

The Awakening of the Indigenous Rights Movement in Indonesia: How Indonesia's Sea Nomads Missed the Boat

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Introduction

The year 2018 marks the 20th anniversary of the fall of the Suharto regime. likewise, it marks the reawakening of customary rights (*adat*) in Indonesian politics. In this thesis, I aim to place two of Indonesia's main seafaring communities, namely: the Orang Suku Laut and the Sama Bajau, in the debate surrounding this revival of tradition in Indonesian politics. In the first chapter, I analyse how the history of the Sama and the Orang Laut have positioned these communities in the Indonesian society, and whether or not stereotypes surrounding their communities have made it more difficult for them to profit from the recognition of customary rights. In chapter 2, I draw parallels between the Sama and the Orang Laut in the ways that their nomadic lifestyle has resulted in intangible forms of culture, making it harder for them to assert claims over territory. In this chapter I also show how their distinct cultural and religious identity contribute to their marginal status Indonesia. In the last chapter, I argue that Indonesia's sea nomads partial inability to participate in the reassertion of customary rights is rooted in a multitude of factors, including: the hegemony of environmental motives surrounding customary rights' advocacy groups, the difficulty of claiming ownership over land, and civil rights under the pressure of statelessness, and the difficulty of affirming sea-based and coastal territory in land disputes under the hegemony of regional developmentalism. I stress the difference between their respective territories, which presents each community with a distinct adversary in their struggle for the recognition of customary land rights.

Background

In 1994, when I visited Indonesia for the first time, I had no idea that I was entering a country so rich in cultural diversity and customs. Granted, I was only one year old at the time so this diversity and cultural richness might be a little hard to notice. On the other hand, Indonesia was still facing the last decade of New Order policies, and given the separatist movements in Aceh, East-Timor and Papua, every form of cultural self-determination was lumped onto the pile of political subversion making it near impossible for communities to divert from the stark vision that Suharto had laid out for the Indonesian people. Fast forward twenty-two years to 2016 and I am back in Indonesia. This time, the county is the third largest democracy in the world and the process of increased regional autonomy and political decentralisation has either convinced the previous subversive regions into subjugating to the cultural patchwork that makes up Nusantara (e.g. Aceh), or made it possible for them to separate from it (East-Timor), leaving more room for the relatively new advocacy groups fighting for the recognition of Indonesia's indigenous rights. That same year I was watching a program on TRANS 7. The program took the viewer to a small stilt village somewhere along the coast of Sulawesi, where the presenter introduced us to this strange community

living in boats and stilt houses built on coral. Children as young as two were swimming between the houses and very few of the interviewees spoke a word of Indonesian. This was my first introduction to Indonesia's sea nomads. Ever since I have been fascinated by these people, whose lifestyle could hardly be more different from that of most Indonesians. Unfortunately, my own experiences in the country have never given me the opportunity to experience their distinct way of living. Aware that my lack of proper experience may make my work sound like the words of a blind man describing the sun, I still hope that my analyses can add to the existing body of knowledge. Through my first year of South and Southeast Asian studies at the University of Leiden, I was able to discover, by means of secondary sources, the cultural and socioeconomic predicament in which most of Indonesia's sea nomads seem to reside. They are, as van Schendel argued in his 2002 paper '*Geographies of knowing, geographies of ignorance: jumping scale in Southeast Asia*', "communities living on the fringe of nation states [...] obscured by a veil of ignorance". The fact that Indonesia's sea nomads have a substantial history of traversing modern nation-state borders makes them hard to study from a nation states' perspective. They live in the honeycombs of national borderlands (Schendel, 2002).

At the same time, professor Henley introduced me to the ongoing plight of Indonesia's indigenous rights movement trying to secure and preserve the rights of Indonesia's *adat* communities. As I went on to study both topics it came to my attention that even though an abundance of research has been published on securing *adat* rights for Indonesia's forest or highland based community's - e.g. the Dayaks of Kalimantan, or the Toraja people of Sulawesi (Li, 2010; Davidson et al., 2007) – studies concerning the way Indonesia's sea nomads¹ fit into this ongoing process of *adat* recognition have been few and far between. Furthermore, when it comes to the latest surge in traditional revivalism, Indonesia's seafaring communities seem to be underrepresented by most organisations involved (Arizona, personal communication, May 9, 2018). Throughout the thesis, the term custom will be used interchangeably with *adat*, a word frequently used in *bahasa Indonesia* (Indonesian) which can be translated to mean either custom or tradition. More broadly, the definition of *adat* which will be used in this thesis is that of Tyson (2011) who defines *adat* as: '*a living and evolving body of agreements, an imaginative and adaptive consciousness containing the rights and rules of a given community* (p. 655).' Most importantly, as stated by Bowen: the issue of customary (*adat*) rights in Indonesia can be distinguished from the global movement by its focus on the control of territory and resource management (2003: 63).

¹ Even though the term sea nomad in this context is somewhat inaccurate, I will continue to use it throughout the thesis as a gloss for the Sama Bajau and the Orang Laut.

Chapter 1: The Revival of Customary Law in Indonesia, from Colonialism to Post-modernism

Much has been written on the effects of *adat* revivalism in Indonesia's politics (Tyson, 2011; Davidson et al., 2008; Li, 2010, 2000; Acciaoli, 2014), ranging from the adverse effects of local state hegemony and ethnic cleansing linked to claims of indigeneity, to successful cases of local empowerment through the reassertion of land by local communities over state interests (Davidson et al., 2008). In 1998, when Indonesia saw the fall of the New Order regime, and consequently the decentralisation of power in the reformation (*reformasi*) era, the entire globe seemed to be experiencing a paradigm shift towards a more postmodern interpretation of community and nation. Disillusioned by the failure of the so-called universally applicable modes of government and society (most notably after the end of the cold war, when the idea of communism seemed to have finally lost to capitalism), the previous optimism about steering the globe in a universal and happy bubble of ever-growing prosperity seemed to have burst. Looked at from an Indonesian perspective, the question of which principles the archipelago should be governed on is older than the Indonesian nation itself. In this chapter, I will discuss the evolution of *adat* in relation to Indonesia's state formation. Starting from colonial times I discuss how Indonesia, as a colony of the Netherlands, was entrapped in vivid discussions on how customary law, and more importantly customary land law, should be handled in the face of the cultivation system (*cultuurstelsel*) and the humane policies. I also discuss the importance of the Basic Agricultural Law (hereinafter BAL) under its two authoritarian regimes, and end with the discussions that surround the revival of *adat* in contemporary Indonesia.

Colonial Times

During the three centuries of colonialism in the Netherlands Indies, the Dutch developed a system of government which made use of the Javanese aristocracy (*priyayi*) to exercise control over Indonesian agrarian population (Tyson, 2011: 654). With the Dutch depending heavily on income from the spice trade of the colonies, Javanese farmers were forced to produce sugar and spices, rather than rice. Because of this, much of the Indonesian population faced famine at the end of the 19th and the beginning of the 20th century (Reid, 2011). In order to support their system of exploitation, the colonies' legal system showed a distinct dualistic character (Fasseur, 2007: 50). Europeans residing in the Dutch East Indies were supposed to adhere to regulations conform laws and procedures that originated in the Netherlands, whereas 'native' Indonesians (including Chinese minorities) were subjected to customary law (*adat* law). One might argue that this system was kept in place as the least combative way to establish control over the colony, rather

than out of the Europeans' respect for native customs. Prove that the duality of this legal system was in part motivated by European self-interest, and a tool to make exploitation more efficient may be found in the fact that the dualistic code of law made it possible for the Dutch to maintain the cultivation system which would pour huge profits into the Dutch treasury (Fasseur, 2007; Li, 2010). Although unfair at the time, this dualistic model, of legal differentiation between the nation on the one hand and the native on the other, would go on to form the legal precedents on which much of the current notions of customary rights are based (Colchester, 2002:2).

Around the end of the 19th century, after the Dutch 'discovered' *adat* law, scholars at the University of Leiden, led by Van Vollenhoven, started to systematically describe and analyse Indonesia's many *adat* courts. In 1910, the term *adatrecht* (*adat* law) was first introduced in the Dutch language (Fasseur, 2007). This process inherently divided the Dutch administrators along two lines of thought. On the one hand, there were those described by Li (2010:393) as conservatives. These were the people, like Van Vollenhoven, who advocated a (non-codified) system of *adatrecht* to remain in place in Indonesian society, campaigning against the rising influence of western law in the archipelago. And on the other hand, there were the liberals, who in the light of the recently established humane policies, saw this as a risk for Indonesia's further development (Fasser, 2007). This process of increased awareness for the needs of the 'natives' in Dutch and British colonies is aptly described by Tyson (2011), who coins it as the colonial 'debt of honour' vis a vis an exploited population. After discussions about the codification of law in the Dutch Indies overheated at the beginning of the 20th century, Dutch lawmakers entered a stalemate. Eventually, when the Dutch lost control over their colony during the second world war, the linkage of *adat* courts to the colonial power proved to be detrimental for the position of *adat* law in an independent Indonesia (Fasseur, 2007: 64).

Sukarno, Adat Rights Under the United Banner of Socialism

After the Indonesian Independence in 1945, Sukarno's Old Order abandoned the previous colonial land laws and stipulated a uniform system in the Basic Agrarian Law (hereinafter BAL) of 1960. The agrarian law provided for the *adat* law to be incorporated into the uniform system, as is stipulated in article 3 of the BAL: "*Taking into account the provisions stipulated in article 1 and 2, the implementation of hak 'ulayat' (community rights) and similar rights derived from adat communities, ..., should be in accordance with the national and state interest which is national unity, and shall not be in conflict with other laws and regulations of higher hierarchy*" (BAL, 1960 art. 3). Given the socialist nature of the Old Order regime, the BAL, as far as it was implemented, did not aim to alienate *adat* communities from their ancestral land.

However, after the fall of the Sukarno, and the subsequent rise of the New Order regime, the ambiguously formulated article 5 of the BAL, *“The Agrarian law which applies to the earth, water and airspace is Adat-Law, as long as it is not in conflict with the National and State's interests which is based on the unity of the Nation, Indonesian socialism as well as with the regulations stipulated in this Act, and with other legislative regulations, all with due regard to the elements based on the Religious Law”* (BAL, 1960 art. 5), provided Suharto with a legal tool to expropriate many *adat* communities, often located in resource-rich provinces (see chapter 3) from their ancestral land. According to Davidson et al. (2007), this actual and perceived alienation of ancestral lands under the New Order regime, formed one of the main incubators for contemporary *adat* movements. (p. 11).

Suharto, Customary Rights as a Threat to National Development

After officially becoming president on March 27th, 1968, following two years of shadow presidency, Suharto did not formally repeal the land reform act of the previous regime. By explicitly not doing away with the BAL Suharto illustrated how this law had already become vital to the expectations of the Indonesian masses (Lucas et. al., 2013). Suharto quickly understood that he could not maintain an appearance of legitimacy without an apparent support for land reformation, but despite his formal adherence to the law, Suharto's interpretation of the BAL, which Sukarno previously created to be an instrument for redistributing land among the poor and landless, was moulded into a tool for state developmentalism (Lucas et. al., 2013). Rather than proving his legitimacy to power by means of social revolution, Suharto surrounded himself with technocrats who would help him establish Indonesia in the global economy (Elson, 2001). Regardless of the BAL still being in place, the New Order regime began to expropriate huge numbers of small-scale farmers, as well as coastal communities (Osseweijer, 2005; Chou, 2010; Tyson, 2011) in order to make way for developmental projects. By doing so, the New Order effectively redistributed the rights to millions of hectares farmable land and coastal regions amongst Suharto's associates who would turn them into plantations, excavation sites for precious metals, sites for oil production or high end tourist resorts (Lucas et al., 2013; Elson, 2001; Tyson, 2011). The effect of Suharto's policies on the Orang Laut and Sama Bajau will be further discussed in chapter 3.

Suharto's 'New Order' supported the claim that Indonesia was a country which did not harbour indigenous tribes, for all Indonesian could be counted as equally indigenous (Sarwono Kusumaatmadja in Li, 2000: 149). The New Order's stance vis a vis Indonesia's native sea tribes, however, had been a complicated one. In his 2001 article, Acciaioli describes the way in which the regime latched on to the idea of cultural unity through the concept of a shared maritime history (Acciaioli, 2001: 4). To celebrate the year of the

indigenous people in 1993, the New Order erected an exposition in the Indonesian National Museum centred around the *suku Bajau* (Bajau tribe/culture). Other than proving the government's commitment to the plight of the indigenous people, the exposition aimed at portraying Indonesia's history as one of a shared maritime culture. This had evolved to form a pan-Indonesian consciousness that justifies the New Order's developmental policies. However, the process did not allow for divergent cultural tendencies, like the (semi)nomadic lifestyle of the Orang Laut and Sama Bajau, which did not fit Suharto's vision of a modern Indonesia (Davidson et al., 2008: 10; Acciaioli, 2001).

From Masyarakat Terasing to Masyarakat Adat, the Rise of Indonesia's Adat Advocacy Groups

After the fall of Suharto in 1998, the *reformasi* (reformation) period provided for a surge in indigenous rights movements all across the archipelagic nation. In 1999 Indonesia saw the birth of the national indigenous rights movement, the Archipelagic Alliance of Adat Communities (*Alliansi Masyarakat Adat Nusantara*, hereinafter AMAN) which would famously challenge the Indonesian government by stating: "*If the state will not acknowledge us then we will not acknowledge the state.*" The tone was set, and Indonesia's *adat* advocacy groups started to shift the national conscience of regarding communities which were previously dubbed *Masyarakat Terasing* (Isolated Communities), into a *Masyarakat Adat* (Traditional Communities), who should be acknowledged for their distinct cultural practices and 'primordial' rights to ancestral territories. The acknowledgement of *adat* rights strengthened the hand of communities who previously underwent the 'New Order's' expropriation and allocation of land rights towards projects furthering Indonesia's development goals. These communities could now, with the help of organisations like AMAN, and Friends of the Earth Indonesia (Wahana Lingkungan Hidup Indonesia, hereinafter Walhi), reclaim the rights to ancestral lands (Indigenous Peoples' International Centre for Policy research and Education, 2012).

However, three decades of Suharto's developmental regime left an unmistakable mark on the way these *masyarakat adat* were positioned within Indonesian society. This fact has also been stressed in a number of publications by AMAN (AMAN, 2008). In *Hak-Hak Masyarakat Adat, Dalam Konteks Pengelolaan Sumber Daya Alam* (2008), Bosko, a scholar of law at the University of Gajah Mada (UGM), describes the situation as follows: '*In this century, the process of seizure and marginalization [of adat communities] continues, and perhaps astonishingly, the process continues in conditions more unprotected by justice and legal settlement than in the early days of colonialism*' (Bosko, 2008: 32). Bosko's analysis seems to resonate with the idea presented hitherto; that decades of dictatorial regimes in combination with a developmental state, have been more detrimental to the rights of Indonesia's *adat* communities than the three centuries

of colonialism. The fact that the struggle for indigenous rights is far from over is further demonstrated in a 2018 report by 'the Forest Peoples Programme' and 'BothENDS'. The report found that Indigenous people fighting for recognition of their land and territorial rights are at an extremely high risk of violence and killings as well as being criminalised by the state (Tauli-Corpuz, 2018). At the basis of this issue is the huge overlap of customary forests and state forests. And even though the Constitutional Court in 2013 decided that customary territories had prevalence over state territory wherever these two overlapped, the process of recognising customary land had still not been pursued effectively by either the ministry of agriculture or environment and forestry (Tauli-Corpuz, 2018).

But what do these developments mean for Indonesia's sea-based *adat* communities? AMAN, the national institution which supports Indonesia's *adat* tribes represents 2,332 indigenous communities throughout the archipelago, amounting to about 17 million individual members (AMAN, 2018). AMAN, despite its large membership, has up to now only been focussed on a few coastal communities in Maluku, Sumbawa, Lombok, Mentawai and Sikka (Arizona, personal communication, May 9, 2018). Interestingly, even when representing *adat* groups near coastal regions, the focus of AMAN seems to be on pastoral communities rather than fishing ones (Arizona, personal communication, May 9, 2018), which would automatically exclude the Orang Laut and Sama Bajau. An advocacy group that does concern itself with the rights of Indonesia's coastal and seafaring population is Kiara. On their website we can read the following statement: 'Since its inception, Kiara has committed itself to strengthen the position of fishing communities and groups living in coastal areas and small islands in order for them to obtain the adequate protection and welfare by the Government of the Republic of Indonesia' (KIARA, 2017).

Chapter 2: Indonesia's Sea Nomads: History and Religion

As a research subject, Indonesia's sea fearing communities seem to have had their fair share of academic attention. Although most often viewed from an anthropological perspective (Chou, 2010, 2003; Lenhart, 2001) Sama people recently made global headlines as the first group of people proven to have genetically adapted to a life spend as much in as on the water (Ilardo (2018) showed that their genetically enlarged spleen makes for better oxygen distribution through the body). However, notwithstanding their impressive physical abilities, both Sama and Orang Laut have been met with centuries of discrimination in their respective homeland(s) (Chou, 2003; Lenhart, 2001; Mantjoro, 1997). To shed some light on how these people ended up on the lowest rung of the social ladder we look at the historical factors that contributed to the Sama and Orang Laut's descent down the underbelly of Indonesian society.

Indonesia's Sea Nomads: a Historical Perspective

During a census study performed among several Bajau villages along the coast of North-Sulawesi, the Bajau identified themselves as being related to the Johor Sultanate, tracing their shared history back as far as 5000 B.C. (Mantjoro, 1993). The way in which the Sama people of Sulawesi described their origin can be found in Van Dewall: "*The Bajau originally came from Johore. Once a Johore princess disappeared during a storm at sea. The Sultan of Johore organized a group of people to search for her. However, the lost princess could not be found, and the people who were looking for her found themselves far away from Johore and were unable to find their way back again, and so they settle down along the coastal areas of Borneo, Sulawesi, and in the Sulu Archipelago*" (Van Dewall in Jubilado, 2010:91). The legend, in combination with the more recent testimonies of Sama people in Mantjoro (1993), gives us an understanding of the connection between these two communities, who are geographically apart, but culturally so alike that in the past they have often been identified as one *suku*. Until as recent as 1993, the Orang Laut were categorised as the Bajau of Riau (Mantjoro, 1993:1).

However compelling, this shared history has been recently debunked. As pointed out by Jubilado, the sultanates mentioned in the legend did not yet exist at the time (5000 B.C.). The Johor sultanate was only established around 1600 A.D., and thus the migration, if it happened at all, would only have taken place some 600 to 400 years ago (2010:92). Instead, the Bajau of Indonesia are believed to originate from the Southern Philippines and have migrated from Mindanao to the south (Sulu sea, North Sulawesi), and to

the West (Borneo) (Jubilado, 2010; Lowe, 2003). Even though the shared origin story of the Sama people and Orang Laut has been debunked, the fact that the Sama seem to self-identify with their counterparts situated around Indonesia's Kepulauan Riau province, tells us more about the shared culture that binds these two groups of people. Mantjoro (1993) indicated that all of the Sama people from north Sulawesi who participated in the 1993 census believed that their origins lay in the Johor-Riau sultanate (p.41).

The history of Indonesia's sea nomads can be depicted as a story of rising power followed by one of rapid decline. In her work on the Orang Laut of Riau, Chou (2010), states: "*their [Orang Laut] current marginal status is one that has been culturally and politically constructed through shifts in political rule and their adherence to social ideologies*" (p.40). Starting off as a community admired for their navigational skill and loyalty to the kingdom, the Orang Laut's ties to political powers in the region can be traced back as far as the Sriwijaya-Palembang Empire (7th-11th century C.E.) (Chou, 2010). Their favourable relation to power would remain until the disintegration of the Johor sultanate after the death of Sultan Mahmud Syah in the 17th century C.E., after which the Orang Laut broke ties with the Sultanate resulting in an increase of undirected raids in the region (Chou, 2010: 51). The real brake-up, however, of the previously integrated region of the Johor-Riau sultanate occurred when the Dutch and British colonial powers decided to separate the region in accordance to their colonial sphere of influence (Chou, 2006; Chou, 2010: 56). The Johor-Riau region got divided along the lines of the small strait separating Singapore from Riau. A process that suddenly placed the *Heimat* of the Orang Laut on the outskirts of two distinct administrated regions. At the same time, the perception of colonial powers *vis a vis* the local Orang Laut was that of an uncivilised band of pirates (Chou, 2010:53). Not aware of the clear distinction made in Malay customary law between robbing, and upholding territorial rights, the Orang Laut were branded as unorganised bands of sea-raiders. A community regarded as the least civilised among the Malays, who should not be able to claim any territory for itself (Chou, 2010:57). This concept of branding local acts of territorial sovereignty as acts of piracy was not an isolated incident in the period of expanding colonial powers. The same fate had befallen 'pirates' off the coast of Malabar, halfway across the Indian ocean, on the Southwestern tip of the Indian subcontinent (Prange, 2011). In many aspects, the fate of these two distant sea tribes has been linked in the way that they lost their claim of coastal sovereignty with the expansion of European colonial powers.

Under Dutch colonial rule, the Riau province, where most of the Orang Laut are situated, would enter a period of obscurity. It was only after Indonesia gained its independence, and with the birth of the New Order regime in 1967, that Riau would again become a province of economic and political significance

(Chou, 2006). Suharto pushed to develop the province, both for oil and gas extraction, as well as making the island of Batam into an upcoming industrial zone (Heng & Bo, 2016). Later, the region saw further development in the eyes of an international economic development scheme. Initiated by a Singaporean government looking to expand its limited supply of natural resources, and battling with a rising labour cost, the idea of the SIJORI (Singapore-Johor-Riau) growth-triangle was formed. The aim was to present the region as an integrated economic zone (Heng & Bo, 2016; Chou, 2003:22), and the ongoing developmental project would have an ongoing impact on the Orang Laut residing in the region.

As for the Sama Bajau, we have to rely mainly on linguistic evidence to track their early history and dispersion south of the Philippines (Stacey, 2007:9). Around the 9th century C.E., speakers of the proto-Sama language started to disperse along the region of the Southern Philippines. Around the 11th century, the first groups of Sama people are believed to have reached the island of Borneo, and in the following centuries, a southwards movement into the eastern Islands of Indonesia was accelerated by the Bajau's involvement in the increased trade in the region (Sather in Stacey, 2007:9). Like the Orang Laut of Riau, the Sama were quickly given a preferential status by the sultanates and they played an important role in the rise of the state of Gowa in the 16th and 17th century (Stacey, 2007:10). However, contrary to the Orang Laut, the Sama saw a decline in their boat-dwelling existence as early as the 19th century, favouring sedentary lifestyles, often in coastal areas littoral zones, over permanent boat-dwelling (Stacey, 2007).

Pre-Islamic practices as a Means for Exclusion

According to Chou (2010), a legacy of the 'piratelike' Orang Laut has perpetuated itself onto modern times, where the Orang Laut still face difficulties being accepted by other Malay tribes, whose world was once shaped by this very community (Chou, 2010: 58). An example of this negative attitude towards the Orang Laut of Riau can be found in Osseweijer (2005), where she states: "*Melayu fishermen have a derogatory attitude towards this latter group, saying that orang laut hardly ever bathe, they have primitive fishing techniques, and they are [culturally] too different from us...*"(Osseweijer, 2005:166). The alienation of Indonesia's sea nomads is also rooted in their beliefs, even though the majority of Orang Laut and Sama Bajau have numerically converted to Islam (Mantjoro, 1993:20), their continued adherence and belief in their traditional animistic gods and ghost (in addition to their Muslim beliefs) has in most parts isolated them from their surroundings (the state and other *suku*). Only as recently as November 2017, after a ruling by the Constitutional Court, Indonesia has officially started to acknowledge different forms of religious affiliation other than the six religions previously approved. But in a country where 87% of the population self-describes as being Muslim (national census 2010), the distinct religious, cultural practices and beliefs

of Indonesia's sea nomads make them a target for critique and exclusion. However geographically dispersed, the religious practices of the Orang Laut and the Sama Bajau are quite similar. Rooted in animistic beliefs, both communities seem to adhere to the existence of *hantu laut* (sea spirits/ghosts) which influence the migration of fish in their respective territories, as well as the sacred bond between ancestral spirits and the sea/mooring area's (Chou, 2003:63; Lowe, 2006; Jubilado, 2010:93). Furthermore, both communities' adherence to Islamic practices is intertwined with animistic tribal beliefs which were prevalent before Islam was introduced in the region (Chou, 2003; Jubilado, 2010).

The reason for this somewhat loose conversion may be found in Chou (2003), who describes the Islamic conversion of the Orang Laut as a calculated decision. In the light of ongoing missionary work in the region, Orang Laut, until recently, were offered all kinds of material advantages, support by government officials, and neighbouring Malays communities, if they would agree to convert into Islam (p. 39). Seeing as much of the material benefits presented by these missionaries was based around the tools and to build houses ashore it is easy to draw a link between this process of Islamification and the governmental aim of binding the Orang Laut to fixed on-shore housing arrangements in an effort to increase governmental control over the community. Nevertheless, just as these sedentarisation efforts by the Indonesian government seem to have failed, so too has the Islamic conversion of Indonesia's sea nomads only been able to put a layer of varnish over their deeply rooted beliefs.

As discussed in Chou (2003), The Malays living in Riau do regard *adat* as a notion of purity. However, from a Malay perspective, *adat* can only be pure if it is guided by Islamic principles (p. 32). For example, the Malays do not regard the Orang Laut's *adat* practices as adhering to Islamic principles when it comes to marriage proposals, as a young couple would just disappear for a period of time, to later resurface and be deemed married by their community (Chou, 2003:34). So whereas this marriage practice might be an expression of the Orang Laut's *adat* the fact that it is perpendicular to Islamic principles makes it impure. The position of the Orang Laut *vis a vis* the Malay is also not helped by common held Malay beliefs that the Orang Laut community, in part as a result of not strictly adhering to the Muslim religion, possess a form of *ilmu hitam* (black magic) which manifests itself in the form of powerful spells that can trap other people's soul and force them into submission (Chou, 2003:53). Even though this has never been pointed out by Chou or any of her research subjects, I find it strange that the fact that these self-described pious Malays believe in this rather non-Islamic principle of black magic does not seem to pose a problem in and of itself (although counter to this argument a belief in ghosts and spirits can be observed among practically all Indonesians). Another way in which the magic of the Orang Laut seems to manifest itself is

through their relationship with the aforementioned mentioned sea spirits (Chou, 2003:63), as well as the practice of concocting a great variety of magical potions (see chapter 3) .

In the case of the Sama people, they too are often regarded as not properly adhering to the teachings of Islam, as their Islamic beliefs also syncretised with historical forms of animism (Jubilado, 2010:93). However, Jubilado (2010) argues that he did observe a broad understanding of the Qur'an and Islamic teachings in the Sama community. Notwithstanding their adherence to Islam, the Sama Bajau divide the Gods into separate entities which from an orthodox Islamic viewpoint might clash directly with the principle of *Tawhid* (unity of Allah). According to Jubilado (2010), the Sama adhere to the existence of one superior god (*Tuhan*, literally the word for God in the pre-Islamic tradition) which is equally present in the sea as on land, but then the Sama also adhere to *Umboh* whom the Sama see as a mediator between themselves and God (Jubilado, 2010:93). Other than these the Sama believe in a plethora of benevolent and malevolent spirits which are called *saitan* (literally devils) or *djin* (Jubilado, 2010:94), as well as in practices to appease ancestral spirits roaming their territories (Jubilado, 2010).

Chapter 3: Protecting Marginalised Communities and Reasons for Exclusion

The Bajau and Orang Laut: Guardians or Thieves of Nature's Resources?

As both AMAN and Walhi share strong links with international environmental organisations, it is not surprising that they would be reluctant to identify themselves with communities who have been historically made out to be the destroyers of nature's resources. As shown in Tyson (2011), campaigns for *adat* rights are frequently aligned with environmental initiatives such as Reducing Emissions from Deforestation and forest Degradation (REDD) (p. 656). Unfortunately, both the Sama Bajau and the Orang Laut, have been linked to destructive practices like cyanide fishing, and the hunting of endangered species such as turtles and sea cows (Chou, 2010:86; Lowe, 2006:137). However, there is a certain distinction to be made between the prevalence of environmental mal-practices between both communities. Chou describes the Orang Laut of Riau as being somewhat reluctant in giving up the hunt for protected species like turtles and sea cows, as both of these are believed to possess magical qualities (see chapter 2). A turtle-shell is believed to be able to protect the Orang Laut from the dangers of being poisoned, and the teardrops of the sea cow can be used in concocting strong love potions (Chou, 2010: 86). Be that as it may, the demand for illegal species is not only prevalent among the small community of the Orang Laut. Much of the demand is actually driven by ethnic Chinese from Singapore and Riau, as they to believe in these magical properties (Chou, 2010). It is understandable, how the Orang Laut's dismissiveness of conservationist efforts does not work in their favour when looked upon from the (inter)national perspective of ecological conservation. However, it is paramount to understand that it is not the Orang Laut alone who propel this illegal trade, as it seems to be predominantly ethnic Chinese who are causing the huge demand.

In the case of the Sama Bajau, the link between Sama people and destructive fishing methods seems less clear-cut than with the Orang Laut. Lowe (2006:137), describes her experience with the Sama Bajau of the Togean islands in Sulawesi, where the Sama have consistently been accused by government bureaucrats and biodiversity conservationists of being the main ethnic group responsible for using damaging cyanide fishing techniques. In doing so, the Sama are accused of inflicting huge damages to Sulawesi reefs and decimated the population of already endangered species like the Napoleon wrasse, as well as being held responsible for blast fishing, coral mining and exploiting fisheries to the point of collapse (Clifton & Majors,

2012: 717). As pointed out in Lowe (2006), the dichotomy between (inter)national conservationist NGO's and the local Sama, resulting in these accusations, is mainly backed by conservationists ignorance about actual fishing practices in the region (p.142). Cyanide fishing is linked to a surge in the demand for live fish, which are mainly being exported to Hong Kong and Singapore. Note that the use of cyanide increases the catch exponentially when compared to the traditional method of line fishing. After the effects of cyanide in catching live fish became rampantly clear to conservationists, and the Sama, the latter were quickly branded as the main perpetrator (Lowe, 2006).

In spite of the negative overtone the Sama people have had to endure in the national and international assumptions concerning their culture, Lowe (2006) presents us with a viable antithesis to this premise. First, the live fish businesses in the area are owned by wealthy Indonesians from Jakarta and, secondly, locally these businesses are predominantly run by Indonesian migrants from Java or Kalimantan (Lowe, 2006:142). This is of course not to say that no Sama people are, or have been involved in destructive fishing practices. But, the management of these companies is obviously not rived with Sama people. The reason why Sama Bajau are so ostensibly linked to cyanide fishing is because these fishing camps are often strategically placed near Sama villages (Lowe, 2006). During the New Order era, when Lowe's research took place, it was also easy to brand the Sama as the natural perpetrators of these destructive practices, being that they were considered *masyarakat terasing*, or backward community in need of development (Lowe, 2006). This negative attitude can also be felt in the descriptions of the Sama villages in north Sulawesi by state linked researchers (Mantjoro, 1993). However, Lowe (2005) in her account of Sama people of the Togean islands observed a deep understanding of managing natural resources stating: '*..., Jafir's [a Sama man] knowledge of the marine world, in contrast [to other ethnic groups], was quite extensive and directly relevant to the capturing of live fish. His hand line fishing, for example, required intricate knowledge of species, currents locations, equipment, and baits.*' (Lowe, 2005:143).

I would, however, like to point out that in regards to the environmental stance, Lowe seems to be slightly biased in favour of the marginalised Sama Bajau. In the case of the Sama, like many communities who have only recently been introduced to modern packaging materials like plastic, trash is often dispersed of by throwing it in the sea. Maybe in the past, this was not harmful as they were only consuming natural produce, but today there is an abundance of plastic waste and cigarette butts. In addition, if we take an objective stance, it is necessary to acknowledge that to some extent their position as a poor marginalised community might be partially their own doing, as many Sama are observed to reject schooling, resulting

in a lack of education. A lack of education which means that there are practically no native Sama who can lobby for their community rights.

Southeast Asian Sea Nomads, Stateless Natives?

Whereas international law seems to leave definitions concerning indigeneity up to self-determination, the United Nations (UN) emphasises a few factors which lead to the recognition of a community as indigenous (Colchester, 2002:2). According to the UN, 'Indigenous tribes' are those with **close ties to their land**, characterised by an identity and language which is distinguishable from the national mainstream, govern themselves according to their costumes, and have a history of political marginalisation (Colchester, 2002:2). According to this definition then, Indonesia's sea nomads seem to hit only three out of the four criteria. As discussed in chapter 2, proving close ties to the land is understandably problematic for a community which spends most of its life mobile and on water. In this respect Indonesia's sea nomads do not fit easily in what Li (2000) described as the 'tribal slot'. However, when looking at the definition of indigeneity by Bernard (2006), defining close ties to the land on the principle of pioneering. In this definition, regarding Indonesia's sea nomads as indigenous is a given as their history (chapter 2) shows a clear pioneering status.

Notwithstanding the fact that Southeast Asia's sea nomads, according to international standards, can be regarded as the indigenous groups in their respective regions, the question of belonging remains. As Lowe (2003) points out, water is frequently overlooked when it comes to our understanding of notions like roots or belonging (p.111). As a result, the Sama Bajau living in the territory stretching from the southern Philippines to Indonesia's Eastern Islands and the east coast of Borneo are often regarded, and effectively are, a stateless community. Seeing that pre-colonial states in this region often had little use for rigidly defined coastal borders, the Sama and Orang Laut were free to travel these territories as they pleased. However, their wide dispersion and marginal position relative to the administrative cores of the relatively new nation-states, which were arbitrarily delineated in the 19 century (Acciaioli et al. 2014), has resulted in a large proportion of Sama people being undocumented. Falling between the cracks of Southeast Asia's maritime states. Especially for the Sama people who are located within the Indonesian and Malaysian territories of Borneo, their position has only worsened since the start of the conflict in the southern Philippines in the 70's (Acciaioli et al., 2014), resulting in many Sama people crossing international borders to flee the on-going conflict.

Acciaioli et al. (2014) made a great study on how the liability of statelessness and exclusion is interlinked with the concept of conservation in these borderlands that are rich in biodiversity. As discussed by Lowe

(2006:132), the cooperation between international NGOs and local and national government agencies in the past has been less than ideal, as their objectives were often perpendicular to one and other. One topic, however, on which both parties seem to have found a common ground is in the field of environmental conservation (Lowe, 2006; Acciaioli et al., 2014). The region where the Sama people reside, and where the problem of statelessness is most rampant, is completely encompassed within the 'Coral Triangle Initiative on Coral Reefs, Fisheries and Food Security (hereinafter CTI); a partnership between international NGOs and local states aimed at ramping up conservation efforts in the biodiverse region (Acciaioli et al., 2014). When it comes to the question of statelessness, the Sama people are affected mainly by their inability to access healthcare or education (Acciaioli et al., 2014), a situation which is already challenging in itself. In addition, due to conservation issues, we see that the Sama people are not held in high regards by environmental NGOs. Therefore, the Sama are often excluded from NGO led environmental programmes handling the question of resource management, despite the fact that they are the biggest stakeholders (Acciaioli et al., 2014: 87). Considering that the position of statelessness is making it impossible for them to influence future policies, and being dismissed by environmental NGOs as an environmental liability, the Sama people are being pushed in an increasingly marginalised position *vis a vis* other actors in the region.

But how do the local *yayasan* (non-profit organisations) position themselves when it comes to the Sama plight for citizenship? When I reached out to Kiara, the self-proclaimed advocate for the rights of sea and beach based communities, I failed to receive a response on whether or not they are actively involved in the plight of Indonesia's sea nomads. In addition, the organisations program seems to have no projects related to the Orang Laut nor the Sama Bajau. However, that is not to say that the predicament of Indonesia's sea nomads is totally lost on Indonesia's *adat* advocacy groups. With regards to the question of statelessness, I was able to find one example whereby a group of Sama people were advocated for, by some of Indonesia's *adat* and environmental representatives. In 2010, Walhi, together with the Centre for Ocean Development and Maritime Civilization (Commit), the Archipelago People's Advocacy Service (Layar Nusantara) and the People's Coalition for Justice in Fisheries (Kiara) had been vocal about the plight of the Bajau community (The Jakarta Post, 2010). On March 12th, 2010, these advocacy groups released a statement encouraging the government to approve citizenship for the 103 Bajau (105, after two births occurred in captivity), living on the Balikukup Island in East Kalimantan, who had been detained by Indonesian officials for not having any proof of citizenship. Moreover, the statement urged the public and officials to accept the Bajau into their territory, arguing that the Sama have considered the waters around Malaysia, the Philippines, and Indonesia their home for centuries (The Jakarta Post, 2010).

Developmentalism over Cultural Preservation, The Impact of the SIJORI-Growth Triangle on the Orang Laut

Another case upholding the argument supporting the claim that Indonesia's sea nomads have been unable to profit from the increased attention for *adat* rights is supported by the situation of the Orang Laut of Riau (Chou, 2010; Mubyarto, 1997; Lenhart, 2001). One might argue that from the moment the New Order regime designated the Island of Batam, and the whole province of Riau as a zone designated for economic development, the Orang Laut residing in this province lost the plight for their ancestral territory. As I previously argued (chapter 2), the province of Riau regained its economic attractiveness under the New Order government with the findings of oil deposits, and later through an increased cooperation in the growth triangle region. The Orang Lauts' (semi)nomadic culture made it possible for the New order government to ignore their rights to ancestral moorage areas and aquatic territory (Chou, 2006). Additionally, as a means to gain control over the nomadic Orang Laut, the Indonesian government under Suharto, undertook a process of tying the Orang Laut to coastal and inland housing arrangements.

These projects of forced relocation intensified throughout the 90's as Indonesia's investments in the region grew (in Sulawesi the Sama people have similarly been subjected to these relocation policies [Lowe, 2003]). Amidst these developments, a number of regional experts (Chou, 2010; Lenhart, 2001; Osseweijer, 2005) have observed that the New Order relocation policies failed their objective as most Orang Laut were later observed to return to their (semi)nomadic lifestyle. Unfortunately for the Orang Laut, after the Reformation era, the developmental pressure in the region remained high. Even though political power made a significant shift towards decentralisation, the provincial government kept supporting the growth triangle narrative (Chou, 2006: 246), providing Jakarta and Singaporean investors with so-called virgin maps of the islands which could be turned into zones for additional economic development. A process which completely ignores the Orang Laut's rights to these territories (Chou, 2006: 253). As noted by Tauli-Corpuz (2018), the best way to assert claims to territory is through the process of mapmaking. Many *adat* communities (often with the help of NGO's) have already resorted to this option in reclaiming territory from the government in an effort to stop forest conversion into plantations, or plain wood exploitation (Li, 2007). In the seas, however, mapmaking poses a difficulty. At the moment there is only one region in the Maluku islands (Haruku) where an attempt is made to define the aquatic territory for the local community (Arizona, oral communication 2018).

One way in which we can illustrate the precarious situation of the Orang Laut's territorial claim in the province of Kepulauan Riau is by looking at the example of Bintan. Bintan is the biggest islands in the

province and has mainly been attractive to governmental and private investors as a site for developing high-end tourist resorts. When investments in Bintan's tourist sector took off, two coastal villages on the north side of the island were forced to resettle inland for minimal compensation in order to clear 23,000 hectares of land to build the Bintan Beach International Resort (BBIR) (Loh, 2016; Ossenweijer, 2005; Wee, 2016).

In 1998, after the fall of Suharto's regime, mass protest arose among the local inhabitants of Riau as it became clear that the Salim group, responsible for distributing the compensations to the 2,200 expropriated Malay families, had only paid them a compensation of Rp100 per square-metre, at the time the equivalent of US\$0.05 (Wee, 2016:259). Note that the Orang Laut, equally affected, did not receive any form of compensation. Invested interests in the region are owned by the Salim group, which included among others: 60% of Batam Industrial Corporation (Batamindo), as well as huge shares in BBIR and the Bintan agro resort - the two main high-end tourist destinations. Singaporean companies, on the other hand, own 40% of Batamindo, and equal shares in BBIR. The fact that Kepulauan Riau's development is completely steered by outside investments also attests to the apparent failure of the Reformation era in trying to increase local control over resources. As a visualisation of how development projects in the region are encroaching on the territory of the Orang Laut I have included a map of Bintan as drawn by Chou (figure1, 2006) in an attempt to define the Orang Laut's territory, together with a map of Bintan as presented by the BBIR (figure 2, s.d.).

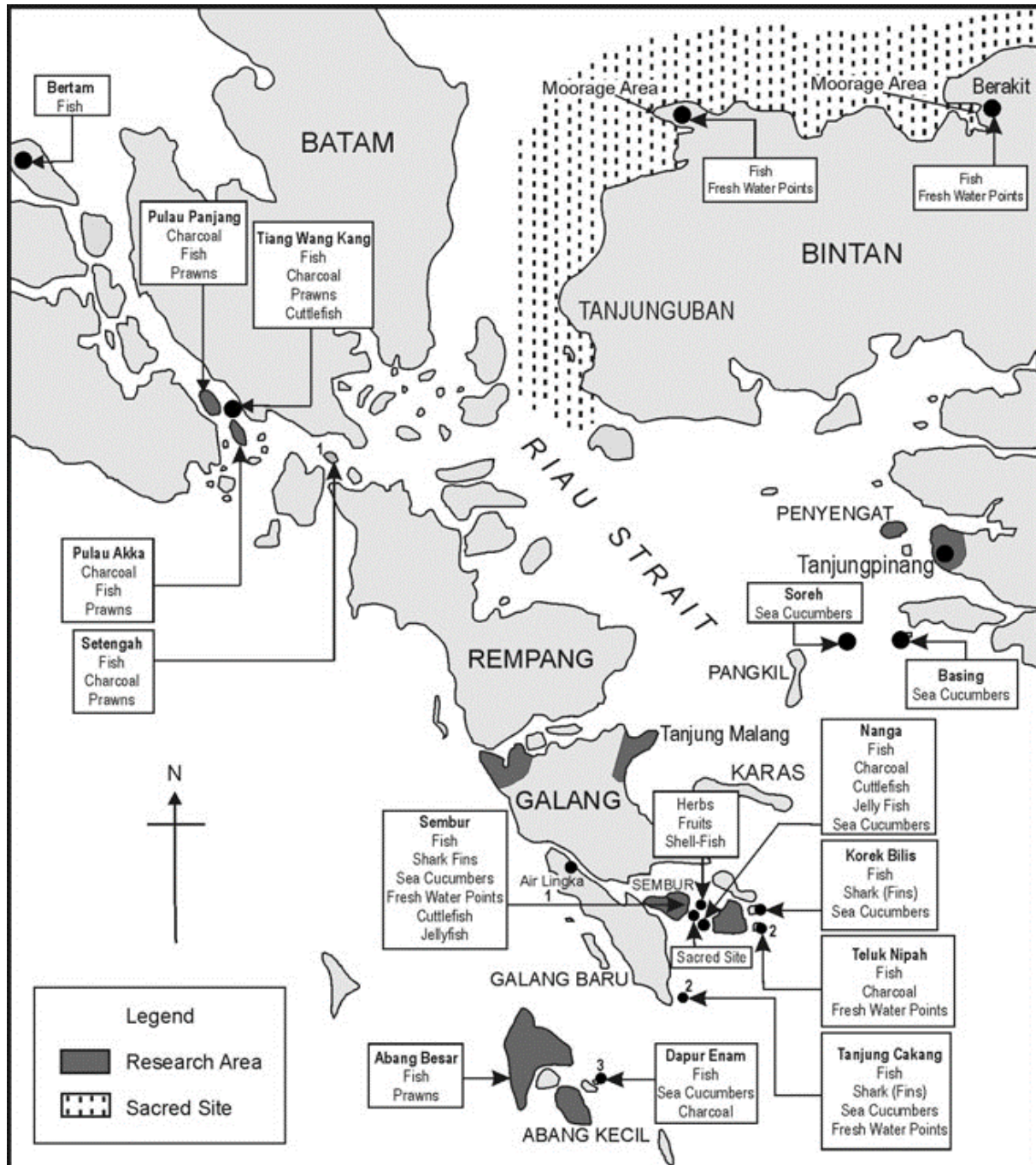


Figure 1: The network of the Orang Suku Laut interrelated territories and their identification of resources, as identified by Chou²

² From Chou, 2006:252

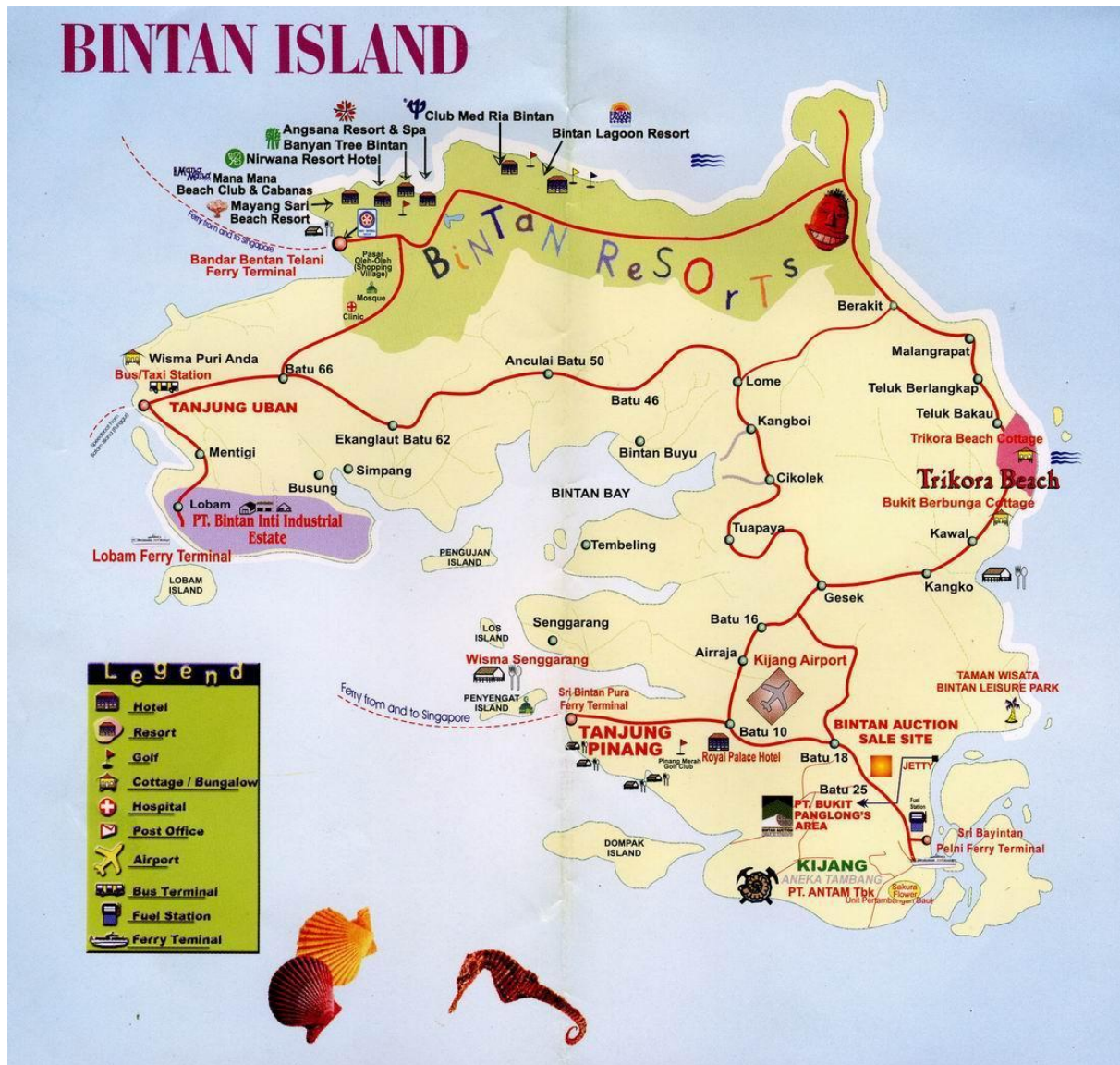


Figure 2: Bintan Island according to the owners of BBIR. Notice how the resort almost completely overlaps the Orang Laut’s sacred sites and moorage areas.³

³ From: <https://welcometobintan.wordpress.com/2008/09/10/welcome-to-bintan-island-indonesia/>

Conclusion

In this thesis, I have explored the ways in which Indonesian, and to a certain extent Southeast Asian, sea nomads fit in the contemporary debate surrounding the revival of indigenous rights in Indonesian politics. I showed how the questions of land ownership has been at the heart of Indonesian politics ever since the country experienced a form of formalised, though, dualistic type of administration under the Dutch colonizers, as well as how the question of the uniformity of law versus customary rights brought the development of this question to a standstill. Later I discussed how the Old Order, in an effort to do away with the colonial legacy (albeit not with the apparent aim to suppress customary land rights) lay the foundation for the subsequent period of native rights suppression under the New Order regime. Afterwards, the fall of this regime, combined with the previous suppression of native communities sparked a surge in customary rights movements which culminated in the birth of AMAN, the national representative of Indonesia's indigenous communities. However, as has been made clear by AMAN and international observers, even though *adat* advocacy groups have booked some victories in the recognition of indigenous land rights, the actual implementation of these rights have been few and far between. Moreover, as the question of indigeneity and land rights has been closely linked to land, Indonesia's sea tribes do not seem to fit easily in what Li described in 2000 as the 'tribal slot'. With regards to Indonesia's sea nomads, AMAN seems pretty much disengaged as they mainly focus their attention on pastoral communities.

In the second chapter, we saw how the history of Indonesia's sea nomads is substantively interlinked, to the point even where scholars used to believe that they shared the same origins. I discussed the history of decline and marginalisation of the Orang Laut of Riau, who lost their favourable position *vis a vis* political powers in the region with the dawn of colonialism, and subsequently suffered a period of forced sedentarisation under the New Order regime. Likewise, we saw that the Sama followed a comparable trajectory, although the process of sedentarisation with them seemed to be more self-induced. Both the Orang Laut and the Sama Bajau are perceived as dangerous and marginal communities in the eyes of neighbouring *suku*, most notably the pious Malay population of Riau.

In the last chapter, I discussed the factors which, contribute to the overall exclusion of Indonesia's sea nomads in the process of (re)claiming their territory. I argue that both the Orang Laut and the Sama Bajau have a bad reputation when it comes to the preservation of natural resources, making it harder for Indonesia's advocacy groups, often linked to international environmental organisations, to justify support for these communities. Statelessness is the second factor which I identify as a source for indigenous

exclusion, most notably amongst the Sama population. However, in the case of citizenship, the Sama's right does seem to be acknowledged by advocacy groups involved in the region. As the third element of exclusion, I talked about the ongoing process of development and modernity which has been introduced, most notably, in the territory of the Orang Laut.

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