march' demanding that Bupati Bagul be 'tried in a full session of the District Assembly' (PK 20/10 and 30/10, 7/11 and 14/11/03). Their demand ignored, they briefly 'took over' the assembly building a week later. The NTT Islands Indigenous Adat Community Movement's Network (*Jaringan Gerakan Masyarakat Adat Kepulauan NTT, JAGAD-NTT*)<sup>12</sup> and the Council of the Alliance of Indigenous Peoples of the Archipelago (*Dewan Aliansi Masyarakat Adat Nusantara*, AMAN) NTT Region made studies and statements. A lawyer and member of the Provincial Assembly in Kupang, Servas Lawang,<sup>13</sup> personally inspected the situation in Colol (PK 4/11/03) and helped prepare a court case on their behalf which was lodged in Kupang District Court on 8<sup>th</sup> December 2003 (PK 9/12/03). The judge concluded that the farmers did not attack the police station but found them guilty of causing damage.

On the ground in the forest, however, Colol villagers had to struggle largely on their own, with moral support from the parish priest, while up against not only the whole apparatus of the District government but also the hierarchy of their Diocese (PK 20/11/03).<sup>14</sup> Despite protests the clearing of all the projected areas was completed by the first week of December 2003. As the coffee trees were deemed

'illegal' (because located in restricted areas), no compensation was given to the villagers who had lost their main means of livelihood. The District Government made no effort to suggest, let alone provide, any alternative sources of income apart beyond proposing that the affected communities migrate. Some 1600 families from one area (the Meler-Kuwus) alone have relocated nearby.<sup>15</sup>

The story did not stop with the last of the coffee trees felled. On 4<sup>th</sup> March 2004 a group of officials, some armed, went to two locations to disperse villagers who were collecting wood and cassava on disputed land; the villagers drove them away as the case was still *sub judice*. A few days later the District Assembly (DPRD) discussed the issue and recommended that the Bupati himself inspect the site. The next day he did so, in a party of nine vehicles, supposedly unannounced. However, word had already reached the area and no-one was to be found. The party then went on to Colol, found two women digging up tubers on what they claimed was their land, fired warning shots and took them into custody. Subsequently a total of seven farmers, four of them women (two mothers, two teenagers), were taken to the police station in the District capital, Ruteng.

The next day villagers gathered in their clan house and decided to go to Ruteng to demand that the seven be freed. Early that morning 120 people in three trucks left, arriving in Ruteng at 9 am. The police had been warned that 400 were coming. As the villagers were climbing off the trucks, the police fired warning shots, and someone threw some rocks from behind the police station onto its roof. Later the villagers were convinced it was the police themselves who had thrown the stones as the villagers were too afraid even to go into the police compound. The police started firing at the villagers, killing six and wounding 28 others. The regional press reported only the police version which was supported by both the District government and

Ruteng Diocese, namely that the police were defending themselves from a savage attack by angry demonstrators (Embu 2004, 248-300).

The police took some internal disciplinary measures against a few individual police but there was no public court case. The Ruteng Police Chief was speedily transferred away to the provincial capital, but later promoted. The one police officer later brought to trial in Kupang was freed without condition (“*bebas murni*”). The Bupati, despite a heavy dose of ‘money politics’ lost the election later that year and has since disappeared from the political scene. A month after ‘Bloody Wednesday’ (*Rabu Berdarah*) a team from the National Commission for Human Rights made a five-day visit to investigate the incident. Fifteen months later another team went to Kupang for a three day visit to establish a Regional Commission of East Nusa Tenggara. The Commission’s subsequent 700-page report in 2005 concluded that human rights had been seriously violated but also that damage had been committed by the demonstrators, although the contention that they “attacked the police” had not been proven. However, the conclusion that there had been a serious violation of human rights was subsequently watered down in the final plenary meeting of the Commission in Jakarta.<sup>16</sup> In 2005 the Head of the District Forestry Department was replaced. The new Bupati, Christian Rotok, has allowed the farmers to make use of the land again through the *Pengelolaan Hutan Berbasis Kerakyatan* (Community Based Forest Management, PHBK) program. However, ownership of the land is still in dispute.<sup>17</sup>

### **Case Two: Church Land in Dispute**

The people of Utan Wair village, in the Tana ‘Ai region on the northern coast of Sikka District in central Flores, are trying to reclaim about 800 hectares of land

which has been used by the church as a coconut plantation since 1926<sup>18</sup>. They also had a dispute with the Forestry Department over two unilateral extensions of a protected forestry area into their claimed *adat* land in 1967 and 1984, which was settled in 2001 when the NTT Governor agreed that the forest boundary would revert to that established by the Dutch colonial authority in consultation with the local people in 1932. The conflict with the Ende Diocese continues, although elders and indigenous communities seriously differ among themselves **over their claims on the land and over the best strategies and tactics to use to get the land back.**

The case involves the Soge cultural domain at the western edge of Tana 'Ai where the two villages of Utan Wair and Likong Gete are demanding the return of land which had been granted for long-term commercial enterprise leases (HGU) by the Dutch colonial government and which is leased by the Archdiocese of Ende, and since 2005 by the new Diocese of Maumere.

The Soge people still live partly by shifting cultivation, hunting (wild boar, monkey, deer and porcupine pig (*babi landak*) and by handicraft production, in particular *ikat* cloth. The forest is used for building material, rattan and firewood. However, *adat* taboos protect both the forest and the water supply. Many villagers cultivate the land beneath the Diocesan plantation's coconut trees, paying a small rent for each ten square meters (the distance between the trees) plus 12 days of labor a year in the plantation).

The Tana 'Ai clans have their oral historians whose narratives rely on the inspiration of the ancestors rather than documentary proof. The claim of the Soge ceremonial domain over part of the protected forest and in particular the claim of Utan Wair village over the diocesan plantation is based on oral history as well as ancestral graves, ceremonial altars, ritual land markers<sup>19</sup>, and signs of the former village of Liri

Watu, all found within the plantation area. Also the presence of groves of trees on the north coast, such as coconut, tamarind, lontar and mangoes, are cited in support of their claim.

The Soge people claim to have been the first of the 22 clans of Tana 'Ai to have arrived in Flores, originating from the Moluccas (Silamurti 2001). They have a variety of stone altars where they celebrated annual cleansing rituals, fertility rites and good harvests, and once celebrated war victories. Since 1969 the government and the church have forbidden these *adat* rituals but they have continued somewhat surreptitiously, with bribing of the government authorities.<sup>20</sup> With the post-1998 political reformation there has been a cultural renaissance and a receding of the fear of being stamped '*kafir*' (unbeliever).<sup>21</sup>

According to the local indigenous community, Raja Nai Roa<sup>22</sup> forcefully pushed the Soge people into the interior stating that the land of Nangahale was unhealthy (malaria), frequently flooded and little more than a battleground for the local villages. As they were unwilling to migrate to the hills, Nai Roa, with Dutch connivance, burnt down their village. Having thereby cleared the land, in 1912 he leased some 1450 hectares to a Dutch private company for a coconut and cotton plantation. The cotton failed and by 1915/16 the plantation was given over entirely to coconuts, and has remained so ever since.

In 1926 the company was sold to the Apostolic Vicariate of the Lesser Sunda Islands.<sup>23</sup> Since then the church has gradually subdivided its administration and what was the Vicariate now consists of eight diocese: four on Flores, two in West Timor and one each on Sumba and Bali/Lombok/Sumbawa. The local legal successor to the Vicariate, the Archdiocese of Ende, formed the Diocesan Plantation Authority (PT Diag) to manage the plantation. On 5<sup>th</sup> January 1989 PT Diag obtained the right to use

655 hectares under Commercial Use Rights (HGU) for 25 years from the National Land Board (BPN), that is, until 13<sup>th</sup> December 2013. In 2005 the area covered by the District became an independent diocese and ownership of PT Diag passed to this new Diocese of Maumere although, in a continuation of a previous arrangement some 270 hectares is being used as a farm by St Paul's Seminary, Ledalero, which is owned not by the Diocese but by the Divine Word Missionaries (SVD).

In 1971 the village of Wetak Lahon was burnt down when the diocesan plantation cleared away some nearby scrub. The plantation authorities claimed it was an accident. The villagers, who have continued to believe it was deliberate, established a new village, Utan Wair, in a low-lying area which is flooded in most years during the monsoons, and which experienced serious flooding in 1998.

In December 1991 a major earthquake off the north coast of Flores caused a tsunami which hit the coast, and swept over the small island of Babi. The diocesan authorities donated five hectares of the plantation to relocate the survivors. Some of these Bajo (sea gypsy) people subsequently sold their houses and plots to outsiders. Another hectare was rented by the Diocese to a private pearl farming company, while 15 hectares were rented to the Sikka District's Plantation Authority (*Dinas Perkebunan*) for a hybrid coconut laboratory. Meanwhile, full-time workers on the plantation, all of whom are outsiders (many from Bajawa), have been granted plots to build permanent housing and cultivate gardens for their families.

In the 1990s Josef Lewor Goban<sup>24</sup> of Likong Gete village took the initiative to establish a number of *Lembaga Persekutuan Masyarakat Adat* (LPMA) or customary law community organizations, in the central Flores cultural domain of Tana 'Ai. They were intended to represent the *adat* communities to other bodies including the government bureaucracy. There were four of these LPMA based in Utan

Wair, Likong Wete (Josef Goban's village), Runut and Blidit villages, which collaborated with similar adat community organizations across the district border in East Flores. The Utan Wair LPMA spearheaded the attempts to have the diocesan plantation land returned. Such indigenous community organizations were first seen by interested outsiders as part of a more general cultural renaissance. John Bala of the Nusra Legal Aid Society and other NGO activists thought that a new generation of indigenous peoples was rediscovering its cultural identity as expressed in a certain set of values embedded within a traditional economic and political system. The establishment of the LPMA coincided with the revival of adat ritual sites and cycles which had been in abeyance by the people of Utan Wair..

In 1996 representatives of the villages of Utan Wair, Likong Gete and Runut requested the District Head of Sikka to return the Nangahale land and its resources to the Soge people. On 2<sup>nd</sup> February 1997 they wrote to the Vice-President Try Sutrisno. Hopes rose two years later when the Director General of of Public Administration and Provincial Autonomy, on 26<sup>th</sup> May 1999, requested the NTT Governor to settle the dispute. No action was taken.

On 22<sup>nd</sup> March 2000 Josef Lewor Goban, with two other representatives of LPMAs met with the Sikka District Assembly (DPRD) in the capital Maumere. A few weeks later three LPMA representatives met the Speaker of the Provincial assembly who was visiting the District from which he hails. In June the District government invited the Minister for Oceans and Fisheries (*Menteri Kelautan dan Perikanan*) and the Minister for Ecology, Soni Keraf, a Florenese from Jakarta. They listened to the demands of a delegation from Tana 'Ai but no decisions were made as the ministers insisted on more concrete data. Also in June, a large meeting was held in the

conference room of the District Head between representatives of the provincial and district forestry departments, the district public prosecutor, the socio-political affairs office, the military chief and the chief of police, as well as expert staff and representatives of the Tana 'Ai *adat* community. Much information was shared, but again no concrete resolution resulted.

Seeing no tangible results from delegations, written appeals and discussions over the years, on 26<sup>th</sup> August 2000 some 40 families from Utan Wair cleared land within the diocesan plantation in order to establish a new village to replace flood-prone Utan Wair and to return to the land of their ancestors after nearly a century. The diocesan plantation authorities reported the illegal occupation to the police. On 13<sup>th</sup> September three residents of Likong Gete, the wife, son and sister of Josef Lewor Goban who was in Jakarta at the time, were arrested for logging in a protected forest area and taking fruit belonging to the diocese. In solidarity, around 300 villagers from Utan Wair, Likong Gete and Blidit went to the police station in Maumere shouting "To arrest one is to arrest all". Interrogations began of four to six people a day. Two days later the detainees were released with the help of the Nusa Tenggara Legal Aid Society.

On 28<sup>th</sup> September the Utan Wair LPMA was called to Maumere by the Sikka District Assembly for a discussion about the illegal establishment of a settlement on the Nangahale land. Also present were the Head of the Sikka branch of the National Plantation Authority, the Director of the Diocesan Plantation Authority (PT Diag),<sup>25</sup>, and the District's Chief of Police. On 11<sup>th</sup> November a meeting was held between the Utan Wait LPMA and the Forestry Minister, with the Sikka District Government represented by the NTT Governor. A team was formed with members from the LPMA

and the District Government to solve the problem. It was agreed that the activities of the *adat* organization would not be interfered with.

However, the 40 families were detained, interrogated by the police, and accused of taking over land used legally by the Archdiocese. On 12<sup>th</sup> December the Tana 'Ai LPMAs demonstrated at the Maumere police station, demanding that the ten remaining detainees be released. Some of the demonstrators camped outside the police station for a week demanding to be arrested as well as they also worked the Protection Forest area. They were ignored and had to return home empty handed.

In 2001, with the assistance of the Participatory Mapping Work Network (JKPP, *Jaringan Kerja Pemetaan Partisipatif*) and the Maumere-based Nusra Legal Aid Society, the people of Utan Wair formed a joint team and mapped out the whole of the land of the Soge people, including that within the boundaries of the disputed plantation. A community mapping strategy was used in which initial information came from 'local intellectuals' and the area was mapped by the villagers themselves with many more observing.<sup>26</sup> However, the process came to a halt and subsequently the map was neither legalized nor published as clan elders from each of the villages protested that it was not right to publish "*adat secrets*" concerning land and its natural resources.<sup>27</sup>

On 22<sup>nd</sup> November 2003 a week-long consultation between the Tana 'Ai communities was held with representatives from now seven LPMAs, including a women's organization. Clearly the *adat* community network had become more extensive. Also a number of NGOs were invited as well as the Director of the Candraditya Research Centre<sup>28</sup> and several 'prominent persons' such as elders, village heads and a local parish priest. The government advised the community to be patient and wait for the HGU land to return to the community in 2013. Bupati Paulus Moa

established two teams, one to investigate the altered forest borders from those of 1932 to those of 1984,<sup>29</sup> the second team to investigate further the demand that Nangahale land be returned to the community. The second team met with Archbishop Abdon Longinus da Cunha. The bishop, who had himself studied law at the University of Indonesia in Jakarta, defended the dioceses' legal right over the land and stated: "If you are not satisfied, then go to court!" As the bishop is thought "to hold the keys to heaven", the team felt powerless and disbanded. Another key factor that has prevented, so far, the Soge clan from increasing effective pressure on the diocese to return their land is that they have contradictory stories supporting their individual claims. There is no clear account that can convince all interested indigenous parties.

While elders are reclaiming land taken away a hundred years previously and buttress their claim by reviving *adat* rituals long since prohibited or simply neglected, their action is viewed by the "little people" in this community as little more than a manipulation of *adat* for a land grab. This is Flores' local version of 'ethnic elite politics' (van Klinken 2002: 67-105). Land was traditionally held by the whole clan, not as the private property of the elders. These days, when opportune, the LPMA claim *hak ulayat* "holdership rights", but when it's to their personal advantage, elders claim family ownership.

LPMA community organizations were welcomed by the 1999 Congress of AMAN (Alliance of Indigenous Peoples of the Archipelago) as an emerging social and political force that would have to be reckoned with in solving conflicts and reclaiming *adat* rights for their people, as bodies that would "re-vitalise, re-activate and re-actualise" their communities, a necessary balance to outside commercial and political interests. This hope has now faded.<sup>30</sup> Indigenous activists advancing *adat* revival movements that emerged just a dozen years ago (who were themselves

returnees from work in town or from Malaysia) have easily morphed into instruments that control the local community to their own benefit. Also many traditional leaders have turned out to be little more than opportunists exploiting *adat* to advance their own interests. Many LPMAs in Maumere are interested only in consolidating the claims of the land-holders/owners themselves and not in land redistribution. Perhaps the three remaining LPMA that continue to work for their members are those of Utan Wair, Hikong and Pigan Bekor; each of these is accompanied by a committed NGO. NGOs such as LBHNT no longer find LPMAs a vehicle for furthering human rights, democracy and ecological concerns. NGO/LPMA collaboration would be closer if the *adat* communities were open to cultivate their lands more intensively yet in ecologically-friendly ways and not simply claim their traditional rights. Nevertheless, their struggle has succeeded in winning acknowledgement for their relocated village on HGU land. Return of HGU land is still an issue which, if not solved beforehand, will come to a climax in 2013 when the HGU contract ends.

### **Reflections on land disputes in Flores**

#### (1) Adat law and Positive Law

There is hardly a traditional elder or government official who applies customary or positive law for the common good, but rather for his own individual interests. History has bequeathed a web of confusion that makes land disputes today apparently unsolvable by traditional leaders, the government, NGOs or the church.

National law as interpreted by government views the problem as one of individual rights, while traditionally the local *adat* community recognized communal rights. Land was re-distributed regularly by the elders according to each family's

need. Today neither the government nor the *adat* community is adept at interpreting national or traditional law critically and implementing the law according to the purpose of the lawmakers within changing contexts.

Under *adat* law, virtually all land in Flores, including mountainous forestry regions, belongs to indigenous communities. Although the potential claim of indigenous communities over particular forests based on customary law is acknowledged by the 1960 Agrarian Law, the Law's conditions can readily be used to override such claims. Customary laws are acceptable only "in so far as they are still seen to be present", "not contrary to the national interests of the State", and "not contrary to Indonesian socialism"(Hooker 1978,111-126).

### *(2) A Monetized Local Economy*

An increasingly monetized local economy has been driving villagers even further into forestry areas over the last few decades. As land has become a commodity, land disputes have intensified with increasing intervention by outsiders who have commercial interests in acquiring the land. As monetary needs increase by the year the unity of the village is strained by the competing needs of individual families who feel that they need to sell land, intensifying struggles within and between villages over land claims. Insistence on the traditional inalienability of *adat* land is seen to benefit only the elders who increasingly claim ownership rather than guardianship of what has now become a commodity.

### *(3) Weakness of the court system*

Recourse to the courts inevitably complicates and prolongs disputes. The legal bureaucracy – defense lawyers, prosecutors and judges – all encourage use of the

courts. And so each dispute –never concluded to the satisfaction of the losing party – sows the seeds of retaliation. Conflicts ‘concluded’ in the District Court often continue unabated in the village.

Although the Colol case was brought to the Manggarai District Court in Ruteng, the people were powerless as the decision to clear the coffee trees had been signed by the entire District leadership (*Muspida*), including the judiciary, and so there was no independent authority to whom to turn. In the case of the disputed diocesan plantation, if the claimants should decide to go the Sikka District Court in Maumere, they will have to take on the diocese, their own religious authorities. The Utan Wair villagers hesitate to do this, and moreover this option is not open as long as they are internally divided. As the management of the HGU land under dispute will return to the District Government in 2013 there is little pressure on the government to intervene until then.<sup>31</sup>

#### *The role of non-government organizations*

In the two disputes discussed above, NGOs were vital in collecting and distributing detailed data to both the regional media and government and also giving voice to viewpoints other than those of the government and the institutional church. They brought each of the cases to district courts and, in the case of Colol, to the notice of the National Commission for Human Rights. They have also held leadership and organization workshops for the *adat* communities.

While most *adat* leaders confine themselves to defending their traditional land rights, the government is project-oriented and the church is concerned with balancing

its budget through retaining use of HGU land. At their best NGOs combine support for *adat* rights with training in ecologically-friendly development alternatives.

Nevertheless, in Flores most NGOs end up working for their administrators rather than for the people they were established to serve. There are three key issues here. Firstly, few of the NGOs are motivated by a clear ideology or a firm commitment to the whole community (as many are in Java), as a result of the lack of any critical education during the Soeharto regime and a faith-formed social conscience. Secondly, the NGOs are financially insecure and are not professionally managed. Consequently NGOs tended to become involved in land disputes only in the short term before moving on to the next project.<sup>32</sup> While the project-oriented NGOs have made valuable contributions in collecting data and initial advocacy, after conflicts die down and project money is finished, they fade from the scene. **In general, NGOs rarely have adequate conflict resolution skills and find lack of local solidarity difficult to engage with.**

#### *(4) The Church a party to the land disputes*

Although a few individual local pastors have tried to articulate and support village grievances, the institutional church in Flores has invariably defended its own interests and in doing so interprets positive law narrowly, readily calling on the police to enforce its claims. There is no indication yet of church leadership open to becoming a voice for agrarian reform.

If pastors on the ground have not had success as mediators, even less so have the occasional attempts by the dioceses. In the Colol coffee tree-clearing dispute a compromise offer<sup>33</sup> was drawn up by the District Government with the support of the Ruteng Diocese, and taken to the villagers by the Diocesan Justice and Peace

Commission with its recommendation of acceptance. It was rejected, as diocesan involvement was interpreted by the village not so much as mediation but as a move to 'sell' the government program. The villagers feared that acceptance would have lost them any *adat* rights over the disputed land (PK 8/11/03, 9/11/03). The government then went ahead and completed its clearance program.

The introduction of the 1999 Regional Autonomy Law (implemented from 2001, amended in 2004 (UU 32/2004) in which the District Government takes over many of the powers of the central government, is causing concern about what will happen to the Nangahale land when the Commercial Use Rights run out in 2013 as its ownership will then revert to the District Government. In what could be a precedent, in the late 1980s more than 200 hectares of what had previously been used for a diocesan coconut plantation, but which now came within the Maumere town boundary, was split 50-50 between church and District Government.<sup>34</sup> If the Nangahale land is simply handed over to the District Government it is not clear who will then obtain use of it and for what purposes.

While the 1999 autonomy law established the village as a legal body with an elected council (*Badan Perwakilan Desa*, DPD), the amended law of 2004 has, in practice, reduced the council to little more than an advisory body (*Dewan Permusyawarahan Desa*) and made the village secretary, who **now** has to be a government employee, an appointment by the District government.<sup>35</sup> These two changes have undermined an emerging alliance between villages to campaign for their land rights.

The institutional church in Flores rarely campaigns on social issues except in partnership with a government program. None of the Bishops of Ruteng, Ende, and

since 2005, Maumere, has responded to key economic, political, cultural and ethical issues. Over the years bishops in Flores have worked closely with government while spearheading modernization through schooling and social-economic development. The institutional church in Flores has yet to decouple itself from the 150-year long 'partnership' with the State, let alone reposition itself as a movement for cultural renewal and political reform.

(5) *A future for adat land law?*

There has been an obvious lack of success in solving these disputes by appealing to customary law; *adat* law is simply overridden by the application of the positive law of the State, and undermined by the informal manipulation by private interests. An increasingly contentious issue concerns what the local *adat* actually is, with mounting scepticism about claims allegedly based on 'custom' and 'community' being put forward by actual or intended ethnic elites who would benefit personally. And all this in spite of proposals lodged by legal academics (such as the teams from the Law Faculty of the University of Nusa Cendana in Kupang, West Timor, and the University of Indonesia in Jakarta), and by several NGOs and Catholic organizations and centres **calling for legal clarification.**<sup>36</sup> Both Church and State have long undermined the integrity of *adat* institutions. While customary land rights originally involved fairer distribution and resource access to local people, it is difficult to see how the communal vision and fair principles of the *adat* can counter the individual interests and commercialized values of the various stakeholders today.

This study has focused upon the ambivalent role of the church in land conflicts in Flores. The dramatic rise in disputes after 1998 is an expression of the rejection of the repressive political culture of the Soeharto regime **and a reflection of the** **damaging structural relations it set in place.** Recent land conflicts are a response by

indigenous communities to land grabbing through the legality of national law supported by government bureaucracy and the forces of “law and order”. Aside from a few NGOs and members of some Religious Orders/Congregations, the institutional church in Flores has yet to engage in this struggle to reclaim land by indigenous peoples, virtually all of whom are Catholic, or even to acknowledge the legitimacy of the struggle and to act in solidarity with local community organizations.

If the *adat* communities, NGOs, the government and the church, as stakeholders in these disputes, held a clear consensual ideology such as a fundamental **commitment to act** for and with the powerless, a common appreciation of cultural/human values and a shared ethical stance in the face of the accelerating clash of cultures and economies that is engulfing Flores, then there might be hope of an equitable way forward. This is where academics, in the church and the wider society, listening closely to the villagers, could make a much needed contribution.

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<sup>1</sup> Since 2003 Manggarai has been split into the three regencies of Manggarai, Western Manggarai and Eastern Manggarai.

<sup>2</sup> It is not clear whether *adat* leaders were involved or whether there was an *adat* ceremony to seal the agreement (Suryaalam 2003, 2-3). Some areas such as Colol claim their ancestors were forced to accept the forestry borders. On the substantial changes made in 1979-1981 and the major discrepancies between borders to ancestral land marked by certain trees, markers erected by the Dutch in the 1930s and the more recent markers placed by the District Forestry Department, see Erb 2003<sup>3</sup>, 226-227.

<sup>3</sup> RTK, *Register Tanah Kehutanan* 1984, 111.

<sup>4</sup> The *kepala desa* (village head/administrator), installed by the Indonesian District Government, has no rights or obligations under *adat*. However, as the influence of *adat* and *adat* ritual land guardians (*tu'a teno*) declined and the role of traditional village heads (bhs. Indonesia *kepala kampung*, bhs. Manggarai *tu'a golo*) was eclipsed by both the Dutch instituted raja-dom (1924) and the New Order **local administration** (*kepala desa*), these village heads were increasingly called on to manage ongoing disputes.

<sup>5</sup> There was little effort to collect the coffee from the farmers and the farmers themselves made no effort to hand it over to the government.

<sup>6</sup> Interestingly, just prior to being elected Bupati in 1999, he had published his academic thesis on the culture of Manggarai (Bagul 1998).

Surat Perintah Tugas Bupati Manggarai No: DK.522.11/1143/IX/2002, 7<sup>th</sup> October 2002.

<sup>8</sup> Surat Perintah Tugas Bupati Manggarai No: DK.522.11/1143/IX/2002, 7<sup>th</sup> October 2002.

<sup>9</sup> The Forestry police have little interest in conservation; not infrequently they allow villagers to fell trees which they then confiscate and sell.

<sup>10</sup> See Walhi 2003 for details on the Kuwus conflict, and Suraalam 2003 for the Golo Mese case. The ongoing saga was reported almost daily in the regional press, *Pos Kupang (PK)* and *Flores Pos (FP)*, particularly the Colol case (October-November 2003).

<sup>11</sup> Colol was the only major coffee producing area, harvesting over 50% of the total legal annual production of Manggarai District.

<sup>12</sup> JAGAD-NTT regularly gathered local customary community organizations (LPMA) from NTT until 2004; it has slowly disappeared from the scene since it lost aid from outside (Australia) due to no

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visible results from its meetings; The national *adat* community alliance, AMAN, remains hopeful that it can be revived. Activities now take place on district level only.

<sup>13</sup> Servas Lawang, an independent member of the Provincial Assembly in Kupang, comes from Todo. His elder brother, Robert Lawang, studied land disputes in Manggarai as head of a sociology team from the Universitas Indonesia in Jakarta (Lawang 1999).

<sup>14</sup> The Chairman of the Diocesan Commission was a close relative of the Bupati's wife and a member of the Ruteng Bishop's extended family which was itself involved in a land dispute. The complexity of this intra-familial dispute came out in Margaret Coffey's, 'The Bishop and the Bupati', an interview with the Commission Chairman on the ABC Radio National *Encounter* program, 23<sup>rd</sup> April 2006. The Bishop and the Bupati worked closely together and would appear at each other's public occasions. There is always a minority of the clergy in each of the four dioceses on Flores who support the people, even when the bishop sides with forestry (or mining) interests.

<sup>15</sup> As administrative buildings, clinic and school were in the vicinity, it was impractical for the people to be located far from their original village.

<sup>16</sup> While ten Commission members accepted the report, 11 rejected it. Unofficial leaks suggest that some 500 million rupiahs was needed to fix the vote (personal communication RM, May 2008)

<sup>17</sup> In Erb's view, the clearing of the villagers' coffee plantations in this way in the name of ecology, was "one of the most disastrous policies ever implemented in the Manggarai Regency" (Erb 2008, 223).

<sup>18</sup> See Agus Mahur in Clark 2004, John Atu and Thomas Uran in Suryaaalam 2003, and Bachriadi 2005, 4-7 for similar cases in west and east Flores.

<sup>19</sup> These *nuba* marked the borders of the land being cultivated in a shifting cultivation system. so would be regularly shifted within the larger *adat* land. The Dutch moved some but community leaders now intend to replace them.

<sup>20</sup> Mainly with *arak* (traditional rice wine) to the local police and a large goat to the sub-district head.

<sup>21</sup> In the army-instigated massacres of March-May 1966, when between 800 and 2000 people of the district were slaughtered in the capital Maumere, to be called *kafir* was tantamount to being labeled communist (PKI). See, Prior 2011. In depth interviews stored in archives are still too sensitive for publication.

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<sup>22</sup> The Rajadom of Tana 'Ai was established by the Dutch in 1902 (to balance the influence of the raja of Sikka) but was disbanded by the colonisers in 1929 to centralise power. Today people say that Nai Roa was appointed raja in order to obtain land for Dutch commercial interests.

<sup>23</sup> When the Apostolic Vicariate was raised to the level of a diocese in 1961 the plantation came under Perdiosa – *Perusahaan Diones Agung Ende*. When Maumere Diocese was erected in 2006 ownership of the plantation was transferred from the Ende Archdiocese to the newly established diocese.

<sup>24</sup> A local land owner and “big man”, Goban, has an “NGO mentality” as much as that of a traditional leader and was elected Village Head of Utar Wair in 2005. As he married a second time when in Malaysia (and his first wife then took another husband), no Catholic priest would witness his installation. In 2007 he was finally installed after becoming a Muslim. A key figure in the opening phase of the dispute, he lost interest after becoming *kepala desa* in 2005. In 2011 he was serving a prison sentence for corruption.

<sup>25</sup> Ben Sareng, the Director of PT Diag until 2004, was a Catholic layman and retired head of the Sikka District Land office.

<sup>26</sup> For a range of examples of the ways in which community mapping has been used to express and defend adat claims and as a tool for community planning, see Peluso (1995), Momberg et al. (1996), Warren (2005).

<sup>27</sup> Traditionally certain key elements of the *adat* are jealously safeguarded by the elders. However, mapping in other areas of Sikka Regency have not been held up by this taboo, suggesting that the elders felt they could control their rights only through keeping traditional knowledge to themselves .

<sup>28</sup> The Tana 'Ai delegation held a so-called “long march” from Candraditya Research Centre to the District Assembly building (actually somewhat less than a kilometre)!

<sup>29</sup> Only four thousand hectares of Protected Forest are in good condition and these are in the hands of the local people, while the 15 thousand hectares under the authority of the Forestry Department have been devastated. (While local people assiduously tend to their own area they log with abandon in the government’s area.) And so the government, the local community and commercial interests have agreed to a “*Program Pengembangan Hutan multi-Pihak*” (Multi-Party Forestry Development Program) where the government is facilitator and the local community is acknowledged as both land holder and manager. This program has received a grant from the U.K. Development Fund for International Development (DFID).

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<sup>30</sup> The Congress held in Jakarta in 1999 led to the formation of AMAN which worked for the acknowledgement that local *adat* communities continue to hold ultimate jurisdiction over their traditional lands (Acciaioli 2001, 90).

<sup>31</sup> It is reasonable to assume that the Diocese and the SVD will wish to continue to make use of at least some of the Nangahale land after 2013. The diocese is extremely busy (re-)planting the section of the land that they wish to retain after 2013.

<sup>32</sup> While thirteen of the 30-member District Assembly in Maumere elected in 2004 came from NGO backgrounds, there has been no palpable change of political direction. Virtually all the chairpersons of NGOs in Maumere had put themselves up as candidates in the 2009 general election; a half dozen were elected.

<sup>33</sup> Sixty percent of cultivated trees in forest area to be declared government property and cleared; 40% to remain in villagers' hands.

<sup>34</sup> The church's section was distributed among numerous religious communities and institutes, while some land was given to former diocesan employees for housing. The Government's half was used for public works, although some was also distributed to the then Bupati's cronies.

<sup>35</sup> Thus the *sekretaris desa* now owns primary loyalty to the district government rather than to his village community.

<sup>36</sup> Such as the Candraditya Research Centre in Maumere, the van Bekkum-Verheijen Institute in Ruteng, and the Jakarta based Franciscan Commission for Justice, Peace and the Integrity of Creation in Jakarta.