Solid as a rock, or a handful of dust?
The security of land tenure in Indonesian cities from 1930-1960

Land tenure and regime change

Land tenure systems are culturally specific or social conventions (Deiniger 2003:xxii).¹ In precolonial societies land tenure was usually embedded in a network of social relationships. A transfer of rights, if possible at all, was determined by rights and obligations towards kin, fellow villagers, and rulers. Land had both a practical and a symbolic value. The symbolic value of land could be expressed in different ways, for example, in myths regarding the origin of its occupants and reinforcement of such myths by the presence of ancestral burial places. Territorial conflicts thus enhanced the symbolic value of the land. As Michael Saltman (2002:3) rightly argues, ‘identity achieves its strongest expression within the political context of conflicting rights over land and territory’.

Both colonization and decolonization had a profound impact on land tenure systems. When Europe colonized other parts of the world, Western companies and settlers needed land and pushed indigenous residents to marginal areas. Land became a key commodity in the colonial economy of these hitherto noncapitalist societies and thereby acquired an exchange value. This new system of land control thus had a great impact on precolonial society and often met with stiff opposition (Bernstein 2000:263; Berry 2003:641; Deiniger 2003:xviii). Because of the interests involved, rules pertaining to land are by nature always political; they promote the interests of either those who have some form of control over land, or those who do not. A regime change is usually followed by a change of state regulations pertaining to landownership. This new set of regulations tends to favour the new power holders or a group they are trying to protect.

If we look at the Philippines, we see an example of the kind of impact that changes to the landownership system can have. Washington established the

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Philippines Commonwealth in 1935 as a first step towards full independence within twelve years. The most important Philippine politicians were part of the landed elite and were of a Catholic, Spanish-Creole background. These politicians defined the emerging Philippine nation along ethnic lines. Non-Christian, indigenous people living in the uplands were excluded from the Philippine nationalist project. The maximum landholdings of indigenous non-Christians and the Muslim Moros (who were considered a separate category) were legally reduced from 25 to 10 acres, while Christians were allowed holdings of no more than 40 acres. Land grants issued by sultans or chiefs without consent from the former Spanish and American colonial governments were declared void. The landed elite profited from the political changes by introducing new legislation that allowed them to reinforce their hold over land. Private titles were granted to capitalists who bought large tracts of land from which indigenous people were then barred. This long process, culminating in Commonwealth Act 141 of 1936, created rampant landlordism in the Philippines (Church 2003:132-3; Molenkamp 2003:33-9).

Another example of how land changed hands after a political sea change is the apartheid regime of South Africa (1948-1991). The Groups Area Act (issued in 1950) prescribed that each racial category (Black, Coloured, White, Asian) be restricted to its own residential and commercial districts. This was to be achieved through controls on the purchase of land and buildings. District 6 was one of the most vibrant, ethnically-mixed areas of Cape Town until it was declared a Whites-only area in 1966. About 60,000 people were forcibly moved out of District 6 under the Groups Area Act; their houses were bulldozed. Simon’s Town is another notorious case of forced resettlement in Cape Town. In 1994, Restitution of Land Rights Act 22 gave people who had been dispossessed of their land under racial legislation the right to claim restitution. The Land Claims Court mediated in the restoration of land to the original owner or lawful descendants, or, when this was impossible, awarded compensation in money or an alternative plot of land. The first cases of thousands of claims were handled by the Land Claims Court in May 1998.2

The South African example supports the hypothesis that a supplanting of political regimes is often followed by a change in land tenure rules. These are particularly clear illustrations of the ethnic (racial) undertones of discriminatory legislation and of how quickly a political change can be followed by new rules.

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2 Royston 2002; Land Claims Court of South Africa (www.server.law.wits.ac.za/lcc/), District Six Beneficiary & Redevelopment Trust (www.d6bentrust.org.za), District Six Museum (www.districtsix.co.za) and Sunday Times of 17-5-1998 (www.suntimes.co.za/05/017/) (accessed on 4-12-2003). Even at the height of apartheid, though, control of the very strict separation of Black and non-Black land ownership broke down in the face of unplanned urbanization (Coquéry-Vidrovitch this volume; Royston 2002:166).
In colonial Indonesia we see two cases of how drastically land rules are changed following a political watershed. Immediately after the British assumed control of Java in 1811, the Lieutenant Governor, Thomas Stamford Raffles, nationalized every last acre of privately owned land and imposed a land rent. Later, when state policy for the archipelago was once again determined in The Hague, the ascendant Liberals in Dutch parliament pushed through the Agrarian Law of 1870, creating opportunities for big capitalist interests. This law not only favoured Western enterprises, it also protected indigenous landowners against land-hungry foreigners.

The focus of this article is a third regime change in Indonesia, namely the postwar decolonization and the accompanying agrarian reforms. The Dutch ruled Indonesia until they were defeated by Japanese forces in 1942. Indonesian leaders proclaimed independence in 1945, two days after the Japanese surrender that marked the end of the Pacific War. The Dutch did not recognize independence at first. Between 1945 and 1949 they resumed colonial administration in the largest towns and all of the outer islands, while the Indonesian Republic ruled most of rural Java and Sumatra. When the Dutch finally transferred sovereignty in 1949, they insisted on the creation of an Indonesian federation. However, this lasted less than a year, and in 1950 Indonesia became a unitary state.

Security of tenure

As can be expected, Indonesian independence had an impact on land tenure systems, or ‘regimes of rights to land’ (Slaats and Portier 1990/1991:56) as well. The young state experimented with socialist economic ideas, and Article 33 of the 1945 Constitution explicitly stated that land should serve the interest of the people (rather than big companies). This policy was elaborated in the Basic Agrarian Law (Undang-Undang 5 tentang Pokok Agraria) of 1960. The law had two main objectives: to abolish the colonial legacy of racially-inspired distinctions between European and indigenous land tenure, and to strengthen legal certainty. Legal certainty and security of tenure overlap but are not exactly the same; security of tenure may include illegal occupation secured by political protection and legal certainty may become insecure when power holders ignore the rule of law. Here I will study how Indonesian independence made an impact on security of tenure; I will concentrate on ownership because other rights (renting, pawning, and other) are usually derived from ownership.

In general, the security of landownership is far from self-evident. People cannot physically possess land in the same way they hold movable property (clothes, food, vehicles, and jewellery). In the case of land, one may have a
right to use a plot, and this right is vested in the title. Outsiders, however, can claim ownership too, even when they do not (yet) physically occupy the land. The owner of a plot only feels the property is secure when he or she believes others will acknowledge the title, and all the more so when titles are not written down in deeds. In cities, a feeling of security is created when there is a system of landownership that determines unequivocally who controls a given plot of land. This feeling in turn encourages investment. Insecurity, on the other hand, makes landowners and the state hesitant to invest; it thwarts provision of shelter, undermines long-term planning, and hinders the provision of basic services (Durand-Lasserve and Royston 2002:7-8; Deiniger 2003:xix, xxv; Nwaka 1996:126). The UN Centre for Human Settlements (Habitat) concludes that ‘Access to land and security of tenure are strategic prerequisites for the provision of adequate shelter for all’ (quoted by Durand-Lasserve and Royston 2002:2).

From an agrarian perspective, insecurity of land tenure increased during decolonization. People could lose their rightful claim to a plot of land through outside manipulation of the individual title or by changes in landownership regulations in general (Berry 2003:640; Goldberg and Chinloy 1984:37-8, 222-3). In the chaos of revolution, manipulation of individual titles always becomes easier and the rules of tenure change, as they did in Indonesia’s Basic Agrarian Law 5/1960. In the West, and therefore also in Western-dominated social sciences, security is considered desirable while insecurity is best avoided. However, one person’s insecurity can be another’s opportunity for change. Decolonization might also be regarded as a process of emerging opportunities. Rusty structures are discarded by force, and the resulting insecurity leads to creativity. In terms of land tenure, decolonization created many new opportunities for squatting, which overrides all formal claims. By focusing on agrarian reform and the new opportunities it creates, decolonization can be viewed in a nonteleological way and considered an open-ended process (Cooper, this volume).

Principles of tenure were laid down in Indonesia’s 1945 Constitution, and the formulation of a new agrarian law began in 1948, before the war of independence was over. However, the key legislation, the Basic Agrarian Law, was not proclaimed until 1960 (Gautama and Hornick 1972:91). While new regimes tend to create new land tenure systems, it took Indonesia 15 years to do so. This is a puzzling fact, though to an extent the lapse of time is easy to understand. Drafting a new agrarian law with potentially far-reaching consequences was an extremely complicated affair and a major accomplishment at a time when the young state was facing so many other urgent tasks.

The slow pace of agrarian reform can be attributed partly to local variations in land tenure rules. A major policy aim at the time was to overcome the tension between nation building and local diversity, though this was not spe-
cifically addressed in the Basic Agrarian Law. Local diversity had been at odds with the idea of national unity for as long as the archipelago had been regarded as a whole. The sheer size and cultural variation were enough to hamper national cohesion. The archipelago spans five thousand kilometres, about the distance from Ireland to the Ural Mountains, while its people speak some three hundred different languages. The tension between national unity and local diversity was also manifest in urban land tenure systems, which varied from city to city and complicated any state law. Agrarian rules were, in the words of the Dutch head of Medan’s Municipal Agrarian Office, of ‘a bewildering diversity’ (Jansen 1930:145). The reason why it took 15 years for Indonesia to promulgate the new Basic Agrarian Law may lie partly in the fact that local tenure arrangements were quickly adapted to independence. Perhaps the need for a new national law was not so urgent because the necessary agrarian changes were already taking place locally. If this is true then nation building, in the sense of increased unity, was not achieved in agrarian terms.

The aim of this chapter is to shed light on two aspects of decolonization: the enhanced insecurity of property and the attempt at nation building by overcoming local diversity. So far, agrarian studies in Indonesia have either focused on national laws and overlooked local deviations or focussed on one local situation and missed the wider pattern. I will try to give an overall view of local variation. Below, I will first analyse the national reforms intended by the Basic Agrarian Law of 1960. Subsequently, I will deal with the entire spectrum of tenure systems and their various, but changing, degrees of security.

Agrarian changes at the national level

In colonial times, landownership rules basically distinguished between European law (Europees recht) and indigenous law (inlands recht). Late-colonial agrarian policy was based on the 1870 Agrarian Law, which entitled the government to offer land in long lease (erfpacht) to Western companies. However, the state could only lease land when it had the right to dispose of it. The Agrarian Law was therefore accompanied by the so-called Domain Declaration (Staatsblad 1870 no. 118), which declared that all land of which ownership (eigendom) could not be proven in accordance with European law was considered state domain. Land held under indigenous law was formally state domain as well, but in practice the state respected land titles regulated by indigenous law. People holding land with indigenous rights (mainly indigenous smallholders) were forbidden to sell land to nonindigenous persons. This was meant to prevent the emergence of a landless class (Commissie voor het grondbezit 1934a; Gautama and Hornick 1972:75-81; Logemann 1936:7-8). The most important categories of land were, therefore,
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state domain; smallholdings with indigenous rights (only *de jure* property of the state); state domain given to companies in long lease (only in rural areas); and land that had acquired a European title of full private ownership.

The European land title was almost exclusively found in cities and towns. Colonial jurists realized that if the prohibition of land sales from indigenous to nonindigenous people was applied in urban areas, development there would be severely hampered. To solve this problem, the state had the right to distribute new plots with property rights based on European law, but only in cities and towns. The state could also grant the right to construct buildings on state land (*recht van opstal*), but this did not have much impact because full property was clearly the preferred title. Urban land with a European title was relatively expensive. Owners had to pay the administrative costs of surveying their land parcel and transferring its title at the cadastre upon acquisition. They also had to pay an annual land tax (*verponding*). Such costs and effort were only warranted if the land had certain specific purposes. One advantage of a European title was that it offered the highest degree of security, and this was considered necessary if the owner intended to carry out major and expensive construction work in brick or cement. The precise measurement of a land parcel with a European title was also necessary in shopping areas, where shops were built in an unbroken line up to the exact boundary of the plot. Security depended not only on precise measurement and registration, but also on the type of law which applied. A European title was based on the elaborate and written Civil Code, whereas indigenous rights were based on the customary law (*adat*), which was at best partially codified. When it came to credit, banks would only approve a mortgage on land with a European title (Logemann 1936:8-11).

The legal distinction between a European and indigenous title was absolute, but the difference in levels of security was gradual. Land with an indigenous title was also registered, not by a cadastre but by the neighbourhood administration. The neighbourhoods, or kampongs, were formerly rural settlements that remained autonomous administrative units when they were swallowed up by the expanding towns. The kampongs had land registers based on the collection of land rent in the early nineteenth century. The tax form was the only written proof of ownership. The register itself consisted of a map (scale 1:5,000) indicating the location and dimensions of the plots. The plots had been measured by a *plontang*, a bamboo stick, often warped, with a length of one *roede* (3.76 m). Shortly before World War II this was replaced by a 5-metre *plontang*, which was more consistent with the metric system.

3 Registration at the cadastre required the greatest possible precision. It took up a full 16 sections of the law just to describe how the name of the owner should be recorded (Kadastrale Dienst in Nederlandsch-Indië 1938:36-43).
Hedges, trees, and ditches served as boundary markers. Changes in ownership were reported to the neighbourhood head and secretary, who were summoned as witnesses by the law court (landraad) whenever an ownership dispute arose.

During the Japanese interregnum (1942-1945) no thought was given to land tenure systems, but, as we shall see, squatting was often condoned, and this represented a de facto change of tenure. After the proclamation of independence in 1945, the Indonesian government declared that all old (colonial) laws that did not conflict with the Constitution would remain valid until a new regulation came into force. In the case of the colonial landownership rules, that took until 1960.

The Basic Agrarian Law of 1960 was aimed at redistributing agricultural land from the wealthy to the landless peasants, and at eliminating the colonialist dualism between indigenous and European titles. To this effect all existing titles were converted to a uniform system consisting of eleven rights to land. Of these eleven rights, hak milik gave the tenure holder the widest competence right. It meant freehold: full ownership of a plot that could be freely sold, bequeathed, or otherwise transferred. Ownership could only be enjoyed by Indonesian citizens, either individually or collectively, and a number of specified legal bodies. Plots with a formerly European and indigenous title of ownership were automatically converted to the new right of hak milik; both colonial types of ownership were thus unified under one term in the 1960 law. However, foreign owners of a European title – in practice mostly Chinese residents – had their freehold reduced to land in long lease because only Indonesian citizens were permitted to own land (Gautama and Harsono 1972:21-4, 31; Gautama and Hornick 1972:82, 86, 90-105; Leaf 1992:109-14).

The distinction in the East Indies between indigenous and European tenure systems was not unique in the colonial world. In their East and West African colonies, the English and French also distinguished between traditional indigenous communal ownership and colonial individual ownership. In contrast to colonial Indonesia, their discourse included the term ‘traditional’ rather than ‘indigenous’ to denote the opposite of European; this term explicitly places the two land-rights regimes in an evolutionary framework in which the European system is deemed the more modern, superior one. Both traditional and colonial law were products of the colonial situation. The so-called traditional rules were invented or reinterpreted by colonial regimes, creating a racialized system of property rights. The colonizers profited from this dichotomy because it laid the foundations for the expropriation of land on which their plantation economy rested. The indigenous chiefs also profited from this system because they controlled communal land. During decolonization, the communal tenure systems in these English and French African colonies did not disappear. They proliferated. A convincing claim to land not
only rests on a persuasive narrative revealing who first arrived on a territory; it also depends on effective social networks and political power (Berry 2003:642-5, 649; Chanock 1992:280-90; Lentz 2005; Reyntjens 1992:123-5).

Unregistered, legally held land

In post-1960 Indonesia, there was a gap between the law and actual practice. Judges often overruled decisions based on local customary law by applying national rules even though this was contrary to the spirit of the Basic Agrarian Law of 1960. Landowners also subverted at least one aim of the Basic Agrarian Law, namely to have all property registered (Colombijn 1994:179). Many owners preferred the informality of unregistered plots.

Until 1960, parcels of land not registered at the cadastre were considered ‘plots with an indigenous title’; the word ‘indigenous’ refers here to the tenure system and not to the owner, who could be of a nonindigenous background as well. After the proclamation of the Basic Agrarian Law, such plots were referred to as ‘not yet’ registered; the implied temporality could in practice be continued indefinitely. Given the shortage of skilled staff and funds, land registration was a daunting task. Many landowners consciously did not apply for a cadastral deed because of the cumbersome procedure and high costs. The formerly European plots remained ‘islands in the middle of the sea of adat land’ (Gautama and Harsono 1972:31; see also Slaats and Portier 1990/1991:59). The Basic Agrarian Law therefore introduced a new dualism between plots already registered under the new system (formerly European plots for the most part) and those that had ‘not yet’ been brought into the system (Leaf 1992:88, 114, 127-36, 145). In some cases there was written proof of ownership of these unregistered plots, such as property tax payments or a deed of purchase drawn up by the owner (Leaf 1992:100-1).

Tenure based on such written proof of ownership was not as secure as a title deed from the cadastre. In colonial times, conflicts about these relatively weak types of proof did occur once in a while, but their number increased significantly during the Japanese occupation and the subsequent decolonization. One example is the case of a plot in Padang, West Sumatra. It was owned by a Eurasian man named Vermeer and his indigenous wife. During the Japanese occupation, the man died in a Japanese detention camp, while his wife fled to Jakarta. After independence, their son Alex Vermeer stayed with his mother in Jakarta. Two daughters migrated to the Netherlands. During the Japanese occupation and through the late 1940s and 1950s, Vermeer’s maid looked after the land and paid land tax to the administration. She allowed 16 families to build a house on the land and collected rent from them. In 1958, a certain Rahman saw an opportunity for land speculation. He came up with a forged
letter from the Netherlands, stating that the two sisters of Alex Vermeer had
died childless in Europe – making Alex the sole heir – and persuaded Alex
Vermeer to sell the plot to him. Rahman parcelled the plot and forced the 16
families to purchase their respective lots. The conflict then escalated, became
entangled in the political turmoil of the late 1950s and 1960s, and dragged on
until the 1980s (Colombijn 1994:138-42). If it had not been for the uncertainty
caued by decolonization, Rahman could never have launched this scheme.

The legal pluralism was in itself a source of insecurity; often it was not
the exact location or ownership of an individual plot that was at stake, but
the question of which tenure system applied. The Basic Agrarian Law of 1960
declared that adat law (customary law) remained valid as long as it did not
contradict other articles of the Basic Agrarian Law (Gautama and Hornick
1972:93). Cornelis van Vollenhoven, a Dutch law professor and expert on adat
law, had identified – some people say ‘invented’ (Burns 2004:225) – 19 areas in
the archipelago, each with its own version of adat law (Vollenhoven 1981:44).
Adat law applied mainly in rural areas, but was also valid in towns with a
clear ethnic majority that belonged to one of the 19 recognized adat law areas.
Most of the larger cities, however, had ethnically mixed populations, so that
no specific adat law system could be applied. In these cities, indigenous rights
were called ‘hereditary individual property rights’ (erfelijk individueel bezits-
recht), which resembled the rules of European property (Jansen 1930:148).

It was not self-evident that the colonizers would recognize indigenous
tenure systems in Indonesian towns. To give a counter-example, the legal
construction of communal land in Africa was based on a rural situation and
not suited to urban land. The convention that communal land is inalienable
because it belongs as much to the ancestors as the kin yet unborn (Sonius
1962:23) was impractical in towns. Migrants in towns did not always live
with their kin. Moreover, illegal land markets had been developing since the
nineteenth century in response to pressure on land. Residents often circum-
vented the official system by applying simpler, informal rules (Chanock
1992:288-91; Lentz 2005; Nwaka 1996:125). On the whole, the situation in
African towns was less conducive to indigenous tenure systems than in
Indonesia, where the existence of indigenous, individually-owned titles was
more widely accepted.

Indonesia’s ‘legal pluralism’ grew more complex after 1960 (Hooker
1975:6, 251). Contrary to its aims, the Basic Agrarian Law of 1960 increased
land tenure insecurity. Partly as a ‘postcolonial reaction’ and a denunciation
of colonial law (Burns 2004:250), the Basic Agrarian Law gave precedence to
adat law over the Civil Code. Its preamble, in a reference to the national char-
acter of the agrarian law, stated that it should be based on adat. In this context
adat was an empty phrase because the preamble did not specify which of the
19 adat law areas or other local law systems was meant (Harsono 1994:141-
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Moreover, most of the *adat* regulations were unwritten, so the bar, which had more faith in written statutory law, was frequently at a loss as to which rule to apply (Gautama and Harsono 1972:24-9). Gautama and Hornick (1972:106) concluded in the 1970s that at that time there was ‘probably more legal uncertainty about agrarian law and rights in land than there was before enactment of the basic law’.

An added source of potential uncertainty was communal landownership. In such cases, a given community enjoyed full ownership, but the individual members of the group of landowners did not. A good example can be found in the town of Padang, where the Minangkabau constitute the ethnic majority.⁴ According to the Minangkabau, *adat* land is communal property of the female members of matrilineal (sub)lineages. Although some legal experts have claimed that it was not permitted to sell lineage land, it did happen in practice; sales dating back as far as 1828 have been recorded. A transfer of title was possible when all sublineage members agreed, and it is precisely here that problems arose because membership was not always clearly defined. Every sale, division, donation or inheritance of a plot could be contested by any sublineage member who felt short-changed. Land disputes were often brought to court and as long as a plot was *sub judice* a real estate developer could neither sell it nor build on it. The Minangkabau’s *adat* rules of ownership led to a high incidence of land disputes and hence insecurity, which greatly hampered urban development. In order to avoid such inconvenient disputes, many people preferred to deal with plots with European titles (Colombijn 1994:182-202).

The following case reconstructed from various files at the Padang court of justice demonstrates the complexities of legal pluralism that were exacerbated – but not caused – by independence. In 1919 a man from lineage A donated part of his land to his two daughters, who, according to Minangkabau *adat*, belonged to lineage B (their mother’s lineage). The donation fell under Islamic law as *hibah* – meaning a gift and contradicted Minangkabau *adat*; according to *adat* the man should have kept the land in lineage A because the land was property of his sisters and nieces. After the man died, his lineage members contested the legality of the gift to his daughters of lineage B. In 1921, 1936, 1938, and 1940, lineage A sued lineage B, but in all these lawsuits the judge upheld the gift to the daughters of lineage B, acknowledging the correct application of Islamic law. In 1962, when each ‘clan’ was headed by a member of a younger generation, lineage B brought lineage A to court, claiming that it not only owned the land donated to the two daughters in 1919, but all lineage land in the possession of lineage A (none of this other land had been litigated

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⁴ Another Indonesian example of communal urban land is the *kalakeran* land in the town of Manado (Nas 1985).
in the earlier lawsuits). Lineage B claimed that the land occupied by lineage A had been its own ancestral land, but that the members of lineage B had fled from the Dutch army during the war of independence; when they returned they had found the land occupied by lineage A (Colombijn 1994:199-202). It is telling that lineage B filed this case in 1962 after the new Basic Agrarian Law provided extra support for cases based on *adat* law, and not immediately after the war of independence. The land was still contested in the 1990s.

**Aristocratic land**

The communal land in Padang is one example of an idiosyncratic situation more complex than envisaged by the new national law of 1960. Two other cities with a unique agrarian situation were Yogyakarta and Medan. Local aristocrats claimed a considerable share of urban land in these two cities. The distinction between indigenous and nonindigenous ‘races’ (Asian and European respectively) was further problematized because only Asians were considered subjects of the local rulers. Access to land was mediated via the local aristocratic family, but it was only open to the ruler’s subjects, who received preferential treatment.

The sultanate of Yogyakarta (on the island of Java) was a semi-autonomous state that issued its own laws. The sultan claimed ownership of the land but gave kin and servants apanages, some of which were in town. People could obtain a plot of urban land on condition they built a yard and provided services to the sultan or apanage holder. On 1 January 1925, the sultan reclaimed the urban apanages. All legal users of land – subjects of the sultan – received an indigenous title deed. The four kampongs that surrounded the royal palace (*kraton*) held a special position in the sense that the property was not freely alienable; a transfer of the title required royal approval. Yogyakarta also knew European titles, which were issued to nonindigenous residents until 1918, when the sultanate promulgated its own Domain Declaration. From then on, nonindigenous residents could only acquire a new plot by renting it from indigenous owners or by securing building rights (*recht van opstal*, not ownership) from the sultan.5 Nothing changed in Yogyakarta during the Japanese reign in terms of landownership rules. After the proclamation of Indonesian independence, the Sultan of Yogyakarta decided to support the Republic, thereby retaining, if not enhancing, his prestige and authority.

5 Schwencke 1932; Bousquet, Nota betreffende den rechtstoestand van den grond ter hoofdplaats Djokjakarta, Djokjakarta, April 1918, Royal Institute for the Tropics, Amsterdam; E.M. Stork, Overgang van Inlandsche grondrechten in het gewest Jogjakarta, 10-8-1936, Royal Institute for the Tropics, Amsterdam.
Following independence and pending a national agrarian law, Yogyakarta issued local regulations called Peraturan Daerah Istimewa Yogyakarta 1954/2. Coming six years before the Basic Agrarian Law of 1960, this swiftly introduced local legislation may have increased confidence in the tenure system during the chaotic postindependence period. Even under the new regulations, however, ownership of individual plots could be insecure. In the 1950s many Dutch nationals sold their building rights and fled Indonesia, but often such hurried transfers were not recorded at the cadastre (Dinas Agraria D.I.Y. 1974). Apparently it was not only the Dutch sellers but also the buyers of these rights who lacked confidence that their ownership would be respected.

Although the Sultan of Deli in Medan (North Sumatra) had lacked the wide administrative powers and prestige of his counterpart in Yogyakarta, he had nominally claimed a considerable part of the town as his ancestral domain. A current resident of royal descent told me that in the late colonial period the sultan gave away parts of his domain in Medan to people who needed small plots. The sultan issued deeds, so-called sultan’s grants, as proof of his permission. It seems that, in practice, many people were allowed to live on the sultan’s land as long as they acknowledged his sovereign rights. No substantial payment was required to obtain a sultan’s grant. As the sultan only gave grants to his subjects, neither Chinese, European, nor Indian residents could acquire land from him (Jansen 1925:101). Even Tjong A Fie, a well-known property owner in colonial Medan who allegedly owned half of the housing stock in the 1920s, did not own land in town.6

The sultan did not keep a central registry of all his grants, but many prudent grant holders carefully saved their deeds. As the sultan’s grants were registered less meticulously than deeds at the cadastre, they were more likely to become the focal point of conflicts. Nevertheless, a sultan’s grant was regarded as such firm proof of ownership that it was even considered collateral for a mortgage. Creditors provided capital in return for the right to the first share in a forced auction of a sultan’s grant. This practice continued for years, albeit at a relatively high interest rate because a sultan’s grant was considered slightly less secure collateral than a European title deed (Jansen 1925:103).

Eventually, the practice of using sultan’s deeds as collateral proved to be less secure than hitherto assumed. In 1923, the trading company NV Handelmaatschappij Djoe Sen Tjong went bankrupt. As was customary, two creditors wanted to auction the grant they had received as collateral (in the presence of a notary).7 However, the state claimed first right to the

6 Dirk Buiskool and Tuanku Luckman Sinar, oral communication.
7 In this case it was a Deli Maatschappij grant, issued on the sultan’s authority.
auction’s yield because Djoe Sen Tjong still had a very large tax debt. In its final ruling the Supreme Court decided in 1927 in favour of the tax collector. Suddenly, creditors lost confidence in their collateral. As a result of the ruling, creditors wanted the sultan’s grants they had accepted as collateral converted into European titles, but owners of sultan’s grants remained reluctant to do so because of the costs. In the hope of ending the insecurity, the Handelsvereeniging Medan (Trade Association of Medan) urged the government to convert all grants into European titles free of charge. However the government did not heed the call.\(^8\)

The validity of the sultan’s grants was based in part on the sultan’s prestige. He had been held in high esteem during the Dutch colonial period and had remained in place during the Japanese occupation of Indonesia. As a descendant recalled, the sultan used to hang a portrait of Hirohito on the wall behind him whenever he received Japanese officers. As the officers bowed to their emperor, they were unwittingly also paying homage to the sultan as well. However, after independence was proclaimed a social revolution swept this part of Sumatra. Most royal families were discredited as colonial puppets; many aristocrats were murdered. When Dutch forces recaptured the city of Medan, they partially restored the sultan’s authority. His role was most important when Medan was made capital of the State of East Sumatra (Negara Sumatera Timur), one of the constituents of the new Federal State of Indonesia, a short-lived Dutch creation (1949-1950). After East Sumatra’s subsequent dissolution, all that remained of the sultan’s land was nationalized.

The aristocracy’s loss of power in the Sumatran social revolution weakened the sultan’s status and may have eroded the value of his grants. Many migrants arrived from other parts of Sumatra in the postwar years. They had little respect for the sultan and settled on the sultan’s land without his formal consent. The sultan no longer had the power to prevent this. The best he could hope for was that the newcomers would acknowledge his status as landowner and pay some land rent. The plots of land that were occupied in this way were subdivided over time.\(^9\) In a sample of cases filed in the court of justice of Medan after 1945, there appears to be a disproportionate number of cases about land held with a sultan’s grant. This suggests that titles with a sultan’s grant were especially lacking in credibility after decolonization. This may be connected to the general decline of the sultan’s status.

One example of how the sultan’s status changed after independence was a lawsuit filed by the sultan’s family against the National Land Agency

\(^8\) Jansen 1925:107-111; Verslag Handelsvereeniging Medan 1930 1931:5-8; Verslag Handelsvereeniging Medan 1931 1932:5. A swiftly issued temporary law declared the sultan’s grants valid collateral from 1927 until 1933, but after 1933 a sultan’s grant was no longer considered valid collateral by a court of law (Verslag Handelsvereeniging Medan 1938 1939:8).

\(^9\) Tuanku Luckman Sinar, personal communication.
(Badan Pertanahan Nasional). In the late nineteenth century the Sultan of Deli leased out a plot of land for 75 years. When the term of lease expired in 1954, the plot was not returned to the sultan’s heirs but to the district authorities, who issued a new lease and a building permit to a private third party. The sultan’s descendants claimed full ownership of the plot and filed a complaint at the administrative court. Three experts of land law summoned by the judges were divided; this left the judges groping in the dark. The court of first instance and court of appeal rejected the claim by the sultan’s heirs. The supreme court at first granted the claim in cassation, but, finally, in 1996, quashed its own judgement in revision (Bedner 2001:162).10

In short, the aristocracy’s claim that it had the right to issue titles was a secure basis for land tenure. However, it was only secure to the extent that the aristocratic ruler was locally acknowledged and respected. In Yogyakarta, where the sultan remained in power throughout the decolonization process, the aristocratic basis of titles did not cause any problems, while in Medan, where the sultan lost prestige and influence, decolonization eroded the validity of the sultan’s grants and the security of tenure.

Registered land owned by individuals

The most secure property was land with an individual title acknowledged by statutory law. In colonial times, the most formal type of ownership, or freehold, had a European title. Colonial European land was encumbered with rights defined in the Civil Code of the East Indies, which was kept as consistent as possible with the Civil Code in the Netherlands. An ordinance of 1834 (Staatsblad 1834 no. 27) required that land with a full title be registered at the cadastre; local cadastral registers could date back further (Colombijn 1994:178; Gautama and Hornick 1972:7, 82). After promulgation of the 1960 Basic Agrarian Law the most secure title was registered as full ownership (hak milik).

Title deeds of full ownership gave the highest security of tenure in colonial times, but some deeds did not survive the years of war and revolution. A common problem stemming from the Japanese occupation was that people had lost their title deeds and needed an authenticated copy after the war.11

10 There were several juridical irregularities in this case. Adriaan Bedner notes that it was not about bad governance but disputed ownership and that, therefore, the plaintiffs should have gone to a civil, not administrative, court. The supreme court revised its decision on the basis of a re-evaluation of evidence. According to Bedner (2001:162), this is ‘very strange’, for Supreme Court revisions are generally only allowed when new facts are discovered.

11 See, for example, the request of the NV Administratiekantoor Kamerlingh Onnes, Pengadilan Negeri Medan, Pdt. 139/1950 and 140/1950, or several specimens (1948) at the Koninklijk Insti-
Lists of lost deeds were regularly published in the local newspaper, presumably in an effort to retrace the deeds. It was not only individual landowners who lost them; sometimes the cadastre itself lost an entire archive of deeds. The archives of the cadastre in Semarang, Pekalongan, Ambon, and Tanjung Pinang were either largely or entirely destroyed. The cadastral archive of Padang had been moved to the interior of Sumatra during World War II. There it remained during the Indonesian Revolution, in a place beyond the control of the Dutch-dominated city administration.\(^{12}\)

Another problem was that for some time the cadastre did not operate properly. In 1945 the normal transfer of titles at the cadastre was temporarily suspended (\textit{Staatsblad} 1945 no. 139); this measure was revoked in early 1947, but due to a lack of trained staff it would take some time before the cadastre was fully functional.\(^{13}\) In 1941 the cadastre employed 297 staff; in April 1947 the number was down to 159 (although the number of high-ranking staff had hardly changed, declining from 46 to 45) (\textit{Jaarboekje} 1941:40-57; \textit{Jaarboekje} 1947:4-10). Employing new inexperienced civil servants endangered the uniformity of procedures (a vital concern for a reliable cadastre).\(^{14}\) In short, the decolonization process put even the titles considered most secure, those based on European law, at risk.

\textit{Government land}

The central colonial government already owned state domain in most towns when autonomous municipal governments were established, one after another, in the first quarter of the twentieth century. The new municipal administrations enviously eyed the state domain within their borders, but the central government would not donate its land to them for free. Therefore local governments could acquire land only by becoming a player on the land market and many urban administrations did so with relish. These major players created public development corporations (\textit{grondbedrijven}) as part of their urban development strategy. These corporations acted as land banks, owning land that was needed for future urban development. They also prepared sites for construction; levelling them, laying paths, constructing roads,

\(^{12}\) Rondschrijven Secretaris van Staat voor Binnenlandse Zaken, H. van der Wal, 14-9-1948, no. A.Z.26/1/50, Arsip Nasional Republik Indonesia, Jakarta (hereafter ANRI), Archives Algemene Secretarie (AS) 609.

\(^{13}\) Rondschrijven Hoofdkantoor van het Kadaster 440/47, 18-3-1947, KITLV, Manuscript H 1156\(^{1}\)

\(^{14}\) Kennisgeving Hoofdkantoor van het Kadaster 3823/49, 21-10-1949, KITLV, Manuscript H 1156\(^{1}\).
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and digging drainage canals. They bought strips of land that were deemed necessary for future infrastructural works or state buildings. They also purchased plots in order to build up a stock of land; the aim was to swap this for specific privately-owned plots that the administration might need later. Some development corporations bought large tracts of rural land bordering the cities and towns for future urban development. The last aim of development corporations was to combat speculation; the municipality eased rising market prices when it put enough land up for sale at low prices (Devas 1983; Gemeente Bandoeng, Dienst van het Gronbedrijf 1931:17; Jansen 1930:149). Transactions of municipal land eventually took up such a large share of total land sales that the administration was often setting, rather than following, the market price. In the town of Bandung, for example, land speculation indeed disappeared in the areas where the development corporation operated, but remained common where the corporation was inactive (Verslag 21e jaarvergadering 1933:16).

However, there were also times when the public development corporations themselves (or municipalities) could be accused of speculation (Jansen 1930:157). Some development corporations neither sold nor rented out their plots, just leaving them to waste instead (Verslag Planologische Dag 1939:30). When they neither built on the land nor withheld it from the market, they could be considered land speculators. A notorious case is Bandung. The public development corporation there invested large amounts of capital in land that yielded no return, plunging the municipal administration into a financial crisis. In the municipal council of Bandung, in 1923, nationalist politician G.S.S.J. Ratulangie made a telling remark: 'Pinter sekali pembesar2 gemeente' ('The urban authorities are very clever'; Otto 1991:209). He was referring to the cynical observations of indigenous people who had sold land to the development corporation and seen the profits reaped by the administration.

The distinction between sound urban planning and speculation was bound to be a fine line. Bandung administrators were seduced to overinvest by proposals to relocate the central capital from Batavia (Jakarta) to their own city. In a prospectus, the municipality of Bandung advertized plots where housing could be built for the bureaucratic elite (Gemeente Bandoeng, Dienst van het Gronbedrijf 1931). The municipality would probably have turned a profit if the plans had materialized (Nas 1990:106). Around the same time, a similar thing happened in Padang when the urban administrators erroneously assumed that their town would be made capital of the new province of Sumatra (Sumatra Bode 9-5-1930, 20-1-1932, 29-4-1932).

Colonial civil servants could not agree whether development corporations should pay their own way. Jac P. Thijssse, member of the technical staff of Bandung municipality, remarked dryly that a development corporation
need not be profitable because urban development costs money (Verslag Planologische Dag 1939:27). Yet, at the same time, he advised that land be bought as early as possible at rural prices (Verslag Planologische Dag 1939:24-28). Gerard Jansen (1930:155), head of agrarian affairs in Medan, thought a development corporation should be run according to social principles rather than the profit principle.

The regime changes – from Dutch to Japanese and from Japanese to Indonesian – probably also had an impact on the management of government land. However, evidence for this is scarce. It is possible that after independence municipalities used more government land for communal purposes, but rent-seeking behaviour is equally plausible. The one thing we do know is that during regime changes local administrations became more tolerant of homeless squatters. By the time administrators’ attitudes changed, their grip on municipal land had seriously weakened – as we will soon see.

**Long lease to large companies and private estates (particuliere landerijen)**

Two other forms of land tenure controlled by large corporations – long lease and private estates with seigniorial rights (particuliere landerijen) – are rather well documented. These corporations were usually in Dutch or Chinese hands, and their interests were fairly well protected by the colonial state. Here, too, we may assume that the shifting balance of power after independence had an impact on these tenure systems.

Long lease is a tenure right derived from property rights. Leased land controlled by the large companies is an important separate category because of the concentration of land in the possession of a single owner. The central Sumatran town of Pekanbaru, for instance, was developed on land between the oil companies’ concessions. Medan provides material for a more extensive analysis. The Deli Maatschappij (Deli Company), the most powerful tobacco company in North Sumatra, controlled large tracts of land in the Medan area. In town, the company also controlled land granted by the sultan. The company used some of this land for housing its employees, but also allowed others to use it. The rights of these others were laid down in a so-called Deli Maatschappij grant.

Not surprisingly, the Deli Maatschappij had a big say in municipal affairs. In 1930, for instance, the company asked the local government to adjust the road plan in a new suburb (Polonia) and to swap a strip of land. The administration cooperated. The Deli Maatschappij had often come to the municipality’s aid in the past, and the administration knew it would need the company’s cooperation in the future as well. The administration stated that its compliant attitude towards the company should not be seen as a precedent
for other, ordinary claimants who might want to change a road plan.\textsuperscript{15}

Once the Deli Maatschappij lost the protection of the Dutch colonial government, its land became the target of squatters. Nevertheless, the company continued its operations. In 1958, a state-run company, Perseroan Terbatas Perkebunan Negara II, nationalized the possessions of the Deli Maatschappij, including plots of urban land. Soon PTPN II began to cash in on this boon, quietly selling the land off in small parcels to members of powerful political parties.\textsuperscript{16}

The other form of land tenure controlled by large corporations was private estates with seigniorial rights. These were established in the seventeenth and eighteenth centuries when the Dutch and English East India Companies granted and sold large tracts of land with the concomitant seigniorial rights to retired officials and well-to-do Chinese. The Dutch and Chinese owners established estates to which labourers were tied, either as slaves or kampong residents with limited freedom of movement. The land was cultivated either by descendants of the slaves or by newcomers until well into the twentieth century. The estates, called \textit{landerijen}, were found near the major port towns of Java: Batavia (including large areas in the mountainous hinterland of West Java), Semarang and Surabaya, and also near the town of Makassar on the island of Sulawesi. Colonial planners of the nineteenth and twentieth century deemed such large estates at the urban fringe ideal for building because extensive tracts could be developed as a whole. However, owners were forbidden to sell their estates for development because peasants usually held the right to cultivate the land (\textit{oesaharechten}). The peasants who tilled the soil, in turn, were not allowed to build a house on the plot without consent of the owner of the estate (Jansen 1930:152-4; Logemann 1936:20). Therefore, it was difficult to make the estates available for urban development (Dick 2002:114-7).

In 1910, the central government started purchasing these estates, not only for the benefit of urban development but also because seigniorial rights had been considered obsolete since the nineteenth century. Every purchase required lengthy negotiations, all the more so because the administration had the reputation of paying the full market price. At one point the office that dealt with the purchases, the Particuliere Landerijen Kantoor, employed eight civil servants and seventy other staff. Between 1912 and 1931, more than 1,1 million acres were repurchased on Java, but this costly policy was abandoned during the Depression years in the early 1930s.\textsuperscript{17} In 1935 the state founded a

\textsuperscript{15} \textit{Gemeenteblad gemeente Medan} 2 no. 42 (1930).
\textsuperscript{16} Tuanku Luckman Sinar, personal communication.
\textsuperscript{17} Kort verslag vergadering Voorlopige Federale Regering 16-2-1949, ANRI, AS 610. See also: Gautama and Harsono 1972:5-7; Leaf 1992:102, 104.
Semi-public company that purchased another 200,000 acres using money borrowed at a commercial rate.\textsuperscript{18}

The Dutch colonial government started buying land again during the four post-Pacific War years when it controlled most of the cities. In 1949 a commission composed of representatives of the government and 43 large estates near Jakarta negotiated a standard agreement of purchase by the state. Most estates were limited liability companies run by Chinese directors. The state thus acquired another 1,1 million acres. However, the commission was unable to strike a deal with the owners of estates near Semarang and Surabaya. All the latter estates were smaller, in dispersed locations, and had a variety of seigniorial rights, requiring negotiations to be conducted on an individual basis.\textsuperscript{19}

In 1958 the Republic of Indonesia enacted a new law regulating the liquidation of private estates; the law declared the remaining estates to be state land. Financial compensation was set unilaterally by the state. The 1960 Basic Agrarian Law shut the door to the last estates by setting the maximum size of a landholding (Dick 2002:120; Gautama and Harsono 1972:5-6; Leaf 1992:104, 120).

Not all estates were liquidated in this formal way. According to Michael Leaf, in a somewhat ambiguous passage, the Japanese had abolished all landerijen and given the land to the tillers. After independence, he wrote, the Indonesian government returned the land rights to the original owners as a temporary measure. During the late 1940s and 1950s many of the claims on the estates’ land ‘passed from foreign hands into the control of wealthy […] Indonesians, […] military officers or other well-connected individuals’ (Leaf 1992:103). It may be presumed that these new owners sooner or later managed to have their claim formalized in the shape of a cadastral deed.

Among those who did not have their new property registered were people who occupied a part of an estate but were less well-off. These included people who acquired land under the Japanese land-to-the-tiller policy or during the turmoil of the revolution. Much of this was kampong land. Today these plots are most easily manipulated by the Jakarta municipal government in its attempt to plan the city (Leaf 1992:106-7).

\textsuperscript{18} Letter Secretaris van Staat voor Binnenlandse Zaken, 9-7-1948, no. A.Z. 12/2/47, ANRI, AS 610.

\textsuperscript{19} Ontwerp-besluit 8-4-1949, ANRI, AS 610; Letter H. van der Wal, Secretaris van Staat voor Binnenlandse Zaken aan Hoge Vertegenwoordiger van de Kroon, 19-12-1949, no. A.Z. 12/5/12, ANRI, AS 610; Letter C.M. Dieudonné, waarnemend voorzitter Aankoopcommissie, aan Hoge Vertegenwoordiger van de Kroon, 20-12-1949, no. APP/251/16922, ANRI, AS 610.
Squatters’ land

Squatting is occupying a plot of land to which one has no legal right (Durand-Lasserve and Royston 2002:4-5). During Dutch colonial rule, landless people had little opportunity to squat, but there might also have been less of a need for squatting because urban populations were smaller. In the late colonial period, state control over the urban population gradually tightened; squatting was prohibited while street vending and begging were restricted. Once Dutch and Japanese colonial powers were broken, after 1945, the kampong dwellers reclaimed the town as their own. At the same time a huge number of migrants were looking for living space in the towns. Public land was the most obvious choice; squatters took up residence on the banks of canals and rivers, in graveyards, along railway tracks, and in fire access lanes. The Indonesian Communist Party encouraged occupation of private estates in anticipation of land redistribution in the 1950s (Abeyasekere 1989:197; Dick 2002:118-9).

During the Indonesian revolution, when Jakarta was in Dutch hands, Republican leaders even encouraged people to squat on European-owned land with unequivocal titles, in defiance of colonial rule (Abeyasekere 1989:197). This Republican policy muddled the rights to land, of course. For some time in the 1950s nothing was done about the squatters because the topic was too sensitive and there was no capital to invest in the squatted land anyway. The insecurity of property felt by the owners of occupied land was the window of opportunity for squatters. In the words of Susan Abeyasekere (1989:197), ‘[M]ost Jakartans must have found this a period of great freedom’.

In the mid 1950s the Jakarta government stepped up efforts to remove squatters from land needed for urban development projects. At the same time, the administration tried to be fair; it offered land for resettlement whenever possible and attempted to negotiate fair compensation for removal. These negotiations were expensive and time-consuming. In 1953, for example, a major thoroughfare connecting the centre of Jakarta with the new satellite town Kebayoran Baru was still uncompleted seven years after it was planned because five hundred houses still had to be demolished (Abeyasekere 1989:197).

From 1956 onward, the policy became firmer. Even then, however, the municipal council wanted squatters who had settled between 1950 and 1955 to be offered assistance in the form of money and land. Buildings erected illegally after January 1955 had to be torn down. The stricter policy was supported by the proclamation of martial law in 1957 and a military regulation prohibiting the occupation of land without consent of the owner.20 It then

20 Regulation of the Army Chief of Staff No. Prt/Peperpu/011/1958 of 14-4-1958.
became much easier to move people in the interest of development projects (Abeyasekere 1989:198; Gautama and Harsono 1972:13). Nevertheless, communist organizations provided some protection to squatters in the early 1960s. This ended when the Indonesian Communist Party was outlawed in 1965. By the mid 1960s, eviction had become so easy that squatters felt deeply insecure. In 1966, after both civilian and military officials as well as private individuals began to evict people for their own benefit, Jakarta’s governor issued a decree warning local government officials not to assist in evictions without consent of the governor (Gautama and Harsono 1972:14). The timing of this move in 1966 suggests that eviction had become a focal point in the struggle between communist organizations on the one hand, and landowners and military on the other.

In Medan, squatting went through a similar cycle of tolerance and repression. Large parts of tobacco plantations near Medan had been occupied by squatters after 1942. The Japanese authorities had allowed, or urged, people to cultivate food crops on the plantations. After independence, the plantations released part of their land for squatting smallholders, but these plots were also used by dock workers, clerks, and petty traders employed in Medan and others who commuted to the city. Immediately after independence, the state urged the labourers to be steadfast in their conflict with the plantations, but by the mid 1950s it viewed the occupants as common squatters who should be forcibly removed. In practice, it seemed impossible to evict the squatters, but martial law gave the military the green light to take firm action against the squatters. Later, the squatters’ plots were gradually absorbed into the expanding city.  

There were different perceptions of the legal status of squatting. Formal land proprietors, the state, and the squatters each had their point of view. Nicole Niessen (1999:269) remarks that ‘the uninterrupted possession, sometimes for more than one generation, of abandoned or vacant land is a traditional means of founding adat rights to the land’. This type of land acquisition was only acknowledged in areas with an established adat tradition, in other words in rural areas. In urban areas, squatting was deemed unlawful. Being in many cases from a rural background, the squatters may have thought differently and considered their occupancy perfectly rightful. This point of view was backed by adat rules about developing new land and reinforced by the squatters’ regular payment of land and building tax. The taxpayers may have erroneously believed that the receipts of their tax payments had a status equal to a title deed (Niessen 1999:269-70).

Conclusion

I have used land tenure as a lens through which to gain insight into Indonesian decolonization. Security of tenure is very important to people. During decolonization, the legal certainty of tenure is questioned. During any regime change, and this certainly applies to the decolonization of Indonesia, security of tenure is endangered in two ways: entire tenure systems change and the legal certainty of individual titles is undermined.

New rulers sometimes change land tenure systems to suit their own interests or the interests of those they protect. In colonial times, the two main categories of landownership were known by ethnic or ‘racial’ labels: indigenous and European ownership. The European tenure rules were characterized by a high degree of formality and tenure security. Such security made this kind of tenure attractive to upper and middle-class people with long-term investment plans. The Basic Agrarian Law of 1960 ended the use of the terms ‘indigenous’ and ‘European’ plots, but continued the distinction between plots with a formal, secure tenure and those with an informal and less secure status. In that respect little changed. Rural landownership in postcolonial Indonesia was complicated by local variations in tenure systems that went back to colonial times. All these idiosyncratic tenure systems were mixed with practices that had become common throughout the archipelago – such as registered and unregistered individually-held land – to form unique, local land rights regimes. These local systems of land tenure responded more quickly to decolonization than to national law. There are many examples of such rapid, local adjustments to the new balance of power after independence. These include the purchase and subsequent abolition and partition of the large private estates with seigniorial rights (particuliere landerijen), and the weakening of aristocratic claims such as the sultan’s grants in Medan.

The legal certainty of individual plots was often imperilled because the usual legal protection broke down. The conventional wisdom that land ‘has always been one of the safest forms of investment in politically unstable situations’ (Evers 1984:483) did not apply to the Indonesian revolution. The main victims of land invasions must have been the Eurasian and Chinese populations, who, unlike most of the white European elite, resided permanently in Indonesia. The Japanese occupation and the change of regime in 1945 briefly heightened the insecurity of tenure. Some owners were put in internment camps or were forced to flee their property when the course of the war turned against them. Later they found that others had occupied their land. Another vulnerable group was Western companies that had lost the protection of the colonial administration; their lands in long lease became a prime target for squatters. The risk of illegal occupation was increased when the Japanese occupation ended and the revolution began because the registration of title
deeds at the cadastre was temporarily suspended. When peace had been more or less restored a score of lawsuits were filed. These lawsuits show that owners had to fight hard to regain control of their land, and that their success was limited.

While property owners feared the insecurity of tenure, for others it represented an opportunity. In Indonesia, the legal uncertainty of individual former owners made it possible to squat. Although squatting did not lead to legal certainty, it did seem to be an accepted form of tenure for a while. This lasted as long as the squatters had powerful allies and protectors in the Japanese administration, the Republican government, and the Indonesian communist party.

To sum up, the decolonization of tenure systems in Indonesia culminated in the Basic Agrarian Law of 1960, which aimed to increase tenure certainty and abolish the distinction between European and indigenous titles. With regard to these goals, the law was hardly successful. The European-indigenous dichotomy was merely replaced by a distinction between registered and ‘not yet registered’ titles, implying a similar difference of formalization and (in) security of tenure. At the height of the decolonization process, security of tenure was deeply undermined, albeit temporarily. This was a loss for some categories of owners and an opportunity for landless squatters. The Basic Agrarian Law also failed to achieve its other implicit goal, namely to overcome local diversity and promote national unity as part of the great nation-building effort.

Indonesia’s agrarian issues were not unique. Similar situations arose in Africa. Nevertheless, colonial Indonesia appears to be different in several respects: the formal acceptance of indigenous, individual titles, the smaller difference between indigenous and European titles, and the possibly greater local diversity with an accompanying adjustment of tenure systems to local needs. It is for these reasons that the decolonization of tenure systems in Indonesia was generally characterized by continuity, despite the temporary insecurity of titles.

References

Abeyasekere, Susan

Bedner, Adriaan
Beyond empire and nation

Bernstein, Henry

Berry, Sara

Burns, Peter

Chanock, Martin

Church, Peter (ed.)

Colombijn, Freek
1994 Patches of Padang; The history of an Indonesian town in the twentieth century and the use of urban space. Leiden: Research School CNWS. [CNWS Publications 19.]

Commissie voor het grondbezit
1934a Sumnier overzicht van de beginselen en hoofdzaken der agrarische wetgeving en van de voor Europeanen in Nederlandsch-Indië verkrijbare rechten op grond. [Batavia]: Commissie voor het Grondbezit van Indo-Europeanen.


Deiniger, Klaus W.

De Soto, Hernando

Devas, Nick

Dick, Howard

Dinas Agraria D.I.Y. [Daerah Istimewa Yogyakarta]
Durand-Lasserve, Alain and Lauren Royston

Evers, Hans-Dieter

Gautama, Sudargo and Budi Harsono

Gautama, Sudargo and Robert N. Hornick
1972 *An introduction to Indonesian law; Unity in diversity*, Jakarta: Alumni Print.

Gemeente Bandoeng, Dienst van het Grondbedrijf.
1931 *Prospectus voor de uitgifte van gronden*. Bandoeng: Vorkink.

Goldberg, Michael and Peter Chinloy

Harsono, Boedi

Hooker, M.B.

*Jaarboekje*
1941 *Jaarboekje voor de ambtenaren van het kadaster in Nederlandsch-Indië tevens overzicht van de voornaamste wettelijke bepalingen, welke betrekking hebben op het kadaster*. Batavia: Olt.


Jansen, Gerard
1925 *Grantrechten in Deli*. Amsterdam: Oostkust van Sumatra-Instituut. [Mededeeling 12.]


*Kadastrale Dienst in Nederlandsch-Indië*

Leaf, Michael
1992 *Land regulation and housing development in Jakarta, Indonesia; From the ‘big village’ to the ‘modern city’*. PhD thesis, University of California, Berkeley.
Lentz, Carola
2005 'First-comers and late-comers; The role of narratives in land claims', in: Sandra Evers, Marja Spiereburg and Harry Wels (eds), Competing jurisdictions; Settling land claims in Africa and Madagascar, pp. 157-80. Leiden and Boston: Brill Academic Publishers. [Afrika-Studiecentrum Series 6.]

Lissa Nessel, R.C.A.F.J. van
1940 De mogelijkheid van een gemeentelijk inlandsch 'kadaster'; Prae-advies uitgebracht voor het 30e Decentralisatie-Congres te Bandoeng, op 2, 3 en 4 mei 1940. Bandoeng: Stichting 'Technisch Tijdschrift'.

Logemann, J.H.A.
1936 Stedelijk agrarisch recht en stadsvorming [Bandoeng]; Stichting Technisch Tijdschrift. [Technische Mededeeling Vereeniging voor Locale Belangen 8.]

Molenkamp, Iben

Nas, Peter J.M.
1990 De stad in de Derde Wereld; Een inleiding tot de urbane antropologie en sociologie. Muiderberg: Coutinho.

Niessen, Nicole
1999 Municipal government in Indonesia; Policy, law and practice of decentralization and urban spatial planning. Leiden: Research School CNWS. [CNWS Publications 77.]

Nwaka, Geoffrey I

Otto, J.M.

Pelzer, Karl J.

Reyntjens, Filip
Royston, Lauren

Saltman, Michael

Schwencke, G.

Sinar, Tengku Luckman

Slaats, Herman and Karen Portier

Sonius, H.W.J.

Stork, E.M.
1936 Overgang van Inlandsche grondrechten in het gewest Jogjakarta. Amsterdam: Royal Institute for the Tropics.

Stuers, H.J.J.L. de

Verslag van de 21e jaarvergadering
1933 Verslag van de Een en twintigste jaarvergadering van de Vereeniging voor Locale Belangen en van het Drie en twintigste Decentralisatiecongres [...]. [Semarang]: Vereeniging voor Locale Belangen. [Mededeeling Locale Belangen 98.]

Verslag Handelsvereeniging Medan
1931-1939 Verslag van De Handelsvereeniging te Medan over het jaar [1930-1938], Medan: Varekamp.

Verslag Planologische Dag
1939 Verslag Planologische Dag Bandoeng, 1 en 2 juli 1939, [Bandoeng:] Planologische Studiegroep van de Vereeniging voor Locale Belangen. [Technische Mededeeling Vereeniging voor Locale Belangen 16.]

Vollenhoven, C. van