

Im Aktuellen Informationsdienst Afrika sind mittlerweile vier neue Hefte erschienen. Damit wird die wohl einmalige Sammlung afrikanischer Tageszeitungen des Instituts für Afrika-Kunde – einmalig sowohl in Deutschland wie in Afrika selbst! – zu einzelnen Sachfragen übersichtlich, handlich und preiswert dem Benutzer aufbereitet. Neben den hier zusammengestellten Informationen geben diese Informationsdienste auch einen aufschlußreichen Einblick in den Stand und die Qualität der Berichterstattung in Afrika, den Umfang der Eigenbeiträge wie der unterschiedlichen Nutzung und Verarbeitung der internationalen Nachrichtenagenturen. Dabei erfüllt der Informationsdienst aber gleichzeitig eine bisher nicht ausgefüllte Kommunikationsfunktion durch die Transportation der (mehr oder weniger autonomen) »afrikanischen« Meinungen zu Weltfragen nach Europa und Deutschland. Lediglich in der umfangreichen Sondernummer über den Tschad werden auch europäische Zeitungsberichte berücksichtigt. Sie wird zudem ergänzt durch einige Originaldokumente der Froinat sowie einer Bibliographie. Wer sich zu den hier aufgearbeiteten Fragen informieren will bzw. darüber forscht, sollte an diesen Informationsdiensten nicht vorübergehen.

Rolf Hanisch

*Franz von Benda-Beckmann*

**Property in Social Continuity: Continuity and Change in the Maintenance of Property Relationships through Time in Minangkabau, West Sumatra**

Martinus Nijhoff, Den Haag, 1981, 455 S., 55 holl. Gulden

Over the last couple of decades legal anthropologists have drawn back from the very detailed a-historical studies of individual communities which had characterised their work since the 1920s. Much more interest has been shown in questions of pluralism, in the relationship between small-scale, technologically simple societies and the larger encapsulated state. Inevitably, this shift of focus has involved a much greater emphasis on change and there are signs of a return to those large questions which preoccupied scholars like Bachofen and Maine in the mid-nineteenth century.

All these themes are addressed in Professor Von Benda-Beckmann's *Property in Social Continuity*, and he makes impressive contributions to an understanding of them. Through a detailed study of inheritance and inheritance law in Minangkabau he considers the interplay of rules from different sources, the direction in which these rules have been changing, and the problem of how we can relate the activities and objectives of living men and women to the normative and conceptual domain. At the same time he manages to have a say about some old questions of classification and definition. Whether or not one agrees with Benda-Beckmann's positions, it is clear that he has thought carefully about them, designing and presenting his work to display the theoretical framework. This is admirable; there is no question of having to fish around in the ethnography to know what he is talking about.

He begins by explaining his »assumptions and methods« (I come back to some of these later) and then provides two long chapters which draw in the socio-cultural background and introduce the normative systems coexisting in Minangkabau – adat, Islam and the national law. There follow three chapters about property. In the first of these he addresses what he describes as »the level of meaning«, in the second »the level of performance« and in the third »the production of legal conceptions through time«. This ordering is very helpful because it forces the reader to look first at Minangkabau property conceptions, then at how Minangkabau conduct their property arrangements in practice, before trying to bring these two spheres together. When he does so the assumption is that human behaviour is only understandable in terms of »the body of objectified conceptions which provides the means by which the actors explain and justify their actions« (at p. 384–85); and that these conceptions will be changed as they are reinterpreted by humans in the course of strategic action. He concludes: »the anthropologist must take a step back, and look at both the actual behaviour of society's members and the system of objectified conceptions. He must try to assess how the system of conceptions influences human activity and how human activity influences the conceptual system through historical time.« (at p. 385)

In adopting this view of social order Benda-Beckmann appears close to the position arrived at by F. H. Gulliver in the closing pages of his recent book *Disputes and Negotiations* (1979, see specially pp. 274–275). He also explicitly associates himself with Turner's earlier formulation where the latter noted »a complex interaction between normative patterns laid down in the course of deep regularities of conditioning and social experience, and the immediate aspirations, ambitions, and other conscious, goals or strivings of individuals and groups in the here and now« (*Schism and Continuity in an African Society*, 1957, p. xxv). However, there is an important difference (which Benda-Beckmann acknowledges) between Turner's »social dramas« and the »stories« which Benda-Beckmann tells in his chapter devoted to the level of performance. Turner's analysis was of human interaction whereas Benda-Beckmann is looking at property relationships in their diachronic aspect. In his stories we are allowed to see almost nothing of the traditional *musyawarah* (»common deliberation process aiming at a unanimous decision«) through which property affairs are sorted out at village level. So we remain somewhat removed from any action informed by Minangkabau property conceptions and through which these conceptions are changed. For me this is a disappointing gap; one which would have to be filled before the picture as Benda-Beckmann himself outlines it were complete. Perhaps there was a deliberate decision here to stand back from actual processes of interaction, lest the broader view which Benda-Beckmann rightly regards as missing from many earlier studies was obscured. But my impression is that despite his theoretical protestations Benda-Beckmann remains most at home within a functionalist paradigm, and that his perceptions of what he should be doing result in this gap in the ethnography. He is simply more concerned with rules and property conceptions than with the activities and objectives of living men and women. This concern is reflected in his very interesting discussion of the treatment of adat in the courts of the national legal system.

He notes that in these agencies adat remains »more or less the only system used to legitimate decisions in property and inheritance affairs.« However, indigenous Minangkabau conceptions have been transformed in important ways. First, with the arrival of Islam »adat was to some extent redefined in Islamic legal concepts« – indeed most scholars hold that the very term adat comes from the Arabs. Further, Benda-Beckmann suggests that the judges in the colonial period and subsequently those in the contemporary state courts, being trained in western law, have understood and interpreted adat »through the logic inherent in their own system.« (at p. 32). This reinterpretation has implications both for the way in which adat conceptions are treated in decision-making and for their substantive content. Under the traditional Minangkabau procedures for reaching a decision through common deliberation (*musyawarah*), while general adat conceptions are regularly invoked and restated, the decision makers remain relatively free in their determination of legal consequences within the framework provided by these conceptions. »As the exercise of their autonomy is the essential element of the doctrine, the concrete result of one decision making process cannot be extrapolated to a similar case later; it is imperative that in the later case the decision makers exercise their autonomy anew and, possibly, with a different concrete result.« (at p. 314; there is here a striking parallel in the Sotho decision making processes described by Hamnett in *Chieftainship and Legitimacy*, 1975, specially pp. 14–15, 109–110). Of course, »the process of common deliberation and exercise of autonomy, which is so closely interrelated with the concrete substantive conceptions of adat, is not reproduced in the courts«, with the result that substantive adat rules »acquire a much more rigid character and are divorced from procedural adat conceptions.« (at p. 315). Predictably, the background of the judges in western categories has also led them to misunderstand substantive adat property conceptions. So if adat law is not, as some have argued, actually the product of the colonial and national courts, it has been substantially changed by them.

Benda-Beckmann says it was difficult to assess what influence conceptual usage in the courts was having at village level. But when he turned away from the production of legal concepts in the courts towards the activities of Minangkabau men and women »engaged in property affairs« he observed one general trend. This was a growing emphasis upon individualised interests in self-acquired property as opposed to inherited property associated with lineage membership. This shift, which he links to the entry of money into the Minangkabau economy, is seen as the development of traditional norms allowing individuals some autonomy over self-acquired property rather than a sharp break with the past. An associated change, under which property in this category is now inherited by the children of the holder rather than his *matrikin*, seems much more radical; but Benda-Beckmann is reluctant to see this as indicating a rapid decline of the traditional matrilineal groupings and indeed argues persuasively that these remain rather durable. (see pp. 373–383).

Much writing of legal anthropologists over the years has been given up to questions of classification and definition; but very little has been achieved in terms of progress or agreement. Benda-Beckmann concedes this when he notes that »the definitional battles

on the field of law are notorious and their results have been depressing.« (at p. 25). Nonetheless he feels compelled to enter the field himself. To me this excursion appears unnecessary to his general purpose and, alas, to very little effect. According to Benda-Beckmann, law is present in all societies and is a dimension »of social organisation which is inherent in all social institutions.« (at p. 26). It »consists in the objectified cognitive and normative conceptions by means of which a society recognises and restricts its members' autonomy to act and to construct their own cognitive and normative conceptions.« (at p. 28). Law shows itself in two forms: general law and concrete law. »If manifest as general law, the legal conceptions are usually combined in the form of a conditional program of the 'if – then' character; if manifest as concrete law, the legal conceptions are usually combined as a rationalisation program of the 'as – therefore' character.« (at p. 28). If I understand him, he is saying here that in any society there are normative propositions floating about which constrain the members. On one level these norms remain generalised; on another, concrete situations repeatedly arise which people evaluate in terms of these norms. This seems alright; but apart from the distinction between general and concrete law (again it is interesting to compare Benda-Beckmann's formulation to Hamnett's in Chieftainship and Legitimacy, despite their apparently opposed standpoint), we seem close to Malinowski's position that law is a matter of any old social rules. In many respect it is easy to feel sympathy with this position; but we know from past debates that it is open to powerful objections, and Benda-Beckmann offers us little new by way of defence. In another sense, however, Benda-Beckmann is far away from Malinowski. Although he notes that legal conceptions in non-western societies tend to be lacking in specificity and that »decision-makers in non-western societies usually have a much larger degree of autonomy vis-a-vis the general conceptions than have judges in western systems«, (at p. 31) social life remains for him an affair of shared rules. The flavour is Durkheimian in this respect; and the feeling of social life as in part constructed out of strategic action, which is strongly conveyed by Malinowski, is not really there in Benda-Beckmann's work – despite his stated recognition of the need to break out of a normative paradigm.

Benda-Beckmann's interest in classification and definition is exercised to far better effect when he turns to marking out the boundaries of inheritance. Here he rightly warns against an exclusive focus on death if processes of property devolution are to be understood, and recognises with Goody (Death, Property and the Ancestors, 1962) that »inheritance-like« transfers may be expected at several different stages in the developmental cycle. He then goes on to argue that the identity of the category »should rest upon one characteristic: whether a return is given in the transfer which is itself valued as property.« (at p. 47). It is the absence of such a return which gives a transfer its critical diachronic dimension. It is tempting to take issue with the view that we should disregard all transactions for return when forming the category of inheritance-like transactions. Should bridewealth transfers, for example, be excluded? They clearly have an important diachronic dimension. It seems to me that we can only understand the property arrangements of a group if we look at all the regular ways that property moves within it and bet-

ween that group and those adjacent to it. In sorting these out, the distinction he offers between Synchronic and Diachronic transfers (at p. 48) may well be generally helpful, but his insistence that this distinction is present conceptually in all indigenous systems (at p. 48) cannot be accepted without query.

Property in Social Continuity stands amongst the most important recent writing in legal anthropology and represents a distinguished contribution to work on the Indonesian area. English-speaking scholars have reason to be grateful that Professor von Benda-Beckmann wrote in English on this occasion but our German colleagues must surely regret this choice.

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**Economic Development of Taiwan 1860–1970**

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Die Veröffentlichungsreihe des Economic Growth Center im Yale Department of Economics, in der die vorliegende Studie erschienen ist, umfaßt sowohl empirische als auch theoretische Untersuchungen, in denen es schwerpunktmäßig um die Erforschung von Gesetzmäßigkeiten im Wachstumsprozeß und im Wandel der Wirtschaftsstruktur der Entwicklungsländer geht.

Ho geht in seiner Untersuchung der Wirtschaftsentwicklung Taiwans rein empirisch vor. Er unternimmt keinen systematischen Versuch, die Analyse in den Bezugsrahmen der allgemeinen entwicklungstheoretischen Diskussion zu stellen. Um es vorwegzunehmen: Ein solches Vorgehen ist im vorliegenden Fall durchaus von Vorteil. Gerade das Beispiel Taiwan zeigt einmal mehr, daß es ein universal gültiges Erklärungsmodell der Phänomene von Entwicklung und Unterentwicklung nicht gibt.

Ho geht chronologisch vor, indem er zunächst die traditionelle Wirtschaft beschreibt, um dann vor diesem historischen Hintergrund den Prozeß der Wandlung zu einer dynamisch wachsenden, modernen Volkswirtschaft im einzelnen zu untersuchen. Es werden dabei zwei Phasen unterschieden, einmal die Umwandlung in eine offene, dualistische Wirtschaft in der Phase der japanischen Kolonisierung (1895–1945) und zum zweiten der Übergang zu einer wachsenden industriellen Volkswirtschaft nach dem zweiten Weltkrieg (1946–70). Schwerpunktmäßig werden jeweils die landwirtschaftliche Entwicklung, die Industrialisierung und die Rolle des Staates im Entwicklungsprozeß untersucht. Dabei werden andere wichtige Aspekte, etwa das Finanzsystem oder der Handels- bzw. der Dienstleistungssektor, nur am Rande gestreift.

Die eindrucksvollen Wachstumsraten, die die Wirtschaft Taiwans vor allem in den sechziger und Anfang der siebziger Jahre dieses Jahrhunderts aufzuweisen hatte, führt Ho zum einen auf die Tatsache zurück, daß die Modernisierung der Landwirtschaft in Tai-