

THE INSURGENCY OF ADAT, AN IMPEDIMENT TO INDONESIA AS A COMMON PROJECT¹

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ABSTRACT

This article traces what is known as *adatrecht/politiek* within the contexts of social unrest among the natives inspired by Islam. Adat is a form of identity politics from above and cannot be isolated from the colonial policy to contain the rise of political Islam. As adat posits exclusive and distinct characteristics it is problematic after independence to revive it for social engineering as Indonesia is a common project that is based on equality of its citizens. The main question is therefore whether or not the deployment of adat in the current political development will be an impediment for Indonesia as a common project. Using evidence from several adat communities, this article exposes the impasse of continuing adat politics as only masking real challenges confronted by contemporary Indonesian society. In the current rise of conservative Islam, rehearsing adat as identity politics is dangerous in promoting a divided society. Inclusive citizenship as an embodiment of a common project in which the right of individual and the right of community is accommodated should be the ultimate solution to eradicate inequality and to fulfill social justice.

Keywords: adat, identity politics, marginal groups, democracy, citizenship.

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The destruction of adat law will not pave the way for our
codified law, but for social chaos and Islam.

Van Vollenhoven (1981: 122)

How could a 'primitive' adat law be a suitable vehicle for
modernization? In spite of van Vollenhoven's honest
intentions, adat and all that he had stood for were seen as an
impediment to further development...

C. Fasseur (2007: 65)

INTRODUCTION

This article is aimed at contributing to the current debate on the revival of adat in the political development of Indonesia. While the revival of adat is meaningful for reclaiming sovereign rights of marginal groups, the presumption of a pure and exclusive character is incompatible with the egalitarian principle of citizenship. The argument presented here is based on the review of literature on adat that indicates continuing controversies, both on the concept and the implications of policies by successive political regimes, before and after independence. The findings of fieldwork conducted in three adat communities—two in Java (Baduy in Banten province and Samin in Central Java) and the Orang Rimba in Jambi province, Sumatra—expose the continuing marginalization of these adat communities.

The structure of this article is straight forward. The first part will show how the creation of adat law by von Vollenhoven was intended to produce a counter measure for the spreading of Islam. As a social engineering device adat law is therefore constructed on the basis of differences in cultural identities between groups in the society. The second part will expose the findings from fieldwork as a show case of the adat communities' current realities. It shows the failure of the state and the civil societies in mitigating the marginalization of the adat communities. In a nutshell, it also reflects the impasse of continuing von Vollenhoven's legacy on locating adat communities as exclusive and distinct societies. The third part is a rejoinder of the first and the second part emphasizing the paradox of postcolonial situation in which adat is revived as a device for social change. Yet a social engineering based on adat would in the long run be detrimental to Indonesia as a common project and will be confronted by inequality and social justice as the

primary concern. As a conclusion, in the four parts, it is argued that an inclusive citizenship which is embraced both the right of individual and the right of the community should be seen as an embodiment of Indonesia as a common project.

ADAT, ISLAM AND IDENTITY POLITICS FROM ABOVE

Indonesia as a common project is the underlying message in Benedict Anderson's speech given in March 1999, on his first return visit to Indonesia after a 26 years ban on entering Indonesia.² His message is a strong reminder to Indonesians on the meaning of having a nation. As a nation, Indonesia is not an inheritance from 'absolutely splendid ancestors' of the past but a project for the future of all its citizens. Speaking at a time when Indonesia faced disintegration as communal and political conflicts flared up following the demise of the Suharto regime, Anderson's message could be easily ignored. The resurgence of adat, a remnant colonial artifact, originally created to serve the Dutch interest for peace and order, is an example of how easily Indonesians forget their common project. Adat assumed an inheritance from the past and was exclusively owned by a distinct community.

The tale of adat began in the early twentieth century: when searching for a legal system to manage the natives, Cornelis van Vollenhoven (1874-1933), found adat law, by which he meant traditions and customs practiced in the Dutch Indies, to be a positive judicial system to complement the Dutch legal system. The prevalence of adat as a separate legal system for the natives instead of universally adopting the Dutch legal system, according to Fasseur (2007) reflects the colonial dilemma of that time. The endless effort of Van Vollenhoven in making way for adat law into the center of the Dutch colonial policy deserves scrutiny, as Daniel Lev (1985: 63) writes:

The treatment of local customary (adat) law is one of the most perplexing and ambiguous themes in Indonesia's colonial history, and deserves serious reconsideration. In most colonies customary law was problematic in one way or another, but nowhere more so than in

² The text of the speech, originally in Bahasa Indonesia, titled "Nasionalisme Indonesia Kini dan di Masa Depan", was later published as an article "Indonesian Nationalism Today and in the Future" in *Indonesia*, 1999, Volume 67 (April): 1-11.

the Netherlands-Indies. And nowhere was more done to understand local law that neglected so many critical questions.

One particular point that Daniel Lev (1985: 66) raised about adat politics, but only given limited elaboration by most scholars, is related to Islam that was spreading rapidly during that time. Close observers of adat, despite their opposing views (Bourchier, 2015, von Benda-Beckmann and von Benda- Beckmann, 2011, Henley and Davidson, 2007, Bedner and Van Huis, 2008, Tyson, 2010, Avonius, 2006, Burns, 2004), treated Islam only in terms of Islamic laws, and strangely overlook Islam as a contending political power with colonial authority. An important insight is surprisingly shown in Daniel Lev's (1984: 151) review of an English translation of van Vollenhoven's book,³ exposing the relevance of Islam as a social reality that should be carefully taken into consideration in any colonial policies. In his review on *Van Vollenhoven on Indonesian Adat Law*, Daniel Lev responds to a paragraph that touches on Islam:

The question of Islam complicates this view of van Vollenhoven. It was not simply that Islam was an alien element, like any other, whose influence on adat had been greatly exaggerated by earlier observers. Actually, van Vollenhoven may have rushed too far to the other side of this argument, underestimating the inroads on local values and legal conceptions that Islam had made. But this question aside, he also feared that any breakdown in existing social orders would work to the advantage of Islam, always a major challenge to traditional adat authorities, not to mention colonial stability and Dutch equanimity. At the end of his discussion of Aceh, at page 122 of the new book, van Vollenhoven writes: "The destruction of adat law will not pave the way for our codified law, but for social chaos and Islam." No wonder Islamic leaders abhorred the *adatrechtpolitiek*, which, seen from the inside of Indonesian history, was another strategic victory for the local aristocracies, among others, who had always fought off the Islamic struggle to redefine their social orders. In this picture van Vollenhoven, whatever his objectives, was an ally in someone else's project. As the colonial administration had an interest in the same project, however, one has to ask whether this had anything to do with the success of the *adatrechtpolitiek*.

³ *Van Vollenhoven on Indonesian Adat Law. Selection from Het Adatrecht van Nederlandsch-Indië (vol.I, 1918; vol. .II, 193-*, edited by J F Holleman, with an introduction by H W J Sonius. Martinus Nijhoff, The Hague, 1981, under the auspices of the Koninklijk Instituut voor Taal-, Land-, en Volkenkunde (translation series no.20).

In an elaborated introduction of the above-mentioned book, H W J Sonius (1981: XXIX-XXX) notes the strong Christian mission within the Ethical Policy that elevates van Vollenhoven's scholarly crusade in the Dutch Indies.⁴ Van Vollenhoven apparently conceived of Islam as a political threat and equates it with social chaos, while codifying adat is the only way to avoid political calamity. His reference to Aceh, where at the time the Acehnese were waging a holy war against the Dutch, is the best case to strengthen his argument of the urgency to develop a locally based legal system that could restore society to peace and order. The inroad of *adatrecht* into the epicenter of colonial policy is unquestionably related to Dutch concern about the rapid expansion of Islam. It is in reality difficult to accept the view of the proponents of adat law that pretend no link whatsoever between it and the threat of Islam. Van Vollenhoven's ultimate aim in injecting adat law into the politics of colonial policy, especially with regard to Islamic political threats, is a missing link in the study of adat politics and posits an explosive issue.

The missing link, in the adoption of adat Law and the Dutch containment policy on Islam, could be found through the work of another Dutch scholar on oriental culture: Christiaan Snouck Hurgronje (1857-1936) who focused on Islam, and who first coined the term *adatrecht* in his book, *De Atjehers* (The Acehnese), published in 1893 (Fasseur 2007: 51). According to Fasseur (2007: 51) the 'discovery of adat law'—to quote a title of one of van Vollenhoven's writings—did not start before the 1880s, when in 1888 a peasant revolt, led by Islamic leaders, broke out in Banten (Kartodirdjo, 1966). Agrarian unrest that was followed by protest movements was a strong feature at the end of the nineteenth and early twentieth centuries in Java, a native response to the forced cultivation system that brought unlimited economic benefit for the Dutch (Kartodirdjo, 1973). Snouck Hurgronje and van Vollenhoven, were working closely with the Dutch East Indies colonial government both together and separately. Both were experts on social and cultural aspects of the 'natives'.⁵ While van Vollenhoven made only two brief

⁴ On the genesis of Ethical policy, see Ricklefs (1981: 143)

⁵ In their review on the content of 150 Years of *Bijdragen* (1994) concerning the subject of law and administration, Otto et.al. (1994: 735), write: "One of the high points of colonial scholarship was undoubtedly the *Adatrechtschool* (school of *adat* law). Its two key figures were C van Vollenhoven and C Snouck Hurgronje, secretary and chairman, respectively, of the KITLV Commission on Adat law and later of the *Adatrechtstichting* (Adat Law Foundation), which collected and published data in its impressive series of 148

visits to the Indies, Snouck Hurgronje was an ethnographer who travelled and lived for long periods of time in the Indies and other places, among them Jeddah and Mecca, as part of the surveillance colonial policy to monitor the behavior of the natives, especially the Muslim population (Laffan 1999; Carvalho 2010; Jung 2010).

The Aceh War lasted for 40 years (1873-1914) and was reported to have killed more than 50,000 people until it was finally crushed by the Dutch military. It is believed that Snouck Hurgronje, who was acting as an adviser to Netherland East India Governor General J B Van Heutsz provided important information, based on his research, to end the Acehnese resistance. The resistance movement in Aceh showed that Islam was the source of political mobilization against Dutch colonial power. The rapid spread of Islam among the natives in Sumatra, Java and other places in the colony under the '*umma*' political networks with the Middle-East and Turkey, seriously challenged Dutch colonisation in the Indies (Laffan 2002; Azra 2004). The Java War (1825-1830) and the Padri War (1803-1837) became the clear precedents that Islam posited ideological authority for resistance and armed rebellion. As indicated by Daniel Lev, the good intention of van Vollenhoven and the endorsement by the Dutch colonial government to deploy adat law for the natives, constituted a long-term strategy to contain the alarming threat from Islam. Van Vollenhoven's genuine empathy to protect the livelihood of the natives by framing them within the confinement of pure cultural identity under their own customary law assumed an exclusive society shielded from 'the cruel and inhuman penalties inflicted by Islamic courts, such as amputation of the hands' (Fasseur 2007: 55). In terms of contemporary debate, the deployment of adat law by the Dutch colonial government is a form of identity politics from above.⁶

Adatrechtbundels. Bijdragen clearly reflecting the importance of the subject by publishing a vast quantity of field research data, *adat* texts, secondary studies and lists of bibliographical references”.

⁶ The application of two legal systems further emphasized the segregated society, continuing the unequal nature of a divided society of patron and client, powerful and powerless, master and slave; a breeding ground for resistance movements. In 1926 a communist uprising erupted in Banten (Williams 1990), and in 1927 in West Sumatra (Kahin 1966). The first quarter of the twentieth century, was an age of movement, as succinctly described by Shiraishi (1990) and depicted vividly in the Pramoedya Ananta Toer's quartet novels on the dawn of Indonesian nationalist consciousness.

Dutch practically ended with the occupation of the Dutch Indies by the Japanese in 1942. It is during the short period of Japanese occupation (1942-1945) that a committee for the preparation of independence was set up under Japanese auspices. Among the task of this committee (BPUPKI) was drafting the constitution for the coming new state. The members of the committee represented the educated elite deliberating their future vision of Indonesian society. The most influential of them was Supomo, a disciple of van Vollenhoven, who became the first Minister of Justice after independence.⁷ Unsurprisingly, the ideal type of Indonesian society that was conceived by the proponents of adat law, among others, was to find its way into the text of the State Constitution.⁸ According to Bouchier (2015: 21):

Although he paid only two short visits to Indonesia, the work of van Vollenhoven and what came to be known as his 'Leiden school' had a major impact on colonial policy and helped lay the foundations of an Indonesian national identity.

The concept of *masyarakat hukum adat* that is used in the constitution is an idealisation of a reality that was invented by van Vollenhoven to protect but at the same time to constrain the natives. The ideas of purity and exclusivity as the main attributes of adat communities meant that the representation of native society ignored the social and political structure of the Indonesian population. Proponents of adat, including Indonesian founding fathers like Supomo, overlooked the fact that every society consists of different layers and classes according to factors like access to education, the economy and politics regardless of cultural identity. By labeling marginalised populations according to cultural identities, such as ethnicity, religion, language or adat, material differences in access to education, the economy and politics, are

⁷ According to Bouchier (2015: 69) : "His 'integralist state' is best seen as an attempt to ward off both political Islam and those within the nationalist movement who were inspired by democratic principles, which he saw, quite rightly, as a threat to the social status quo inherited from the Dutch colonial state and maintained, in large part, through the Japanese occupation".

⁸ In the original 1945 State Constitution, the term adat in fact not found in the text, but in the attachment in which the so-called "*250 zelfbesturendelandchappen and volksgemeenschappen*, representing masyarakat adat is stated. The explicit statement on Masyarakat adat in the text of the State Constitution appears in the Constitution's Amendments in 2002 as part of the political reform following the collapsed of Suharto's New Order government.

ignored.⁹ After more than seven decades since Independence Indonesian society still suffers from the plague of structural inequality among its citizens

THE CONTINUING MARGINALIZATION OF ADAT COMMUNITIES

In 2015, 2016 and 2017 a LIPI research team conducted fieldwork in the communities of Baduy (Banten Province), Samin (Central Java Province) and Orang Rimba (Jambi Province).¹⁰ These communities are generally regarded as adat communities.¹¹ Compared with Samin and Orang Rimba, Baduy is the only group that fits nicely with an idealised concept of an adat community, particularly as it has secured a territorial boundary that legally belongs to its customary land or *tanah ulayat*. Samin and Orang Rimba are scattered in several districts without clear boundaries of their customary lands. Closely observing the life of Baduy, Samin and Orang Rimba they have all experienced a marginalising process.¹² Our observations, particularly from interviews with knowledgeable members of these adat communities, show that their self-perceptions as adat communities were influenced by outsiders, rather than originating from these people themselves.¹³ The role of outsiders, both state and non-state actors, in appropriating adat is critically important in the way these communities are exposed to the outside world and wider development. The decision from the Lebak District government to enact a local regulation (Peraturan Daerah or

⁹ Tania Li (2000, 2001, 2007) perhaps the most critical observer on the discursive and empirical problems concerning, what she terms 'the deployment' of Adat in the post-Suharto social and political developments, by using her detailed ethnographic case studies in Central Sulawesi.

¹⁰ For detailed information, see Tirtosudarmo (2015), Tirtosudarmo (2016) and Tirtosudarmo (2017)

¹¹ Most studies on Adat communities are conducted outside Java, such as by Beckmann and Beckmann, 2011, in West Sumatra; Accaiaoli, 2007 and Li, 2007 in Central Sulawesi; Warren, 2007 in Bali; Avoinus, 2006 in Lombok; Vel, 2008, in Sumba; Kaartinen, 2014 in Kei Islands and their predecessor Snouck Hurgronje in Aceh. .

¹² Previous studies on Baduy, among others, were conducted by Kusnaka (1976), Garna (1988); on Samin, among others, by Benda and Castles (1969), King (1973), and Orang Rimba, among others, by Sandbukt (1984) and Sager (2008).

¹³ See Tania Li (2001: 606) critical look at the role of activist and academics in the invention of masyarakat adat and its subsequent political advocacy.

Perda) delineating boundaries of customary land for the Baduy is a case in point.

Power relations are critically important in the making of these three communities into their current marginal conditions; socially, economically and politically. Baduy that inhabit a particular village, Desa Kanekes, in Kecamatan Leuwidamar, Lebak District, is a perfect example of an adat community, in which the characteristics of adat institutions are still intact. Besides enjoying clear territorial boundaries in which every household is granted land for its houses and agricultural activities, Baduy also live under the clearly articulated social norms of a single organisational and leadership system. Unlike the Baduy, the Samin community, have shared their territories with other Javanese people, although often congregating in a separate compound, sub-village or '*dukuh*'. Baduy and Samin, are both remnants of traditional societies that are now categorically called adat communities, representing two different historical trajectories in changing rural communities in Java.

Orang Rimba, on the other hand, live in different enclaves in three districts in the Province of Jambi, on the island of Sumatra. They have been expelled from customary lands, which are now under the control of several private oil palm plantation companies. Compared with Baduy and Samin, Orang Rimba are living in distressed conditions, many of them uprooted from their customary lands. The three communities, despite their different social and political origins, share similar conditions as marginalized groups within Indonesian society. The Baduy, Samin and Orang Rimba perfectly represent neglected citizens whose very access to public services promised by the state constitution are systematically ignored.

AMAN (Aliansi Masyarakat Adat Nusantara, or Indigenous Peoples' Alliance of the Archipelago), the umbrella organization of the masyarakat adat ('people living according to custom') movement, as well as various other NGOs, actively provides assistance to improve the livelihoods of these three marginalised groups of people. Again, compared with Samin and Orang Rimba, which lack a unified leadership and organisation, Baduy leaders are better able to negotiate with the outside world. The Baduy show their relative autonomy, for example, in relations with AMAN, which, for their own political reasons, they refuse to embrace. Samin and Orang Rimba, not able to consolidate power have opted to join AMAN, for practical and tactical reasons. Observing these

three different masyarakat adat closely, their diverse nature and the dynamics of their relations as marginal groups, both internally and with the outside world, is apparent. The marginalisation processes experienced by these three groups of people show some similarities such as their continued passive resistance or defensive adaptation to external powers. Compared with Samin and Orang Rimba, the Baduy show themselves contained and relatively independent. Internally, however, the Baduy have to adapt to the increasing demographic pressures as the land, as their main bases for livelihood is very limited. The expansion of access to land outside their customary boundaries into the surrounding villages occurred through land renting and buying. Samin and Orang Rimba, although they have more freedom to move compared to the Baduy, have little opportunity to own or to control more land. In the case of the Orang Rimba, their movement should be seen as involuntary since they have been ousted from their land which has been occupied by plantation companies.

The findings of our study, among others through a sample survey of demographic and socio-economic changes, on the Baduy, the Samin and Orang Rimba clearly show that the revival of adat has had no significant impact on their livelihoods. The adat rights movement led by AMAN is elitist, as AMAN is mostly directed by urban-based NGO activists and therefore irrelevant to their daily lives. These three groups continue to face social, economic and political hardships in relation to the state, corporations, and changing society. The Baduy, the Samin and Orang Rimba were discriminated against by denial of access to various public services as they were not yet fully recognised as legitimate citizens, many of them not possessing identity cards. The State apparatus perceives the Baduy, the Samin, and the Orang Rimba as populations that should be civilized by giving them formal education and formal religion, which indicates their marginal positions *vis a vis* the state. Pressure from the majority religion, Islam, was strongly felt in these three adat communities. The Baduy, Samin and Orang Rimba were regularly discriminated against as they are perceived to continue their 'uncivilised' behavior and traditions, constitutes the irony of contemporary Indonesia.

In 2013, the Indonesian Constitutional Court, an institution established after the fall of the Suharto authoritarian regime in 1998,

revoked the 1999 Law No 41 on Forestry.¹⁴ The Constitutional Court decision (No. 35/PUU-X/2012) was a political triumph for the adat movement as the ruling instantiated state recognition of customary forests that belong to adat communities. The Constitutional Court decision evidently had far reaching implications as it acknowledged the existence of an adat community as stipulated in the amended State Constitution article 18 B. The success of the adat movement as reflected in the Constitutional Court decision further strengthened the symbolic position of an adat community *vis a vis* the state. While such a decision is not a guarantee for the actual recognition of an adat community, it has among others influenced the content of Law No. 4, 2014, on Villages (Desa), especially on the provision of Adat Villages (Desa Adat). The latest development concerning the adat advocacy movement is their success in influencing the Presidential decision in 2016 to grant Hutan Adat' (customary forest land) to nine adat communities, located mostly in Jambi, Sumatra, as well as one in West Java and two in Sulawesi. In his speech President Jokowi promised to distribute more land to forest dwelling communities forests in the future; 12.7 million hectares in total.¹⁵

However, the progress seemingly shown by this recent handover of customary forests to nine groups of masyarakat adat, must be judged by comparing the minuscule plots involved in relation to the huge land areas controlled by private plantations like PT Sinar Mas in Jambi Province. Such achievements by the adat movement are symbolic rather than constituting real progress. The desperation of marginal groups, including the so-called masyarakat adat, should be located within the wider political-economic context that looks into more structural changes in society. The deployment of adat politics is repeatedly trapped into identity politics from above as we have learned from the experiences of van Vollenhoven's *adatrechpolitiek* at the beginning of the twentieth century.

INDIGENITY AND SOCIAL JUSTICE

¹⁴ See Noer Fauzi Rahman (2014) "Masyarakat Hukum adat Adalah (Bukan) Penyandang Hak, (Bukan) Subyek Hukum, dan (Bukan) Pemilik Wilayah Adatnya", *Wacana Jurnal Transformasi Sosial*, No. 33, XVI: 25-48.

¹⁵ See Kompas, 31 December 2016.

After independence, political regimes adopted different interpretations and policies on adat depending on their political agendas. In the Sukarno years (1945-1966, adat was only treated superficially in the 1960 Major Agrarian Law (Undang Undang Pokok Agraria). Since the early 1980s under the New Order authoritarian regime (1966-1998), international and local NGOs began to cultivate adat as a vehicle to oppose top down and oppressive policies allowing large land concessions for plantations and mines, as the cause of destruction among Indonesia's tropical forests. Networks of global activists, mainly from wealthy industrialised countries campaigned to save the planet from ecological calamity and perceived indigenous people as the guardians of the forests.¹⁶ The term 'adat communities' was used interchangeably with 'indigenous people' by NGO activists under their umbrella organization AMAN. AMAN deliberately uses the term archipelago (Nusantara) in their name rather than Indonesia, because the Indonesian government did not recognise the term indigenous people.¹⁷ The term 'indigenous people' used internationally and recognised by the UN constitutes a global network of activism that influenced local organisations like AMAN. The interchangeable terms of indigenous people and adat community used by AMAN, however, reflects the internal ambiguity

¹⁶ Oyvind Sandbukt, a Norwegian anthropologist fully engaged in international conservation projects in Indonesia, began his research in October 1979 and spent one year in one of the few remaining hunter and gatherer groups, the Orang Kubu (later renamed 'Orang Rimba' or 'Suku Anak Dalam') in the interior of Jambi Province. One of the earlier and important writings of Sandbukt is titled "Kubu Conceptions of Reality." Oyvind Sandbukt is a pioneer of western anthropology that contributes significantly to the discourse and practice on the linkages between protecting indigenous people and saving the tropical forests. Another western anthropologist, Marcus Colchester, from the UK, was deeply involved in the campaign against the World Bank that funded transmigration programs which were perceived as destroying tropical forests and indigenous people, among other means through editing a special issue of *The Ecologist* (1986) in collaboration with *Survival International* and *Tapol* on transmigration. Marcus Colchester (with Larry Lohmann) also edited a book *The Struggle for Land and the Fate of the Forest* (1993) in which a chapter is devoted to the case of Indonesia.

¹⁷ Timo Kaartinen (2014: 331) in his article "Perceptions of Justice in the Making: Rescaling of Customary Law in Post-Suharto Maluku, Indonesia", provides interesting comment on AMAN as follows: '...this organization avoids reference to Indonesia as the field of its activities. Instead, its name points to Nusantara, the geographic entity which used to be called the Malay Archipelago in English. This naming recognizes that traditional legal institutions have no political efficacy if their practice is limited to local social domains'.

and future uncertainty of the adat movement.¹⁸ Another problem concerning the term indigenous, is raised by James Clifford (2013) in his book *Return: Becoming Indigenous in the 21st Century*, in which he argues that the term 'indigenous people' is not fit for Asia and Africa which experienced a different historical trajectory from that of the natives in the settler colonies of the Americas, Australia and New Zealand. In the Indonesian context, the concept of indigeneity while historically a flaw is also legally and politically incorrect.¹⁹

The insurgency of adat in the current Indonesian political environment, cannot be separated from the introduction of a new decentralisation policy following the collapse of the Soeharto centralised government as many studies have shown (Schulte Nordholt and Van Klinken 2007; Davidson and Henley 2007; Tyson 2010). The new decentralisation policy that granted autonomy to the district, rather than the provincial levels of government, is a decision driven by the perception (particularly from the military) that granting autonomy to the provinces would lead to separatism and the disintegration of the Unitary State of the Republic of Indonesia (Negara Kesatuan Republik Indonesia or NKRI)²⁰ The tension between centralisation and decentralisation and inevitably between the forms of the state (federalism *vs* unitarism) has haunted Indonesian elites since

¹⁸ Acciaoli (2007) notes the problem concerning the applicability of a term like 'sovereignty' besides problems concerning AMAN's internal organization and its local members.

¹⁹ See Robinson (2018), this volume. The term 'indigenous' as a translation of 'penduduk asli Indonesia' was deleted in the amendment of the Constitution after the demise of Suharto in 1988. A series of research publications by the Eijkman Institute for Molecular Biology in Jakarta shows that the DNA of various ethnic groups in the Archipelago constitutes a mixture of different races and ethnicities not only originally from Indonesia but also from different continents. See among their publications, Karafet et.al. (2010), Tumonggor et.al. (2013),

²⁰ See Tirtosudarmo (2010) "Mungkinkah Indonesia Pecah jika Otonomi diberikan ke Provinsi? (Will Indonesia disintegrate if autonomy is granted to the Provinces?)" , argues that the perception of granting autonomy to the provincial governments will trigger separatist movements, mostly from the military based on their experience in Aceh, East Timor and Papua is only an exaggeration. After Independence, the only attempt to create a separate government occurred in Maluku following the decolonization process at the time when the Ambonese elites and former soldiers that were loyal to the Dutch declared a separate state, South Maluku Republic (Republik Maluku Selatan or RMS). This separatist attempt was only short-lived as these Ambonese elite separatists received little support from the Ambonese people, and thus decided to follow the Dutch to Holland.

independence. The threat of disintegration occurred in the 1950s as several military commanders in Sumatra and Sulawesi --backed by civilian political elites--waged an armed rebellion against the national government.

The decision to grant regional autonomy to the district governments to avoid national disintegration, however, triggered an unexpected process of disintegration from within. Perceiving that the locus of power and state funds would be transferred to the district governments, local political elites quickly mobilised their differences in ethnic identities to create new district governments. In this context, adat, perceived by its advocates as representing the plurality of society, fits nicely with the centripetal movement against the center. The center and regional equilibrium have been challenged, with the differences between localities, societal groups and cultural identities increasingly strengthened. Center-regional tensions of the 1950s were ironically revived and transformed into the politics of identity. The adat movement should be seen as only a part of this broader transformation (Tyson 2010). Using adat as political identification for reclaiming their customary rights might be strategic for a short period of time, however it would be problematic in the longer perspective, mainly because of its exclusive claims that contradicts equality among citizens across the idea of Indonesia as a common project.

The current pro-adat policies from Jokowi's government, as indicated by the recognition of several adat communities and the concession for their '*hutan adat*,' may still be ignored by different parties, such as local governments and plantation corporations. In this situation the sustainability of Jokowi's policies on adat have to be seen not merely as strategic-transactional politics to fulfill promises in presidential campaigning. Given the nature of successive government administrations there is also no guarantee that the post-Jokowi era will have similar policies on adat communities, remembering the conceptually volatile and debatable status within the Constitution. Another more empirical problem of the current adat politics stems from the predominantly elitist nature of the pro-adat advocacy movement that is vulnerable to the trap of elite capture as one of the observable features embedded in the post-Soeharto regional autonomy era.

An adat community, as a scholarly invention of the early 20th century while carried out by its proponents until today, practically,

posits a serious problem. The problem arises from the vulnerability embedded within its status in the Constitution, allowing different interpretations as to whether or not the respective communities meet the requirements as stipulated by the authority in charge.²¹ In addition, the incongruence between national and international usages of the term, *masyarakat adat* versus indigenous people could create a diplomatic problem in international forums. The invention of adat at the time of increasing social unrest and protest movements of the natives inspired by Islam reveal the strategic aim of *adatrechtpolitiek* within the colonial policy to contain political Islam. In this light, the prevailing policy on adat is a form of identity politics from above. The adoption of adat by the post-colonial government, as shown in the state's constitution, representing the continuation of imagining Indonesia as a collection of pure and exclusive communities, is a misguided view that neglects the realities of changing social and political structures of contemporary Indonesia.

Indonesia's diverse social and cultural configurations could indeed provide a recipe for a divisive and divided nation. In this regard the presumed exclusivity of adat communities can be accepted as a way to forge ameliorative measures for the problem of inequality of access to economic resources experienced by marginal groups. Such a short term strategy, however, should be put in a long-term perspective as it otherwise will be an impediment to the idea of Indonesia as a common project.²² Such a situation is no doubt alerting the proponents of the current adat advocacy movements to find a solution in transforming the character of the adat communities from exclusive to inclusive society.²³ The task is indeed herculean as it not only has to operate at the practical

²¹ As this article is being written, there are at least three proposals contested to be accepted by both the government and the parliament as the plan for law on adat communities.

²² Tania Li, in her early writings (2001: 646) viewed the adat movement as not exclusive and chauvinistic, yet she wonders why the struggles over land and resources focus on difference, not the rights of citizenship? In the same vein, Bourchier (2015: 257) lamented the impasse of adat as the platform for democracy and urge the debunking of adat as the basis for state ideology.

²³ Sangaji (2007) an adat movement activist himself, launched an 'oto-kritik' to the adat movement, among others by showing the increasing difficulties to claim the pure and exclusive nature of the community as migrant populations cannot be excluded as they have been assimilated within the local community.

level, but more importantly at the discursive and conceptual levels. A concerted effort for the realization of social justice for all citizens as promised with the proclamation of Indonesian independence should become the main agenda for all progressive elements, towards realizing Indonesia as a common project.

INCLUSIVE CITIZENSHIP AS A COMMON PROJECT

A rethinking on the relevance of adat communities beyond van Vollenhoven's invention in the early 20th century is seriously needed for locating adat communities into the Indonesian nation as a common project. The claim of indigeneity concerning adat community is an impasse that is legally and politically unsustainable. Besides, recent studies on indigeneity also make the case for Indonesia as historically problematic. The assumption of adat communities as exclusive and closed societies is becoming irrelevant as people co-mingle between localities, and this has increased dramatically as transportation and communications are vastly improving. Isolated and closed communities are a fiction in the current and future of Indonesia. Advocating inequality and social justice using adat communities is a form of identity politics that is easily misappropriated by local elites with their vested interests, and forgetting the social realities of unequal power relationships that are embedded within the economic and political structures of society. As a form of identity politics from above, in the current political climate where conservative Islamic politics is on the rise, adat-based social engineering would be like repeating Von Vollenhoven's colonial strategy, and furthermore, counterproductive for the achievement of an inclusive civic nation-state. This article clearly shows that *adatrechpolitiek* cannot be isolated with the need for the colonial authority to contain the increasing political threat of Islam. The rising waves of conservative Islam currently experiencing in Indonesia should be seen as a challenge for the need to accommodate differences and not repeating the failed identity politics from above as deployed by the colonial government. The proponent of adat movement should consider the potential clash between Islam and adat and the dangerous

consequencies if the state eventually adopting identity politics from above as a response to the increasing Islamic politics.²⁴

The communal rights which are likely to be reclaimed by the adat communities will possibly be increasingly problematic as exclusiveness as a distinct community will be difficult to sustain, and the rights of citizens should prevail regardless of their localities, ethnic backgrounds, gender or religions. Yet, such an ideal situation in which an inclusive citizenship has become the norm however still far away from the current social realities. While arguably the exclusive communities have been slowly eroded as more and more people are mingling, it is also the fact that marginal groups exist and struggling to be recognized based on their cultural identities. As a common project Indonesia should be able to transform these existing exclusive culturally based marginal groups into a wider Indonesian society based on inclusive citizenship. In this regard, we might learn from the experiences of other counties that also struggling for attaining the balance between the right of individual and the right of the community. Kimlicka (2001) proposed the term multicultural citizenship to accommodate the right of minority groups in countries like Canada and Australia that inequality between the dominant groups, that mostly has an Anglo Saxon backgrounds and the minority groups that many are immigrant communities and the remnant of indigenous people. Rosaldo (2003) coined the term cultural citizenship based on the study of minority ethnic groups that exist in the borderlands of nation-states in Southeast Asia. As a multicultural society Indonesia is obviously confronted by the realities to accommodate diversity and differences but at the same time have to tackle rampant inequalities and marginalization. An inclusive citizenship is therefore should be seen as an embodiment of Indonesia as a common project in which both the right of the individual and the right of the community could live side by side in an effort to eradicate inequality and to fulfill social justice.

²⁴ The mobilization of Dayak people in West and Central Kalimantan, on behalf of adat community, to reject the entourage of FPI (Forum Pembela Islam or Islamic Defender Forum) – a radical Muslim group – entering West and Central Kalimantan, is an example of potential conflict between adat and Islam.

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