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WATER RIGHTS AND LEGAL PLURALISM: SOME BASICS OF A LEGAL ANTHROPOLOGICAL APPROACH

Abstract. The case of irrigation in the Balinese village of Blahpane serves to introduce concepts of legal pluralism. This kind of legal anthropology critiques and reconceives the relations between law and social behavior. The conceptual tools of legal pluralism can improve understanding of water rights, starting from study of local experience amid multiple legal and normative repertoires. The strategic maintenance of subak irrigation rituals, by farmers and government, further illustrates the processes of legal pluralism.

INTRODUCTION

Since water is of existential importance for human life and organization, water rights are a major issue of on-going debate, conflict, negotiation and regulation at the international, interstate, and the national and regional levels. In many societies competition for water, both intersectoral and among parties within certain sectors, such as irrigated agriculture, is endemic. It follows that the conceptualizations of types of water resources and of rights to use and control them, should be expected to form key elements in any legal system, from the laws of national states down to pre-existing religious or local customary law systems. (Wiber 1992, Pradhan, Haq & Pradhan 1997, Geertz 1972, F. & K. von Benda-Beckmann & Spiertz 1996, 1997).

Law and water. It may seem a truism to mention that throughout history, issues of water rights have formed part of law and legislation, and, by consequence, of legal science and doctrine.[1] Still there exists a relative under-exposure of water law in legal scholarship. To most lawyers water is a somewhat elusive object if compared with the much more self-evident legal dimensions of land. In terms of property for instance, water rights not surprisingly use to be derived from land rights. But the problems encountered in the study of water rights are not caused by the relative marginality of water law alone. Especially if one wants to grasp not only the legal lexicons but also the social significance of water law, one will have to deal with a generic characteristic water law shares with all other law. This characteristic lies in what is called the "double-faceted character" of law in society (Cotterrell 1984).

Law and society. The prototypical legal rule consists of prescriptions, specifying the way people *ought* to behave. As such a law or a body of legal rules can be said to exist as a structural constraint in society. By some "trick" of thought however law as a mere structural constraint tends to become equated with law as social causation (Giddens 1979). It is this double-faceted character of law which confuses and biases legal and socio-legal analysis of the role of law in society. Confusion and bias come about because the prototypical legal rule is both prescriptive norm and descriptive fact. What a legal rule or normative principle does is

attaching a normative proposition or evaluation to a fact it describes. It is often not realized that such 'legal facts' are not empirical facts. Ownership, for instance, may be a legal fact but not an empirical one, and vice versa. Legal facts are not the substantive descriptions of social practices they are often taken for; they are metaphorical or hypothetical only. Or, as F. von Benda-Beckmann (1983) puts it, they are only situation images. As such legal rules and institutions are part of the structural properties of society. But whether or why society's descriptive/normative repertoires and actual people's behavior may correspond, remains a very different matter.

The study of water rights. The confusion and bias caused by the double-faceted character of law lies at the background of most studies of water rights, common property approaches included. The habit of mixing up the empirical and the legal has been both reinforced and obscured by the social and cultural prestige derived from a general belief that law is the main source of order in society (Roberts 1979, Cotterrell 1984). In the wake of legal scholarship, anthropologists and sociologists, but also public administration scientists and, most notably, economists and agronomists have long neglected to scrutinize more carefully the relations between water law and water rights and water related social practices. The actual social significance of law was mostly assumed rather than empirically researched.[2] Recent water policy paradigms, however, which bring the issue of water rights to the forefront, seem to be triggering off a different kind of water rights studies. There is a tendency at least to question the conventional outlook which consigns water rights to the formal legal lexicons and the domain of legal discourse. As is reflected in several chapters in this book, the new concern with water rights does not necessarily take the common assumptions about the social significance of law and rights for granted.

Legal Pluralism. A suitable analytical tool for the study of law and human behavior can be found in the concept of 'legal pluralism', as it has been developed in contemporary legal anthropology. What legal pluralism amounts to, and what its methodological and theoretical merits may be, I will briefly discuss below. What is important to note here is that legal pluralism strongly conveys the notion that, if we want to study water rights in the context of irrigators, engineers and petty bureaucrats on the local levels of water use and management, we have to put aside the conceptualizations of law and society that dominate both legal scholarship and social science approaches. Especially also in view of contemporary water rights policy paradigms which hold that local customary, community based, water rights and organizations for water management should get more attention, should receive recognition or even be re-introduced, the conceptual framework of legal pluralism is indispensable. It offers tools which can better comprehend how farmers, village leaders, bureaucrats and others live amidst and employ multiple normative repertoires. It aims to explore the different conceptual-izations of water and water rights, the functions of water as a natural resource, and the variety of legal status attached to water.[3] All essential preconditions for any effort to understand or improve water management. Legal pluralism as a tool for understanding law "in" society makes it its business to explore the relationships between the various legal orders, the types of interest, and the social relationships and practices involving resources in local contexts of social interaction. Research from a perspective of legal pluralism is tantamount therefore to a prerequisite for recent water policy paradigms, whether they focus on creating property regimes for groundwater control by the state, on bolstering customary law regimes for farmer managed irrigation systems, or on the possible types and forms of conflict management.

Scope of the paper. Before going deeper into the problems of water rights and the theoretical and methodological concerns of contemporary legal anthropology, it is instructive to introduce some concepts of legal pluralism within the concrete context of Blahpane, a Balinese village. The complex and contested history of irrigation in this locality illustrates

challenges facing those who wish to understand, or modify, water management. Following this case, the second section presents theoretical issues of legal pluralism, showing how the ideas of legal pluralism differ from earlier conceptions and suggesting what legal pluralism means for studying water rights. The third section briefly applies some of these conceptual tools to analyze the interaction of traditional law and technological change which accompanied introduction of high-yielding rice varieties into Balinese irrigation communities. The final section summarizes key points of the legal pluralism paradigm.

THE CASE OF BLAHPANE

Anyone visiting the island of Bali is easily convinced of the local existence of a very special and powerful organizational structure governing irrigated agriculture. The picturesque sights offered by the island's abundance of obviously well planned and maintained rice-terraces with their intricate patterns of canals, ditches, weirs and water division structures leave little doubt that the "subak," the famous traditional community irrigation associations of Bali, are very much alive. Local brochures and guides for tourist information similarly convey this message, as do piles of pamphlets, papers, reports, and maps filling the cabinets and bookshelves in many local bureaucrats' and policy-makers' offices.[4]

Laws and institutional properties as bargaining chips. The case of Blahpane shows clearly that realities in the villages and the paddies as well as in the government offices, cannot simply be identified with the structural properties and legal repertoires of Balinese social organization of irrigation and water management. Local actors negotiate and renegotiate water rights. In the process of forming profitable alliances they use the institutional and legal contexts as bargaining chips. The case affirms that, contrary to the common ideas about rules and behavior, reality cannot be deduced from the normative versions of the valid laws and institutions. It also shows how local actors' representations of reality may be manipulated to make them, seemingly, fit the authoritative institutional repertoires. Similar instances of people manipulating the legal and normative contexts of irrigation can, a.o., be found in reports from Nepal (R.Pradhan & U.Pradhan, 1996) and Sri Langka (Spiertz & deJong, 1992).

Structuralist and functionalist approaches. Data on subak are quite abundant, ranging from the first reports of Dutch seafarers in the 16th. century to prestigious colonial works describing local customary law.[5] A substantial amount of additional data turns up in contemporary reports on the problems of integrating the local irrigation corporations into the new technological and administrative structures going with government induced irrigation management programs.[6] Most data on the institutional aspects of subak, however, are based on structural-functionalist descriptions and pay little attention to the more empirical issue of how the subak laws and institutions relate to actual social practices.[7]

Blahpane Village

Blahpane is a small village in central Bali's district of Gianyar. Although it sits close to the main tourist route from the southern coast to the mountain resorts of the Bangli District, the village of Blahpane is characterized by an atmosphere of remoteness, relative poverty and backwardness, features shared with many inland Balinese villages. By origin Blahpane was a military outpost, guarding the northern border of Sidan fiefdom against marauding bands from the mountain principality of Bangli. The habit of the lords of Sidan to switch alliances caused Blahpane to be claimed alternately by the dominant principalities of Gianyar in the west and Klungkung in the East. Colonial intervention in the beginning of this century suppressed petty warfare between principalities and established Bangli, Klungkung and Gianyar as administrative Districts. After this we find the Blahpane area being administered first by the

District of Klungkung, and later formally incorporated in the District of Gianyar (See map [8]).

A broken rice bowl. Blahpane's present village structure reflects its history and geography. Blahpane, its name expressing the equivalent of a broken rice-bowl, counts two residential hamlets of about 500 inhabitants each, separated by a small chasm running north-south. Socially and politically, Blahpane is split in two parts. One part looks to the west, where at a distance of a few miles, the large village of Sidan forms the religious, political and administrative (subdistrict) center. The other part looks south, where the major village of Tulikup forms a similar center (See map). Although the Blahpane area is geographically separated from Sidan by several deep gorges, both hamlets of Blahpane are administratively part of the Sidan subdistrict of Gianyar district.[9]

An administrative and economic border-case. Geographically and administratively an out-of-the-way place, Blahpane is cut off from the bustling cultural and economic activity of the Gianyar region. Pinned against the Gianyar-Bangli border in the north, the village economy orients toward the northern enemies of old. Bangli however, being a much poorer region than Gianyar, offers little economic opportunity. Social relations with the Bangli villagers are often a bit strained. Means of subsistence in Blahpane mainly revolve around its paddies and house-yards, producing rice and vegetables, coconuts, a few cloves, and the like.

The Irrigation Situation

According to the irrigation office. Maps and registers of the Gianyar District irrigation offices, dating from 1987/1988, show part of the irrigation area of Blahpane as governed by a unit called subak Gelulung. Gelulung's acreage is assessed to be some 15 hectares, and its leader is reported to be a man called Wayan Dingin.[10] But other entries in the register do not mention Gelulung as a subak but as a "tempek," which would mean that Gelulung is only a sub-subak unit.[11] The acreage of tempek Gelulung is not clear. At one point the register speaks of 15 hectares, but elsewhere mentions an acreage of 66 hectares. According to this register, tempek or subak Gelulung is headed by a farmer called Wayan Panas and is part of an irrigation unit called subak Tulikup, situated in the area of the Tulikup subdistrict.

According to the tax collector. More, and somewhat different, information is available in the land tax office for Blahpane's part of Gianyar District. By virtue of his profession, the tax collector has a more accurate knowledge of the local situation. According to him, subak Gelulung is a confederation of the old Gelulung unit and another irrigation unit to the north of Blahpane. This unit, although located within the district of Gianyar and consisting of Blahpane farmers, is the tail end of a large irrigation and temple complex called Tamanbali, which presently belongs to the district of Bangli (See map). In the early 1960s the Blahpane farmers of Tamanbali tail-end area, which commands about 31 hectares, joined forces with the farmers of the northern part of the Gelulung area. They established (semi-officially) a new subak with a total command area of 47 hectares, which they called Gelulung, or, sometimes also Gelulung/Tamanbali (the name which will be used in the rest of this discussion). The main purpose of this affiliation was to get the District of Gianyar to provide aid for the Blahpane farmers. They wanted a permanent weir built in the river Melanggit, on Bangli territory, at a spot where their intake would not damage upstream Tamanbali interests. The tax-collector also said that the irrigation units of Blahpane were doing badly, suffering from water-shortages and from internal and external conflicts.

According to the subdistrict. Checking again with the Sidan subdistrict authorities meets with some uneasiness and confusion. Gelulung, one is given to understand, is indeed the subak of the village Blahpane, but there is also a subak Gelulung that is part of the Tamanbali

complex, and another Gelulung again which belongs to the Tulikup system. But all fall under the Sidan subdistrict administration. It may seem a bit strange that such different estimates of the identities and acreages of the local irrigation units would exist both among the various levels of local government and between the local administration and the villagers. It should be noted, however, that this is not so uncommon at all, on Bali as well as elsewhere. It would be wrong to see in this merely a sign of a failing bureaucratic grasp and administrative inaccuracy. As I will discuss below, it also signifies the political complexities of local interest management and negotiating water rights.

Local perspectives. The intricate political complexities of negotiating water rights are reflected in the different versions of the local subak territories given by the farmers and their leaders. A visit to Blahpane makes this clear. Coming from the south, one first arrives at the hamlet of Blahpane Klod, the poorer and more backward part of the village. Asking to see the local subak leader causes a flutter of discussions among the men who sit passing the afternoon in the shelter of the Klod hamlet community building. Finally a very old man, who may not have seen the paddy fields for long time, can be found to take the responsibility for explaining that in Blahpane there exists no real subak at all. The area is just "natak tiis," which means that its landowners are dependent on the drains and seepage of the upstream parts of the Tamanbali complex. Many of them therefore have become sharecroppers in the subaks of the Tulikup area. As for Gelulung, that is just part of Tulikup. But then, another, younger man claims that Gelulung is not only part of Tulikup but is also a subak in its own right, of which he himself, Wayan Panas, is the leader.

Claims and counterclaims. This claim by Wayan Panas turns out to be at odds with popular opinion in the northern Blahpane hamlet, Blahpane Kaja. Here, a local farmer, Wayan Dingin, who is also mentioned in the Gianyar registers as leader of subak Gelulung, advances a quite different version of the situation. Wayan Dingin proves more than ready to boast of his own subak leadership in Blahpane area, and his father's before him. He claims that in the early 1960s his father, a landowner in the tail end of the Tamanbali system, took the initiative and negotiated a local alliance needed to muster the labor, as well as the financial and political support, for realizme independent from the main Tamanbali system in "foreign" Bangli by persuading the government to build them their own weir in the river Melanggit. Wayan Dingin claims that this alliance of both Tamanbali tail-enders and Gelulung farmers constitutes present subak Gelulung, of which he is the leader.

Irrigation History and Ensuing Rights

Blahpane Kaja. The northern thirty odd hectares of paddy fields of Blahpane Kaja lie at the tail-end of the large Tamanbali irrigation complex, the central and top end of which lies not in Gianyar but in the District of Bangli. According to Blahpane Kaja inhabitants their paddies recurrently suffered severe water shortages caused by the bad irrigation management and the unfriendly attitudes of the Bangli farmers and subak authorities. Memories of past eras of mutual skirmishing and warfare, involving blocking water supplies and accusations of water-theft, did not help much. The situation was all the more intolerable since Blahpane Kaja never failed to fulfill its ritual obligations to the Tamanbali head-system.

Planning a weir. On the main-Tamanbali territory, at about half a mile, in bird's-eye view, to the northeast of Blahpane, the Melanggit river plunges into deep gorges, becoming inaccessible until it reaches Klungkung District to the southeast. It had long annoyed Blahpane farmers that Tamanbali irrigation policies kept them cut of from a major source of irrigation water which direct access to upstream Melanggit would provide. A weir in the Melanggit, at a spot precisely above the precipice where the river water disappears into the gorge would not harm Tamanbali interests, they reasoned. But by a carefully devised system of tunnels and

open canals, a (relatively still small) amount of the Melanggit surplus water could be conducted from the new weir to the Blahpane Kaja area, instead of being lost into Klungkung territory. In the early 1960s the political climate appeared favourable for securing goverment support for such a project. Especially since the farmers consented to take the digging of tunnels and canals on themselves.

Negotiating alliance and water rights. In the perception of the Blahpane farmers it was necessary to present the idea of the new weir to the Gianyar authorities as an authentic Gianyar District endeavor. It was important to avoid that the project would be seen as a rehabilitation of the tail end of the Bangli based Tamanbali system. Therefore, but also to muster the manpower required for digging the tunnels and canals, the tail-end Tamanbali farmers of Blahpane Kaja contrived to ally with a group of co-villagers whose paddies were located within the Gelulung irrigation area.

The Gelulung area, lying to the west and south of the hamlet of Blahpane Klod, counts farmers from both Bahpane Klod and Blahpane Kaja. However disputable its precise territory and formal status may be, in one form or other a Gianyar based irrigation unit called subak Gelulung is offically registered with the Gianyar administration. This does not apply for the Tamanbali tail end. Since they are considered part of the of the Tamanbali complex, its farmers even have to pay their land tax to Bangli instead of Gianyar.

The Gelulung area, whether considered part of subak Tulikup to the south or not, was dependent for its irrigation water on a traditional, semi-permanent, weir in a rivulet fed only by drainage and seepage, called Tukad Gelulung (See map). Therefore many of its farmers were not unwilling to severe whatever ties they had with the Tulikup system
and join the Tamanbali tail-end farmers in their effort to get the Gianyar administration support for their project. An agreement was negotiated between them and the Tamanbali tail-enders to the effect that they would construct a division block in the new canal to provide their paddies with one third of the Melanggit water. But in relation to the Gianyar authorities, it now became the subak Gelulung, claiming to comprise the whole Blahpane irrigation area, which was presented as the unit applying for support. In order to stress this point, the Gelulung farmers seem even to have arranged a formal split off ritual with subak Tulikup.

Building the scheme. Headed by its Tamanbali initiator, the father of Wayan Dingin, Gelulung/Tamanbali succeeded in finding Gianyar administration support for the new weir in Melanggit river. It appears that in 1964 the district of Gianyar initiated the construction of the weir. During construction, public works personnel suddenly pulled out. This left the construction for the farmers to complete themselves, which they did. People maintain that the government's backing out of the project was due to a combination of several factors: the right to collect land tax revenues of the Blahpane Kaja part of the new scheme was not transferred from Bangli to Gianyar; upper Tamanbali was indignant at seeing part of their old subak territory breaking away; and the national political upheavals of 1964-1965 accompanied a political and ideological swing back to traditionalism, especially on Bali. Another consideration may have been that such investments in an irrigated area of some 47 hectares, even if taking into account the spin offs for the Tulikup area, might be a bit costly after all.

Ambiguity in administrative and socio-religious contexts. The new subak Gelulung/Tamanbali comprised two tempek, one of which was the Blahpane Kaja area at the tail-end of Tamanbali and the other the northern paddies of the Gelulung part of Tulikup. Although they might pretend otherwise, the formation of the new subak meant that local bureaucrats had to cope now with three Gelulungs in the area. There was 1) Blahpane's new confederated subak of Gelulung/Tamanbali -- usually called just Gelulung; 2) a Gelulung subak which had formally seceded from Tulikup (but not being perceived as including the Tamanbali tail end); and 3) a Gelulung still seen, at least by parts of the administration, as a

sub-subak of Tulikup.

Another source of confusion, to outsiders anyway, was the fact that, in terms of religious and ritual obligations, the Tamanbali part of Gelulung/Tamanbali was never severed from the main Tamanbali complex. This may have been why the Gelulung/Tamanbali confederation never erected its own weir temple on the Melanggit river bank. Perhaps this would too bluntly identify the area as a new subak broken away from Tamanbali. For similar reasons also discussions on officially giving a new name to the Gelulung/Tamanbali enterprise remained inconclusive. The reasons given for not building a proper weir-temple vary from the difficulty of the terrain, lack of funding, and fear of hurting Tamanbali feelings, up to rationalizations that no temple is needed to worship the Gods.

Problems. The new Gelulung/Tamanbali subak was ill-omened from the start. It remains a matter of debate whether the absence of a proper weir-temple might have had something to do with it. Once the new weir was completed, it did not take long for problems to turn up. They are the same problems which presently deeply influence irrigation relations in the Blahpane area. The water supply of the Gelulung/Tamanbali subak has remained insufficient. Along the mountain-slopes, landslides regularly destroy stretches of the open canal. So, maintenance of the canal involves much labor. A tunnel runs for a thousand meters underneath Tamanbali terrain, and still depends on the Tamanbali drains. The tunnel has caved in at several places. As a consequence, there currently is a mood of wariness among the villagers with respect to taking part in subak maintenance and repair labor. There are also quiet but unpleasant local rumors as to whether the tunnel collapse was due to errors by the villagers who built the tunnel, or was or caused by sabotage.

Gianyar district declines to help. Wayan Dingin and his friends have filed many requests over the years with the Gianyar administration, asking for its support for improvement and rehabilitation of the canal. The district has turned down all these requests. As it is understood at the Blahpane local level, the present Gianyar authorities' point of view is that the Blahpane Kaja part of the area belongs to the Bangli-based subak of Tamanbali. Since land tax revenues of Blahpane Kaja never went to Gianyar, it is up to the District of Bangli to provide support for the canal, if this is considered necessary.

Farmers backing out of the new legal construction. Many Gelulung farmers have been disappointed by the meager results of the joint efforts. They gradually have started to turn their backs on the Gelulung/Tamanbali association and orient themselves again to a Gelulung as part of the Tulikup system. It is rumored that the government will assist Tulikup in the near future.[12] They appear to have shifted loyalty from Wayan Dingin to his rival subak leader from Blahpane Klod, Wayan Panas, who claims to be responsible for the whole Gelulung area. It suits their interests now to refrain from taking part in Gelulung/Tamanbali subak activities, and even to "steal" water from their fellow confederacy members to pass on the surplus to their old friends in the Gelulung/Tulikup basin. By this strategy they apparently hope now to become seen again as a part of a Gelulung that is not tainted any longer by the blind alley of the Gelulung/Tamanbali affiliation.

Blahpane Kaja farmers cling to their new found means of establishing water rights. The Tamanbali tail end farmers expect nothing from Bangli. They try to curb the process of Gelulung/Tamanbali falling apart by staging activities that emphasize the unity of the confederation. The increasing incidents and misdemeanors by their Gelulung/Tulikup partners are not appreciated, but still are mostly left unpunished. If charged by the Sidan authorities with lax irrigation management and failure to maintain cropping regulations, they invariably refer to the water-shortages and not to the internal conflicts.

Recently, an affluent resident of Blahpane Kaja donated a plot of land to the corporation to found a temple for the Gelulung/Tamanbali subak. Such a temple would

symbolically prove the subak's existence and unity as a public and religious corporation. Once consecrated, the new temple soon had to be given up as a subak meeting-place because farmers feared the temple would be profaned by the disputes frequently flaring between Blahpane Klod and Blahpane Kaja members.

Schemes of meaning. In a sense, the case of subak in Blahpane may be exceptional. Irrigation corporations on Bali do not generally have to cope with all the special problems encountered by the Blahpane farmers. Still, what makes this case so instructive is that it clearly shows that complex sets of cultural and normative schemes of meaning connect people with their natural and social resources. People construe concepts and categories of "natural resources" through these schemes of meaning. They try to control, exploit, and preserve these "natural resources" through institutionalized relationships and social practices. The case is instructive also in that it shows how rural people are not simply confronted with a single, unitary legal system - whether consisting of customary subak law 'or' official state law - but are confronted with a co-existence and complexity of legal and administrative phenomena. We even saw that similar complexities confront state bureaucrats and project officials as well. This co-existence and also the mutual permeability of different cognitive and normative repertoires is derived from and embedded in a multiplicity of normative and legal systems pertaining to one and the same domain of human life as F.von Benda-Beckmann (1983) puts it. It is such multiplicities we use to refer to as 'legal pluralism'.

CONCEPTS OF LEGAL PLURALISM

Over the last twenty years or so it has become a main objective of legal anthropology (that is, the type of legal anthropology I am referring to in these pages) to demystify and to deconstruct the conventional conceptualizations of law in society. It is not my intention here to criticize or diminish the legal science approaches to the social significance of law. It can hardly be denied, however, that conventional legal science approaches, operating, as perhaps they should, from an essentially normative conception of law and society, cannot offer the appropriate tools if it comes to understanding the actual significance of rights, and their institutional and legal frameworks in social practice.[13] This, a fortiori, counts for studies on water rights. Water rights studies have generaly not only strongly been dominated by the conventional ethnocentric and legal science dominated perspectives, but have remained relatively scarce as well.

Reconceiving Law and Behavior

Blind spots. Sociology, anthropology, the various agro-economic and political sciences, and other disciplines studying water resource management, seem to have long nurtured a blind spot for the legal and para-legal dimensions of their objects of study. Generally, matters involving law, legislation, rights, have been either seen as irrelevant, or were seen as exclusively belonging to the domain of legal science. I will not go any deeper now into the historical and epistemological complexities lying behind the problematic relationship between the legal and the other social sciences. It may be useful to point out, however, that, quite contrary to what one would expect, social science conceptualizations of social institutions, of social rules and human behavior, of common goods and private rights, of conflict and conflict management, have long been dominated by the bias of normative (basically legal) definitions.

Western bias and doctrinal assumptions. The call for deconstruction and reconstruction of the analytical tools for socio-legal research did not come about accidentally. From its very origin legal anthropology has strongly been oriented to problems of comparison. In the

wake of colonial domination over non-western peoples, anthropology of law (or the mixtures of legal and social science which in retrospect can pass for early legal anthropology) started out to identify indigenous social rules and institutions which could qualify as representing indigenous peoples' legal systems. It may not be too surprising that the comparative basis of these efforts was predominantly grounded in western legal bias and doctrinal assumptions.

Norms and behavior. Besides a weak comparative basis, most of the earlier studies suffered from a profound bias regarding the interrelationships between society's legal lexicons or normative repertoires, and peoples' behavior. These relationships were mainly seen in terms of one-dimensional causalities, in which the "living" norms could simply be deducted from behavior, and vice versa. Legal anthropology has not suffered alone from these conceptual weaknesses. Structuralist modes of focusing on social structures and institutions have similarly imprisoned mainstream anthropology and sociology, envisioning actual social practices and relationships mainly in terms of compliance or deviance. This, most contemporary social scientists will agree, is a myopic, lopsided way of looking at what is happening on the ground.

Mystification of traditional law. Colonial, and some postcolonial legal anthropology, persistently conceptualized (customary) law and practices in isolation from their wider socio-legal, administrative and political environment. Conceptual rigidity compounds this by preventing perception of, and accounting for, the processes of change within these systems. Such misconceptions have often resulted in mystification and romanticizing of the "ancient, ingrained rules and practices of indigenous communities, based on stable, equitable, conservation minded local knowledge." On the other hand, customary laws and practices have often been vilified and accused of obstructing social and economic change. In this perception, tradition became backwardness; the (falsely) perceived equity of common property regimes became the "tragedy of the commons"; lineage and extended family claims on property obstructed rational (that is, individualized) exploitation of productive resources, and so on. To a large extent such mystifications and false conceptualizations can be traced to biased ideas about how legal frameworks and social practices relate.

Versions of legal pluralism. Searching for more sophisticated ideas of the relationships between law and human behavior, legal anthropology developed the concept of "legal pluralism" (Pospisil 1971, Griffiths 1986, Merry 1989, VanderLinden 1989, F. von Benda-Beckmann 1983). Legal pluralism was conceived of, at first, as "the accommodation within national legal systems of a variety of bodies of law, customary, religious, and state law, applicable under specified conditions to the different ethnic, religious, and racial groups" (Sawyerr (1973) gives a number of fine examples of this type of legal pluralism. To a large extent colonial policies of legal pluralism were rooted in the efforts to provide a legal basis for policies of western domination and exploitation by the creation of separate social and economic spheres for the indigenous peoples.

The rapid increase of state presence in most domains of social life, especially in the developing countries after their independence, inspired legal anthropologists to come up with another concept of legal pluralism. Legal pluralism became defined now as the coexistence of multiple legal systems pertaining to *one* (a same) domain of social life (F. von Benda-Beckmann 1983). It was recognized, moreover, that there was no sound reason to confine legal anthropologists concepts of legal orders to the strictly normative lawyer's definitions of legal systems. From a social science perspective which aims at studying the actual social significance of law, lawyer's law should be seen as forming only part of a multiplicity of institutional arrangements and normative repertoires in society. Legal anthropologists, therefore, include in their conceptual framework all instances in which other, officially nonlegal, institutions and normative lexicons are generated and maintained in social life. One speaks in this respect of unofficial law, or self-regulation. At the local levels, citizens as well as

staff-members of administrative agencies usually have to cope with a plurality of legal bodies or normative repertoires. Besides the norms of state agencies and legal science, versions of religious law, or traditions and various forms of self-regulation may also be part of the local legal universe (see F.& K. von Benda-Beckmann & Spiertz 1996,1997).

Destabilization of the paradigm of the centrality of law. Perhaps the most useful element of such developments has been the destabilization of the deductive view of law as an institution central to social order. Real life experiences with law often do not support this view of the centrality of law (Spiertz & Wiber 1996). Pluralism is a "condition, thus a way of being, of existing" (VanderLinden 1989) for the individual who in daily life is confronted with several, often contradictory, regulatory orders (Spiertz & Wiber 1996). Contrary to what one might expect, pluralism is not reduced or eliminated by the modern bureaucratic states' attempts at legal "hegemony" (Griffiths 1986); the state often promotes legal pluralism by its interventionist habit of overregulation. This creates a condition of existence where many people constantly struggle to find their way within the pluralistic legal universe they live in, with its often contradictory, or compounding, norms and institutions.

A different perspective on deviance and noncompliance. Another consequence of adopting a perspective of legal pluralism, or rather perhaps legal complexity, has been its impact on legal anthropologists' ideas of the relationship between rules and human behavior. Discrepancies between rules (belonging to whichever domain of society's structural and institutional frameworks), and behavior, no longer need to be seen in terms of such one-dimensional categories as deviance or noncompliance, They have to be explained in terms of peoples' options. The same counts for rule-conforming behavior. In view of a complex, multilayered legal universe from which people can be imagined picking their choice, it becomes especially clear that specific social practices and law, customary law, or state law, or whatever structural and cultural properties, should not be analytically conflated (Spiertz 1991).

Water Rights in Local Experience

Shifting from studying rules to the individual. In Blahpane as well as elsewhere, the legal and institutional properties of society are mobilized by local actors in the relevant arenas to gain access to the means of subsistence. However, phenomena like this have been greatly underexposed in legal science dominated approaches to the role of law in society. To study the real position of people in relation to the law requires a different methodological approach from that used in traditional legal studies. The focus has to shift away from law as a codified or customary set of rules, and turn instead to the individual who stands at the intersection point of many different legal domains. And studying the individual requires understanding the social arenas in which (s)he moves (Spiertz & Wiber 1996). Studying the individual means focusing on how enterprising agents, using natural resources, are embedded in several different layers of social organization. These layers include various bodies of cultural tradition, ideas and ideologies, the normative and regulatory institutions (with the attendant concepts of rights), the layers of professional and day-to-day practices, everyday social relationships and actors' interests (see F. von Benda-Beckmann 1995)

Legal fields. In this effort there is considerable advantage to focusing on "social loci" rather than on legal systems. As Moore (1978) observes, "between the body politic and the individual, there are interposed various smaller organized social fields to which the individual 'belongs," and these are more or less formally organized. In complex societies these fields are linked together and interact in a complex chain. One of the mechanisms by which they do this relates to the way that an individual simultaneously belongs to many different fields. Griffiths

(1986) argues that the advantage of this view of the structure of social space is that we are not concerned with "things" but with "social loci." Where such social fields have the power to generate rules and enforce them, we speak of a "legal field." However, it is important that these fields not be conceived of as impenetrable entities of an institutional character, but as bounded but permeable. They always intersect with other fields of social interest and activities (see Griffiths 1986, Spiertz & DeJong 1992). Much of the rules which average people experience, including rules about where they can live, how they can conduct their business, what social safety nets are available to them, how they get access to water and land, and other important considerations come from just these sorts of fields (see e.g. Wiber 1995).

Law as a discourse. Legal fields may originate in diverse contexts such as politics, religion, economics, and common interest associations; examples may range from monastic orders to workers' unions, professional societies to veterans' associations, to village communities, irrigation units, and to bureaucrats' offices as well. Legal fields are potential forces for generation and maintenance of rules within a small, circumscribed social group. This makes them ideal for the study of the relationship between rules and behavior (see Griffiths 1986, Merry 1988, F. von Benda-Beckmann 1988, Spiertz & Wiber 1996). As we have seen in the Blahpane case, within such legal fields, law is a distinctive manner of "imagining the real" (Geertz 1983), and as such forms a "discourse" which people employ under specific circumstances involving the planning for, justification of, or attack on various behavioral options (F. von Benda-Beckmann 1983).

The multilocality of law. In the Blahpane case one can see how law as an instrument of government policy as well as an instrument of local interest management is a Janus-faced medium. A legal repertoire may have different functions in different settings, such as government offices and village life. K. & F. von Benda-Beckmann (1991) call this "the multilocality of law." They argue that it is important for getting a clearer understanding of the social significance of law to question the assumptions that go with saying that law (a law, or a normative framework) "exists." The existence of law, at the level of society's normative repertoires, should be analytically distinguished, therefore, from its existence in social process. Legal repertoires, in a way, just "hang in the air," as the von Benda-Beckmanns' phrase it, as long as the "when" and "where" of their actually becoming a social factor is not concretized, be it in parliamentary debate, courtroom deliberation, administrative decision making, farmer choices on cropping patterns, or whatever (see also Spiertz 1991, 1992). As the Blahpane case demonstrates, on this down to earth level of existence a law, or a normative institution can "exist" very differently, and can mean different things in different localities. In a sense, the subak of the Sidan subdistrict administration, or the subak of Tamanbali, or the subak of Gelulung are not, or better, are only in specific situations the subak of Wayan Dingin. In other words, plurality of law should not only be seen in terms of different normative systems pertaining to one domain of social life, but also in terms of the different levels and contexts of existence of one legal rule or one institution.

Contradictory versions of local legal orders. Legal systems or subsystems are by no means well-integrated wholes, neither within the various government organizations nor in people's economic and social life. Local forms of customary and folk legal regulation are far from unambiguous. There are usually different, and often contradictory versions of local legal orders. They usually have different, and often conflicting, bases of political authority, substantive regulations, and procedural modes to solve problems and contain disputes (F.& K. von Benda-Beckmann & Spiertz 1997). Starting from peoples' daily experience we can a;so observe various sets of normative systems becoming intertwined in the local processes of social ordering. Such intertwined complexities characterize social, economic and political conditions in most rural areas. They are the daily experience of farmers, bureaucrats and

development agents. Legal anthropology teaches researchers in the field of natural resource management, property regimes, and water rights, not to start from the normative oratory of the legal profession, nor from the recitals of local traditional law. Instead, the place to begin lies in people's daily experience regarding their normative environment, with all its ambiguity, variation and contradiction. It explicitly draws attention to what can be called "the how, and the when and where" of the significance of law in social practice.

TRADITIONAL LAW AND TECHNOLOGICAL CHANGE

The Blahpane case clearly shows that law not only consists of rules, concepts, principles and procedures which are external to social practices and institutions. Farmers' water rights are also embodied in social practices and resources. Carrying within itself the assertion of legitimate authority and use of social power, law provides normative structures and constraints for people's activities, and can be a source of motivation and orientation. But, as indicated above, law cannot be seen as the sole determinant of social practices (F. von Benda-Beckmann, 1983).

Any society encompasses more than one body of normative concepts, rules, principles and procedures that relate to social organization. Policies and legal regulations for property regimes intersect with other concerns, such as sustaining law and order, or with private and class interests of politicians and bureaucrats. To start from a perspective of legal complexity, or legal pluralism, combines theoretical and methodological approaches of legal science and legal anthropology. It means clearly distinguishing between the various legal repertoires, and the contexts in which these repertoires are actually used, misused, changed and adjusted. It also means that one should start out by, in first instance at least, ignoring the legal lexicons and the legal definitions of types of rights, such as private rights versus public rights, riparian rights, prior rights, and the like. In the case of water rights the first things to look at would rather be how water, and the value of water is conceptualized in the society (communities) studied. One would want to know which types of interests in water (which, mostly, automatically involve land as well as other interests) would exist in specific localities, and which types of social relationships would be connected with these interests. The changes in the function of the subak repertoires which occurred in the process of technological change in irrigated agriculture on Bali may serve as an example.

Introduction of high-yielding varieties from the 1970s brought dramatic changes to irrigated agriculture in Bali. But what happened to the famous, detailed body of traditional law which every subak was supposed to have developed, and in which traditional agriculture on Bali was believed to be so thoroughly imbedded? Did the Balinese subak not command an extensive aggregate of rules, rights, and regulations ensuring water control as well as pest control and soil preservation, by setting fallow periods, determining crop choice, issuing cropping schedules, and so on? Actually these fine bodies of subak law did nothing to stop the process of change. Local irrigation management practices smoothly accommodated the new interests, which entailed that subak rules simply lost their relevance for the farmers' activities in the rice-fields.

Technology and Changing Irrigation Practices

From the 1970s onward, Balinese farmers started to switch from traditional rice cropping to the newly introduced high yield varieties (HYV), which promised three or even four harvests a year; each harvest, moreover, yielded more than the slow-growing, season-bound, indigenous varieties. New, modern weirs and canals were constructed by the

Indonesian Ministry of Public Works, with funding from the Asian Development Bank, NGO's and other agencies, to extend and improve the irrigation water supplies. Scientifically designed water division blocks were installed, replacing the (allegedly) less efficient traditional ones. Many subak corporations, not wanting to wait for, or finding themselves outside the reach of government aid, did not hesitate either to take up reconstruction of their physical irrigation infrastructures on their own. Consequently, many irrigation areas which before had only commanded water adequate to sustain traditional rice production, now had enough water at their disposal to keep the fields in constant HYV production.

Maximizing water supplies went together with the introduction of an element of choice in cropping patterns that did not exist before. Production cycles of HYV are not only much shorter than those of the traditional varieties, but are also less dependent on specific seasonal and ecological conditions. Hence the linkages between water regulation and cropping schemes, which were part of the traditional subak system, became obsolete. Farmers became free to draw up their own cropping schemes, and as long as water was in sufficient supply the subak corporations had little reason to interfere.

In many parts of Bali, subak laws, such as those prohibiting premature or late bedding out, were sometimes kept in force in areas where water shortage was endemic. Usually cropping patterns became very diversified and not constrained by any traditional rule. The local perceptions of rice production contexts, that had been dominated first by the ideologies and the technological, socio-political, legal, and economic constraints of traditional rice cropping, became clearly influenced by the new opportunities (and constraints) of HYV cropping. By 1982 it appears that 98 % of Bali's paddies had become HYV cultivated (Foley 1988).

Changing Role of Subak Institutions

Although in irrigation management practices within the subak, the subak rules were often turned into laws on paper only, the subak as an institutional complex remained very much alive in other contexts of interest management. If one looks at some of the broader arenas in which in Bali the various social, economic, and political interests are promoted, one discovers that the traditional subak institutions, (or at least the viable images and interpretations of the frameworks of these institutions), still influence the everyday actions and strategies of a variety of actors involved in irrigation matters, and in other domains of social life as well.

Both increased government interference, and shifting perceptions of production interests within subaks, affected the farmers' incentives for such tasks as planning and coordination of planting schedules and efficient water management. As cropping regulation became obsolete, the irrigation associations no longer answered to an essential part of the cognitive and normative frameworks that defined them as traditional subak corporations. They became less traditional, so to speak.

However, if we look at religious irrigation ritual, for instance, we see that the subak rituals, community investments in temple maintenance, and many other aspects of subak tradition, have not become obsolete at all. HYVs' production cycles no longer correspond with the peculiarities of the ritual rice cropping calendar. The order of the rice-and-water rituals has often become completely separated from the production stages of the crops in the fields. This contradicts the belief that manifestations of religious ritual are necessary to keep the irrigation habitat intact. However, subak law and ritual, whatever its present significance within the irrigation communities, have acquired a new importance in external contexts. Thus, their performance continues and has even become more elaborate and expensive.

The Importance of Subak Law and Ritual in Different Contexts

In their struggles to obtain, within the new government built irrigation schemes, the amounts of water necessary for HYV cropping, many subak corporations became oriented at displaying, at least to the outside world, some of the territorial and formal organizational dimensions of the ideal traditional, socio-religious, subak model, as it is known in terms of the local cultural repertoires. Formerly, the question whether an irrigation association could be considered to constitute a real, traditional subak (and not just a subunit or not even that) answering to the prerequisites of the dominant models, may have often been a non-issue. However, given the idioms of tradition that penetrated the language of interaction in the field of public administration, to be recognized as a real traditional subak, with its own territorial and personal authority derived from traditional law, became an asset to be guarded jealously. One can clearly observe, for instance, such strategic use of the subak institutional repertoire in the Blahpane case.

Government policy, while trying to boost rice production, was directed at keeping the subak institutions alive, rightfully recognizing them as an indispensable means of access for policy implementation. To keep up the facades of the traditional subak provided a most convenient means of promoting new, far from traditional, cultivation and administration practices. while simultaneously keeping the peoples' irrigation units from falling apart. Bolstering the idioms of age-old indigenous tradition, still important in the local political contexts, corresponded with broader political strategies for the bureaucratic incorporation of many other domains of local social life.

Such strategies can be considered less far-fetched than it may look. Commonly actual practice has seldom corresponded with the ideal type of subak institutions, as it is represented by the dominant repertoires of cultural signification frameworks. The Balinese have always been very keenly aware of this situation. Only now, in contemporary Bali, processes took place in which the ideal cognitive and normative repertoires of the "traditional" subak more than ever perhaps, became in vogue. Moreover, to the extent that these repertoires were not yet generally known to the public and the farmers themselves, the repertoires were deliberately fed into the system by a steady flow of propaganda efforts, directed at both the people and their administrators.[14]

By way of conclusion one can say that the above clearly shows that the answers to the functions of society's legal and institutional repertoires cannot be found either by exclusively focussing on the specific interaction settings, or on the domains of life which are normatively defined as constituting the contents and the object of the legal and traditional institutions in society. The "how, when, and where" of the social significance of law and rights can only be understood by studying the workings of a rule or legal institution in different social settings; in different "legal fields," in different "loci," or localities.

CONCLUSIONS

From the nineteen seventies on, after having learned the hard lessons of scores of abortive efforts at socio-legal engineering, legal anthropology began to develop a quite different outlook on the issues of law and society. The comparative study of law in society, the conventional dichotomies of state law versus customary law, the issues of legal rules versus nonlegal rules, and the old ethnocentric, legal science dominated, frameworks of analysis became increasingly questioned.

From descriptions of normative repertoires with an eye mainly to identifying their legal character, the main focus of legal anthropology has shifted to trying to understand the

actual significance of such repertoires in social practice. Legal anthropologists have moved away from the legal disciplines' boast that law should be conceptualized as representing the ultimate or even the main source of order in society.

Law is conceptualized as only part of a multiplicity of institutional arrangements and normative repertoires in society. Among these one can find law in the sense of state (or lawyers' law), as well as forms of law which are known as religious law and customary law. But we recognize that there is no scientifically sound reason to stop there, and leave out of our conceptual framework all those instances in which other, law-like, forms of normative repertoires are generated and maintained among people, which can be called unofficial law, or self-regulation.

In most domains of social life more than one of the above legal, or law-like, systems will be relevant. This is called legal pluralism. Legal pluralism means that in many life situations farmers, water-users, village headmen, bureaucrats and officials can make use of more than one normative repertoire to rationalize and legitimize their decisions or their behavior. Which specific repertoire, in which specific case, people will orient themselves to, will mostly be a matter of expediency, of local knowledge, perceived contexts of interaction, and power relations.

We saw that irrigation in Blahpane constitutes such a domain of life where plural normative and institutional frameworks apply. Such domains can be found in the context of nearly all other facets of social life too. Moreover, legal pluralism, or normative and institutional complexity, are not found in Indonesia only. For the past 25 years instances of legal pluralism have been documented, implictly or explicitly, in many studies from all over the world. It has equally been documented that in most cases the co-existence of legal repertoires and institutions lies at the basis of considerable legal insecurity and conflict.

The paradigm of legal pluralism, or legal complexity, has important consequences for the conceptualization of the relationship between norms and behavior. Discrepancies between rules and behavior have to be explained in terms of peoples' options. Legal lexicons and human behavior and decisions should not be analytically conflated. Local people live in a complex legal universe, in which there may be many reasons and many ways to let decision be motivated by other legal repertoires than the official law. "Locality" has become a key notion of a legal anthropological approach. It means that one should start from the assumption that the relationship between rules and behavior can only fruitfully be studied by looking into real-life situations.

ENDNOTES

1. Through time, lawyers have produced numerous studies on water rights and organizations for water management, and developed doctrines on their legal character and how these should fit into the constitutional and other legal frameworks of the respective countries. Substantial amounts of lawyers' work has been done, for instance, on Californian water laws, on Spanish and Muslim water laws, and on the Dutch semi-community based 'polders' and 'water schappen' (which ,historically, rather served to protect the land from the sea than to irrigate the fields). Systematic legal works on water rights have remained scarce however. Among the most encompassing recent works on water rights from the perspective of legal doctrine are some books by Chhatrapati Singh (1990, 1992) on water rights and water law in India. As it is phrased by Chhatrpati Singh in the preface to the 1990 volume: ".... (his) work is about the legality of water rights, that is, about its nature, status, functions and sources, and not a sociological account of the status or history of water rights. ..... the work is about the jurisprudence of this right."

2. Paraphrasing Clifford Geertz (1983) in his essay on 'fact and law in comparative perspective', it can be said that both legal scholarship and anthropology have generally been more attracted to discovering "broad principles" in "parochial facts", than to analyzing how, precisely, the broad principles of social organization

and law would relate to the parochial facts of social practices (Spiertz 1990).

3. The variety of legal status of water may involve, for instance, whether water is considered to be 'owned' by the state or by specific local communities. See Pradhan & Pradhan (1996), Durga & Pradhan (1997).

4. This is a revised and abbreviated version of the case published before in H.L.J. Spiertz (1991). The case is based on fieldwork on Bali conducted by the author in 1988 with support of Wageningen Agricultural University, Department of Agrarian Law.

5. According to available sources (Rouffaer & Ijzerman 1915) it was the fleet-captain Cornelis de Houtman who was among the first to report on the Balinese irrigation system. The voyage by De Houtman to the Indonesian archipel took place in 1595-1597 in the service of the Dutch East Indies Company, which served to surpass the Portugese presence in the archipel. More extensive reports on Balinese irrigation management and its embeddedness in customary Adat Law come from Durch Colonial civil servants, among which engineers and legal scholars. Of these reports written in a period of about sixty years between the colonial incorporation of the island of Bali under direct Dutch rule untill Indonesia's Independence in the late 1940s. Only some of the most prestigeous works are mentioned here. Liefrinck (1886) and Grader (1939) wrote extensively about the irrigation system in Northern Bali, which is in many respects different from other parts of Bali. The later law professor Victor E. Korn wrote a very volumeneous dissertation on almost all aspects of Balinese Adat Law throughout the island (Korn 1932). After Independence it is Clifford Geertz who has for decennia been one of the main sources of scholarship on Balinese social organization, including its irrigation system (Geertz 1959, 1963, 1967, 1980, 1983). It should be noted, however, that, starting with the Dutch violent overthrow of South Bali's principalities in the early 20th century, works on the various aspects of Balinese life and culture easily run into the thousands.

6. See, a.o., the Balinese anthropologist I Gusti Ngurah Bagus (Bagus 1986) and the social scientists and irrigation specialists I Nyoman Sutawan (Sutawan 1986) and I Gde Pitana (Pitana 1988). See also Lansing (1987) and Spiertz (1989a, 1989b).

7. Only very little research has been done in this respect. For publications, see: Sutawan (1986), Pitana (1988), Spiertz (1989a, 1991, 1992), Spiertz and DeJong (1992). For Balinese farmer settlements in South Sulawesi, see Dik Roth (1998).

8. This map (on page ..) is based on the Department of Public Works map "Peta Lokasi Bangunan Gedung/Kantor Proyek E&P. Pengairan Kabupaten Gianyar 1988".

9. Various aspects of religious organisation, remnants of pre-colonial political organisation and colonial administration have blended together in present Balinese village organization to the effect that one cannot speak of villages in the sense of clearly identifyable, all-compassing territorial units. In an administrative sense Blahpane is one village consisting of two hamlets. In the religious and customary law sense Blahpane Kaja and Blahpane Klod are two separate villages.

10. The names of individuals in this case are fictional.

11. The Balinese "subak" is both a territorial unit and a corporation. The Balinese speak of the subak as the 'wet' village as opposed to the residential units, the 'dry' village (See also Geertz, 1967, 1972). Like the 'dry' village which can consist of more than one hamlet, the subak can be subdivided into sub-units: "tempek". As a corporation the main tasks of the subak are irrigation water management, cropping regulation, and sustainance of the religious requirements for succesful rice production.

12. Irrigation department maps indicate that the Gelulung/Tulikup system commands two minor (nonpermanent) weirs. These lie in a north-south running rivulet called Tukad Gelulung. Since these are registered as so-called non-Public Works units, information dries up at this point.

13. One of the most confusing elements of conventional legal scholarship in this respect is that it tends to conflate, in the terms of the scholar Schiff (1981), the 'is' and the 'ought'. It conflates the world as it 'is' and the

world as it 'should be'.

14. To avoid any misunderstandings it must be stressed again that this 'upgrading' of the 'traditional' subak was never just a one-way process. It was more a melting pot of learned, or pseudo-learned, and folk reflections on the cognitive and ideological typologies of the subak-model produced by government and academic and religious authorities, as well as advanced by authoritative local perceptions on the matter.

REFERENCES

Bagus, Ngurah I.G., e.a. (1986), Hubungan pura subak dengan pertanian di Bali: Analisis sistemik tentang Hubungan Pura Ulun Danau dengan pertanian di Bali Timur. *Research Report*. Denpasar: Universitas Udayana.

Benda-Beckmann, Franz von (1983) Why law does not behave: Critical and constructive reflections on the social scientific perception of the social significance of law. In *Harold Finkler compiler*. Proceedings of the Folk Law and Legal Pluralism Commission Symposia, XIth International Conference of Anthropological and Ethnological Sciences, XIth IUAES Congress, 1983, Vancouver, Ottawa. Vol.1:233-262.

----(1984) Law out of context: A comment on the creation of traditional law construction. *Journal of African Law* 28 1/2: 28-33.

----(1988) Comment on Merry. *Law and Society Review* 22(5):897-901.

----(1989) Scape-goat and magic charm: Law in development theory and practice. *Journal of legal Pluralism* 28, 129-148.

----(1992) Introduction: Understanding agrarian law in society. In *Law as a Resource in Agrarian Struggles*, eds. F. von Benda-Beckmann and M. vanderVelde, 1-22. Wageningen: Pudoc.

----(1995) Anthropological approaches to property law and economics. *European Journal of Law and Economics* 2:309-336.

Benda-Beckmann, Keebet von (1984) " Forum shopping and shopping forums: Dispute settlement in a Minangkabau village in West Sumatra, Indonesia. In *The broken staircase to consensus: Village justice and state courts in Minangkabau*, K. von Benda-Beckmann, 37-66. Dordrecht: Foris.

Benda-Beckmann, Keebet and Franz von (1988), Adat and religion in Minangkabou and Ambon, in *Time past, time present, Time future*, eds. H. Claessen and D. Moyer. Dordrecht: Foris.

----(1991), Law in Society: From blindman's-buff to multilocal law. In Living law in the low countries. Special Issue of *Recht der Werkelijkheid*, 119-139.

Benda-Beckmann, Keebet von, H.L.Joep Spiertz and Franz von Benda-Beckmann (1995), Contesting rights to water in Nepal irrigation: A legal anthropological perspective. Rotterdam: Sanders Institute at Erasmus University.

Benda-Beckmann, Franz & Keebet von and H.L.Joep Spiertz (1996), Water Rights and Policy. *The role of law in natural resource management*, eds. Joep Spiertz and Melanie G. Wiber, 77-100. The Hague: VUGA. New Brunswick: Wilfred Laurier U.P.

Benda-Beckmann, Franz & Keebet von and H.L.Joep Spiertz (1997), Local Law and Customary Practices in the Study of Waterrights. In *Water Rights, Conflict and Policy*, eds. Rajendra Pradhan, et al., Proceedings of a Workshop held in Kathmandu, Nepal January 22-24, 1996. 221-242. Colombo:IIMI.

Benda-Beckmann, Keebet von, H.L.Joep Spiertz and Franz von Benda-Beckmann (1997), Disputing water rights: Scarcity of water in Nepal hill irrigation, in *The scarcity of water*, eds.Brans et al., 224-242. The Hague,London,Boston: Kluwer Law International.

Durga K.C. and Rajendra Pradhan (1997) Improvement and enlargement of a farmer managed irrigation system in Tanahu: Changing rights to water and conflict resolution. In *Water Rights, Conflict and Policy*, eds. Rajendra Pradhan et al., 135-157. Proceedings of a Workshop held in Kathmandu, Nepal January 22-24, 1996. Colombo, Sri Lanka: International Irrigation Management Insttute.

Foley, S. (1987) Breach of promise - breach of faith: The green revolution in Bali. Research Paper. Centre for Resource and Environmental Studies. A.N.U. Canberra.

Geertz, C. (1967), Tihingan, a Balinese Village. In *Villages in Indonesia*, ed. Koentjaraningrat. Ithaca N.Y.: Cornell University Press.

----(1959) Form and variation in Balinese village structure. *American Anthropologist*, 61:6:991-1012.

----(1972) The wet and the dry: Traditional irrigation in Bali and Morocco. *Human Ecology*, 1(1):23-39.

----(1983) *Local Knowledge*. New York: Basic Books

Giddens, A. (1979) *Central Problems in Social Theory*. London: Macmillan.

Grader, C.J. (1960)[1939], The Irrigation System in the Region of Jembrana. In *Bali: Life, Thought, and Ritual*, ed. Swellengrebel. The Hague: W. van Hoeve.

Griffiths, J. (1986) What is legal pluralism? *Journal of Legal Pluralism* 24:1-50.

Korn, V.E. (1932) *Het Adatrecht van Bali*. Second edition. The Hague: G. Naeff.

Lansing, J.S. (1987), Balinese "Water Temples" and the Management of Irrigation. *American Anthropologist*, 89:326-341.

Liefrinck, F.A. (1969) [1886] Rice Cultivation in Northern Bali. In: Swellengrebel (ed.), *Bali, Further Studies in Life, Thought, and Ritual*. 's-Gravenhage. W. van Hoeve.

Merry, Sally M. (1988), " Legal Pluralism." *Law and Society Review*, 22 (5): 869-896.

Moore, S.F. (1978), Law and social change: the semi-autonomous field as an appropriate subject of study. In: Moore, S.F., *Law as process: An anthropological approach*, pp. 54-81. London: Routledge & Kegan Paul.

Pospisil, Leopold (1971) *Anthropology of law.* N.Y.: Harper and Row.

Pitana, G. (1988), Jointly managed subak: roles of farmers and government in irrigation management in Bali. Ateneo de Manila.

Pradhan, Mahesh C. and Rajendra Pradhan (1997) Disputing, negotiating and accommodating as a means to acquire and protect water rights: A case study of conflicts in Dang. In *Water Rights, Conflict and Policy*: Proceedings of a Workshop held in Kathmandu, Nepal January 22-24, 1996, eds. Rajendra Pradhan et al., 157-172. Colombo:IIMI.

Pradhan, Rajendra and Ujjwal Pradhan (1996), Staking a claim: Law, politics and water rights in farmer managed irrigation systems in Nepal. In *The Role of Law in Natural Resource Management*, eds. Joep Spiertz and Melanie G. Wiber, 61-76. The Hague: VUGA. New Brunswick: Wilfred Laurier University Press.

Pradhan, Rajendra, A. Haq and Ujjwal Pradhan (1997) Law, Rights and Equity: Implications of State Intervention in Farmer Managed Irrigation Systems. In *Water Rights, Conflict and Policy*: Proceedings of a Workshop held in Kathmandu, Nepal January 22-24, 1996. eds. Rajendra Pradhan et al., 111-134. Colombo:IIMI.

Pradhan, Ujjwal (1990) *Property Rights and State Intervention in Hill Irrigation Systems in Nepal*. Ph.D. dissertation, Cornell University.

Roberts, Simon (1979), *Order and Dispute*. Harmondsworth: Penguin.

Roth, Dik (1998), Segmented worlds of water management and ritual: Subak and water users' associations (P3A) in Luwu, South Sulawesi, Indonesia. Forthcoming.

Rouffaer, G.P. and J.W. Ijzerman (1915), *De eerste schipvaart der Nederlanders naar Oost-Indie onder Cornelis de Houtman, 1595-1597*, eds. Rouffaer & Ijzerman. Lindschoten: Vereeniging.

Sawyer, Akilagpa (1977), Judicial manipulation of customary family law in Tanzania. In *Law and the Family in Africa*, ed. S.A. Roberts, 115-127. The Hague: Mouton.

Spiertz, H.L. Joep (1984) Het semi-autonome veld: Wondermiddel of paardemiddel? *NNR* 5:283-289.

----(1986) Vreemde gasten: Een casus uit Bali. In *Recht in Ontwikkeling*: Tien agrarisch-rechtelijke opstellen, ed. W. Brussaard et al., 111-132. Deventer: Kluwer.

----(1989a) De mythe van de Subak: Irrigatie op Bali in rechtsantropologisch perspectief. *Recht der Werkelijkheid* 1:6-33.

----(1989b) A Legal Anthropological Research Perspective on Village and Subak in Bali. Antropologi Indonesia/Indonesian Journal of Social and Cultural Anthropology,(47):76-83.

----(1990) On broad principles and parochial facts. Conference Paper for the International *Eidos Seminar,* Amsterdam, June 1990.

----(1991) The Transformation of Traditional Law: A Tale of People's Participation in Irrigation Management on Bali. *Landscape and Urban Planning* 20:189-196.

----(1992) Between cannibalism and pluralism: On the construction of legal frameworks in irrigation management in Bali and Sri Lanka. In *Law as a Resource in Agrarian Struggles*, eds. F. von Benda-Beckmann and M. vander Velde, 89-109. WAU/Pudoc.

----(1995) State and Customary Laws: Legal pluralism and water rights. *FMIS Newsletter* 13:1-7.

Spiertz, H.L.J. and IJ.H. de Jong (1992), Traditional law and irrigation management: The case of Bethma. In *Irrigators and Engineers*: Essays in honour of Lucas Horst, eds. G. Diemer and J. Slabbers, 185-202. Amsterdam: Thesis Publishers.

Spiertz, H.L.J. and Melanie G. Wiber (1996), The bull in the china shop: Regulation, property rights and natural resource management: An introduction. In *The Role of Law in Natural Resource Management*, eds. Joep Spiertz and Melanie G. Wiber, 1-16. The Hague: VUGA Publishers. New Brunswick: Wilfred Laurier University Press.

Sutawan, Nyoman (1986) Farmer Managed Irrigation Systems and the Impact of Government Assistance: a Note from Bali, Indonesia, Workshop on Public Intervention in Farmer-Managed Irrigation Systems, Kathmandu.

Sutawan, Nyoman, et al. (1986) A Study on Subakgede; Inter-subak coordinative Body in Bali. Udayana University, Bali.

VanderLinden J. (1989) Return to legal pluralism. *Journal of Legal Pluralism* 28:149-157.

Wiber, M.G. (1992), Levels of property rights, levels of law: A case study from the northern Philippines. *Man* (N.S.) 26:469-92.

----(1995) Everyday forms of violence: Farmers' experiences of regulation in the Canadian dairy industry. *Journal of Legal Pluralism* 35:1-23.