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ISLAM VERSUS ADAT IN NEGRI SEMBILAN (MALAYA).

In an article on "Minangkabau's old controversy", Professor Prins not long ago drew attention to one of the recent manifestations of the perennial struggle between the ancient matrilineal institutions and Islamic law in Minangkabau. (Prins 1953). Negri Sembilan, a state on the west coast of the Malay Peninsula, largely inhabited by Minangkabau settlers, knows the same tension between the same two systems. In 1951 matters came to a head, and the state of tension erupted into a conflict. In the following pages I shall try to describe these events, with the main emphasis on (a) the rôle of the political authorities involved, (b) the arguments used by the protagonists of both parties in the conflict, and (c) the factors determining the individual's choice of standpoint. After the descriptive part, some general remarks follow.

This exposé is not as complete as I would wish it to be, for various reasons: I only arrived in Malaya two years after the critical period, i.e. while interest in the matter was still strong (as it is to the present), but the *chaude mêlée* had come to an end; documentary sources on the conflict are very few indeed (the most rewarding I found to be the reports and, above all, the "Letters to the Editor", in the Malay press); verbal accounts by informants were often incomplete, for obvious reasons, and hard to check; and, finally, a certain reticence is required in writing on a subject which has considerable emotional significance for a number of people now living.

I shall be very grateful to any reader who is able to correct or amplify my data.

I. *The Powers That Were.*

A brief introductory survey of the complex political organization, as far as it is relevant for our present purpose, will be necessary. Negri Sembilan is one of the nine States which, together with two

Settlements, make up the Federation of Malaya. Eight years ago, when the happenings to be discussed took place, the highest government authority in the Federation was the British High Commissioner. Administrative officers, at Federal level, belonged to the Malayan Civil Service (M.C.S.). The highest M.C.S. officer in each State was the British Adviser (viz. adviser to the Malay Head of State). As his style indicates, the B.A. was always British; his position may to some extent be compared with that of a *Resident* in the Netherlands East Indies. Each State was subdivided into Districts, each with its District Officer (roughly corresponding to the N.E.I. *Controleur*). A D.O. could be British or Malayan; if Malayan the District Officer would almost certainly be Malay, hardly ever Chinese or Indian.

M.C.S. officers were transferred freely from one State to another, so that even a Malay D.O. or A.D.O. need not be a native of the territory he administrated. There was no uniform training course (like the Dutch *Indologie*) for prospective administrative officers of the M.C.S.. The District Officers are at the same time Collectors of Land Revenue, and have jurisdiction in matters of land-ownership. This is important, as the ownership of "Customary Land" was the principal issue of the Adat-Islam controversy.

Side by side with Federal government organization, one encounters the political systems of the individual States.

Each State has its Ruler, usually styled Sultan, but Yangdipertuan Besar in Negri Sembilan. His chief minister is the Mentri Besar, often a close relative. According to this system, the State comprises villages (*kampong*) and village-groups or parishes (*mukim*); the latter are, geographically speaking, sub-divisions of the Districts of the Federal political system, but the *kampong* and *mukim* chiefs (usually called *ketua* and *penghulu* respectively) are not Federal officers. They always are local people; in most cases an informal election, or rather selection, precedes their appointment; but they always derive their authority from the State government, i.e. in last instance, the Ruler.

The Yangdipertuan Besar is also the head of the religious hierarchy of his State, as are the Sultans of theirs. As such, he is aided by the Mufti, the State's Minister of Muslim Religious Affairs, as it were, under whose supervision are the *Qadis* (Muslim judges and registrars, as they have been called (Gullick: 139)) and their deputies, *naib qadi*; the *imams*, or chiefs of the mosques, and the *lebais*, or leaders of the village congregations.

Negri Sembilan presents a more complex picture than the other

States, as it has a feature peculiar to itself [1] in the matrilineal organization transplanted from the mother country, Minangkabau. The matrilineal organization not only imposes its pattern of authority based on kinship, with clan and family chiefs (*lembaga* and *buapak*) each having a measure of authority over their own kinsfolk; it also affects the territorial political organization, for the State of Negri Sembilan comprises twelve [2] provinces (*luak*), co-incident neither with the Districts of the Federal, nor with the *mukims* of the State organization. They are entirely a creation of the *adat*, and their chieftainships are hereditary in certain clans; in the *luak* of Rembau, the storm centre during the conflict, the dignity of Undang or provincial chieftain is hereditary in the Biduanda clan. The Yangdipertuan, besides being Ruler of the State as a whole, is also chieftain of a province of his own, in the centre of his realm, where his palace is situated. In other respects, however, the Yangdipertuan and his House seem to be anomalous in the Negri Sembilan setting, as inheritance and succession in the ruling dynasty is patrilineal.[3]

As we shall see, difficulties may arise when a member of the Ruler's patri-lineage marries a girl belonging to one of the matrilineal clans: two principles of inheritance then clash.

So far, we have encountered three systems of political authority: one at Federal level, which one might call the colonial system (*sit venia verbo*); one at State level, say the monarchical; and one peculiar to Negri Sembilan, the traditional. There remains a fourth, the democratic, with entirely or partially elected Town, State, and Federal Legislative Councils, and its whole infrastructure of voluntary associations in the form of political parties. This system is rapidly expanding. In 1951 it was still in its formative stage, but, as will become apparent, this fourth system was no less closely involved in the conflict than the other three.

II. *Material for Conflict.*

From birth members of Negri Sembilan's matrilineal clans are incorporated in an *adat* system which affects their persons and their property. At the same time, as Muslims, in a country which explicitly

[1] And to a number of *mukims* in the Alor Gajah and Jasin Districts of Malacca Territory, together forming the *luak* Naning.

[2] Or nine, depending on what criterion for "*luak*-hood" one applies.

[3] I have demonstrated elsewhere that this anomaly is only apparent. (de Josselin de Jong 1951: 95—113, 151, 152).

acknowledge itself to be an Islamic State, they must adhere to Islamic law, which in principle also claims an almost total authority over their lives, but which is radically different from the *adat*. Here lie the roots of the conflict, which had its focus, as we remarked, in the differences between the two laws of inheritance.

The traditional matri-clans are segmented into localized descent groups, which tend to occupy contiguous plots of ground in the village. Given exogamy of the local descent groups, and uxorilocal marriage, the husband comes to live in one of the houses of his wife's local descent group, he works the land of that group, and lives off its produce. *Adat* draws a strict dividing-line between ancestral (i.e. joint) and individual property, *harta pesaka* and *harta charian*. The most important form of property being land, one has to distinguish between ancestral land and acquired land. One often comes across the term "customary land" for ancestral land, an unfortunate term, if only because it incorrectly suggests that the acquired land is not subjected to the rules of customary law.

Ancestral land was undoubtedly originally property of the clans and their sub-groups, but Negri Sembilan has gone further than the Minangkabau home-land towards a system whereby the ancestral property vests in the individual female members of the kin-groups, while remaining entailed in tail female. The situation is, briefly, that ancestral land, *tanah pesaka*, is inherited by the daughters of the deceased female holder — in Negri Sembilan one may almost say "owner"; failing these, by her closest female relatives in the female line.

In addition to, but in conformity with, the unwritten customary law, Chapter 215 of the Enactments of the Federated Malay States, the Customary Tenure Enactment, makes the formal ruling that transfer of *tanah pesaka* to a person not a member of any of the twelve Negri Sembilan clans [4] is prohibited, and that sale outside the owner's own clan is only permitted after her own clansfolk have had prior option, and the *lembaga* has given his consent.[5]

Here lies an important point of contrast with Islamic law: the latter only recognizes individual ownership, and cannot take into account a claim to ownership of any kin-group. So in the case of the death of a female holder of *tanah pesaka*, Islamic law not only would refuse to

[4] Called "tribes" in the Enactment.

[5] An excellent study of the practical application of these rules is to be found in Taylor 1948b.

acknowledge the principle that the property involved passes to another holder by virtue of the latter's membership of the deceased's matrilineal kin-group, but this law would also go against the *adat*'s designation of the individual heirs, viz. deceased's daughters (or, failing these, sisters, etc.): according to Muslim law (in Malaya usually called *hukum sharak*, or *hukum*, or *sharak*), the heirs would be the daughter and the son's daughter, father, mother, paternal grandfather, both grandmothers, sister, paternal stepsister, maternal step-siblings, and the widower; next the male members of the deceased's patri-lineage. Several of these could never possibly inherit under the *adat* system.

The difference between the two systems, then, is great, and it is obvious that this is not only a matter of theoretical concern, but is of immediate practical significance in view of the value of the main type of property concerned: agricultural land, and particularly rice-fields.

One remark should be made, to avoid misunderstanding. *Mukim* registers are kept of property in land. The Customary Tenure Enactment (the relevant provisions of which are summarized in an Appendix to this article) requires that ancestral land be inscribed as "Customary Land" in these registers. This has never been systematically or completely put into effect; but this does not mean that land not so inscribed is not "customary", i.e. ancestral in the sense of *tanah pesaka*. In fact it cannot mean that, as the customary law of *adat* is a personal law applying to members of the twelve Negri Sembilan clans, and thus to their dealings and possesions. It applies, in other words, to persons, and only via them to land; not to land directly. The point to bear in mind in considering the events of 1951 is that they centre on the rights to customary land in the wider sense as understood in the local customary law, not in the narrow sense of land actually inscribed as customary in the registers (Taylor 1948b: 52, 53, 118, 119).

It is noteworthy that the contrast between the two legal systems, *adat* and *sharak*, is no less great when it comes to the distribution of jointly acquired property. In brief, the *adat* ruling on property jointly acquired by husband and wife during marriage (we shall ignore property acquired by husband or wife individually) is *mati laki tinggal kebini* (on the husband's death it accrues to the wife), *mati bini tinggal kelaki* (on the wife's death it accrues to the husband), unless the woman leaves a widower with children — there is no generally accepted rule for dealing with that situation, as we shall see presently (below, p. 163).

In this case, the contrast with the *sharak* is once more the fundamental one, that Islamic law simply does not recognize joint property, so

that there can be no rules for its division once the property-owning partnership is dissolved.

Now with respect to the *harta charian*, the contrast between the *adat* and the *sharak* rulings have never given rise to an open conflict, involving two sharply distinguished camps which hold meetings and counter-meetings and, during a period of overt antagonism, bombard one another with arguments and counter-arguments. It has, however, for many years before 1951 (and since) been the source of continual *ad hoc* altercations, and has been the point at issue in numerous lawsuits. The open battle that was joined in 1951 for the possession of the *pesaka* lands had been preceded, one might say, by a protracted guerrilla for the *charian* lands. This created an atmosphere of uncertainty about the validity and the scope of the customary rules of inheritance; it led to a feeling that change was in the air, and thus prepared the ground for the open attack on the *adat* in 1951. For this reason we should say a few words about the *charian* situation, although it was not in itself an issue in the conflict we are at present interested in.

Actually, there are two main problems involved in the inheritance of jointly acquired lands. The first is: What precisely are the *adat* rules on this matter?

We saw that this problem becomes particularly acute when the wife dies. The theories on what ought to be done vary between: division of the property between the widower and the children, without however any specification of the shares due to each. (Taylor 1929: 30) [6]; the children get all (Nahu bin Salih 1936: 25, and various informants in Rembau); the female children get all (Abbas bin Haji Ali 1953: 90); the widower gets all, to enable him to remarry (informants in Rembau) — and actual practice is as variable as the theory.

Then there is the question whether acquired land can become ancestral. The authority, just quoted, who upholds the female children's claim to the jointly acquired *charian* maintains that by dint of this inheritance the *charian* becomes *pesaka* (Abbas bin Haji Ali 1953: 90), but again there is no unanimity on this matter (Taylor 1948b: 55, 56, 119; de Josselin de Jong 1951: 135).

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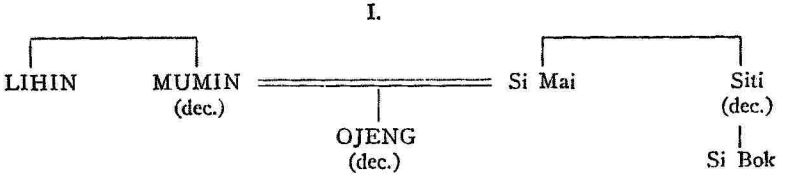
[6] Some informants specified: after payment of funeral expenses, the residue is divided in equal shares between the widower on the one hand and the children on the other. I should add that whenever, in this article, I refer to *charian*, I use the term in the meaning of property acquired during marriage, and therefore considered, under *adat*, as joint property of husband and wife. The precise designation is *charian laki-bini* or *harta suarang*. The property acquired by husband or wife before marriage need not concern us here.

Even more important is the second problem: quite apart from what the *adat* rules may be, are these rules to be applied at all to jointly acquired land, or should they go by Islamic law?

In actual practice, if it comes to a formal lawsuit (i.e. if mediation by the traditional chiefs, such as the *buapak*, has failed) the answer depends entirely on the personal views of the Collector of Land Revenue who tries the case: it is up to him which legal system he wishes to apply. This curious state of affairs already prevailed more than thirty years ago,[7] and it still does to the present day. On the

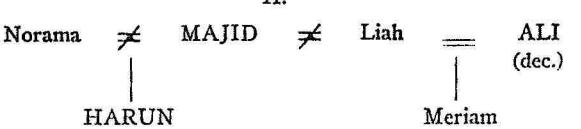
[7] Compare the cases decided in 1926 and 1927 in favour of the *adat* (e.g. Taylor 1929: 120, 122, 123) with that of 1928, decided in favour of the *sharak* (Taylor 1948b: 57). The following recent cases, reported to me in 1955, are also of interest as variants on the familiar theme:

I.



(names of males in capitals).
On the death of Si Mai, the division of her estate was decided in Court. LIHIN was designated as sole heir. Si Bok's objections to this judgment were:
a). She received none of the typically female gold ornaments of Si Mai.
b). She had worked the rubber holdings of Si Mai and MUMIN, but these, too, went to LIHIN, who had never done anything to them.
She would have been content with part of the jewelry, and $ 10.— monthly to be paid out of the revenue of the rubber holdings. By Si Bok's own admission, neither the land nor the jewelry was *pesaka*. According to *sharak*, which prevailed in Court, she was entitled to neither; according to *adat*, to both. (On MUMIN's death, Si Mai would have inherited under the rule *mati laki tinggal kebini:* "when the husband dies, the wife inherits". On her death, the property would have reverted to the matrilineal kin). The remarkable thing is that she here proposes a compromise.

II.



MAJID had first married Norama, while in Singapore. He had returned to Negri Sembilan and married Liah; there was no issue. MAJID and Liah are divorced, Liah marries ALI, who dies while Meriam is still a child. MAJID's divorced wife Liah, and her daughter Meriam, help MAJID in working his (*charian*) rubber land. MAJID dies, the Court decides that the land goes to his son HARUN.
Liah and Meriam object that while they were toiling on the land, HARUN

whole, though, one may say that at present the tendency is for *charian* land to be subjected to the Islamic laws of inheritance. A married couple may, of course, always avoid this by agreeing to have the newly acquired land registered as "Customary". One may hear arguments in favour of this procedure: by entailing it in this manner it is safeguarded against sale by some spendthrift owner who might simply squander the proceeds. It is, of course, the wife who always urges this course, registration, on her husband, and it is the husband who frequently objects, on the grounds that his expenditure for the purchase and development of the land would thus only benefit his wife's matrilineal kinsfolk, to the disadvantage of his sons in particular.[8]

It is clear that the division of opinion on this matter runs parallel to that on the application of *adat* or of *sharak* to *pesaka* lands. It stems from a reluctance to recognize the traditional rulings as the only code by which one is bound.

In the matter of *charian* we have just been discussing, the *adat* constituted a code in quite a strict sense of the word: how property has to be inherited is actually verbalized, it is laid down in fixed traditional sayings; in this sense one may say it is codified, however imperfectly and incompletely. And, if one wishes to escape from this code, one has recourse to another, one which is much more strictly and more systematically verbalized, and set down in writing[9]: the code of Islamic law.

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had been leading a lazy life in Singapore. They claim an *ex gratia* payment in cash, or a monthly remittance from the proceeds of the land.
This case, too, was settled by *sharak* rules. The vital point is that when her marriage with MAJID was dissolved, Liah should have claimed her share of the land under the rule *chari bagi*: "Jointly acquired property should be divided". Having failed to do so, redress was impossible. She, too, now proposes a settlement by compromise.
(The names, in both cases, are fictitious).

[8] The wife's matri-kin sometimes try to turn the son's inheritance of the *charian* to their own advantage by the following reasoning: some authorities say that *charian* becomes *pesaka* after having been once inherited matrilineally (see p. 163 above). Well then, let the same apply when a son inherits from his father: the heritage has thereby become *harta pesaka* of the son's (and his mother's) matri-clan! (A more valid contention under *adat* would be that the son's inheritance becomes *pembawa*, and will revert to his matri-clan after his decease). (de Josselin de Jong 1951: 133).

[9] One might consider the *adat*, too, to be a written code. Often when I questioned inhabitants of Negri Sembilan on the matrilineal *adat* they would say: "Well, according to Parr and Mackray the correct thing to do would be....." So a publication, intended by a foreign observer as a description of practice, has finally, to some extent, become a prescriptive code for the participants in the culture (Parr & Mackray 1910).

Adat, however, also has its uncodified aspect: it also means behaving, in specific situations, according to a norm on which a fairly general agreement exists, and has existed for a fair length of time. Dealings with land and property are subjected to *adat* in this sense also, and there were continual attempts to evade the rule of this *adat* as well.

A married man should provide his daughters with a house when they are going to marry. There is an increasing reluctance to do so: the father bears the expense, the one who profits by it is his daughter, who belongs to a descent group other than his own. The daughter should also get a plot of land on the occasion of her marrying. In order to prevent the fragmentation of the *tanah pesaka* of her matrilineal descent group, the correct thing for her father to do is to clear a new plot of jungle or shrub for her. Again, he often objects, for the same reason as before.[10]

All in all, by 1951 one had the situation that the inhabitants of Negri Sembilan were repeatedly made aware of shortcomings in the traditional procedures for dealing with ownership and inheritance of land, "customary" and otherwise. The conditions were therefore not unfavourable for a concerted against the customary rules as such.

III. *The Conflict.*

Early in February, 1951, the offensive was opened by the Religious Affairs Section (*Barisan Ugama*) of the Rembau branch of the U.M.N.O. — U.M.N.O. standing for United Malays' National Organization, the political party which some years later, in combination with the Malayan Chinese Association, was to sweep the board at State and Federal elections. Rembau is a District, and at the same time one of the traditional provinces or *luak* of Negri Sembilan which was to be the centre of the anti-*adat* agitation, for reasons which I have tried to trace in a previous article (de Josselin de Jong 1956a).

In February, then, this branch organization of the Umno made known that it was planning a movement for altering the customary law which applies to the distribution of *harta pesaka*, and for bringing the law on this subject into conformity with Islamic law.

[10] In fact, in Rembau there is hardly any virgin soil close enough to the existing habitations to be suitable for cultivation. A compromise solution to which one often resorts is that the youngest daughter — who will usually be the last one to marry — inherits the ancestral home and land, and her elder sisters get a "dowry" in money, e.g. out of the proceeds of her parents' rubber lands, or out of savings from the period when her father was a wage-earner.

On February 14th a *Surat Peringatan* ("Memorandum") was issued in Rembau, giving the motives for the planned action: Islam, says this pamphlet, has gradually been expanding its sway over Malaya for the last 400 years. At present, Malays consider it not only as a means for worshipping God, but as a guide for everyday life and social intercourse. Even before the first World War, opinion in Rembau was becoming aware that the local custom was contrary to religion. That this is so, is also known in other Muslim lands, even in Mekka and in Egypt, where the Rembau situation is held up to criticism and contempt.

The present system of ownership and inheritance of *tanah pesaka* is illicit (*harâm*); whoever abides by it incurs guilt (*dosa*) — a guilt from which one cannot be absolved by uttering pious formulae, but only by adherence to *hukum sharak*, the Islamic law.

A fortnight later no less than thirteen speakers addressed a meeting of 600 inhabitants of Rembau on the subject. All but two of those present pledged their support to the Umno's proposals. Two outstanding adherents were the *lembaga* of clan Anak Acheh and the representative of the Umno's Women's Organization (*Kaum Ibu*) (*Ut. Mel.* 27-II-1951). This support is striking, as coming from representatives of groups (women, and traditional chieftains) which one might have expected to be solid in support of the old order. The meeting adopted a resolution, that the law of inheritance should be altered in accordance with Islam; and that the Undang (the traditional chieftain) of Rembau be requested to take the necessary steps with the State Government for the implementation of this resolution.

Some weeks later, according to press reports (*Ut. Mel.* 13-III) the Undang informed the Chairman of the Umno's Rembau branch that, though he personally was in favour of the *sharak* being applied, he could not take any steps without the *lembagas'* consent — a quite unexceptionable statement. It was, in fact, not the Undang, but an education officer, R. - N. -, who took up the matter in official circles: in the Negri Sembilan Council of State he proposed setting up a committee to review Chapter 215 of the Enactment, as the existing regulations were unfair to men (*Ut. Mel.* 16-III).

The scene then temporarily shifts to Singapore. After about three weeks of preparation, a meeting is held in that city of Malays from Rembau (*Ut. Mel.* 26-III; cf. 6-III, 19-III). With 67 votes to 15, it decides to support the proposed change. Speakers in favour naturally included a number of holders of Umno offices; one of the dissentient speakers was a member of the P.M.S./P.M.U. (Persatuan Melayu

Semenanjong/Peninsular Malay's Union), a political rival of Umno. On April 6th, the *lembagas* of Rembau assemble, and unanimously reject the Umno's proposals (*Ut. Mel.* 7-IV). The news of this counter-attack gives rise to considerable commotion. The Umno spokesman in Singapore interprets it in terms of The *Lembagas* against The People, as he estimates that 80 % of the Rembau population supports Umno. And anyway, how could the *lembaga*-meeting be unanimous, as it is generally known that three *lembagas*, at least, are supporters of Umno (i.a. the chief who spoke up at the meeting of the 600, at the end of February)? It soon transpired that the three dissentient *lembagas* had not been present, which made it doubtful whether any decision reached at that meeting itself was valid (*Ut. Mel.* 7-IV, 9-IV, 13-IV).

There follow agitated appeals by the Umno to the Undang of Rembau: he had not yet replied to the Umno's letter subsequent to the meeting of the 600, and now the press announces this radical move by the *lembagas*! Are the press reports correct? The Umno does not want to abolish the *adat* in its entirety, but only to repeal Chapter 215, etc. The Undang's replies, verbally and in writing, are conciliatory: he himself has not yet been officially informed of the *lembagas'* decision, but at any rate a decision can only be valid if reached by a plenary assembly of the clan chiefs; and he, the Undang, will instruct these chiefs not to act without consulting their clansfolk (*anak-buah*). (*Ut. Mel.* 24-IV, 10-V, 30-V).

Nevertheless, the uncomprising reply of the *lembagas'* assembly appears to have taken much of the wind out of the reformists' sails: the branch of the Umno in Kuala Pilah, another Negri Sembilan District (not, as Rembau, co-incident with a traditional *luak*) which at an earlier stage had come forward in support of the Rembau branch (*Ut. Mel.* 14-III) now stated that it would not raise the question of the repeal of Chapter 215 at its branch meeting, in order not to place Kuala Pilah *lembagas* who are Umno members in a difficult position; it will pursue its aims by more subtle (*halus*) methods (*Ut. Mel.* 25-IV). And shortly afterwards it was also announced that a proposed second meeting in Singapore would not take place as the hostility of the *lembagas* would make a meaningless anyway (*Ut. Mel.* 15-V).

Before the reformist group was able to recover from this set-back, a remarkable intermezzo put a temporary stop to the whole controversy. The fasting month of Ramadan began that year on May 25th., and both parties agreed to observe a truce, so as not to mar the hallowed

atmosphere of that period. This truce was most honourably observed by both parties.

It is hard to say whether either party derived benefit from this one month's slackening of the antagonism. On the one hand, the general atmosphere of this fasting period, with its intensivation of religious activities and heightening of religious consciousness may have favoured the Umno. On the other hand, the general *détente* may well have caused some loss of interest in the conflict as a whole, which would be more likely to affect the protagonists of change than the preservers of the *status quo*.

At all events, when the discussion is reopened after the Fast, the initiative soon passes to the *adat* party; but first an episode occurred which at present stands out in the memories of the inhabitants of Rembau as the dramatic climax of the whole conflict.

Early in July the D.O. of Rembau, a Malay adherent of the Umno, not belonging to the Negri Sembilan clans, made it known that he intended to take up the matter with the High Commissioner, and, if that proved unsatisfactory, he would cause it to be raised in the House of Commons. His official superiors, more concerned, one may assume, with what they considered the impolitic nature of this statement than with his views as such, were quick to react. He was transferred, with notice to quit his post in Rembau within 48 hours.[11]

This unexpected turn of events did not fail to hearten the traditionalists. In the same month of July, a Rembau *lembaga* was interviewed by the press. He observed that, after the one month's truce, the conflict had flared up once more; and next he produced the remarkable piece of information that the women — the principal beneficiaries under the *adat* system — were now also beginning to defend their rights by means of their own, viz. by threatening to institute divorce proceedings (or, expressed in legally more correct terms: by threatening to elicit their repudiation by their husbands) if their husbands continued to support the Umno's action (*Ut. Mel.* 23-VII).[12]

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[11] For this episode I had to rely on hearsay accounts. Some indirect confirmation is given by Federation of Malaya Gazette, Government of Negri Sembilan, 7th June 1951, p. 100; 19th July 1951, p. 137; and 3d Supplement, 23d August 1951, p. 1155. I have no further documentary evidence.

[12] This refers to divorce by *khula*: the wife obtains her husband's willingness to repudiate her by making a payment, usually equal to the *mas kawin* or *mahr*: the marriage payment by the bridegroom to the bride. If she is too poor to do so, she may still obtain her repudiation "by exasperating her husband to such a degree that he does in fact pronounce the *talak*" (the repudiation

On September 3d., fifteen *lembagas* and 110 *buapaks*, *besar*, and *waris* (family chiefs and bearers of traditional titles) assembled in Rembau, and noted that the local Umno branch had resumed its agitation since the end of the Fast. Their response was to swear loyalty to matrilineal custom and to Chapter 215 (*Ut. Mel.* 8-IX). It is remarkable that this news item was supplied by the Undang's Office, which at any rate suggests some measure of agreement of the Undang with the traditionalist stand.

This supposition is confirmed by the Undang's action in November: he then at last gave a definite answer to the Umno's appeal for his assistance, made in February, by saying that after consultation with the *lembagas* he finds he cannot comply with Umno's request (*Ut. Mel.* 21-XI).

The other string to the Umno's bow was the initiative taken by R. - N. - in March to set up a State Council committee of investigation. Towards the end of the year this string, too, was about to snap. The committee was all but constituted in the course of the year; all that remained was the appointment of one member to represent the traditional office-holders. By the end of November, the State government had still not appointed this one member.

R. - N. - was instructed by the Umno to raise this matter once more at the next session of the Council of State (*Ut. Mel.*, 21-XI). To no purpose, however, for on December 24th the same item appeared once more in the Malay press, in almost identical words. But now the Council's stonewalling tactics finally gain the day for the traditionalists: the Rembau branch of the Umno decides to call off its action for repeal of Chapter 215 until further notice, in view of the resistance by Undang and *lembagas*; but it will resume it whenever it may be opportune to do so (*Ut. Mel.*, 24—XII). Meanwhile, to quote from the final reformist salvo, fired on New Year's Eve, the ancient *adat* remains *harâm*, it is *sesat* and *menyesatkan*: it has itself gone astray, and it leads its adherents astray (*Ut. Mel.* 31-XII).

Thus ended the most recent concerted action for abolition of one of the cornerstones of matrilineal custom in Negri Sembilan. There can be no two opinions as to the result: it was a complete victory for the *adat*-party, the traditionalists.

And what, one may ask, of the three *lembagas* who had chosen to

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formula). The women's strong social and economic position in Negri Sembilan would enable them to apply either method with a good chance of success. (On *khula* in Malaya: Taylor 1948a: 9, 10; Djamour 1959: 112, 115).

support the reformists? One returned to the traditional fold, the other two were relieved of their office (*Ut. Mel.*, 22-XII).

IV. *The Arguments.*

In this section we shall give the principal arguments used by the protagonists of the two parties, again using the "Letters to the Editor" columns in the Malay press as the principal documentary source. As we have said, we must repeatedly fall back on the use of documents in tracing the course of this conflict, as we arrived in the field too late to take down any discussions while the contest was still on. But apart from mere *force majeure*, the continuous modernization of Malay society itself anyway compels the student of that society to take the Malay newspapers, periodicals, and novels increasingly into account as forums for the clash of opinions on social and economic change.

Other such forums, for the verbal exchange of views and the formation of public opinion, are the regular gathering-points in the village or country town: the mosque, the Undang's office, the gathering-place near the District Office and Court, and the coffee-shops. The relative importance of these centres may vary from time to time and from place to place. In fact, during the period under review, one inhabitant of Rembau complained that in Minangkabau the same controversy is thrashed out in the dignity of the village elders' council hall (an institution unknown in Negri Sembilan), "but here, with us, in the coffee-shops" (*Ut. Mel.* 10-IV).

For the sake of clarity, we shall arrange the view-points of both parties in the form of arguments put forward by the reformists, followed by the attempts at refutation on behalf of the traditionalists, even when the traditionalist spokesman did not specifically refer to a reformist statement. The dates added to each item will enable the reader to trace the actual chronological sequence.

It will be seen that the arguments used by both parties fall naturally into three groups: the religious, the ethical, and the practical; we shall present them in that order.

The weightiest argument on the reformist side is simple enough: inheritance according to *adat* rules is *harâm*, "forbidden" — this term we already came across once or twice refers to one of the five categories used by Islamic legal theory for classifying all human activities. It is significant that this argument figures prominently in the opening as well as in the closing broadside of the reformists: *Ut. Mel.* 20-II

and 31-XII. A Muslim's prime duty is to avoid that which is *harâm* and to practise what is *wâjib* ("compulsory") — if needs be, even the ancient *adat* has to be set aside if it is an obstacle to following the precepts of one's religion (*Ut. Mel.* 22-II).

The basic traditionalist argument is, in its own way, equally irrefutable as the reformists'. It was put forward by a *lembaga* when the discussion was resumed shortly after the fasting month. This man said, in effect: "We *lembagas* will never give way in this affair to any action of the Rembau branch of the Umno. The Umno is a political party, and as such has no competence whatsoever in matters of *adat*."

If each group had insisted by these fundamental standpoints, no further discussion would have been possible, as from the point of view of the Islamic ideal a reform was equally imperative as, from the *adat* point of view, it was undesirable and even impossible to effect, given the plain fact of lack of the unanimity which in *adat* is a pre-requisite for change. However, both groups tended to meet the other half way by advancing points of view within the frame of reference of their opponents' views and outside their own.

Thus we see the *adat* party, and particularly M. - D. —, an active spokesman for the conservative *lembagas*, exercising considerable ingenuity in order to prove that the rulings on inheritance of *tanah pesaka* are not contrary to Islamic law. According to this reasoning, those entitled to the inheritance according to Muslim law transfer their ownership to the traditional *adat* heirs; the latter, therefore, are legally entitled to their share, even according to *sharak*, as they received it as a gift, *hibah*. This spokesman cites the following case in order to demonstrate that the bestowal of *tanah pesaka* as a gift is explicitly stressed by the male heir: when a girl marries — he says — her husband will, in conformity with uxorilocal custom, come to dwell in her *kampong*, on the plot of land of her matrilineal local descent group. Her brother will then clearly announce what is his sister's share in that land and property, saying: "This is her plot of land, this is her section of the rice-fields, and this her house".[13] "Is this not an explicit gift (*hibah*), is this not legally permitted (*halâl*)?" (*Ut. Mel.* 28-II).

This type of casuistry finds even more arguments to support the contention that the procedure according to *adat* is legal according to *sharak*, for the same writer notes that the religious officials in Rembau

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[13] *Kok kampong yang sesudut, kok sawah yang selopak, kok rumahnya pun, itulah dia.*

have never been hesitant in accepting as compulsory alms (*zakât* and *fitrah*) the revenue of the customary land; nor in acknowledging the validity of a pelgrimage to Mekka paid for out of revenue derived from customary land; nor in accepting a plot of customary land as a religious foundation (*waqf*). One can only conclude, says M. - D. -, that according to the consensus (*ijmâ'*) of the Islamic community the *pesaka* property is *halâl*.

Although this piece of reasoning would seem to offer a fair amount of scope for a refutation on points of Islamic law,[14] no specific reply ever seems to have been issued to the press by the reformist party. The only other argument of what we called the "religious" type put forward by that party, and of interest for our present purpose, is a more emotional one: how can the Mufti properly fulfill his task if the necessary reforms in this important field are not carried through? Must he simply remain a collector of alms (*fitrah*) and a registrar of marriage and divorce? (Ut. Mel. 20-II).

Coming now to arguments of an "ethical" order, pride of place must be given to one of the sharpest outbursts on the reformist side, which is also interesting as it offers one of the few examples of a Negri Sembilan reformist drawing for support on the publications of the like minded group in Indonesia. The traditionalists, says a writer using the pen-name "Pemuda Melayu", will of course quote the ancient saw that *adat* is permanent and immutable: it "cannot be mildewed by rain, or split by heat"; [15] it must be preserved at all costs: "better that our children die, that that the *adat* perish".[16] Now the Indonesian novelist, essayist and biographer Hamka (Haji Abdul Malik Karim Amrullah), a fervent protagonist of Islamic culture, once replied to this dogma of inflexibility by saying that the only object in nature that "cannot be mildewed by rain or split by heat" is a rock; if *adat* is really as immutable as a rock, it is because it is as dead as a rock. After this apt quotation, "Pemuda Melayu" carries the simile a stage further by adding "Whoever can say: 'Better that our children die than that the *adat* perish' must himself be a rock — but the inhabitants of Rembau are human!" (*Ut. Mel.* 26-II).

The accusation of general inhumanity is then dropped, but the charge of unfairness is repeated in several forms. Muhammad Fadlullah Sahimi, in the "Religious Affairs" column (*Ruangan Ugama*) of *Utusan*

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[14] A transaction may be valid in spite of being prohibited (Juynboll 1930: 49).
[15] *Tak lapok dek hujan, tak lekang dek panas.*
[16] *Biar mati anak, jangan mati adat.*

Melayu stressed what he considered to be the unfairness of the traditional laws of inheritance towards the descendants — particularly the male descendants — in the male line and towards the parents; both groups, of course, are excluded from any share in the *tanah pesaka*, or, rather, they are simply not recognized as "groups" in this connection. In addition, the prevalent system did not enable the head of the family to care properly for his dependents, e.g. by acting as banker and trustee for them. (*Ut. Mel.* 16-III).

The whole argument is curious, as it turns on the fact that the matrilineal inheritance system does not allow full scope to the "family" and the "head of the family" — Sahimi uses the terms *keluarga* and *ketua keluarga*. Now this word *keluarga* may be rendered as "family" as it is equally vague in its denotation (Malays are no better than Europeans when it comes to using this particle of kinship terminology), but it is obvious from the context that Sahimi employs it refer either to the nuclear family or to a bilaterally extended kin group such as prevails among non-Negri Sembilan Malays.[17] That is to say, he blames the matrilineal system for disregarding certain kin groups, which, within that system, either do not exist as such — the bilateral kindred with patrilateral stress — or whose economic functions largely devolve upon the matrilineal local descent group — the nuclear family. As an example of "system-centred" reasoning, Sahimi's contribution is the exact opposite of M. - D. - 's (*Ut. Mel.* 28-II) which attempted to defend the system favoured by the writer in terms of the system favoured by the writers' opponents.

Now Sahimi is a well-known scholar and writer on Islamic matters from Singapore, who has no personal association with Negri Sembilan, but a comparable example of "system-centred" argument is furnished by R. - N. -, who is far more closely connected with the socio-political issues in Negri Sembilan.

When moving, in the Council of State, the setting-up of a committee to review the whole matter of the Enactment, Chapter 215, his motivation was that the *adat* and the provisions of the Enactment were unfair, in the first place because they excluded all males from the inheritance (or hereditary rights to the use) of *tanah pesaka*, but also because they discriminated against the *anak raja*, the male members of the ruling dynasty, when they marry a "commoner". In the case of

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[17] So far only described for Kelantan, Johore, and Singapore (Rosemary Firth 1943; Burridge 1956; Djamour 1959).

such a marriage the husband's descent rule prevails, and the offspring of the marriage are reckoned as members of his patri-lineage; as a consequence, they are excluded from all inheritance, in the female line, of their mother's *harta pesaka*. This, R. - N. - considered to be an injustice, the more so as adopted children do inherit on the same lines as "real" children (*Ut. Mel.* 19-III).

This matter has long been a source of controversy in Negri Sembilan, and it is noteworthy that R. - N. -, himself an *anak raja*, here takes up the cudgels on behalf of his group on grounds which, strictly speaking, are irrelevant to the issue: *adat* or *sharak*.

The traditionalist response to the charges of *adat* being unfair to the male members of the Negri Sembilan clans is epitomized in a "Letter to the Editor" from one M. - Y. - (*Ut. Mel.* 21-II).

This letter points out that Section 12 of the Enactment provides for the "life occupancy" of customary land by the brother or the son of a deceased female "customary heir"; therefore, males do have rights to customary land — they only lack the right of its free disposal; but this latter right is also limited in the case of females. And in the case of *harta charian*, even the latter right is granted to males. Therefore, the charge of "unfairness to men" is unjustified, M. - Y. - concludes. Rather less plausibly, he goes beyond the ethical or fairness issue, and also concludes that the males' rights prove that the *adat* rulings are not contrary to Muslim law either.

We shall not follow M. - Y. - in returning to what we called the "religious" arguments, but pass on to the third group, the "practical".

In the first place, the reformists pointed out more than once, the traditional rules of inheritance may have served a useful purpose in the past, but they no longer do so now; in fact, they are now actually harmful. The aims of ancient tradition, and of the framers of the disputed Enactment, were to keep the land intact and to protect women; women were held to be the weaker sex, and men could look after themselves. But times have changed, economic needs have become more pressing, and the old reasoning no longer holds good (*Ut. Mel.* 20-II).

This letter in passing alludes to two of the most powerful arguments which are still, to the present day, most frequently employed by all who favour retention of the traditional rules: the *adat pesaka* protects women, particularly by enabling them to fall back on their family holdings in case of divorce (while in the other States of Malaya economic necessity may often drive the divorcee to prostitution); and it prevents alienation of the land to non-Malays. The letter-writer's

contention that it goes too far in favouring the women at the expense of the men is found elaborated in some later contributions.

An anonymous publicist came to the conclusion — one does not know on the grounds of what data — that the Rembau element was disproportionally large among the Malay members of the Singapore Police Force, and that about one in five of them had joined that Force in order to escape the matrilineal land-owning system, which offered them no fair opportunities. (*Straits Times*, 3-III). It is remarkable, by the way, that Q. - A. -, the organizer of the Singapore protest meeting of 25th March and a fervent reformist, nevertheless rejected the *Straits Times'* facts as well as its interpretation of them (*Ut. Mel.* 19-III). Was he, in spite of everything, too much attached to Rembau *adat* to tolerate criticism of it by outsiders?

Besides the charge of forcing the young men of the country to emigrate by refusing them a living at home, traditional custom also had to refute the criticism that it was hard even on its favourites, the women: the majority of Rembau men are married to women of their own village; if the couple leaves Rembau because the husband makes his living elsewhere, and his wages are insufficient, his wife will have to return each year to her home village to help in the work on the rice-fields (*Ut. Mel.* 17-IV). The obvious reply, that these couples would be even worse off without the wife's rice-fields to fall back on, does not seem to have been made, at least not in print.

A number of reformist arguments dealt with the practical feasibility of social change as such. There is no need to be over-sceptical as to the possibility of such change, for how much has been altered in the political organization of the State, with its Mentri Besar, its State Secretary, its Mufti, and various other offices of recent introduction! If the political organization can be modified, so can the social system (*Ut. Mel.* 20-II).

In fact, some parts of Negri Sembilan have already abolished the traditional rules, and did so longer ago than one generally realizes. The traditionalists generally represent the urge for change as due to the first influential Malay D.O.s, who were appointed in the years just before the outbreak of World War II. These officers were Tengkus, i.e. belonged to the ruling families, not only of Negri Sembilan, but of other States as well. Therefore they could not be expected to have any particular sympathy for the ancient *adat*; they were even instrumental in arousing feelings against it. This is the real genesis of the reform movement, according to its opponents.

Nothing could be more incorrect, says Q. - A. -, the organizer of the Rembau reform group in Singapore. Actually the first reforms were instituted in the nineteen-twenties, and were not due to *anak raja* District Officers, but to a man of religion, Haji Muhammad Sa'id, the father of the present Mufti of Negri Sembilan. He lived for some time in Seremban,[18] and during that period managed to win over the Undang (the Datok Klana) of Sungai Ujong to his views, so that in Sungai Ujong and Seremban the *adat* rules for the inheritance of *tanah pesaka* could finally be abolished. And even in Rembau, the stronghold of the *adat* party, social customs have in fact changed, e.g. the traditional orientation of the houses, and old forms of marriage and wedding customs. It is only the law of inheritance that is still maintained intact (*Ut. Mel.* 9-IV).

The traditionalists had several answers to these arguments. A *lembaga* pointed out that Q. - A. - 's reference to Sungai Ujong certainly did nothing to strengthen the reformists' position, for what was the result of the forsaking of the traditional rules of inheritance there (and, he added, in Mantin [19])? Alienation of land, which thus was lost to the Malays. [20] (*Ut. Mel.* 23-VII).

The principal contention of Negri Sembilan tradionalists, as of traditionalists everywhere, was however that so radical a change as proposed by the reformists could not be effected brusquely. No human institution is perfect, writes one of them, but sudden abolition of an *adat* centuries old, which for forty years has also had the strength of law,[21] could only lead to strife. The Umno's action is praiseworthy in its aims, but premature in its application. The only way to effect a smooth transition to new rules of inheritance is, first to promote the knowledge of Islamic law by religious teaching; in the next generation, say after 10 to 15 years, a change-over may be feasible (*Ut. Mel.* 21-II).

A much more uncompromising stand was taken, as might be expected, by M. - D. -, who more than once acted as spokesman for the *lembagas*.

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[18] The administrative capital of Negri Sembilan, situated in the *luak* Sungai Ujong. Haji Muhammad Sa'id's grave is there, and is nowadays a venerated shrine (*makam*).

[19] A part of *mukim* Setul, in Seremban District.

[20] The Customary Tenure Enactment only applies to inhabitants of the Districts of Kuala Pilah, Jelebu, Rembau, and Tampin. Sungai Ujong is nowadays a typically "non-tribal" *luak*, with non-Malay rubber estates and tin mines, the western-type State capital Seremban, the seaside resort Port Dickson, etc.

[21] "Forty years" refers to 1909, the year the Customary Tenure Enactment was passed which was superseded by the present Enactment of 1926.

Firmly placing himself on the standpoint of *adat* itself, he reiterates that the rulings of *adat* can only be altered by unanimous consent, *dengan bulat suara*. (Whose consent is a moot question, but it is almost certain that M. - D. - had the group of *lembagas* as a whole in mind). This unanimity will never be achieved, not only because the *lembagas* will never all consent to abolition of the traditional rulings on *tanah pesaka*, but also because even the religious leaders, the *ulama*, cannot agree among themselves. Some years ago, M. - D. - said, the Undang had put forward proposals for a revision of Chapter 215 at the behest of the *ulama*, but this initiative had come to nought [22] This should teach the reformists to be more cautious in the future (*Ut. Mel.* 16-III).

Finally, we observe that after the decisive meeting of the *lembagas* on April 6th, which for the time being at least effectively stemmed the reformists' advance, the latter group began to put out statements with the obvious tendency to minimize the scope of their own proposals. One writer points out that a new system of inheritance and ownership of land would not have very great economic consequences, as only one-eighth of all land (*quaere*: cultivated land? d. J. d. J.) is registered under "Old Title", i.e. as "Customary Land" (*Ut. Mel.* 17-IV). As we saw, this is but part of the story, as only a fraction of what is really "customary land" was in fact inscribed as being held under what is commonly called "O. T." (Old Title) — see p. 162 above.

An even more naïve statement was put out by the Umno in the following month, when its spokesman rather plaintively remarked that his party's aim was only to alter Chapter 215, and not to abolish the *adat* as a whole (*Ut. Mel.* 30-V). It goes without saying, through, that depriving the *lembagas* of their authority on matters of property, the clans of their ancestral land, and the local descent groups of the basis for their common residence, would amount to breaking the backbone of the matrilineal *adat* as a whole.

A counterpart to these conciliatory (and, in our opinion, misleadingly conciliatory) statements of the reformists, which played down the extent of the proposed reforms, are equally conciliatory (and, again in our opinion, no less misleading) representations by the traditionalists, which stress how tiny the contested area between *adat* and *sharak* really is. We already mentioned the "religious" arguments which attempted to

[22] This probably refers to the fact that in 1938 the Undang installed seven *ulama* as an advisory council on religious affairs. This council does not seem to have succeeded in bringing about any reform, and it was not consulted during the 1951 controversy (*Ut. Mel.* 13—IV).

demonstrate casuistically that the provisions of custom and of Islamic law are not at variance with one another when they deal with *harta pesaka* (p. 172 above). Carrying on from there, the *lembagas'* spokesman stated that all other property, i.e. recently acquired, as opposed to traditionally inherited goods, such as rice and rubber lands, cattle, money, etc. are subjected to the rules of *hukum sharak* (Ut. Mel. 28-II). The aim of this statement is clear, the more so as it was put out just one week after the Umno's initial manifesto, that is to say, in a period when the traditionalists had been forced back into a defensive position. As a description of fact it seems faulty, as there very definitely are *adat* rules, acknowledged as valid and applied in practice, which deal with acquired property (*harta charian*); they are at variance with Islamic law.[23]

Thus far our summary of the main arguments put forward by either side. It is striking that with one exception (23-VII) all of them are to be found in press statements and the like dating from before the Ramadan truce; by that time, therefore, both groups seem to have exhausted their intellectual ammunition. Personal conversations, a year and a half later, did not elicit any important new statements either. This gives us reason to hope that the above is a tolerably fair and complete account of the two positions, and that no major issues have been overlooked.

V. *The Choice.*

In this section we shall consider how a number of groups and individuals made their choice — or avoided doing so — when the latent tension between the two priciples of *adat* and *sharak* became manifest as a conflict. This makes it easier for us to see the events described in the previous sections not merely as a conflict between principles, or systems, but as a matter involving the actual every-day affairs of living people.

The first group to consider is obviously the one which took the initiative, early in 1951, of explicitly formulating the existing opposition between the two systems of ownership and inheritance and of proposing the abolition of one of them. This group, we saw, was the Religious

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[23] See p. 162 above; and cp. Juynboll 1930: 245—254; de Josselin de Jong 1951: 131—135.

Affairs Section of the Rembau branch of the United Malays' National Organization.

It need not surprise us that this group took the action it did. One may say it was bound to do so sooner or later, but the question arises whether there was any reason why it did so at the end of February, 1951. Not being privy to the counsels of the Umno, I can only put forward an hypothesis as an answer, one which will have to be confirmed or rejected by those better informed.

I would suggest that the main factor which induced the Rembau branch of the Umno to take the offensive was the outcome of the Bertha Hertogh affair in the preceeding months.

Bertha Hertogh was the Dutch girl who, at the outbreak of the war with Japan, had been left by her parents in the charge of her Malay foster-mother, Che' Aminah. It was not until several years after the war that Mrs Hertogh was able to re-establish contact with her daughter. Her attempts to regain custody of Bertha were resisted by Aminah on the grounds that the girl had meanwhile adopted Islam and preferred to remain where she was, and, at a later stage, because she had married a young Malay. A law-suit followed. On 22 April, 1950, the Singapore High Court ordered Bertha to be transferred to the custody of the Social Welfare Department. Aminah appealed, and on November 20th the appeal was heard, again before the High Court. On 2 December the Court dismissed the appeal, and ordered Bertha Hertogh to be restored to parental custody; the Muslim form of marriage she had contracted was declared invalid. This judgment aroused considerable resentment among the Muslim population of Singapore (and Malaya), and led to serious rioting and loss of life on December 11th, 1950, and the following days.

Considering the brief interval between the two dates: December 11th, with its outbreak of exasperated Muslim sentiment, and February 14th, 1951, the publication of Umno-Rembau's appeal to Muslim sentiment in its anti-*adat* pamphlet, some kind of causal connection seems extremely likely. On the one hand, the High Court's judgment, and particularly its rejection of the validity of Bertha Hertogh's Muslim marriage, was felt by Malayan Muslims as a humiliation inflicted on Islam; there may well have been a hope that Negri Sembilan could offer a victory to offset the defeat in Singapore. On the other hand, those who favoured reform of the inheritance laws on religious grounds must have been aware that a reform movement could only succeed when the normally dormant religious feelings of the mass of the population were

roused to a higher pitch than usual, and this was now the case: sentiment can hardly ever have been more favourable for religiously inspired activity.

One thing is clear, though, namely that even if, as I believe, the Bertha Hertogh case stimulated the Umno's action in Rembau, it did no more than offer an apparently favourable *occasion* for that action. The necessary *conditions* for the action were of a different order, as we have seen (p. 166).

The second group consists of the people one might consider the natural allies of the Umno in the *adat-sharak* controversy, viz. the holders of religious offices (see above, p. 159).

However, one may have noticed that they played no part worth mentioning in the course of the 1951 conflict. For a great part this is due to the structure of the Muslim community, in which, as is generally known, the holders of religious offices do not constitute anything like a priesthood. In the first place this means that even in the States of Malaya (where Islam is much more strongly buttressed by legal and administrative measures than e.g. in Indonesia [24]) these office-holders can not really be said to form a coherent, clearly delimited group, which could resort to group action. In the second place, it entails an absence of authority, whether spiritual or temporal, over the ordinary members of the Muslim community. In addition, local circumstances in Rembau are such that the holder of a religious office does not by virtue of that office acquire any large measure of individual prestige or influence.[25]

Although, then, it is not doubtful where their sympathies must have lain, we need not be surprised that the religious dignitaries failed in 1951 to come to the fore as a group. There are equally cogent reasons, be it of a different order, why they also seem to have kept to the background as individuals.

A very important one must have been the common knowledge of the considerable influence which an Undang can exert inofficially, by acting as adviser to the State and Federal government officers on the affairs in his *luak*. On the whole one may say that the Undang's position, in

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[24] For example, neither in the Netherlands East Indies' nor in the Republic of Indonesia's legislation is there anything comparable with Malaya's Enactments, Chapter 198, which sets fines for Muslims found guilty of absence from the Friday service in the mosque, breach of the *'iddah* period, publicly breaking the Ramadan fast, selling food, drink, or tobacco during the fast, etc.

[25] I heard of a case of an Imam having to enlist the aid of the clan chiefs in the collecting of the religious tithe (*zakat*), as the only way to get the clansfolk to pay.

all four large *luak*, has been gradually increasing in importance, i.a. by the fact that they are tending more and more to become not merely *adat*, but also government officials, and high-ranking and well-salaried ones at that. This not only strengthens their hand vis-à-vis the *lembagas*, but also lends more weight to their inofficial advisory rôle which we just mentioned — a rôle that becomes even more prominent when it is played by a man of character and a strong personality, such as the Undang of Rembau undeniably is.

In casu, appointment to the following offices is not dependent on, but may certainly be influenced by, the Undang's advice: teacher of Religious Schools, Qadi, and Inspector of Zakat; for setting up as teacher in a non-Government school even the written approval of the Undang is required (Ismail Ambia 1959: 33). It is understandable that when the Undang's attitude seemed vacillating (above, p. 167), those whose appointment or advancement depended in some part on his opinion were reluctant to take a more unequivocal stand.

The higher religious officials, the *qadis* for example, are appointed by the Ruler-in-Council, what implies that for aspiring religious officials — and not for them alone — the "official" attitude towards the Umno's action would also be a factor to take into account.

Was there any single "official" attitude at the time? As far as we can make out from scattered testimonies, no. It could, in fact, hardly be otherwise in view of the complexity of the political organization, with in the first place its divergence into State and Federal government organs. However, the dilatoriness of the Council of State in setting up a committee to study the implications of Chapter 215 does prove that the Council members were certainly not animated by ardent reformist zeal, and there is every reason to believe that the Umno's initiative was looked upon with disfavour by the most influential of those in authority at State Government level (e.g. the Mentri Besar) and in the M.C.S. alike. This supposition, if correct, is of some importance, for the following reason. When one hears of the Umno's initiative to alter part of the traditional custom in order to make it conform with Islamic law, it is easy to visualize an alliance of like-minded groups, consisting of: (1) the adherents of the Umno, i.e. politically progressive Malays, generally of the younger generation, (2) all those engaged in some form of activity connected with Islamic law and learning and all those who take the precepts of Islamic law seriously, i.e. Malays, not necessarily interested in politics, (3) those connected with the ruling House and in positions of authority in the government of the State, i.e. in general,

as far as the latter are concerned, the older generation, and possibly (4), the Undang, who might conceivably welcome an undermining of the customary system of land tenure as further weakening the *lembagas'* position and correspondingly strengthening his own.

A formidable alliance, and one which one might expect to gain the day. Actually, it never came into being. We already briefly considered some of the reasons which withheld many of group (2) from openly participating, and now, if our supposition is correct, we see that many of group (3) were also either passive or even antagonistic. The reason, I should say, lies in the political situation around 1951.

When one knows how rapidly and smoothly the Federation of Malaya attained its independence,[26] and how predominating was the part played by the Umno in the political developments which made this possible, one finds it quite hard to realize how different the situation was early in 1951. The Umno and, in fact, the whole political independence movement was then still young and inexperienced, and a novelty on the Malayan scene. It is not surprising that a large body of opinion in the State and Federal government hierarchies at that time viewed the Umno with suspicion as irresponsible hotheads — and that this suspicion extended even to a mainly unpolitical intitiative such as the attack on the customary rules of inheritance. This meant one more break in the potential anti-*adat* alliance.

Not all the members of this loosely defined "group 3" adopted this attitude, however. We more than once mentioned R. - N. -, *inter alia* as the man who moved the setting up of the committee in the Council of State. Leaving aside purely personal matters of which we know nothing and which are no concern of ours anyhow, it will be rewarding to consider the motives which led hem to take his stand.

What makes his case interesting is that he combines several statuses in his person. Although not the holder of any *adat* office, he is a Negri Sembilan Malay born and bred, married to a member of one of the twelve clans, and thus closely linked with what we called the "traditional" system (I should add that he is also greatly interested in the history and the functioning of that system, and appreciates its values); as *anak raja*, i.e. a member of the Yangdipertuan's dynasty, he is connected with the "monarchical" system; and as a member of the Council of State he could be considered a member of the "democratic" system as well.[27] Now his main argument in print during the 1951

[26] Officially proclaimed on 31st August, 1957.

[27] In addition, he was a Negri Sembilan State civil servant.

controversy was that the *adat* system is "unfair to princes" (above, p. 175); and in conversations some years later this was still the point he tended to stress. In other words, he selected one status as dominant, and made its interests override the objections which he could have raised against the Umno's action on the grounds of the interests and outlook of his other statuses. He was fortunate in having such an impulse towards a clear-cut choice, as it must have saved him from much of the heart-searching and hesitation which made the conflict so painful for other participants.

One of the people who had to face this problem in its acutest form was the Undang of Rembau. His constitutional position is one of the utmost complexity, involving him as it does with all four of the "systems" we outlined earlier, being based to a large extent on an *adat* which, in the political field, is so often imprecise and fluctuating, and, in general, entailing so many informal features. His position was made even more delicate by the ambiguity of his position towards the *lembagas*. On the one hand, matters of inheritance of *tanah pesaka* are undoubtedly the competence of the chiefs, as the Undang himself affirmed (*Ut. Mel.* 13-III, 10-V and 21-XI). On the other hand, the authority of the Undang of Rembau has undeniably been increasing at the expense of that of the *lembagas* (a fact which has caused some resentment among the latter), so that at the time of the conflict the balance of power between Undang and *lembagas* appeared unstable. The extent to which the Undang could override the *lembagas'* views seemed largely dependent on the Undang's own tact and judgment: judgment on how far he could go, and judgment on how far the *lembagas* in their turn had the backing of their clansfolk, the *anak-buah* (cp. *Ut. Mel.* 30-IV).

In this particular case, he was obviously subjected to forces pulling him in two directions: towards the *sharak* group, as a Muslim not unfavourably disposed towards an extension of the authority of Islamic law, and as a figure in the traditional political organization whose authority was principally offset by that of the *lembagas*; towards the *adat* group, as being the highest *adat* authority in his *luak*.

Again passing by any personal considerations which may or may not have played a part as well, his views on the merits of the case show the same delicate balance as his position: he appears to have held that customary land actually registered under "Old Title" should continue to be treated as *tanah pesaka*, all the remainder to be inherited according to Islamic law. (Verbal communication, 31-III-55).

The actual outcome, as we saw, was that the Undang maintained a strictly "constitutional" neutrality throughout, deferring to the *lembagas'* authority, but insisting on their consulting their *anak-buah* and achieving genuine unanimity (*Ut. Mel.* 13-IV, 10-V, 30-V).

One sequel to the 1951 conflict remains to be noted: towards the end of the same year a new political party, the Independence of Malaya Party, was formed, which absorbed many members of the P.M.S./ P.M.U. (of which M. - D. -, the *lembagas'* spokesman, was an active member). The I.M.P. immediately became the Umno's principal opponent. Now, the Undang of Rembau took an active part in the founding of the I.M.P. and was the moving spirit of this party's highly successful Rembau branch (Ismail Ambia 1959: 109). It may not be fanciful to connect this activity of the Undang's with his resistance to the Umno's appeals for his aid.

We cited the Undang as a case of a person whose position placed him between the opposing groups, with the resulting difficulties in determining his correct course of action. While in conversations with the Undang one got the impression that he faced these difficulties intellectually, weighing the pros and cons of the case, a meeting with another prominent figure in the conflict showed up the way in which such difficulties could be a cause of profound emotional distress.

It will be remembered that three *lembagas* had not attended the conclave of 6th April, thereby expressing their disapproval of their fellows' opposition to the action of the Umno. One of these was a man in his late sixties, and in conversations with him, even a few years after the event, one could not fail to be moved by the dilemma which he had to face, and the real suffering it was still causing him.

He was *lembaga* with heart and soul, conscious of the dignity and responsability of his office, determined to uphold it against encroachments by the Undang, and proud of the fact that the *luak* Rembau in particular consciously strives to uphold the ancient *adat*. Yet, he was a good Muslim (*in shâ'a 'llâh*); he was an old man, and realized that death might be near. Was he to incur guilt by allowing his attachment to *adat* to turn him away from fulfilling his religious duties to the best of his ability? Was he to die with a sense of *dosa*, of sin? He could not face this prospect, and set himself apart from his fellow-chiefs. He chose the party associated with his religion — not regretfully, as far as one can judge, but sadly.

To conclude this section, some remarks on the groups who unhesitatingly came to the support of the *adat*.

The reason why the *lembagas* (at least the majority, who were not beset by the idea of religious guilt) were the principal antagonists of the reform movement is obvious. They owed their position to the *adat*, and the mainstay of the *adat* is the communal ownership by the matrilineal descent groups of the "customary" land. If the traditional system of land tenure and inheritance goes, the entire *adat* goes, and the position of the *lembagas* goes with it. They are already in the position (as we saw) of having to defend themselves against the increasingly powerful position of the Undang, who is even acquiring influence in the election of the *lembagas* themselves (Ismail Ambia 1959: 32). The District Officer is already entitled to effect the sale or transfer of "customary" land, (be it with the *lembaga*'s approval), which means that the *lembaga* is no longer the sole authority concerned with *tanah pesaka*;[29] and even the minor dignitaries as *mukim* and village headmen are tending to become State civil servants, and are thereby acquiring prestige at the *lembagas*' expense.[30] It is no wonder that the *lembagas* saw the Umno's action as one more assault on their own position, and resisted it to the utmost. That M. - D. - was also an opponent of the Umno in the party-political field only accentuated the contrast in his special case, and was an added inducement for him to take a leading part in this resistance, but this did not make his position fundamentally different from that of his colleagues.

No less obvious is the reason why the Negri Sembilan women were strongly in favour of the traditional system, finally even rallying to its defence as a group (p. 169 above). The customary rule of land tenure and inheritance "makes the Negri Sembilan system very closely approach one of individual female ownership" (de Josselin de Jong 1951: 135), which in turn has given to women their strong economic and social position. There is no doubt whatsoever that the inhabitants

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[28] Another striking occasion when he stressed his status as Raja, and found it immediately acknowledged, was during a vacation in Minangkabau. As member of the Yangdipertuan's dynasty he possessed an ancient charter by which he could prove descent from the former Rulers (*Radjo Alam*) of Minangkabau. On his visit to Pagarrujueng, the former royal capital, he showed this charter to the village council, who thereupon arranged a state entry, with display of the ancient regalia, for him.

[29] For instance, in the case of the Enactment (Chapter 215), 8 (i) a and b: the option is given for a space of 30 days. If a member of the debtor's "tribe" avails himself of it within that period, the D.O. is empowered to make the transfer.

[30] Although, in my experience, this tendency is noticeably less pronounced in Rembau than elsewhere (de Josselin de Jong 1956a: 153).

of Negri Sembilan, and perhaps of Rembau in particular,[31] themselves are well aware of the interlocking of the economic, social, and prestige-conferring consequences of the *tanah pesaka* system. The tendency towards "individual female ownership" and the resulting partitioning of *pesaka* lands among the daughters of a deceased female "land-owner" has led to extreme fragmentation, as Ismail Ambia has remarked: in some cases women "own" no more than one or two *lopak* (plots of 12 × 12 ft.) of *pesaka* land. Yet these tiny plots are pointed out with the proud remark: "*Itu pusako dèn*" ("This is my ancestral share"), and one would feel ashamed if one lacked *tanah pesaka* altogether (Ismail Ambia 1959: 93).

Furthermore, on a more immediately practical level, the women time and again attempt to uphold their traditional rights of adding to the *pesaka* fund whenever the thorny problem of inheritance of acquired land has to be solved. We already briefly mentioned the problem whether acquired land becomes ancestral (above, p. 163). The *adat* provides that it does, but is vague when it comes to details, i.a. on the question how many times a *charian* plot has to be inherited before becoming *pesaka*. It is not surprising, therefore, that disputes on this matter are anything but rare. The female "customary heirs" generally claim the *charian* after it has been inherited once, on the grounds that it has then become *pesaka*.[32] In a situation where the women are continually involved as litigants in attempts to transfer land from the "acquired" to the "customary" category, it is plain that a contrary attempt, a concerted action to abolish "customary" land altogether, will exasperate them to the utmost.

In this section, we have considered how group interests and personal feelings determined peoples' choice of action when the *adat-sharak* conflict became acute. We tried to do so without prying into the personal circumstances of those involved, so that even where we discussed the rôle of single individuals we did our best to spotlight them only as public figures, and to leave their private individualities in the background. This does mean that various "choice-determinants" had to be passed by in silence: purely personal antagonisms, purely

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[31] According to Taylor, "Rembau is often represented as the most aggressively tribal. Rembau may be the most aggressive, but it is in Jelebu that tribal feeling is strongest" (Taylor 1948b: 120). I have hardly any experience of Jelebu, but did find that "tribal feeling" is much stronger in Rembau than in the *luak* Jempol (de Josselin de Jong 1956a).

[32] Cp. p. 165 above, and footnote 8.

personal motives of profit and loss, etc. I do not regret those omissions, but for completeness' sake, and simply to give an example of the kind of considerations which certainly did come into play, but which we deliberately omitted, we may use some information given by Taylor on an earlier but somewhat similar controversy. Late in 1927, the Undang of Rembau (not the present incumbent) convened a meeting of eighteen *lembagas* and managed to induce them to adopt a resolution to the effect that in future acquired property should devolve according to Islamic law. Taylor then comments: "The then Dato Rembau was receiving what was, for a man of his antecedents, the stupendous income of about £ 3,000 per annum and he had acquired considerable interests in new rubber land. In the event of divorcing his wife he would ..... have been compelled to give up half of this property to a woman with whom he had quarrelled. He had therefore a strong personal motive for trying to bring about a change of *adat* on this particular point." (Taylor 1948b: 74).

Such "strong personal motives for trying to bring about a change of *adat*", or for resisting change for all one's worth, undoubtedly played their part in the 1951 conflict as well. One might perhaps even agree with Taylor when he remarks that the advocates of change "have yet to produce one instance of a Malay of any class who has said: — 'According to the *adat* I could claim a small share but I am a Mohammedan so I do not claim' ". However, it would be going too far to say that materialistic self-interest was the only motivating force in the whole controversy. I hope the description so far has shown that there were too many factors involved for this to be the case. In our introductory remarks we said that one of the points which deserve special attention is the way the various political systems and the individual's involvement in all or several of them, interacted throughout the course of events. In the next section we shall summarize some of the facts, arranging them according to this point of view. This will also make us realize the scope of the conflict.

VI. *Interaction and Expansion.*

The "traditional" or *adat* system was obviously involved: the whole conflict centred round the *tanah pesaka*, the backbone of the Negri Sembilan matrilineal system.

The staunchest upholders of the system were the *lembagas*, the bearers of the traditional dignity of clan chief; they had to consult

their clansfolk, the *anak-buah*, and they gathered in meeting together with others who held their offices or titles by virtue of the *adat* (p. 170).

Their principal antagonists were members of the Umno (although we saw that the Kuala Pilah branch of the Umno managed to avoid creating a painful dilemma for those of its members who were at the same time clan chiefs (p. 168). Thus the "democratic" system of political parties became involved, and not one party, the Umno, alone, but its opponents, the P.M.S./P.M.U. as well, while the Rembau conflict also affected the fortunes of the I.M.P., formed at a later stage (p. 185).

The "colonial" or "Federal" system came into play precisely because a District Officer failed to draw a line between his rôle as a member of that system on the one hand, and as reformist and adherent of the Umno on the other (above, p. 169). Indirectly, the attitude of other M.C.S. officers may also have been a factor influencing the outcome of the conflict.

The State Council of Negri Sembilan was several times the forum of discussions, and what we called the "monarchical" system was more directly involved through R. - N. - 's raising the question of the *anak raja* (p. 175), and also through the holders of religious offices being in last instance appointees of the Head of State (p. 182).

It is clear that with so many different elements involved, we actually have to do with more than one single controversy: there are wheels within wheels. A striking feature of the whole conflict is that the primary issue: *tanah pesaka* to be inherited according to *adat* or *sharak*, came to serve as a rallying point for various other controversies and contrasts. Some of these contrasts were irrelevant to the main issue, but attached themselves to it, one might say, on grounds of their own logic; such were the antagonisms between Umno and P.M.S./P.M.U., and that between members of the ruling dynasty and the *lembagas* of the "commoner" clans. Others were less precise, but became more sharply outlined as they coagulated around either pole in the *adat-sharak* opposition; such was the contrast between women, usually the beneficiaries under the traditional system, and men, who generally stood to gain by application of the *sharak*.[33]

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[33] A *lebai* informed me in 1955 of a case with which he had to deal a few years before, concerning a wedding, at which the bride's brother had acted as her *wali* (legal guardian and representative). More than a year later it became known that the bride's paternal grandfather was still alive, which means that

By carrying through an analysis of the Rembau situation one can even bring to light a number of oppositions which, as far as I could discover, were not clearly recognized as such by the inhabitants themselves. This may be illustrated by two examples.

In the first place, one might add a contrast between sons and daughters (not simply as men and women, but in their relation to their father) to the binary oppositions already mentioned. When a father evades his duty to provide a daughter with a house or land (above, p. 166), it is mainly out of a feeling that he is working for his wife's matrilineal descendants.

His son is, of course, also a member of his wife's matri-lineage and not of his own, but he will not perpetuate that lineage; it is easier for a father to consider him as an individual. The result is that sons often receive surreptitious gifts from their fathers, even sometimes of heirlooms belonging to the father's matrilineage (*harta pembawa*). Although there need be no discrimination against the daughter and in favour of the son as individuals, the actual upshot of the father's resistance to the dominating claims of his wife's kin-group is that the daughters receive less, and the sons more, than their due according to *adat*. In other words, the daughter benefits by a pro-*adat*, the son by an anti-*adat* attitude.

Via the link *pesaka* versus *charian*, the polarity of *adat* versus *sharak* can also be made to extend to the contrast: rice lands versus rubber lands. We saw that *pesaka* lands devolve according to *adat* (certainly when registered as "customary", under "Old Title"), but that the tendency is for the inheritance of *charian* lands to be ruled by Islamic law (although this is as yet no more than a tendency). Now it would certainly not be correct to say that ancestral lands are necessarily ricefields, and acquired land necessarily rubber smallholdings, but there is certainly a strong tendency for things to work out that way, and it is a tendency which has been operating for half a century now.

The first Customary Tenture Enactment, the forerunner of our Chapter 215, was passed in 1909 in order to prevent the gradual

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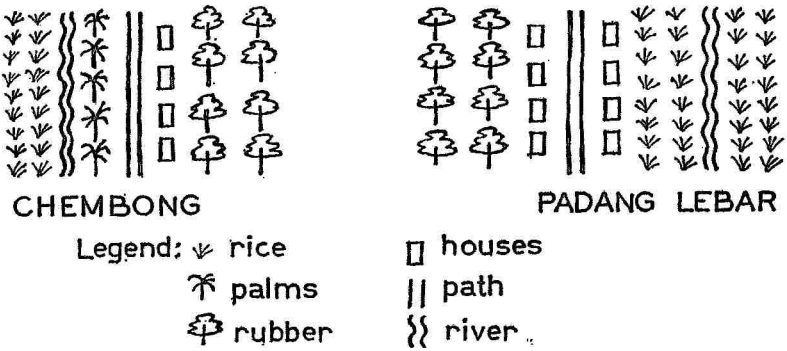
he should have acted as her *wali*. The form of marriage as contracted was therefore null and void, and a new ceremony performed, this time with the correct *wali*. The *lebai*'s spontaneously offered comment was: "So you see how *hukum sharak* differs from *adat*, for according to *adat* the first marriage was valid". This little episode shows that the *adat-sharak* dichotomy was much in people's minds (even four years later), and imposed its own pattern of opposition on various events which could well have been conceptualized quite differently.

expropriation of Negri Sembilan farmers by the sale of their rice lands to the expanding rubber estates: "towards 1909, however, rubber planting spread to small holders" (Taylor 1948b: 51) — in other words, there came an incentive to acquire lands for commercial use, and this began the association of *charian* lands with rubber.

We already encountered the Dato Rembau of 1927 who "had acquired considerable interests in new rubber land" (above, p. 188). In going through the published accounts of land cases one keeps coming across items such as: "... the land acquired during her first marriage was under old rubber... the land acquired during her marriage... was under young rubber" (Taylor 1948b: 58), etc. By contrast, an issue of grants referred to "ancient tribal rice lands and orchards" (Taylor 1948b: 120). All this is in conformity with the general correlation: acquired land and rubber, versus traditional land and rice.[34]



It is striking, by the way, how clearly this opposition finds its expression in land-use patterns in Negri Sembilan. To mention only the two villages I discussed in an earlier paper (de Josselin de Jong 1956a: 152, 153): Chembong, in the wide Rembau plain, has its houses

[34] Rice-growing and tradition are also linked in the sacral sphere: the planting and harvesting of rice are accompanied by ceremonial observances, but the cultivation of rubber is a purely matter-of-fact occupation.
The distinction made between rice and rubber land also appears in the following procedure for the division of acquired lands, which is sometimes applied in Rembau: if a man acquires rubber and rice lands, his son inherits the rubber holdings, but his widow (or daughter, in the case of the widow's predecease) gets the rice lands. So the effect of this variant of the *adat* is that rice lands are added to the *pesaka* stock, but rubber lands are not.

in a single line facing the main footpath; the rubber holdings lie behind the houses. Across the path one has the Chembong river, fringed by coconut and sago palms and fruit trees, with the rice fields beyond.

In Padang Lebar, in a narrow valley in Jelebu, the houses are strung out on either side of the main path. The row closest to the flank of the range of hills backs onto rubber land, the row adjoining the wider part of the valley adjoints the rice-fields.

In both cases one encounters clearly defined geographical areas: the opposition has become tangible.

One can hardly escape the conclusion that the conflict we are interested in has its ramifications which involve many more elements than the simple opposition of *adat* versus *sharak* rules we started from. We might arrange them diagrammatically as follows:

adat	*sharak*
lembagas	politicians
P.M.S./P.M.U.	Umno
"commoners"	"princes"
women	men
daughters	sons
pesaka	*charian*
land, houses	money
rice	rubber [35]

Earlier in this section we saw how the Rembau conflict involved all four levels of political organization. We now notice that it expands so as to cover a set of binary oppositions of a most variegated nature. In fact, the short list we just drew up bears a rather intriguing resemblance to diagrammatic representations of truly conceptual dualisms with much deeper roots in their own culture, such as have been given for South Sumatra by Galis (1957), for Ambon by Jansen (1933), for Japan by Ouwehand (1959), for the Haida by Lévi-Strauss (1959), to name some examples. We do not wish to labour the point, but would only observe that the very fact that we can refer to these "total" oppositions at all in this connection is a measure of the magnitude of the area within Negri Sembilan culture which was effected by the 1951 conflict.

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[35] In the minds of various individuals, other oppositions would come to be associated with those just mentioned. For example, the *lebai* of footnote 33 could add the opposition: valid marriage-invalid marriage to the series.

This also becomes evident when we consider that it concerned all the main aspects of the culture: the social and the political (through its bearing on the matrilineal kinship system and the political forces at all four levels), the economic (as it concerns the staple food: rice, and the major commercial product: rubber), and the religious (by raising such questions as the value and applicability of a religiously based legal code).

We have now gradually been led to a more theoretical discussion of the conflict. In the final section, we shall briefly compare it with similar events in Minangkabau, and conclude by seeing whether an understanding of the happenings in Rembau can add anything to our knowledge of conflict-situations in general.

VII. *Comparison and Conclusion.*

For many years now, the *adat-sharak* controversy has agitated public opinion in Minangkabau,[36] and led to numerous publications, by participants as well as onlookers (Prins 1948: 4). The account which deals most fully with its social and economic backgrounds is probably the report drawn up by Schrieke in 1928, recently re-issued in English translation (Schrieke 1955: 85 ff.) If I may be allowed to repeat some comments on this report I made when reviewing the English edition (de Josselin de Jong 1956b: 425), the following similarities and differences between the Minangkabau and the Negri Sembilan situation are probably the most essential:

In both countries, the principal economic factor making for dissatisfaction with the old order was the increasing market value of commercial crops. Thus the peasant no longer remained exclusively interested in the subsistence economy of rice-growing on the family rice-lands, but turned his interest to what Schrieke calls "self-earned property", i.e. to *charian* lands on which he could cultivate commercial crops. In Minangkabau this is mainly coffee (Schrieke 1955: 119), in Negri Sembilan, as we have seen, mainly rubber.

The actual course of the conflict was not the same in the two countries, largely because of the dissimilar position of Islamic law in each. In general, the formal position of Islam is stronger in Malaya than in Indonesia, and it is incorporated into the body politic to a larger

[36] The earliest, and at the same time the most violent, outbreak we know of was the "Padri war" of *circa* 1820—1830, when the Padris, a fanatically puritan group of Muslim reformists instituted a reign of terror against all whom they considered lax in their religious observances. Almost all the members of the reigning dynasty of Minangkabau fell as victims to their fury.

degree. To trace the causes of this lies beyond the scope of this article, but one of them may be mentioned here as having a direct bearing on our subject: Malaya never experienced an *ontdekking van het adatrecht*, a "discovery of customary law", such as was achieved by Van Vollenhoven, Snouck Hurgronje, Ter Haar and others in Indonesia. For this and other reasons, the *adat* system was never recognized in Malaya as a legal system *sui juris*. A result was the definition of the personal law of the Malays as "Mohammedan law as varied by local custom" (a definition vigorously attacked by Taylor (1948b: 48)), and another result, the interminable confusion in courts of law (above, p. 164).

In Minangkabau, on the other hand, the situation may best be characterized by saying that Islam was incorporated into the traditional *adat*,[37] which led to results which would be simply inconceivable in Malaya: "the profession of (Islamic) priest has fossilized into a hereditary *adat* position once more" (Schrieke: 151); "*adat* ... placed the religious teachers under the tutelage of the *penghulus*", i.e. of the matrilineal clan and lineage chiefs (Schrieke: 159), etc. The Minangkabau traditional chieftains have an economic hold on their *anak-buah* undreamt of by their Negri Sembilan colleagues, but on the other hand these *anak-buah* can escape from that hold by private commercial ventures, such as hardly exist in Negri Sembilan (Schrieke: 116, 120, 121, 131).

To mention one ramification of the conflict, we saw that in Rembau the varying claims of tradition and reform imply a clash of interests between son and daugther (p. 190 above). In Minangkabau this clash takes the form — much commoner in matrilineal societies — of one between children and sister's children (Schrieke 1955: 118; de Josselin de Jong 1951: 57). The reason for this difference is not hard to find: in Minangkabau a man remains a member of his own matrilineal local descent group even after marriage; he administers that group's property for his sisters and their children, and if he holds a traditional office, he will be succeeded in it by (usually) his oldest sister's oldest son (de Josselin de Jong 1951: 59). In Rembau, on the other hand, where marriage is uxorilocal and the husband is seconded to his wife's matri-group (de Josselin de Jong 1951: 137), he works not for his sister's descendants but for his wife's and his own; and, given the fact that Negri Sembilan goes further than Minangkabau in favouring

[37] In 1950 the Indonesian jurist, Professor Hazairin, said: "As a legacy from the Dutch period we have inherited the principle that religious law only has validity in as far as it has been accepted into customary law" (Prins 1953: 321).

women as property-holders, this means in practice: for his daughters. Nor does the matter of succession link the Negri Sembilan man to his sister's sons as it does in Minangkabau, for in the former country succession goes by *giliran*, i.e. a dignity held by a member of one matrilineal local descent group will, on his death, pass to a member of another group (de Josselin de Jong 1951: 140).

Although the basic problems in Negri Sembilan and Minangkabau are similar, they vary in details, and in the apparent relative strength of the contending parties. Not only this, but the conflict itself always was of more complex character in Minangkabau. Prins has pointed out that it was no simple opposition of "*sharak* party" versus "*adat* party" which drew up the Minangkabaus in two alignments, but that actually three interlocking battles are being fought out simultaneously, viz: "(a) a resistance to *adat* based on Islamic law, (b) modernist propaganda for a reform not only of the *adat* but also of Islamic law itself, and (c) the point of view which stresses the divine origin and perfection of Islamic law vis-à-vis modernist and westernizing tendencies" (Prins 1948: 5).

The Negri Sembilan conflict of 1951 falls entirely within the Minangkabau group (a), in spite of its involving participants who were not primarily concerned with defending *adat* against *sharak* or vice versa. If the struggle will ever be resumed in Negri Sembilan (as it is likely to be, in my opinion), it may then come closer to the complex Minangkabau situation. The greater simplicity of the controversy as it actually shaped itself in Rembau in 1951 may well be explained by the stronger position of Islam there, by its more orthodox flavour, and by the generally more conservative, cautious, and — one might say — rustic character of Peninsular Malay society in that period, even when compared with Minangkabau in the 'thirties.

In one other respect a comparison between the 1951 conflict in Rembau and the persistent controversy in Minangkabau is not quite justified: in Rembau the crucial question was the inheritance of ancestral lands, but in Minangkabau polemics have raged over a wide variety of topics: the position of women in general (Prins 1948: 17), lineage exogamy (26), family life, polygamy, and divorce (99), and the position of the mother's brother (28), to mention but a few. We are not concerned with these problems here, and will only mention one which *is* comparable with that of Negri Sembilan. It was the point at issue during one of the most recent episodes, the one referred to at the very beginning of this article.

In May 1952 a congress of "Islamic scholars, traditional chiefs, and intellectual leaders of Minangkabau" adopted a resolution substantially supporting the recommendations made by the preparatory committee of the congress in January 1952. These recommendations were, in essence, that *charian* property should be inherited according to *sharak*, as should be the revenue derived from *pesaka* goods (one may surmise that this refers to *pesaka* land), *if* the traditional heirs agree to this latter provision. The position of *pesaka* goods themselves would not be changed (Prins 1953 : 322-324).

One does not know whether this resolution was ever implemented (Prins 1953 : 327), but a few comments may be offered.

In the first place, the resolution recommends a procedure which (apart from the provision *re* revenue derived from *pesaka* property) comes very close to actual Negri Sembilan practice. One might even be tempted to wonder whether the Minangkabau congress was influenced by the events which had taken place in the Negri Sembilan daughter country a few months before, but there is no evidence for this.

It is more important that while Minangkabaus had been recommending as a new development a procedure which had been the actual practice in Negri Sembilan, the inhabitants of Negri Sembilan had been discussing much further-reaching reforms. Again we see that the Islamic institutions have acquired a stronger position in the Peninsula than in a related area in Indonesia.

Nevertheless (and this may be the salient point), the composition of the Minangkabau congress, and the contents and tone of its resolution, are indicative of the cautious respect with which it approached the traditional *adat*; while in Negri Sembilan, as we saw, the *adat* party indisputably emerged victorious from its trial of strength with the reformists. Our conclusion can only be that, in Malaya as in Indonesia, we are dealing with societies in which, despite their progressive outlook and rapid modernization, the matrilineal institutions have a resilience, workability, and vitality not to be underestimated. This is the more remarkable as these institutions had to contend with an opponent: Islamic law, precisely in the fields which the latter most ardently covets: personal statute, marriage and family life, and inheritance (e.g. Schacht 1932 : 214; 1935 : 219). Snouck Hurgronje's prophecy, that therefore the customary law of Minangkabau is doomed to disappear (Snouck Hurgronje 1911 : 39), is still far from being fulfilled.

To conclude with some remarks of a more general nature. In a recent publication, Tugby discussed the tension between *adat* and Islamic law

in the Batak territory, as manifested in the attempts to reconcile the Islamic *mahr* with the pre-Islamic bride-price. He concludes: "Three of the more obvious ways in which a social group can treat newly introduced practices are to add them to, adapt them to, or integrate them with existing practices". (Tugby 1959: 639). We saw that in Negri Sembilan the novelty of the 1951 action lay in the fact that the reformists rejected all three of these alternatives, and promoted an ideal (of conformity to Islam) at the expense of another ideal (conformity to *adat*) with which it had for a long time co-existed, with the aim of substituting one practice for another.

A powerful driving force behind this attempt to bring about reform lay in the greater importance which is being attached to the individual, in the ethical as well as in the social and economic sphere. Writing on the cultural changes brought about in Arabia by the rise of Islam, Grunebaum stressed that an important innovation was the introduction of new values. Prominent among them was the value henceforth attached to individual choice and individual actions, as the individual shall be answerable for his deeds on the Day of Judgment. The question how to live the religiously correct life demands an answer (Von Grunebaum 1948: 219, 220). Is this not echoed by the concern about *dosa* which is so noticeable in the Rembau discussions?

When we turn to material affairs, we find Islam's concern with the individual's ethical responsability parallelled, in modern Malaya, by a striving after opportunities for individual profit-making, and impatience with the secure but circumscribed drudgery of subsistence farming.

So far, the 1951 conflict is readily understandable in terms of Islamic values, but in other respects it is a very peculiar kind of conflict indeed; it differs, as far as I can make out, from the various types of social strain and tension of which descriptions are to be found in anthropological literature.

In a recent paper, Wertheim has surveyed various ways in which a society as a whole can be studied as a "composite of conflicting value systems" (Wertheim 1959). We may take this paper as a general guide for the discussion in the next few pages.

"There may be something like an all-pervading dominant value-system, to be interpreted in more or less hierarchical terms. But these subjective realities are balanced by the existence of equally important sets of subjective value-systems opposed to the dominant one and upheld by different sections of society" (Wertheim: 9). As examples of the "counterpoint" of value-systems oposed to the dominant one, Wertheim

mentions i.a. "the child's world" which "formed a kind of counterpoint to the acquisitive adult world" in Manus society, and in western society the "sports Sunday" during which "the protest against the intellectual elite of a managerial world is being embodied in a temporary revaluation of humanity according to bodily strength" (Wertheim: 8). What strikes us is that these "counterpoints" are largely *unconscious* reactions of the non-dominant groups, but in Negri Sembilan the participants in the conflict were, of course, very clearly aware of the opposition between two systems. I do not mean to say that the Negri Sembilan situation is unique in this respect, but this feature should be emphasized.

Then, the Manus and the western European situations just mentioned typify reactions against *dominant* value systems, and this also holds good for other examples Wertheim adduces: the Balinese ceremony in honour of Jayaprana, which represents "the struggle of the common man against the thraldom of feudalism", and the "Shan-Gumlao opposition analysed by Leach in his study of Kachin communities" (Wertheim: 6). One would have to resort to very tortuous reasoning indeed if one wished to interpret the Negri Sembilan data on these lines. Although the *adat* system was supported by the majority (not even by all) of the traditional, genealogical, office-holders, one really cannot characterize the *adat* system as that of the dominant feudal class, with the *sharak* being sponsored by the lower strata struggling for emancipation. For one thing, the traditional political order is counterbalanced by several others, as we saw; and for another, *adat* and *sharak* apply equally to all Negri Sembilan Malays. When it came to making a choice between the two, it was not made along a line of cleavage dividing socially stratified classes — in fact, such stratification can hardly be said to exist in traditional Negri Sembilan society (Gullick 1958: 74, 75). So, we are not dealing with a conflict between "value systems adopted in different layers of society" (Wertheim: 10).[38]

Nor is the conflict one to be explained in terms of *acculturation*. Wertheim refers to V. W. Turner's study for an analysis of social conflict in "tribal societies even before they came into contact with western powers" (Wertheim: 2), but when we turn to that study we again find that the situation as described for the Ndembu of Northern Rhodesia is very different from that in Malaya. The "social dramas"

[38] I admit that more data are required on this point. It would have been important for our purpose to know in greater detail how the two opposing factions were composed. It might perhaps have been possible to make a broad survey of this kind in 1951; I found it impossible to do so in later years.

or conflicts which were played out in that society were mostly due to "the opposed interests and claims of protagonists acting under a single social principle", while in Negri Sembilan it was the rival claims of two "social principles" which was at stake. And as far as among the Ndembu claims were "advanced under different social principles, which are inconsistent with one another even to the point of contradicting one another" (Gluckman 1956: xii), the conflicting principles were the traditional African ones in opposition to European ones, e.g. with regards to slavery (Turner 1957: 193) or to authority (136). This familiar theme of the indigenous and traditional values clashing with the new and foreign ones was certainly not dominant in Negri Sembilan: western values were involved, but only indirectly, and one is certainly not justified in describing the values of Islam as "new and foreign", considering that Islam has formed a part of Peninsular Malay culture since the early 15th century.[39]

Finally, it must be evident that it is equally impossible to describe the Negri Sembilan controversy in terms of a conflict between *ideal* and *practice*.[40] It was not so, that the "reform party" were the upholders of the Islamic ideals, in contrast to a lax or simply apathetic crowd which could not be bothered to take these ideals seriously. To the contrary, the conflict was between two systems of practices *and* ideals. It was precisely this feature which made it so painful to many of those concerned.

To sum up, we may perhaps characterize the 1951 conflict in Negri Sembilan as one between two systems of ideals and practices, both of which were considered by the society concerned as being an integral of its culture, both applicable to the entire society, and both perceived as a system by the inhabitants of that society.

The situation is a remarkable one, so we need not be surprised that it is hard to find a fitting niche for it in the literature on social conflict and change.[41] If one wishes a parallel, it may after all be best to turn again to the Kachins, already referred to on p. 198 above.

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[39] In recent publications, Locher has stressed the desirability of considering the processes of change in non-western societies not merely as results of the impact of the west, but also as developments *sui generis* (Locher 1957: 1919—194; 1959: 9). The Negri Sembilan conflict is a case in point.

[40] This viewpoint is not discussed in Wertheim's paper.

[41] At present, the most popular approach to conflict situations would seem to be, to consider their integrative and disintegrative effects. The Negri Sembilan conflict could, of course, also be studied from that point of view, but such was not the aim of the present article.

Among the Jinghpaw-speaking Kachins one finds an opposition between the more aristocratic *gumsa* and the "anarchistic and equalitarian" *gumlao* political systems (Leach 1954: 8). Actually Leach considers the *gumsa* system to be "in effect, a kind of compromise between *gumlao* and Shan (i.e. foreign, Thai — d. J. d. J.) ideals"; as such it is "essentially unstable" (Leach: 9). Communities can change over from one system to another: the village of Hpalang, for instance, was in 1940 "probably in process of changing from a *gumsa* to a *gumlao* type of organisation" (Leach: 87).

Omnis comparatio claudicat, and the comparison of the "political systems of Highland Burma" with the "inheritance systems of Lowland Malaya" is no exception. For one thing, in Burma the various areas, or even single villages, can be characterized as following either one system or the other (Leach: 52), but in Negri Sembilan, of course, one cannot say that one village adheres to *adat*, and another to Islam. They all adhere to both, and this implies that a change-over in the Kachin manner is not possible either. Yet one might attempt to draw an analogy on the following lines:

Comparable with the *gumlao* as a truly indigenous system, one would have the purely matrilineal inheritance system as it was before the introduction of Islam. This is no longer encountered anywhere in Negri Sembilan. As a complete contrast, and therefore comparable with the Shan system, one could set up the inheritance system prevalent in the Negri Sembilan *luak* of Sungai Ujong, which has given up the traditional system in favour of the Islamic one (see above, p. 177).[42] The situation in the *luak* Rembau could then be seen as a counterpart to that in a *gumsa* village: essentially unstable, and with a portion of the population trying to bring about a change-over to another system.

One may well remark that apparently it is, as yet, hardly feasible to place the Negri Sembilan conflict more firmly in a general framework. I agree, but would like to remark that the apparent instability of the Rembau situation makes it worth watching, so that further developments in the latent tension may be described more fully than the conflict in 1951 could be. The very fact that the whole situation is so unusual justifies, I hope, this attempt to put on record some of the more

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[42] Actually, this is putting it too strongly. Although, in Sungai Ujong, *hukum sharak* would be applied in a formal law-suit, the *adat* is still powerful in cases of settlements out of court. The same holds good for other States in Malaya as well, and even for the Malay community in Singapore. (e.g. Gullick 1958: 35; Djamour 1959: 40).

significant facts that could be gathered after the event. I also hope it will stimulate other efforts to fulfill one of the desiderata for social science research in Malaya: a full study of the matrilineal *adat*'s resistance to the influences of the Yangdipertuan's dynasty, of rubber-growing, and of Islam (Firth 1948 : 27).

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ABBREVIATIONS

BKI	*Bijdragen tot de Taal-, Land- en Volkenkunde.*
JMBRAS	*Journal of the Malayan Branch, Royal Asiatic Society.*
JStBRAS	*Journal of the Straits Branch, Royal Asiatic Society.*

APPENDIX

A summary of the relevant provisions of the Customary Tenure Enactment. From: *The Laws of the Federated Malay States*, 1935, Vol. III. (Contains *Enactments*, Chapters 137-221).

Chapter 215 - Customary Tenure Enactment.

Section 4, subsection (i):
Land holdings must be registered in the *mukim* register.

7 (i):
Land registered as Customary Land may only be transferred to a female member of one of the "tribes" listed below.

7 (iv):
For the transfer, the consent is required of the *lembaga* of the owner's "tribe".

8 (i)a:
In case of sale to meet a debt, option to be given to the female members of the debtor's "tribe".

8 (i)b:
If they do not avail themselves of the option, female members of the other "tribes" are free to bid.

12 (i):
On the death of the "registered owner" the property passes to the "female customary heir". However, the deceased's brother or sister may be allowed "life occupancy".

12 (iii):
The life occupant then pays rent to the "owner".

13 (i):
Failing a "customary heir", the property is to be sold. The proceeds are for the deceased's son or sons; failing these, for her brother or brothers; failing these, for the "Muhammedan Religious Fund".

The twelve "tribes" referred to in 7(i) are:
Biduanda Waris and/or Dagang, Batu Hampar, Sri Melenggang, Tanah Datar, Sri Lemak, Mungkal, Tiga Batu, Tiga Nenek, Paiah Kumboh, Anak Malaka, Anak Acheh, Batu Belang.